

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CMA Nos.211, 488, 489, 492, 493, 616, 635 and 748 of 2015

And

CMP No.7502 of 2016

Sellammal	.. First Appellant in CMA 211/2015
Sivasubramaniam	.. Second Appellant in CMA 211/2015
Vijaya	.. Third Appellant in CMA 211/2015
Jeyalaxmi	.. Fourth Appellant in CMA 211/2015
Lakshmi	.. First Appellant in CMA 488/2015
Selvi	.. Second Appellant in CMA 488/2015
Manikandan	.. Third Appellant in CMA 488/2015
Pappathi	.. First Appellant in CMA 489/2015
Ambiga	.. Second Appellant in CMA 489/2015
Nithish	.. Third Appellant in CMA 489/2015
S.Kavitha	.. First Appellant in CMA 492/2015
Minor S.Karthika	.. Second Appellant in CMA 492/2015
Minor Nandhini	.. Third Appellant in CMA 492/2015
P.Chinnapillai	.. Fourth Appellant in CMA 492/2015
Mohana	.. First Appellant in CMA 493/2015
Minor Gokul	.. Second Appellant in CMA 493/2015
Kuppayee Ammal	.. Third Appellant in CMA 493/2015
Pomma Naicker	.. Fourth Appellant in CMA 493/2015
Rajan @ Laximanan	.. First Appellant in CMA 616/2015
Pavayee	.. Second Appellant in CMA 616/2015
Kanmani	.. First Appellant in CMA 635/2015
Minor Navin Kumar	.. Second Appellant in CMA 635/2015
Minor Ram Kumar	.. Third Appellant in CMA 635/2015
Rajathi	.. Fourth Appellant in CMA 635/2015
K.Subramaniam	.. Appellant in CMA 748/2015

vs.

1.The Correspondent,
Kongu Matric Higher Secondary School,
Velagoundampatti Post,
Tiruchengode Taluk,
Namakkal District.

2.M/s.United India Insurance Company Ltd.,
146-N, Kumar Complex,
Tiruchengode Post,
Namakkal District.

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

3.Central Crime Branch,
Salem District represented by the Deputy
Superintendent of Police,

4.The Investigation Officer,
who is in-charge of the investigation of the case
in Crime No.13 of 2010.

5.The Present Deputy Commissioner of Labour,
Commissioner for Workmen's Compensation,
Salem.

6.Mr.T.Soundarapandian

(R-3 to R-6 suo motu impleaded vide order of
Court dated 30.01.2015 made in CMA 211/2015)

7.Mr.Ravishankar,
Joint Commissioner of Labour,
DMS Complex,
Teynampet,
Chennai-6.

(R-7 suo motu impleaded vide order of Court
Court dated 16.12.2015 made in CMA 211/2015)

8.The Secretary to Government,
Labour and Employment Department,
Chennai-9.

(R-8 suo motu impleaded vide order of Court
Court dated 06.07.2015 made
in CMA 211/2015)

.. Respondents in CMA 211/2015

1.V.Selvi

2.M/s.Royal Sundaram Alliance Insurance
Company Limited,
46, Whites Road,

Chennai-14.

(No relief claimed against R-1, hence R-1
is given up in this appeal) .. Respondents in CMA 488/2015

1.Ramayee

2.M/s.United India Insurance Company Ltd.,
Divisional Office,
Dr.Sankaran Road,
Namakkal.

(No relief claimed against R-1, hence R-1
is given up in this appeal) .. Respondents in CMA 489/2015

1.P.Venkatachalam

2.M/s.United India Insurance Company Ltd.,
No.2, Dr.Sankaran Road,
Namakkal.

(No relief claimed against R-1, hence R-1
is given up in this appeal) .. Respondents in CMA 492/2015

1.K.Jayaraj

2.M/s.United India Insurance Company Ltd.,
No.2, Dr.Sankaran Road,
Namakkal.

(No relief claimed against R-1, hence R-1
is given up in this appeal) .. Respondents in CMA 493/2015

1.K.Kandasamy

2.ICICI Lombard General Insurance Company Ltd.,
Swarnamigai Plaza,
Omalur Main Road,
Near Bus Stand,
Salem-636 009.

(No relief claimed against R-1, hence R-1
is given up in this appeal) .. Respondents in CMA 616/2015

1.R.Ravikumar

2.ICICI Lombard General Insurance Company Ltd.,
Swarnamigai Plaza,
Omalur Main Road,
Near Bus Stand,

Salem-636 009.
(No relief claimed against R-1, hence R-1
is given up in this appeal) .. Respondents in CMA 635/2015

1.S.Selvarani

2.ICICI Lombard General Insurance Company Ltd.,
Swarnamigai Plaza,
SF No.6/5, Block No.7, Ward-C,
Omalur Main Road,
Near Bus Stand,
Salem-636 009.

