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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3125 of 2013

Dhanapal

... Appellant

vs

1.Manimaran

(R1 remained exparte before the Forum)

2.United India Insurance Co.,Ltd.,
No.27, Appasamy Towers,
II Floor, Shri Thiyagaraya Road,
Pondibazaar, Chennai 600 017.

... Respondents

Prayer: Civil Miscellaneous Appeal has been filed under Section 30 of Workmen's Compensation Act, 1923, to set aside the award dated 06.08.2010 on the file of Commissioner of Workmen Compensation (Deputy Commissioner of Labour II), Chennai 6.

For Appellant : M/s. Subadra

For R2 : Mr.S.K.Krishnamoorthy

J U D G M E N T

The appellant is the claimant before the Deputy Commissioner of Labour-II, Chennai in W.C.No.33 of 2009. The said claim petition was filed by the dependents of late Manivannan, the deceased employee of the 1st respondent after his death on 18.10.2001.

2. By the impugned order, the Deputy Commissioner of Labour has awarded a sum of Rs.4,16,462/- to the appellant/claimant, failing which the 2nd respondent/Insurance Company shall pay interest at 12% per annum from the said date till the date of deposit.

3. The respondent had alleged in the claim petition that on 17.06.2008 at about 15.30 hrs. when he was employed as a centering worker for construction, SRM College, Potheri, he fell down from the building and suffered multiple injuries. In



the said proceedings, the appellant had contested the employer-employee relationship between them and had further stated that the respondent was not employed as a maistry but as a mason and was paid a sum of Rs.150.60/- per day.

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4. The Commissioner for Workmen's Compensation by the impugned order has concluded that there was employer-employee relationship between the appellant and the respondent and that the respondent as a workman was entitled for compensation.

5. At the time of admission, this Court has framed the following substantial questions of law for consideration:-

Whether the Commissioner for workmen's Compensation (Deputy Commissioner of Labour -II) Chennai has committed an error in awarding interest on the amount of compensation from the date of accident till the date of realisation only in case of default in payment of the amount awarded by the Commissioner within 30 days from the date of receipt of order? In other words, whether the Commissioner for Workmen's Compensation has committed an error in not allowing interest on the compensation from the date on which it became due as per Section 4-A of the Employees Compensation Act?

6. However, at the time of hearing, the learned counsel for the appellant has restricted the appeal qua the interest alone. It is submitted that the interest is payable from the date of the accident and not on ordered by the Deputy Commissioner of Labour- 2, Chennai.

7. As per the following judgments, interest can be awarded from the date of accident.

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 Carreer and Another, passed by this Court in C.M.A.No.2558 of 2015.



8. In view above judgments, I am inclined to allow this Civil Miscellaneous Appeal by awarding the interest at 12% from the date of accident to till the date of deposit. Therefore, the 2nd respondent is directed to deposit the interest at 12% from the date of accident to till the date of deposit within a period of 30 days from the date of receipt of a copy of this judgment.

9. In view of the same, I am of the view that the substantial questions of law answered in favour of the appellant.

10. Accordingly, the order of the Deputy Commissioner of Labour-II, Chennai is modified. The present Civil Miscellaneous Appeal is allowed. No cost.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kkd

To

1.The Commissioner for Workmen's Compensation I,
(Deputy Commissioner of Labour I), Chennai 6.

2.The Section Officer,
VR Section, High Court, Madras.

+1cc to M/s.M.Malar, Advocate Sr.99001

C.M.A.No.3125 of 2013

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srg 22/01/2020