

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.1160 of 2017

1. Poornam

2. James

..Appellants/Claimants

-vs-

1. G.Suresh

2. Reliance General Insurance Company Limited,
Heavifree Unit No.1,
23, Spurtank Road, 3rd Floor,
Chetpet, Chennai-31.

..Respondents/Respondents

Memorandum of Grounds of Civil Miscellaneous Appeals under Section 30(1) of the Employees Compensation Act, 1923, against the judgment dated 08.10.2013 made in W.C.No.379/2009 on the file of the Commissioner for Workmen's Compensation-II (Deputy Commissioner of Labour-II) Chennai.

For Appellant :: Ms.M.Malar

For 2nd Respondent :: Mr.S.Arunkumar

R1 :: No appearance

JUDGMENT

The present Civil Miscellaneous Appeal has been filed against the Award dated 08.10.2013 made in W.C.No.379/2009 on the file of the Commissioner for Workmen's Compensation-II (Deputy Commissioner of Labour-II) Chennai.

2. The son of the appellants, namely, Alex Pandian, aged about 18 years, was engaged by the first respondent as Cleaner of the Lorry bearing Registration No.TN-02-AA-9132 and while he was on duty on 12.06.2009 at 3.30 a.m., the said vehicle met with an accident near Guduvancherry Bus Stand by dashing against a parked Lorry bearing Registration No.TN-37-A-3733, as a result, the son of the appellant died on the spot. Therefore, the appellants, being parents of the deceased filed the claim petition before the Deputy Commissioner of Labour-II, Chennai in W.C.No.379 of 2009 claiming compensation on the ground that the accident occurred during the course of his employment and the said vehicle was insured with the 2nd respondent Insurance

Company. The Deputy Commissioner of Labour-II, Chennai passed an award on 08.10.2013 directing the second respondent Insurance company, being the insurer of the Lorry bearing Registration No.TN-02-AA-9132 owned by the first respondent, to deposit the compensation of Rs.4,59,580/-, within a period of thirty days from the date of receipt of a copy of the award, failing which the second respondent is liable to pay simple interest at the rate of 12% per annum on the compensation amount after 30 days from the date of accident till the date of deposit. Aggrieved over the same, the present appeal has been filed.

3. Today, it is represented by both sides that there is no dispute in respect of the quantum of award and the only substantial question of law arises for consideration is as to whether the learned Commissioner committed error in not granting interest of 12% on award amount in terms of Section 4-A(3) (a) of Employees Compensation Act, 1923?

4. This substantial question of law raised in this appeal as to what is the actual date for accrual of interest on the compensation arrived at under the Employees Compensation Act, whether it falls due after thirty days from the date of accident or only after thirty days from the date of determination/adjudication of the compensation/claim is no longer res integra. It has already been considered and decided by this Court by following the two decisions, one decided by the Apex Court in the case of Pratap Narain Singh Deo v. Srinivas Sabata and another, (1976) 1 SCC 289 and another decided by the Hon'ble Division Bench of this Court in the case of N.Ganesan v. Thilagavathi and others, 2010 (2) TN MAC 80 (DB). The Larger Bench of the Apex Court, way back in the year 1976, has held that the employer became liable to pay the compensation as soon as the personal injury was caused to the workman by the accident which admittedly arose out of and in the course of the employment. Following the aforesaid Larger Bench decision of the Apex Court in Pratap Narain Singh Deo's case (cited supra), a Hon'ble Division Bench of this Court in the case of N.Ganesan v. Thilagavathi and others, 2010 (2) TN MAC 80, has held as follows:-

"20. The Hon'ble Supreme Court of India in the decision reported in Pratap Narain Singh Deo's case, 1976 (1) SCC 829 (Four Judges Bench), has specifically formulated an issue and held that "The employer therefore became liable to pay the compensation as soon as the aforesaid personal injury 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 6.5.1969 under Section 19."

21. In Ved Prakash Garg v. Premi Devi and others, 1998 ACJ 1 (SC) (Two Judges Bench) the attention of the Hon'ble Supreme Court of India was not drawn to the Pratap Narain Singh Deo's case. However, the Hon'ble Supreme Court of India on the facts of the said case, held that "the Respondent-Insurance Company will be liable to pay the compensation with interest at 6% per annum thereon from the date of the accident till the date of payment to the claimants".

