

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.M.A. No.2726 OF 2017

Mani @ Manikandan

... Appellant/Petitioner

Vs.

1.M.Marimuthu

2.Reliance General Insurance Company Limited,  
Rais Tower, II Floor,  
Plot No.2054, 2<sup>nd</sup> Avenue,  
Anna Nagar, Chennai - 40.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act, against the Award dated 15.03.2017 and made in W.C.No.75 of 2013 on the file of the Deputy Commissioner of Labour - II, Chennai.

For Appellant : Mr. F.Terry Chellaraja

For Respondent : Mr. Arun Kumar [for R-2]  
No Appearance [for R1]

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the appellant against the Award dated 15.03.2017 made in W.C.No.75 of 2013 on the file of the Deputy Commissioner of Labour - II, Chennai.

2. The claimant is the appellant before this Court. The 1<sup>st</sup> respondent is the owner of van bearing Registration No.TN-20-BJ-7772 and the claimant was employed as a driver of the vehicle and was paid a sum of Rs.10,000/- as monthly wages and Rs.100/- as daily batta. In an accident happened on 26.01.2013 he suffered fracture in his right leg and injuries in the hip and all over the body. As a consequence of surgery, the length of the right leg was reduced by 1½ inch, there is mal union of patella bones of both legs and there is restriction of movement in the hip. The Doctor had assessed the disability at 80%. However, the authority, under the Workmen Compensation Act, on the basis of disability, has fixed the loss of earning capacity

at 75%. The claimant even though claimed monthly income of Rs.10,000/- as driver, the authority fixed the monthly wages at Rs.6,784/-. Aggrieved over the same, the appellant is before this Court.

3. The learned counsel for the appellant would vehemently contend that as per Sec 4-1-B, monthly wages shall be notified by the Central Government. Accordingly the Government fixed the monthly wages at Rs.8,000/- w.e.f. 18.01.2010. The claimant was earning Rs.10,000/- per month. But the authority under Workmen Compensation Act, 1923, erroneously assessed the wages at Rs.6,784/- as per Minimum Wages Act and awarded the compensation. Hence he seeks modification of the order.

4. The contention of the learned counsel for appellant has some force. It is true to state that as per the notification issued by Government, monthly wages under Employees Compensation Act, 1923, is notified as Rs.8,000/- per month. The authority ought to have calculate the compensation taking into account the latest notification.

5. Now this Court modifies the award by fixing Rs.8,000/- as monthly wages.

6. Originally the authority has fixed the compensation as under:

$$60/100 \times 216.91 \times 6754 \times 75/100 = \text{Rs.}6,62,183/-$$

Now the compensation is reworked as under:-

$$60/100 \times 216.91 \times 8000 \times 75/100 = \text{Rs.}7,80,876/-$$

7. Thus, the appellant is entitled to a compensation of Rs.7,80,876/- along with interest at the rate of 12% per annum after 30 days from the date of accident. The 2<sup>nd</sup> respondent/Insurance Company is directed to deposit the award amount within a period of six weeks from the date of receipt of a copy of this order. The 2<sup>nd</sup> respondent is entitled to deduct the appropriate amount, if any, already deposited. On such deposit, the appellant is entitled to withdraw the same by producing proper identification.

8. Accordingly, the Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

bri

To

1.The Deputy Commissioner of Labour - II,  
Chennai.

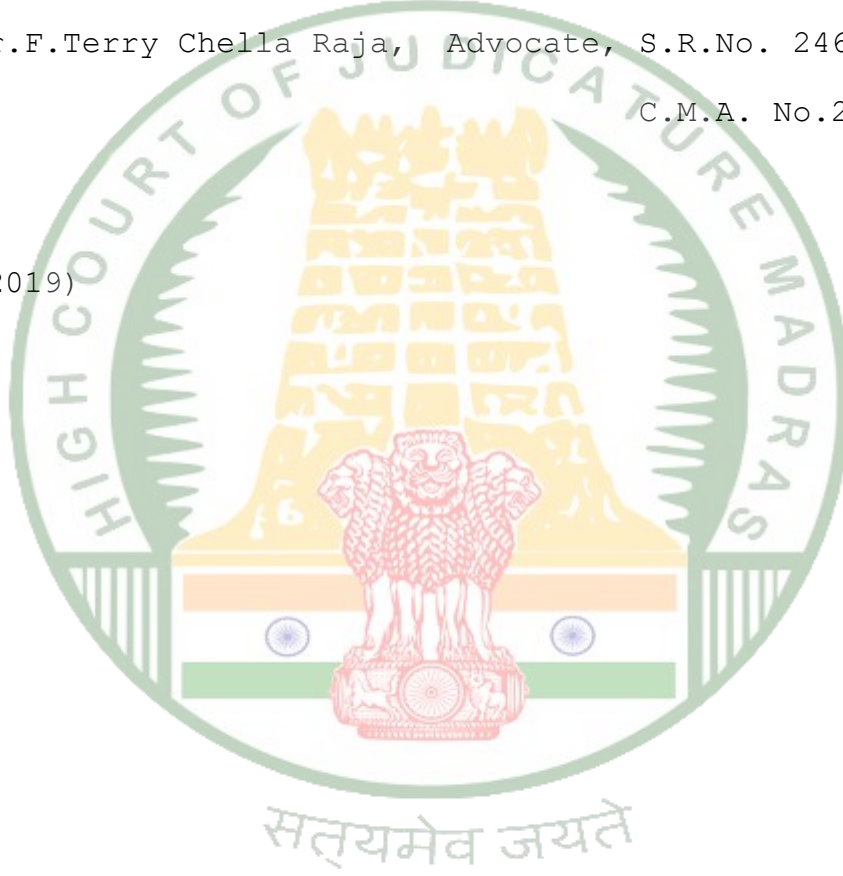
Copy To

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

+1cc to Mr.F.Terry Chella Raja, Advocate, S.R.No. 24640

C.M.A. No.2726 OF 2017

NRJK (CO)  
GN (22/07/2019)



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