

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.02.2021

CORAM:

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

C.M.A.No.1558 of 2015

Amanulla

S/o.Abdul Subhan

... Appellant

Vs.

1.Prabhu

(R1 remained ex-parte before the Tribunal
hence his presence may be dispensed with)

2.National Insurance Company Ltd.,

Sowcarpet Branch,
No.378, Mint Street,
Chennai-1.

... Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act, against the award dated 11.12.2013 and made in W.C.No.515 of 2010 on the file of the learned Deputy Commissioner of Labour-II, Chennai.

For Appellant : Mr.Vasu
for M/s.M.Malar
For Respondents
For R2 : Mr.D.Bhaskaran
For R1 : Exparte

J U D G M E N T

Appellant herein is the injured who filed W.C.No.P.No.515 of 2010 before the learned Deputy Commissioner of Labour-II, Chennai, against the respondents herein claiming compensation for the injuries sustained by him due to the accident happened on 27.05.2010, while he was employed under the first respondent and the second respondent is the Insurance Company in which the first respondent insured his vehicle.

2. The second respondent contested the case and the first respondent remained ex-parte.

3. After full trial, the learned Deputy Commissioner of Labour-II, Chennai, awarded a sum of Rs.2,11,998/-, without

interest from the date of the accident by violating the statutory provision with regard to the rate of interest prescribed under Section 4-(A)(3)(a) of the Workmen Compensation Act. Aggrieved by the order, the appellant preferred this appeal.

4. The learned counsel for the appellant submitted that, he was working as a driver under the first respondent's Auto bearing Reg.No.TN-04-AD-7130 and drawing a monthly salary of Rs.5,000/- along with batta. On 27.05.2010, at about 4.45 p.m., while he was driving the Auto in M.R.H.Road, a dog had crossed, so, he applied the break suddenly, thereby, the Auto was dashed the centre median of the road and capsized, thereby, he sustained grievous injuries. In spite of treatment, he was not able to do his work and claimed the compensation from the respondent / his owner and the Insurance Company to whom, the vehicle was insured. He further submitted that the owner of the auto remained ex-parte before the learned Deputy Commissioner of Labour-II, Chennai and the Insurance Company alone contested the case.

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 Ex.P.1 to Ex.P.12 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.2,11,998/- 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% (simple Interest).

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 as it falls due as per provision under Section 4-(A)(3)(a) of the Workmen Compensation Act.

7. On perusal of the award passed by the learned Deputy Commissioner of Labour-II, Chennai, it reveals that in default payment alone, he granted interest.

8. The learned counsel for the 2nd respondent submitted that the Commissioner of Labour rightly awarded the interest

and raised his objections with regard to the claim made by the appellant.

9. 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.

10. 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.

11. 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(CS VIII)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

To

1.The Deputy Commissioner of Labour II,
Chennai.

2.The Section Officer,
VR Section, High Court, Madras.

+1cc to M/s.M.Malar, Advocate Sr.7912

C.M.A.No.1558 of 2015

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srg 19/03/2021