

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.2393 of 2008

Jebakumar @ Jayakumar

.. Appellant

Vs.

1. C.Periasamy

2. The Oriental Insurance Company Ltd.,
United India Building,
Esplanade, Chennai-600 104.

.. Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act, against the order dated 27.09.2007 passed in W.C.No.531 of 2006 by the Deputy Commissioner of Labour-II, (Commissioner for Workmen's Compensation-II), Chennai.

For Appellant : Mr.K.A.Ravindran
for Mr.A.Shanmugaraj
For Respondents
For R2 : Mr.R.Sivakumar
For R1 : Died (Steps due)

J U D G M E N T

Appellant herein is the injured who filed W.C.No.531 of 2006 before the learned Deputy Commissioner of Labour-II, Chennai, claiming compensation for the injuries sustained by him due to the accident happened on 02.07.2005, while he was working as a Tourist Taxi driver under the first respondent and the second respondent is the Insurance Company in which the first respondent insured his vehicle.

2. Both the respondents contested the case.

3. After full enquiry, the learned Deputy Commissioner of Labour-II, Chennai, awarded compensation for a sum of

Rs.92,189/-, and directing the 2nd respondent to deposit the amount within a period of 30 days failing which directed the 2nd respondent is liable to pay the interest at the rate of 12%. Aggrieved by the order, the appellant preferred this appeal.

4. The learned counsel for the appellant submitted that, he was working as a Tourist Taxi driver under the first respondent's Taxi bearing Reg.No.TN-07M-2299. On 02.07.2005, colluded with the Maruthi car, which came from opposite direction. In such accident he sustained grievous injuries and he was immediately admitted in the hospital. Due to the injuries, he was not able to do his work and claimed the compensation from the 1st respondent / his owner and the Insurance Company to whom the vehicle was insured.

5. On perusal of the records, it is seen that, on the side of the appellant, he was examined as P.W.1, to prove his loss of earning capacity the Doctor was examined as P.W.2, and the documents, Ex.P.1 to Ex.P.9 were marked and there is no evidence on the side of the respondent. Based upon the oral and documentary evidence, the learned Deputy Commissioner of Labour-II, Chennai, awarded compensation of Rs.92,189/- and directing the 2nd respondent to deposit the amount within a period of 30 days failing which directed the 2nd respondent is liable to pay the interest at the rate of 12%.

6. Aggrieved by the order with regard to the interest portion alone, the appellant preferred this appeal, contending that the Commissioner for Labour ought to have awarded interest from the date of the accident and not by default clause thereby he prayed to award interest from the date of the accident. Point for Consideration:

"(i) whether the appellant is entitled to claim interest from the date of the accident for the award amount ?"

7. The learned counsel for the 2nd respondent submitted that the Commissioner of Labour has rightly awarded the interest and raised his objections with regard to the claim made by the appellant.

8. But, as per Section 4-(A)(2) of the Workmen Compensation Act, the employer is bound to make provisional payment based on the extent of liability, and he accepts the same as per Section 4-(A)(1) of Act, compensation under Section 4, shall be paid as soon as it falls due. A combined reading of said provision makes it clear that an employer is bound to make

even provisional payment also as soon as it falls due. The words as soon as means, immediately after the accident, in which the workmen sustains injuries or dies. However in the ratio laid down in 2010(2) TN MAC 80 DB consonance with the ratio laid down by the Larger Bench of 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 v. Valsala,K., 2000 ACJ 5 (SC) held interest on compensation payable after 30 days from the date of accident.

9. As discussed above, it is very clear that the claimant is entitled to the interest on the amount of compensation after 30 days from the date of accident. Therefore, the appeal is partially allowed with the modification that the 2nd respondent is directed to pay the interest at the rate of 12 % after 30 days from the date of the accident till the date of realization for the award amount to the appellant within a period of four weeks from the date of receipt of a copy of the judgment.

10. With regard to other findings, the order passed by the learned Deputy Commissioner of Labour-II, Chennai is confirmed. Accordingly the appeal is partly allowed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

2. The Section Officer, V.R Section, High Court, Chennai.

+1cc to Mr.A.Shanmugraj, Advocate, SR No.10787.
+1cc to MR.R.Sivakumar, Advocate, SR.No.10636.

C.M.A.No.2393 of 2008

AD(CO)
CSR 18.03.2021