IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.1561 of 2015

1.Geetha Devi
2.Upender Doss

.. Appellants

Vs.

1.M/s.Saagrr Infra Limited,
No.51, R.K.Mutt Road,
Mylapore,
Chennai - 600 004.

2.The New India Assurance Company Limited,
CASA BLANCA, 1st Floor,
No.6, Casa Major Road,
Egmore, Chennai - 600 008. .. Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act 1923, against the order dated 09.03.2015, passed in W.C.No.130 of 2013, by the Deputy Commissioner for Labour - I (Commissioner for Employee's Compensation - I), Chennai - 600 006 and the same has been received by the appellant on 21.04.2015 and praying to set aside the same.

For Appellant : Mr.K.A.Ravindran
for Mr.A.Shanmugaraj

For Respondents : R1-vacated
M/s.S.Dhakshnamoorthy

J U D G M E N T

The appellant herein are the petitioners in W.C.No.130 of 2013, filed this petition claiming compensation from the respondents for the fatal death of one Mankaj Dass @ Mankaj, who was employed as a labour under the first respondent during the course of employment in the construction site and fell down from height and died on the spot.

2. The second respondent/Insurance Company contested the case.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3. After full trial, the learned Deputy Commissioner of Labour-I, Chennai, awarded a sum of Rs.8,90,480/- and directed the second respondent to deposit the amount within 30 days from its order, failing which, to pay the interest 30 days from the date of default deposit. Aggrieved over the interest portion alone, the appellant preferred this appeal.

4. As per the learned counsel for the appellant, the Commissioner ought to have awarded interest from the date of the accident under Section 4(A) (3) of the Workmen Compensation Act, without making any conditions.

5. On perusal of the award portion, it reveals that the award is passed and directed the second respondent to deposit the amount within 30 days, failing which, the interest awarded after 30 days from the date of the accident. But, as per section 4(A) (3) of the Workmen Compensation Act, amount due falls from the date of the accident itself.

6. The learned counsel for the appellant placed reliance on a judgment of the Hon'ble Supreme Court reported in 2010 (2) TNMAC 80 (DB) in the case of N.Ganesan Vs. 1.Thilagavthi, 2.United India Insurance Company Ltd, Motor Third Party Claim Cell, No.38, Anna Salai, Chennai-2. in which it has been held as follows:

> Section 4-A (3) - interest on compensation - payment of - "falls due" whether 30 days after date of accident or 30 days after date of adjudication of claim - Apex Court in Mubasir Ahmed, 2007 (1) TNMAC 214 (two-Judge Bench) holding that payment of compensation will become due on date of adjudication of claim - Apex Court in Pratap Narain Singh Deo, 1976(1) SCC 289 (L.B.4 Judges Bench) and Kerala State Electricity Board, 2000 (1) CTC 563 (SC) (3 - Judges Bench) holding that compensation will become due on date of accident - single Judges of High Court in Velu Ammal H.Dawood, placing reliance upon Apex Court decision in Mubasir Ahmed (2-Judge Bench) and holding that interest on compensation payable after 30 days from the date of adjudication of claim. .....
>
> High Courts should follow opinion expressed by Larger Benches of Supreme Court in preference to those expressed by smaller Benches of Apex Court - Single Bench of High Court in Marimuthammal and A.Chairman after

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

taking into consideration Larger Bench decisions of Supreme Court correctly held that interest on compensation payable after 30 days from the date of accident - Single Bench decisions in Marimuthammal and A.Chairman laid down correct proposition in consonance with ratio laid down by larger Bench decisions of Supreme Court.....

7. Accordingly, this appeal is allowed, the appellants are entitled for the award amount with interest at the rate of 12 % after 30 days from the date of the accident till the date of realization.

8. With regard to other findings, the order passed by the learned Deputy Commissioner of Labour-I, Chennai, is confirmed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ub

To
1.The Deputy Commissioner for Labour-I
Commissioner for Employee's Compensation-I
Chennai 600 006

+1 cc to Mr.A.Shanmugaraj Advocate sr8153
+1 cc to Mr.S.Dhakshnamoorthy Advocate sr7740

C.M.A.No.1561 of 2015

kv(co)
aa10/03/2021

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/