

C.M.A.No.2804 of 2013

C.SARAVANAN.,J.

Today, this case is listed under the caption “for being mentioned” at the instance of the learned counsel for the appellant.

2. Heard the learned counsel for the appellant.

3. The Civil Miscellaneous Appeal was disposed on 29.11.2019.

There are few typographical errors in the order. In the order following corrections shall be incorporated:-

- i. In paragraph Nos.1 and 2, a word “Chennai – 6” shall be substituted with “Salem”.
- ii. The paragraph No.12, which is operative portion of the order, shall be read as follows:-

“ 12. In the light of the above discussion, I am of the view that the impugned order passed by the Workmen's Compensation Commissioner is liable to be modified. The 2nd respondent Insurance Company is directed to pay the difference amount of Rs.1,08,468/- (5,89,879 – 4,81,411) together with interest thereon at 12% p.a from the date of accident till the date of deposit. Accordingly, the present Civil Miscellaneous Appeal stands allowed. No costs.”

C.SARAVANAN.,J.

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4. Registry is directed to carry out the above corrections and issue fresh copies to the parties.

27.02.2020

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C.M.A.No.2804 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2019

CORAM:

THE HONOURABLE **MR. JUSTICE C.SARAVANAN**

CMA.No.2804 of 2013

Tmt. Rani

...Appellant

.Vs.

1.S. Rameshkumar

2.Reliance General Insurance Co. Ltd.,
Reliance House, 6th Floor, No.6
Haddows Road, Nungampakkan
Chennai.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, against the order made in W.C.No.170 of 2012 on the file of the Workmen's Compensation Commissioner cum Deputy Commissioner of Labour, Salem dated 12.07.2013, has to be set aside in respect of rate of interest on compensation and part of medical bills and expenses.

For Appellant : Mr.Kulanthaivel

For Respondent-2 : No Appearance

JUDGMENT

The appellant is aggrieved by the impugned award dated 12.07.2013 passed by the Deputy Commissioner for Labour, Chennai-6 in W.C.No.170 of 2012.

2.By impugned order, the Commissioner for Workmen Compensation (Deputy Commissioner of Labour), Chennai-6 has awarded compensation of Rs.11,85,361/- to the 1st respondent who is the legal heir of the deceased/M.Vinod. The deceased was employed as driver in the first respondent, who is the owner of the alleged vehicle involved in the accident.

3.On a fateful day i.e 21.01.2012, the deceased has gone to attend his duty and when the vehicle was nearing, Manupolu, Kollampadi Cross Road he met with an accident. It was stated that the driver of the lorry drove the same in a rash and negligent manner and thereby caused the accident. The deceased was

shifted to S.P.S.R., Nellore District, Hospital and further referred to KMCH Hospital. Inspite of better treatment, he however died on 05.02.2012.

4. Therefore, the first respondent had filed a claim petition for Rs.25,00,000/- as compensation. After recording the evidence the Deputy Commissioner has allowed the claim petition by awarding a sum of Rs.11,85,361/- as compensation to the 1st respondent, who is the legal heir of the deceased/M. Vinod and he further directed that the compensation amount should be paid within 30 days from the date of receipt of the copy that order, failing which the interest will be calculated at 12% from the date of accident.

5. Aggrieved by the same, the claimant/mother of the deceased has filed the present Civil Miscellaneous Appeal.

6. The learned counsel for the appellant submitted that Ex.4/Medical bills and Transport bills was filed together and the medical bills amounts to the tune of Rs.5,89,879/- whereas the compensation was awarded for a sum of Rs.4,81,411/- only. Therefore, the Tribunal has reduced the quantum of compensation without any justification. As far as the other portion of the award

which is under challenge is concerned is regular interest for the award amount. In this regard the Deputy Commissioner of Labour has given a direction that interest has to be paid only if the award amount is not settled within 30 days from the date of receipt of the copy of that order.

7. When the case was listed on 28.11.2019, there was no representation for the second respondent/Insurance Company and at the request of the learned counsel for the appellant, it was adjourned to 29.11.2019 and even today also there is no representation on behalf of the Insurance Company.

8.The present Civil Miscellaneous Appeal was admitted after raising the following substantial question of law:-

a.Whether the workmen's commissioner was correct in directed to deposit the compensation without payment of interest and further whether the same is contrary to amended provision of section 4 (A) of the workmen's compensation Act, 1923?

b. Whether the workmen's commissioner was not properly considered and awarded part of medical and transport bills marked as Ex.A.9 contrary to the amended provision of Section 4(4) of the workmen's compensation Act, 1923?

9. There is no justification in reducing the reimbursable

expenses incurred to Rs.4,81,411 from Rs.5,89,879/- in the impugned order unless there is a maximum under the policy.

