

19.02.2021
KC(9)

F.M.A. 896 of 2019
Mahendra Mishra
-versus-
The Managing Director, M/s. Gluconate
Health Limited and Ors.
(Via Video Conference)

Mr. Ranjit Jaiswal,
Mr. Mrinal Kanti Kundu,
Mr. Nandalal Pradhan.....For the appellant.

Mr. Amitava Chaudhuri,
Mr. N. Roy.....For the respondent no. 1.

Mr. Susanta Pal,
Mr. Ananda Dulal Sarkar.....For the State.

We have examined the judgment and order under
appeal dated 13th February, 2019.

In our opinion, this judgment and order is flawed
in its interpretation of Section 33C(2) to (5) of the
Industrial Disputes Act, 1947. In our opinion Section
33C(2) to (5) is independent of Section 33C(1). Section
33C(1) involves interpretation of a settlement or an
award. Section 33C(2) empowers the Labour Court to
adjudicate upon any dues of the employer to the
employees.

Regrettably, in its order dated 31st October, 2017
the Labour Court has not properly addressed itself to
the question of tiffin allowance connected with overtime
allowance which the workman claimed under clause 7
of the respondent company's order dated 9th June, 1997
(pages 23 to 26 of the paper book).

The appellant workman's claim is Rs. 1,07,337/-
on this account from June, 1994 to December, 2003.

He is old and lacking in financial resources. He is fighting for several decades for this claim. The amount is small by current standards.

At this point of time it would be a travesty of justice to remand the matter back to the learned Labour Court.

We have tried to apprise ourselves of the facts of this case. We find there is basis for this claim.

We have tried to assess a reasonable amount taking into account the available records and submissions of learned counsel for the parties.

Taking everything into account, in our view justice could be subserved if 50% (fifty per cent) of the claimed amount of Rs. 1,07,337/- rounded off to Rs. 53,500/- is immediately paid by the respondent company to the appellant in satisfaction of his claim.

We order accordingly. We direct the respondent no. 1 company to pay an amount of Rs. 53,500/- to the appellant within one month from this order.

The impugned order dated 13th February, 2019 is set aside.

This appeal (F.M.A. 896 of 2019) is disposed of accordingly.

(I.P. MUKERJI, J.)

(MD. NIZAMUDDIN, J.)

