

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2856 of 2006

M.Mustafa

... Appellant

vs

1. A.Rajendran

2. United India Insurance Co. Ltd.,
Motor Accident Third Party Claim Cell,
No.38, Anna Salai, Chennai - 600 002.

... Respondents

Civil Miscellaneous Appeal filed under section 30 of the Workmen's Compensation Act 192 against the order dated 03.04.2006 passed in W.C.No.83 of 2005 by the Deputy Commissioner for Labour-I (Commissioner for Workmen's Compensation - I), Chennai 600 006 and set aside the same.

For appellant : : Mr.A.Shanmugaraja

For Respondents : : Not ready in notice

J U D G M E N T

The appellant is the claimant, who is aggrieved by order dated 03.04.2006 passed by the Deputy Commissioner for Labour - I, (Commissioner for Workmen's Compensation - I), Chennai, in W.C.No.83 of 2005. By the impugned order, the Deputy Commissioner of Labour - I, has awarded a sum of Rs.2,89,290/- and directed the second respondent to deposit the above compensation within 30 days, in default, direction was issued to deposit the above amount together with interest at 12% from the date of accident to till the date of deposit. Aggrieved by the same, the appellant is before this Court. At the time of admitting the appeal on 17.10.2006, this Court has framed following substantial question of law:

"Whether the Deputy Commissioner for Labour-I (Commissioner for Workmen's Compensation - I) ought not to have fixed the loss of earning capacity as 100%"

2 The learned counsel appearing for the appellant submits that the appellant met with an accident on 27.07.2003 and due to the accident, he sustained fracture in the spinal cord and that his hip was dislocated. The learned counsel submits that the appellant was 100% disabled and therefore he is entitled to higher compensation. The calculation arrived in the impugned order, fixing the loss of earning capacity as 65% is incorrect and therefore, the compensation should be increased.

3 I have considered the records of the case and the submissions made by the learned counsel appearing for the appellant.

4 The evidence of Doctors, who rendered evidence as P.Ws.2 & 3, have not stated that the appellant would no longer work as Auto Driver. Therefore, I do not find any reason to interfere with the award passed by the Deputy Commissioner, but, at the same time I am inclined to interfere with the impugned order by directing the second respondent/Insurance Company to pay interest at 12% p.a. from the date of accident. The substantial question of law is answered against the appellant.

5 Accordingly, the second respondent/Insurance Company is directed to deposit the amount awarded by the Deputy Commissioner of Labour - I, together with interest at 12% p.a. from the date of accident, immediately. With the above direction, the civil miscellaneous appeal is dismissed. No cost.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The United India Insurance Co. Ltd.,
Motor Accident Third Party Claim Cell,
No.38, Anna Salai, Chennai - 600 002.
2. The Deputy Commissioner for Labour-I
(Commissioner for Workmen's Compensation-I),
Chennai - 600 006.

3. The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.A.Shanmugaraj, Advocate in Sr.No.92284 (08.01.2021)

C.M.A.No.2856 of 2006

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nr 02/01/2020



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