

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.01.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1671 of 2015

Justin

.. Appellant

Versus

1.Sasikumar

2.The United India Insurance Co., Ltd.,
Divisional Office,
No.73-C, MTH Road,
Ambattur,
Chennai - 53

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 (1) of the Workmen Compensation Act 1923, against the award dated 22.07.2013 made in W.C.No.224/2012 on the file of the Deputy Commissioner of Labour-II, Chennai.

For Appellant : Mr. F. Terry Chella Raja

For Respondents : R1 - Ex Parte
R2 - Mr. C. Parathaman

J U D G M E N T

The award dated 22.07.2013 passed in W.C.No.224/2012, is under challenge in the present civil miscellaneous appeal.

2. The claimant is the appellant and the appeal is filed seeking enhancement of compensation. As per the application filed under Section 10 (2) of W.C.Act, 1923, the appellant was working as a cleaner with the first opposite party in a vehicle namely TATA ACE bearing Reg. No.TN-18-C-3940. On 24.03.2012, the vehicle met with an accident and the appellant sustained grievous injuries and admitted in Rajiv Gandhi Government Medical Hospital in Chennai. The claim petition was filed by the Deputy Commissioner of Labour adjudicated the issues based on the documents and evidences.

3. The learned counsel for the appellant made a submission that the monthly income of the claimant was erroneously fixed as Rs.5,985/- by the Deputy Commissioner of Labour instead of fixing a sum of Rs.8,000/- as per the Notification issued by the Central Government. This apart, the statutory interest of 12% is to be awarded from the date of accident and not from the date of the deposit of the award amount by the United India Insurance Company, in these two aspects, the appeal is to be allowed.

4. The learned counsel appearing for the respondent/United India Insurance Company Limited, disputed the said contentions by stating that based on the evidences available, the monthly income of the claimant was fixed, the claimant has not produced any acceptable evidence regarding the monthly income and therefore, the Deputy Commissioner of Labour is right in fixing the income of the claimant and there is no infirmity as such. As far as the interest is concerned, when the statutory interest is 12%, it need not be granted from the date of accident.

5. This Court is of the considered opinion that the Government of India issued a Notification on 31.05.2010 under Section 4(i) A of the Employees Compensation Act. The monthly wages was enhanced from Rs.4,000/- to Rs.8,000/- with effect from 18.01.2010. Thus, with reference to the accident occurred on or after 18.10.2010, the wages to be fixed as Rs.8,000/- for the purpose of quantifying the compensation. This being the statutory fixation done by the Government of India under Section 4(i) A, of the Employees Compensation relief, there is no reason to deny the merit of the wages fixed by the Central Government. Pursuant to the provision of the powers in this regard, the Deputy Commissioner of Labour has committed an error in fixing the monthly income of the appellant as Rs.5,985/- instead of Rs.8,000/-. Thus, the monthly income is to be fixed as Rs.8000/-, for the purpose of quantifying the compensation. As far as the interest is concerned, the statutory interest amount is to be paid from the date of accident as the amount of compensation is not settled in accordance with the provisions of the Act.

6. This being the factum, accordingly, the modified compensation of Rs.7,48,306/- is fixed and the respondent-United India Insurance Company is liable to settle the modified compensation of Rs.7,48,306/- along with the interest at the rate of 12% per annum from the date of accident. The second respondent/United India Insurance Company is directed to deposit the modified award amount with accrued interest, within a period of twelve weeks from the date of receipt of copy of the judgment and on such deposit, the appellant/claimant is permitted to withdraw the entire award amount by filing an appropriate application and the payment sought to be made through RTGS.

Thus, the award dated 22.07.2013, passed in W.C.No.22/2012, stands modified and CMA No.1671/2015 stands allowed in part.

Sd/-
Asst.Registrar (CS VII)

/true copy/
Sub Asst. Registrar

AT

To

1.The Deputy Commissioner of Labour-II,
Chennai.

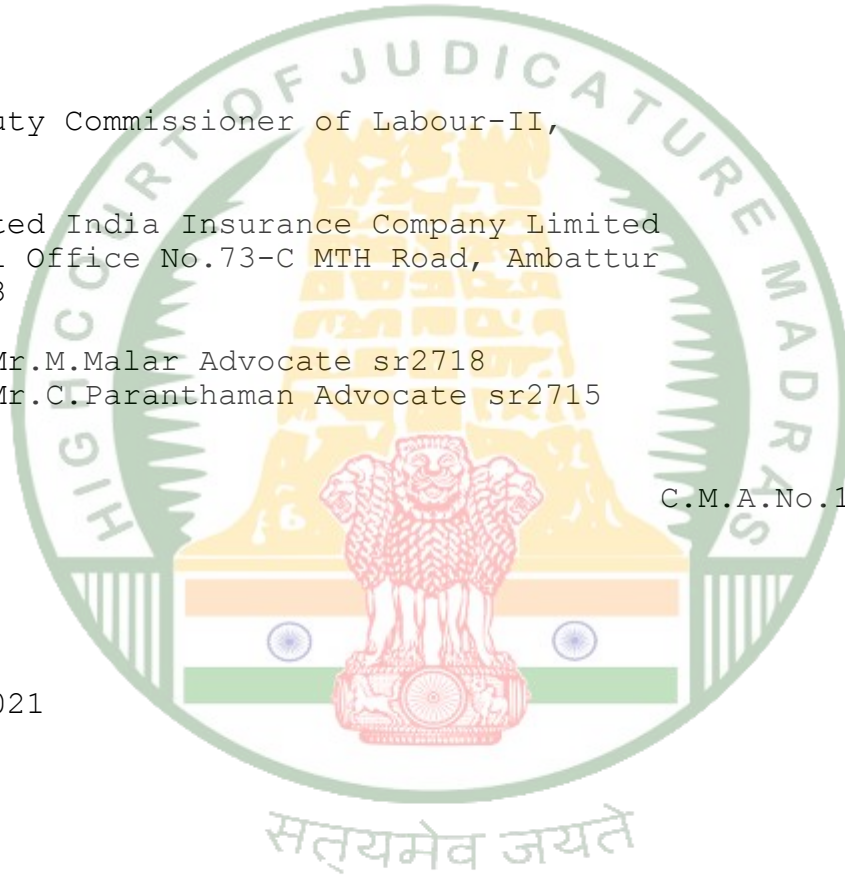
2.The United India Insurance Company Limited
Divisional Office No.73-C MTH Road, Ambattur
Chennai-73

+1 cc to Mr.M.Malar Advocate sr2718

+1 cc to Mr.C.Paranthaman Advocate sr2715

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