(No relief claimed against R-1, hence R-1
is given up in this appeal) ... Respondents in CMA 748/2015

CMA 211 of 2015 is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 15.09.2009 made in W.C.No.113 of 2008 on the file of the Deputy Commissioner of Labour, Salem.

CMA 488 of 2015 is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 15.09.2009 made in W.C.No.395 of 2007 on the file of the Deputy Commissioner of Labour, Salem.

CMA 489 of 2015 is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 20.05.2010 made in W.C.No.522 of 2007 on the file of the Deputy Commissioner of Labour, Salem.

CMA 492 of 2015 is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 15.09.2009 made in W.C.No.60 of 2008 on the file of the Deputy Commissioner of Labour, Salem.

CMA 493 of 2015 is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 15.09.2009 made in W.C.No.412 of 2008 on the file of the Deputy Commissioner of Labour, Salem.

CMA 616 of 2015 is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 31.03.2010 made in W.C.No.223 of 2007 on the file of the Deputy Commissioner of Labour, Salem.

CMA 635 of 2015 is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 26.02.2010 made in W.C.No.111 of 2008 on the file of the Deputy Commissioner of Labour, Salem.

CMA 748 of 2015 is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 30.11.2009 made in W.C.No.68 of 2008 on the file of the Deputy Commissioner of Labour, Salem.

For Appellants in CMAs 211,488
489,492,493,616,635&748 /2015, : Mr.Ma.P.Thangavel

For R-1 in CMAs 211,488,489,492,
493,616,635&748/2015 : Ex parte

For R-2 in CMAs 211,616&635/2015 : Ms.R.Srividhya

For R-2 in CMAs 488,489,492,
493&748/2015 : Mr.T.Ravichandran

For R-3 & R-4 in CMA 211/2015 : Mr.R.Aneesan

For R-5 in CMA 211/2015 : Mr.S.Jaganathan,
Government Advocate (CS) .

For R-6 to R-8 in CMA 211/2015 : No Appearance

COMMON JUDGMENT

All these Civil Miscellaneous Appeals are filed raising the common substantial question of law regarding the payment of interest to be granted under the Workmen Compensation Act.

2. Learned counsel for the appellants mainly contended that the factum regarding the accident was established and the quantum of compensation is also not disputed by the appellants. However, the interest portion fixed by the Deputy Commissioner of Labour is erroneous and in violation of the provisions of the Workmen Compensation Act.

3. The Deputy Commissioner of Labour fixed interest at the rate of 12% per annum from the expiry of 30 days from the date of receipt of a copy of the Award passed by the Deputy Commissioner of Labour.

4. It is contended that interest is to be calculated from the date of accident.

5. This Court is of the considered opinion that Section 4-A(3) (a) of Employees Compensation Act, direct that the employer shall, in addition to the amount of arrears, pay simple interest thereon at the rate of 12% per annum or at such higher

rate not exceeding the maximum of the lending rates of any Scheduled Bank, as may be specified by the Central Government, by Notification in the Official Gazette. Thus, the claimants are entitled for 12% interest as per the above provisions of the Employees Compensation Act.

6. The question arose whether 12% per annum interest is to be calculated from the date of accident or the expiry of 30 days from the date of passing of the Award.

7. In most of the cases, the Deputy Commissioners of Labour are passing the Award stating that the Award amount is to be deposited by the opposite party, within 30 days, failing which the interest at the rate of 12% is to be paid from the date of expiry of 30 days. Such a conditional payment of interest to the claimants is not contemplated under the Statute.

8. The conditional grant of interest cannot be acceptable in view of the fact that the Statute provides interest at the rate of 12% per annum. Thus, 12% per annum interest is to be calculated from the date of cause of action that is the date of accident and not from the date on which the period of 30 days expiry from the passing of the Award.

9. The conditional grant of interest is not contemplated under the Act. When the Act says 12% per annum is to be paid for compensation, then the interest is to be calculated from the date on which the cause arose for grant of compensation.

10. In every case, the cause arises on the date of accident and soon after the accident occurred, the victim is entitled for compensation. Thus, the interest is to be calculated from the date of accident and not from the date of Award or the expiry of 30 days from passing of the Award. Such conditional grant of interest is unacceptable and in all cases, the opposite party, who is liable to pay compensation, shall pay interest from the date of accident, which would be the spirit of the Act.

11. The Employees Compensation Act is a Welfare Legislation. Thus, constructive interpretation is just and necessary. Once an employee met with an accident and sustained injury or died, the Award of compensation, the interest is to be paid from the date of accident because the period of litigation is unknown to the parties. Some litigations are disposed at the early stage and some at later stage. If interest is denied, it will create inconsistency or anomaly amongst the workmen, which is certainly not justifiable. Therefore, uniformity is to be followed for grant of interest in all cases of compensation under the Employees Compensation Act.