22. In a subsequent decision reported in 2000 ACJ page 5 (Three Judges Bench) (cited supra), the Hon'ble Supreme Court of India, has taken into consideration Pratap Narain Singh Deo's case and also the Judgment of the Full Bench of the Kerala High Court reported in United India Insurance Co. Ltd., v. Alavi 1998 ACJ 1048, and approved the view taken by the Kerala High Court and held that "the amount of compensation under Workmen's Compensation Act is payable on the date of accident and not the amount of compensation payable on account of the amendment made in 1995, which is relevant".

23. It is pertinent to point out at this juncture that the attention of the Hon'ble Supreme Court of India was not drawn to Pratap Narain Singh Deo's case and Kerala Electricity Board's case (cited supra) while rendering its verdict in the decisions reported in National Insurance Co.Ltd. v. Mubasir Ahmed and another, 2007 (1) TN MAC 214 : 2007 ACJ 845 and Kamala Chaturvedi v. National Insurance Co. & others, and in 2009 (1) TAC page 1. In the above said two decisions it has been held that "unless adjudication is done, the question of compensation becoming due does not arise and therefore, it cannot be the date of accident and it has to be taken to be the date of adjudication of the claim".

24. It is a settled position of law and as held by the Hon'ble Supreme Court of India in decisions reported in Union of India v. K.S.Subramanian, 1977 (1) LLJ 5 (SC) and State of Uttar Pradesh v. Ram

Chandra, 1977 (1) LLJ 200, that "the proper course for a High Court is to try to find out and follow the opinions expressed by Larger Benches of the Supreme Court in preference to those expressed by smaller Benches of the Court".

25. By applying the above ratio, we are of the considered opinion that the attention of the Hon'ble Supreme Court of India was not drawn to the Larger Bench decisions 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) while deciding the cases reported in 2000 ACJ 845 and Kamala Chaturvedi v. National Insurance Co. and others, 2009 (1) TAC 1.

26. The learned Judge of this Court in the decision 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 and A.Chairmen v. A.Thirumeni & another, 2008 (1) TN MAC 38, after taking into consideration the above cited Larger Bench decision of the Hon'ble Supreme Court of India, has correctly held that "the interest on compensation is payable 30 days after the date of the accident in which workman sustained injuries resulting in death".

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 vs. 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.
(emphasis supplied)

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 page 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."

5. In the light of the well settled legal position, it is made clear that the interest on the compensation amount would accrue thirty days after the date of accident and not from the date of quantification/orders passed by the Commissioner for Employees Compensation. In fact, while considering a similar issue in C.M.A.No.2733 of 2015 dated 30.11.2015 (Ravichandran v. Sadiq Hussain and others), I have also held that the interest at the rate of 12% per annum on the compensation shall accrue after thirty days from the date of accident until the date of deposit.

6. Following the above settled legal position, this Court hereby directs the second respondent Insurance company to deposit the interest at the rate of 12% per annum on the compensation awarded to the appellants/claimants after thirty days from the date of accident till the date of deposit, to the credit of the W.C.No.379/2009 on the file of the Commissioner for Workmen's Compensation-II, (Deputy Commissioner of Labour-II), Chennai within a period of four weeks from the date of receipt of a copy of this order.

7. Now, it is represented by the learned Counsel for the 2nd respondent Insurance Company that already entire compensation along with interest has been deposited. At this juncture, it is pertinent to mention that while condoning the delay of 605 days in filing the appeal, this Court has condoned the delay subject to the interest being waived off for the period of delay of 605 days. Therefore, while calculating interest at 12% on the compensation amount after 30 days from the date of accident till the date of deposit, the interest amount to the said period of 605 has to be waived off. It is open to the appellants/claimants to withdraw the entire compensation amount with accrued interest by moving appropriate application before the lower authority and the 2nd respondent Insurance Company is also permitted to withdraw the balance amount, if any.

8. The civil miscellaneous appeal is allowed accordingly.
No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Commissioner of Labour-II
Commissioner for Workmen Compensation-II,
Chennai

+1cc to M/s.M.Malar, Advocate in SR.NO..27940

C.M.A.No.1160 of 2017

SSI (CO)
RV(05/11/2020)



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