

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1015 of 2015

G.Velumani

..Appellant/Petitioner

Vs.

1.D.Ganesan

2.ICICI Lombard Motor Insurance Company
Limited, 1st Floor, Upstairs Union Bank,
Near Arputham Super Market,
Trichy Main Road,
Namakkal Town & District.

..Respondents/Opposite Parties

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, against the order dated 18.12.2013 made in W.C.No.195 of 2011 on the file of the Deputy Commissioner of Labour, Salem.

For Appellant : Mr.MA.P.Thangavel
For Respondents : M/s.R.Sreevidhya for R2

J U D G M E N T

The Award dated 18.12.2013 passed in W.C.No.195 of 2011 is under challenge in the present Civil Miscellaneous Appeal.

2. The Substantial Question of law raised in the present appeal is that the monthly income fixed by the Deputy Commissioner of Labour is in violation of the Central Government Notification issued on 31.05.2010. This apart, the interest also not granted in accordance with the provisions of the Statute.

3. The claimant is the appellant and the Claim Petition was filed due to the accident occurred on 07.11.2010 at about 12.00 p.m., when the deceased was engaged as Driver in the Mini Door Auto bearing Reg.No.TN28/P-0600 belongs to the 1st respondent. The Claim Petition was adjudicated. The Deputy Commissioner of Labour arrived a conclusion that the factum regarding the accident was established and the said accident occurred during the course of employment. Accordingly, the compensation was fixed.

4. However, the learned counsel for the appellant reiterated that the monthly income was fixed based on the Government Order issued in G.O.2D.No.64 dated 23.07.2009 and as per the Government order, the minimum wages for workman was

fixed as Rs.5,966/- and that was taken into consideration. However, the accident occurred on 07.11.2010 and even before the date of accident, the Central Government issued a Notification on 31.05.2010, fixing the minimum wages for workman as Rs.8,000/-. The said Notification was issued under Section 4(1B) of the Employees Compensation Act. Thus, the Deputy Commissioner of Labour is bound to follow the said fixation of monthly income notified by the Central Government under Section 4(1B) of the Employees Compensation Act.

5. This Court is of the considered opinion that whether the minimum wages fixed by the Central Government or by the State Government, whichever is less, is to be adopted for the purpose of calculating the compensation. Sometimes there is an enormous delay in issuing notification by the Central Government and meanwhile, the State Government is issuing Notification under the Minimum Wages Act. Thus, the beneficial minimum wages whether issued by the Central Government or by the State Government, is to be adopted for calculating the compensation, which is a welfare legislation.

6. In the present case, the Central Government issued a Notification on 31.05.2010 under Section 4(1B) of the Employees Compensation Act, fixing the monthly wages of workman as Rs.8,000/- and the said amount to be fixed. Accordingly, the monthly income of the deceased in the present case is fixed as Rs.8,000/- instead of Rs.5,966/-. The appellant is entitled for interest at the rate of 12% per annum from the date of expiry of 30 days from the date of accident. Accordingly, the total compensation payable to the appellant/claimant is $[8,000 \times 50 / 100 \times 216.91 = 8,67,640]$ Rs.8,67,640/- (Rupees Eight Lakh Sixty Seven Thousand Six Hundred and Forty only) along with the interest at the rate of 12% per annum from the date of expiry of 30 days from the date of accident. The 2nd respondent/Insurance company is directed to deposit the enhanced compensation along with accrued interest within a period of 12 weeks from the date of receipt of a copy of this judgment and on such deposit, the appellant/claimant is permitted to withdraw the said amount by filing an appropriate application and the payments are to be made through RTGS.

7. Accordingly, the Award dated 18.12.2013 passed in W.C.No.195 of 2011 stands modified and the Civil Miscellaneous Appeal in C.M.A.No.1015 of 2015 is allowed in part. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commissioner of Labour,
Salem.

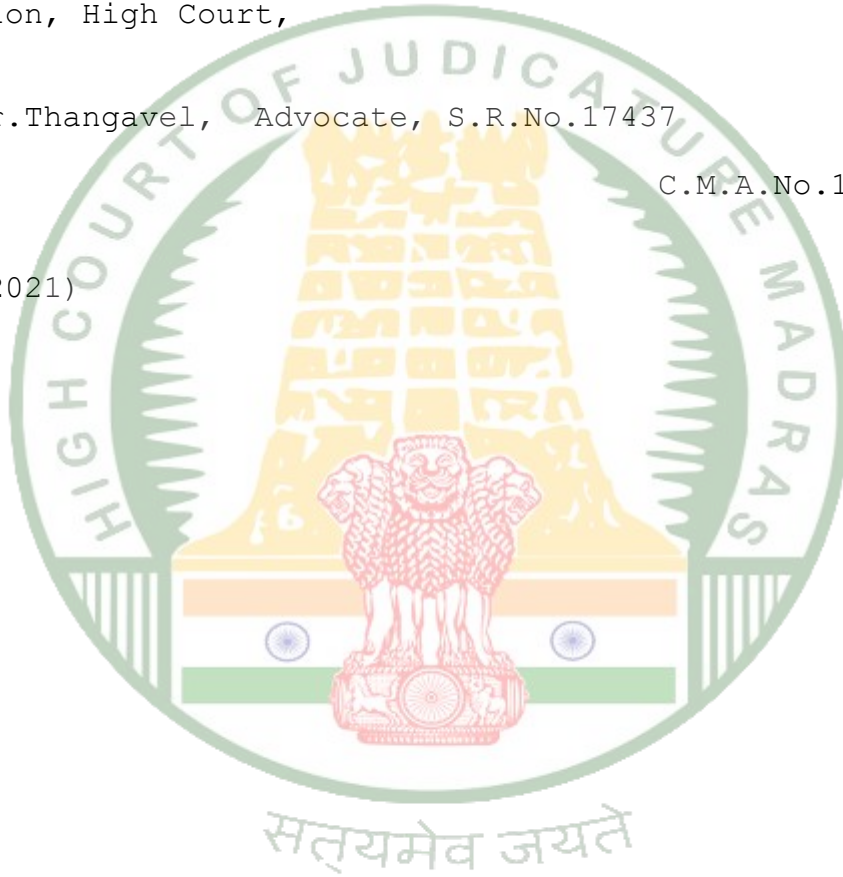
Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.Thangavel, Advocate, S.R.No.17437

C.M.A.No.1015 of 2015

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