



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.17470 of 2014

and

M.P (MD) .No.2 of 2014

WEB COPY

1.S.Bhubalan

2.B.Chandra

... Petitioners

Vs.

1.The District Collector,
Nagapattinam District.

2.The Commissioner Workmen Compensation,
cum Deputy Commissioner of Labour,
Trichy-20.

3.S.Bahrudeen

4.S.Vimala

5.The Branch Manager,
National Insurance Company Ltd.,
40, Rasthmanaveli Street,
No.2, Road,
Mayiladuthurai.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to initiate and recover the arrears of compensation (Interest due) as per the award in W.C.No.26 of 2001 on the file of the 2nd respondent as modified in C.M.A(MD).No.133 of 2004 on the file of this Court, in accordance with Section 31 of the Employees' Compensation Act, 1923 and further direct the 2nd respondent to pay forthwith the amount of Rs.2,25,000/- deposited by the 5th respondent in W.C.No.26 of 2001 on its file.

For Petitioner	: Mr.H.Lakshmi Shankar
For R1 & R2	: Mr.D.Muruganandham Additional Government Pleader
For R5	: Mr.AS.Mathialagan

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 and 2 to initiate and recover the errors of pension(interest due)as per the award passed in W.C.No.26 of 2001 on the file of the second respondent as modified in C.M.A.No.133 of 2004 on the file of the High Court in accordance with Section 31 of



the Employees Compensation Act, 1923.

2.It is an admitted fact that the Workmen Compensation, Commissioner of Labour Trichirapalli, passed an award in W.C.No.26 of 2001, states that the second respondent before the Commissioner of Workmen Compensation should deposit the compensation amount of Rs.2,25,000/- within a period of 30 days, failing which, 12% interest is to be paid from the date of accident. The workmen preferred an appeal in C.M.A.No.133 of 2004 before this Court and this Court allowed the said C.M.A and the third respondent was directed to deposit the amount as awarded by the Deputy Commissioner of Labour, Trichirapalli within a period of four weeks from the date of receipt of a copy of this order. The High Court order is unambiguous that the third respondent should deposit the amount as awarded by the Deputy Commissioner of Trichy. Therefore, the award of the second respondent/ Workmen Compensation, Commissioner of Labour, passed in W.C.No.26 of 2001, is confirmed by the High Court and a direction was issued to deposit the amount, as per the award passed by the Workmen Compensation Commissioner.

3.The grievances of the writ petitioner is that though the award became final, the principal amount had already been settled in his favour. However, the interest portion as ordered by the Workmen Compensation Commissioner has not been paid. Thus, the writ petitioner is constrained to move the present writ petition.

4.The respondents 3 and 4 are not liable to pay the interest to the writ petitioners. The High Court also has not specifically ordered to pay the interest. The principal amount had already been deposited and the said principal amount had been withdrawn by the petitioners. Thus, there is no due to pay to the petitioners.

5.The interpretation of the fifth respondent is unacceptable. In view of the fact that the order of the High Court in C.M.A.No.133 of 2004, dated 26.04.2013, is very cleared that this Court passed an order that "C.M.A is allowed and the third respondent Insurance Company is directed to deposit the amount as awarded by the Deputy Commissioner of Labour, Trichy within a period of four weeks". Therefore, the Workmen Compensation Commissioner as well as the Hon'ble High Court cleared the terms held that the petitioners are entitled for interest the award passed by the Deputy Commissioner of Labour, Trichy, which is confirmed by the High Court in the said C.M.A. Therefore, this Court is of the considered opinion that the arguments, as advanced by the fifth respondent, is unacceptable and contrary to the established principles of law.

6.A perusal of the award reveals that in the event of deposit beyond 30 days, the respondents are liable to pay 12% interest, there was a delay in settlement of principal amount by the respondents. The High Court also confirmed the award passed by the



Deputy Commissioner of Labour, Trichy. Thus, the writ petitioners are entitled for the interest as claimed by them in their objections submitted before the second respondent/ the Commissioner Workmen Compensation and the Deputy Commissioner of Labour. However, the period for which the interest is to be paid must be calculated by the second respondent based on the objections submitted by the writ petitioners on 02.08.2014 under Section 31 of the Employees' Compensation Act 1923 and a proper decision is to be taken and thereafter, the amount of interest calculated, if any recovered from the respondents. In this regard, the second respondent is directed to adjudicate the issues by affording an opportunity to all the authorities concerned and decide the quantum of interest paid to the writ petitioners, as per the award passed in W.C.No.26 of 2001 which was confirmed by the High Court in C.M.A.No.133 of 2004, within a period of twelve(12) weeks from the date of receipt of a copy of this order. The petitioner is directed to serve the copy of the application once again to the second respondent.

7.With these directions, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Nagapattinam District.

2.The Commissioner Workmen Compensation,
cum Deputy Commissioner of Labour,
Trichy-20.

+1 CC to Mr.MATHIALAGAN, Advocate SR.No.26552

+1 CC to Mr.H.LAKSHMI SHANKAR, Advocate SR.No. 26508

+1 CC to Mr. Special Government Pleader, SR.No. 26838

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TP (CO)

TR(08.01.2021) 3P 6C