IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM

Date : 25.11.2019

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1319 of 2009

National Insurance Company Limited,
Sriram Site Office,
2-A, Prakasam Road,
T.Nagar, Chennai 600 017. .. Appellant

vs

1.Kalaiselvi
2.Minor Aravindan
3.Minor Abinaya
4.Minor Aarthi
(Minor Represented by their mother and
next friend Tmt.Kalaiselvi Salem District)
5. P.Srinivasan
6.Gandhi .. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30(1) of W.C.Act against the Judgment and Decee dated 19.04.2008 made in W.C.No.637 of 2004 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Salem.

For Appellant : M/s.N.B.Surekha

For R1 to R4 : M/s.Zeenath Begum

For R5 & R6 : No Appearance

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J U D G M E N T

The appellant is the Insurance Company and is aggrieved by the impugned order passed by the Deputy Commissioner for workmen’s Compensation, Salem dated 19.04.2008 in W.C.No.637 of 2004.

2. By the impugned order, the Commissioner for workmen’s Compensation (Deputy Commissioner of Labour) has allowed the

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claim petition filed by the respondents/claimants who are the wife and children of the deceased Murugan who was aged about 29 years. The Deputy Commissioner of Labour has awarded a sum of Rs.4,05,861/- along with interest at the rate of 12% p.a. to be paid from 01.10.2004 till the date of deposit.

3. Aggrieved by the same, the present Civil Miscellaneous Appeal has been filed. In the present Civil Miscellaneous Appeal, the appellant has raised the following substantial questions of law for consideration:-

> 1. Whether the finding of the learned Commissioner i holding that the liability of the insurance company cannot be decided on the basis of the India Motor Tariff and the terms and condition of the insurance policy is correct?
>
> 2) Whether the finding of the learned commissioner that even in the absence of express provision in the insurance policy, liability can be imposed on the insurance company is correct?
>
> 3) Whether the finding of the learned Commissioner in fastening liability on the insurance company under 4 A of the W.C.Act regarding payment of interest from 01.10.2004 is correct when the Hon'ble Supreme Court has held that interest is liable to be paid only from the date of adjudication?
>
> 4. Whether the finding of the learned Commissioner that the word ' fell due' as appearing in section 4-A of the W.C.Act, 1923 would be reckoned from the date of accident is correct?

4. The deceased Murugan was employed as a driver with the 5th respondent and while driving in a lorry bearing Reg.No.TN 23 D 7527 he met with an accident on being hit by another lorry van bearing registration No.TDG 4581 and sustained injuries and he was taken to Government

5. Though the appellant has made submission on the merits of the case regarding the awarding of compensation, these submissions are pertaining the question of fact and not question of law. Therefore, these are not relevant for disposal of the present appeal.

6. The issue is no longer res intergra. As per the following judgments, interest is to be awarded from the date of accident.

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i. Pratap Narain Singh Deo vs Srinivas Sabata and Another, (1976) 1 SCC 289.
ii. Jaya Biswal and Others vs Branch Manager, IFFCO Tokio General Insurance Co. Ltd., 2016 (1) TN MAC 289 (SC).
iii. N.Ganesan vs Thilagavathi and Others, 2010 (2) TN MAC 80 (DB).
iv. R.Prakasam vs M/s. A to Z Cargo Carieer and Another, passed by this Court in C.M.A.No.2558 of 2015.

7. In Pratap Narain Singh Deo vs Srinivas Sabata and Another, (1976) 1 SCC 289, it was held that it was the duty of the employer to pay the compensation at the rate provided in Section 4 of the Workmen's Compensation Act, 1923 as soon as personal injury was caused to the respondent under Section 4 (A)(1) of the Act.

8. In N.Ganesan vs Thilagavathi and Others, 2010 (2) TN MAC 80 (DB), after considering elaborately several decisions of the Hon'ble Supreme Court including the above cited decision, this Court held as follows:-

> 27. In the result, the reference is answered as follows:-
> i. The word "falls due" occurring under Section 4-A of the Workmen's Compensation Act, 1923 in the light of the ratio laid down in the Larger Bench decision of the Hon'ble Supreme Court of India reported in Pratap Narain Singh Deo v. Srinivas Sabata and another, 1976 (1) SCC 289 and Kerala State Electricity Board v. Valsala, K., 2000 ACJ 5 (SC), means that interest for compensation amount would accrue 30 days after the date of the accident and not from the date of quantification/orders passed by the Commissioner for Workmen's Compensation.

10. In view of the above decision, the civil miscellaneous appeal is dismissed. No cost.

Sd/-
Assistant Registrar(DR CJ conf)

//True Copy//

Sub Assistant Registrar

kkd

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To

The Commissioner for Workmen's Compensation
(Deputy Commissioner of Labour), Salem.

+1cc to M/s.N.Surekha, Advocate SR.98359
+1cc to Mr.U.Rajesh, Advocate SR.97977

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