

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CMA No.1535 of 2015

Tmt.Kupayee

.. Appellant

vs.

1. Tmt.Balamani

2. M/s.United India Insurance Company Ltd.,
5-B/11, State Bank Upstairs,
Salem Road,
Rasipuram-637 408.

(R-1 remained ex parte before the Deputy
Commissioner of Labour, Salem and hence
R-1 is given up in this appeal)

.. Respondents

PRAYER : Civil Miscellaneous Appeal is preferred under Section
30 of the Workmen Compensation Act, against the Award dated
31.03.2010 made in W.C.No.138 of 2007 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.Srividhya

J U D G M E N T

The Award dated 31.03.2010 passed in W.C.No.138 of 2007
by the Deputy Commissioner of Labour, Salem, is under challenge
in the present Civil Miscellaneous Appeal.

2. The substantial questions of law raised are that
whether the Deputy Commissioner of Labour is correct in not

following the Minimum Wages Act for the workmen serving in the cadre of Cleaner, so as to fix the income for calculating compensation?; and whether the Deputy Commissioner of Labour is correct in not awarding interest at 12% per annum from 30 days from the date of accident?

3. As far as the factum regarding the accident is concerned, there is no dispute between the parties.

4. Learned counsel for the appellant mainly contended that the present Civil Miscellaneous Appeal is filed mainly on the ground that the monthly income of the claimant was fixed as Rs.3,689/- and the minimum wages fixed as per the Central Government in the Notification No.4-A of the Workmen Compensation Act, is Rs.4,000/- per month.

5. The accident occurred on 26.12.2006. Thus, the minimum wages of Rs.4,000/- per month is to be fixed for the purpose of calculating compensation.

6. This Court is of the considered opinion that in the event of not establishing the monthly income with some evidence, then the Deputy Commissioner of Labour is bound to fix the minimum wages as notified by the Central Government under Section 4-A of the Employees Compensation Act.

7. In the present case, the Deputy Commissioner of Labour fixed a sum of Rs.3,689/- as the monthly income and the said amount is enhanced as Rs.4,000/- per month for the purpose of calculating compensation.

8. Accordingly, this Court is inclined to enhance the monthly income of the claimant from Rs.3,689/- to Rs.4,000/-. Thus, the total compensation to be paid to the appellant-claimant is Rs.4,27,140/-.

9. In this view of the matter, the second respondent-United India Insurance Company is directed to deposit the entire modified compensation of Rs.4,27,140/- along with interest at the rate of 12% per annum from the date of accident till the date of deposit and on such deposit, the appellant-claimant is directed to withdraw the entire Award amount by filing an appropriate application before the Competent Authority and payments are to be made through RTGS.

10. Learned counsel for the second respondent-Insurance Company made a submission that they have already deposited the Award amount. Thus, they are directed to deposit the balance amount as per the modified compensation, within a period of twelve weeks from the date of receipt of a copy of this judgment.

11. Accordingly, the Award dated 31.03..2010 passed in W.C. No.138 of 2007 by the Deputy Commissioner of Labour, Salem, stands modified and consequently, Civil Miscellaneous Appeal No.1535 of 2015 stands allowed in part. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Svn
To

The Deputy Commissioner of Labour,
Salem.

C.M.A.No.1535 of 2015

SSI (CO)
RMP (05/05/2021)