12. In order to maintain uniformity and by interpreting the provisions constructively, this Court is of the opinion that interest is to be paid as per Section 4-A(3)(a) from the date of accident and not from the date of passing the Award or from the date of 30 days expiry from the date of Award. Both the cases are erroneous and cannot be accepted at all.

13. Learned counsel appearing on behalf of the second respondent-Insurance Company made a submission that the Award amount had already been deposited. Thus, the balance interest portion is to be calculated and the said difference amount alone is to be deposited and on such deposit, the claimants are permitted to withdraw the balance interest portion by filing appropriate applications before the Competent Authority and payments are to be made through RTGS.

14. The second respondent-Insurance Company is directed to deposit the difference amount of interest, within a period of twelve weeks from the date of receipt of a copy of this common judgment.

15. As far as the minor claimants are concerned, their respective portions of compensation are to be deposited in any one of the Nationalised Bank at the Interest Bearing Deposit Scheme and the same is to be renewed periodically till they attain the age of majority.

16. Accordingly, Awards dated 15.09.2009, 15.09.2009, 20.05.2010, 15.09.2009, 15.09.2009, 31.03.2010, 26.02.2010 and 30.11.2009 passed in W.C. Nos.113 of 2008, 395 of 2007, 522 of 2007, 60 of 2008, 412 of 2008, 223 of 2007, 111 of 2008 and 68 of 2008 by the Deputy Commissioner of Labour, Salem, stand modified and consequently, Civil Miscellaneous Appeal Nos.211, 488, 489, 492, 493, 616, 635 and 748 of 2015 stand allowed in part. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

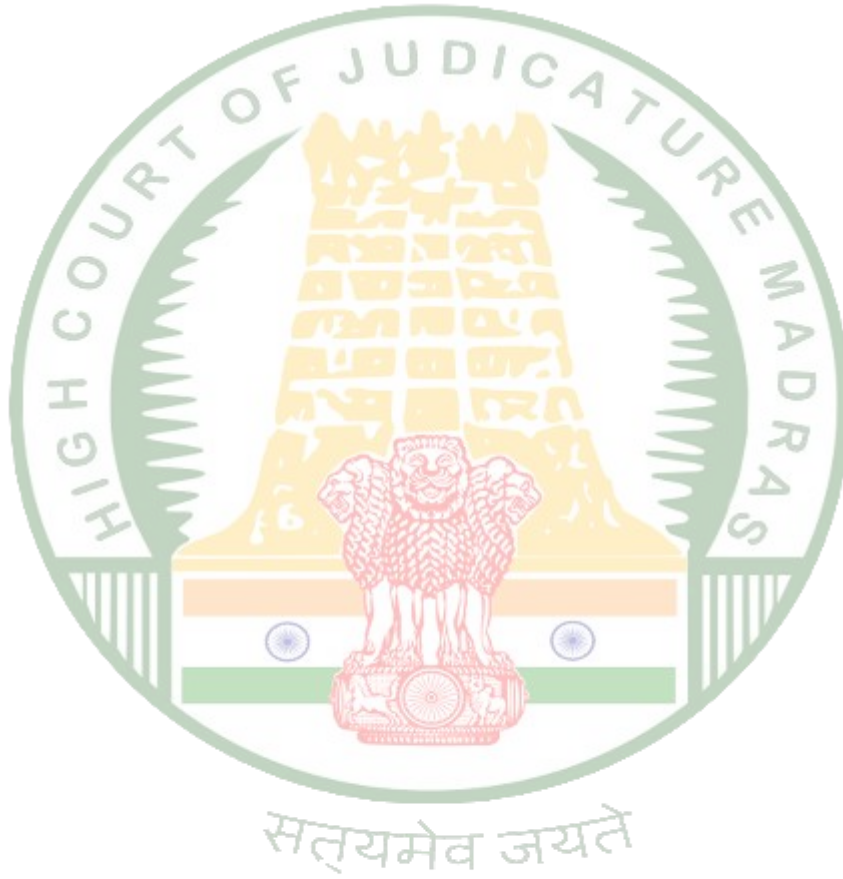
Svn
To

The Deputy Commissioner of Labour,
Salem.

+1 cc to Mr.P.Thangavel, SR.No.3925
+1 cc to Special Government Pleader SR.No.4052
+2 cc to R. Sreevidhya, SR.No.4457 & 4458

C.M.A.No.211, 488, 489, 492,
493, 616, 635 and 748 of 2015

AD (CO)
NS (03/05/2021)



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