10. As far as interest is concerned the issue is no longer *res integra* in the light of the decision of the Division Bench of this Court

reported in 2010 (2) TN MAC 80 (DB) in the matter of **N. Ganesan vs Thilagavathi and United India Insurance Co., Ltd., Motor Third Party Claim Cell, No.38, Anna Salai, Chennai-2**, wherein the decision reported in **Pratap Narain Singh Deo's case**, 1976 (1) SCC 829 (Four Judges Bench), was cited. Relevant portion of the order is extracted hereunder:

"The employer therefore became liable to pay the compensation as soon as the aforesaid personal inquiry was caused to the workman by the accident which admittedly arose out of and in the course of the employment. It is therefore futile to contend that the compensation did not fall due until after the Commissioner's order dated 06.05.1969 under Section 19."

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 Vs Srinivasa Sabata and another 1976(1) SCC 289 and Kerala State Electricity Board V. Kvalsala, K. 2000 ACJ 5 (SC), means that interest for compensation would accrue 30 days after the date of accident and not from the date of quantification/orders passed by the workmen's compensation.

(ii) The decisions rendered by the Single Bench of this Court in the decisions reported in *Marimuthammal @ Marimuthu and Another V. R.P.P. Construction (p) Ltd., Chennai and others*, 2007(2) TN MAC 98: 2007(5) MLJ 1059: A Chairmen V A. Thirumeni & another, 2008 (1) TN MAC 38 had laid down the correct proposition in consonance with the ratio laid down by the Larger Bench of the Hon'ble supreme Court of India in the above cited decisions.

11. In view of the above cited Judgment, it is clear that the interest of compensation would accrue at the expiry of 30 days from the date of accident and not from the orders passed by the Deputy Commissioner of Labour.

12. In the light of the above discussion, I am of the view that the order passed by the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Chennai-6 is liable to be set aside by allowing the present appeal. Accordingly, the appeal stands allowed. No costs.

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Index : Yes/No

Speaking / Non-speaking order

To

The file of Commissioner for Workmen Compensation
(Deputy Commissioner for Labour-I) Chennai-6



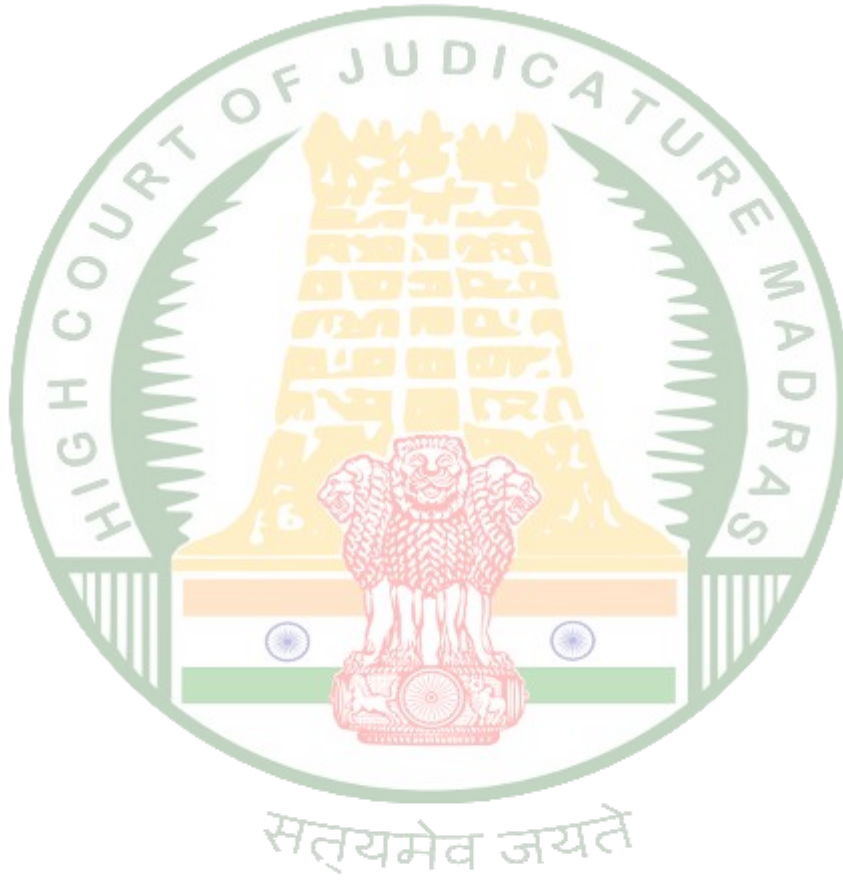
C.SARAVANAN, J.

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