

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CMA No.1010 of 2015

1.Gowri
2.Minor Ragavi
3.Radha
4.T.Periyasamy

.. Appellants

vs.

1.D.Ganesan

2.ICICI Lombard Motor Insurance Company Ltd.,
1st Floor, Upstair Union Bank,
Near Arputham Super Market,
Trichy Main Road,
Namakkal Town and District.

.. Respondents

PRAYER : Civil Miscellaneous Appeal is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 21.02.2014 made in W.C.No.193 of 2011 on the file of the Deputy Commissioner of Labour, Salem.

For Appellant

: Mr.Ma.P.Thangavel

For Respondent-1

: No Appearance

For Respondent-2 : Ms.R.Sree Vidhya

J U D G M E N T

The Award dated 21.02.2014 passed by the Deputy Commissioner of Labour in WC No.193 of 2011, is under challenge in the present Civil Miscellaneous Appeal.

2. Claim petition was filed by the legal heirs of the deceased, who met with an accident on 07.11.2010 at about 12.00 P.M.

3. The factum regarding the accident as well as the death is not disputed by the parties to the Civil Miscellaneous Appeal on hand.

4. The employment and the accident during the course of employment were established before the Deputy Commissioner of Labour by the parties.

5. The only dispute raised in the present Civil Miscellaneous

Appeal is that the Deputy Commissioner of Labour fixed the monthly income of the deceased as Rs.5,550/- instead of Rs.8,000/-, which is the minimum wages fixed by the Central Government in its Notification dated 31.05.2010 under Section 4(1)(a) of the Employees Compensation Act.

6. When the Central Government notified the minimum wages for grant of compensation under the Act, then the Deputy Commissioner of Labour has no option but to adopt the same. For the purpose of calculating the compensation, if the salary of the victim is lesser than Rs.8,000/-, then the minimum wages notified by the Central Government is to be granted. If the salary is higher than the notified amount, Rs.8,000/- and in such higher salary is established by evidence, then the compensation is to be granted based on the actual income proved by the claimants.

7. In the present Civil Miscellaneous Appeal, there is no sufficient evidence to establish the whole income of the victim. However, the Deputy Commissioner of Labour has fixed a sum of Rs.5,550/- as monthly income, which is in violation of the Notification issued by the

Central Government under Section 4(1)(a) of the Employees Compensation Act, fixing the minimum wages of Rs.8,000/- with effect from 18.01.2010.

8. Thus, the appellants are entitled for the enhanced compensation by fixing the monthly income of the deceased as Rs.8,000/-. Accordingly, the compensation awarded by the Deputy Commissioner of Labour is enhanced to Rs.8,67,640/- as well as the Medical Bills, along with interest at the rate of 12% per annum is to be granted with effect from the date of accident. Thus, the appellants are entitled for the compensation of Rs.8,67,640/- as well as the medical claim of Rs.2,27,715/- along with interest at the rate of 12% per annum from the date of accident. The funeral expenses of Rs.5,000/- is also to be added. Thus the total compensation payable to the appellants is Rs.11,00,355/-.

9. The second respondent-Insurance Company is directed to deposit the difference amount of Award along with accrued interest, within a period of twelve weeks from the date of receipt of a copy of this judgment and on such deposit, being made, the appellants are permitted to withdraw

the entire Award amount with accrued interest by filing an appropriate application before the Forum and payments are to be made through RTGS.

10. As far as the minor claimants are concerned, their respective portions of compensation are to be deposited in any one of the Nationalised Bank at the Interest Bearing Deposit Scheme and the deposit is to be renewed till they attain the age of majority.

11. Accordingly, the Award dated 21.02.2012 passed in W.C. No.193 of 2011 by the Deputy Commissioner of Labour, Salem, stands modified and consequently, Civil Miscellaneous Appeal No.1010 of 2015 stands allowed in part. However, there shall be no order as to costs.

सत्यमेव जयते

22-01-2021

Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

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To

The Deputy Commissioner of Labour,
Salem.



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S.M.SUBRAMANIAM, J.

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