

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED 19.01.2021  
CORAM  
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM  
C.M.A.No.2394 of 2015

Sheikmasthan Sherif

.. Appellant/Petitioner

Versus

1.Rasool

...1<sup>st</sup> Respondent/1<sup>st</sup> Respondent

2.National Insurance Co. Ltd.,  
No.45, 5<sup>th</sup> Floor,  
Moore Street,  
Chennai - 1

(R1 remained Ex party before the tribunal)

...2<sup>nd</sup> Respondents/2<sup>nd</sup> Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Workmen Compensation Act 1923, to set aside the award dated 24.12.2013, made in W.C.No.P.No.380/2012 on the file of the Deputy Commissioner of Labour - II, Chennai.

For Appellant : Mr. K. Rajeshwaran

For Respondents : R1 - Ex-parte

R2 - Mr. S. Vadivel

JUDGMENT

The award dated 24.12.2013, passed in W.C.No.380/2012 is under challenge. The claimant filed the present appeal seeking enhancement of compensation.

2. The appellant was working as a driver under the first respondent in a lorry bearing Registration No.AP-07-TU-0995. On 04.06.2012, when the appellant was working, met with an accident and the accident occurred during the course of employment. Accordingly, the appellant filed an application under Section 10 of the W.C.Act seeking Compensation. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and evidence and awarded a compensation of Rs.4,53,537/-.

3. The learned counsel for the appellant mainly contended that the appellant was working as a driver and the monthly income of the appellant was fixed as Rs.6,784/- which is lesser than the the wages fixed by the Central Government under Section

4(1)(A) of the Employees Compensation Act. In this regard, the amended wages are fixed by the Central Government in Notification dated 31.05.2010, wherein the amended wages of Rs.8,000/- is fixed with effect from 18.01.2010. In the present case, the accident occurred on 04.06.2012, it is to be clarified that the amended Act came into force with effect from 18.01.2010 and the Notification was issued in the Government Gazette of India dated 31.05.2010. Therefore, for the purpose of grant of compensation, the date is to be taken as 18.01.2010, when the amended Act, came into force. However, in the present case, the accident occurred on 04.06.2012, and therefore, the Deputy Commissioner of Labour ought to have fixed the monthly salary of the appellant as Rs.8,000/- for the purpose of award of compensation. In view of the said factum, the monthly salary fixed by the Deputy Commissioner of Labour as Rs.6,784/- is enhanced to Rs.8,000/- and the interest of 12% is to be paid from the date of accident.

4. Accordingly, the modified compensation of Rs.5,34,159/- is to be paid to the appellant along with the interest at the rate of 12% per annum from the date of accident. The second respondent National Insurance Company is directed to deposit the modified award amount of Rs.5,34,159/- along with the 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 payments are to be made through RTGS. Thus, the award dated 24.12.2013, passed in W.C.No.318/2012, stands modified and C.M.A.No.2394/2015 stands allowed in part.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AT  
To  
The Deputy Commissioner of Labour-II,  
Chennai.

+1 cc to Mr.K.Rajeswaran, Advocate, SR.NO.2719  
+1 cc to Mr.S.Vadivel, Advocate, SR.NO.3174

C.M.A.No.2394 of 2015

PP(CO)  
NS(10/05/2021)