IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CMA No.1451 of 2016

A.Ganesan
... Appellant/Petitioner

vs.

1.A.Ravi

2.ICICI Lombard General Insurance Co. Ltd.,
"Chottabhai Centre", 2nd and 3rd Floors,
No.140, Nungambakkam High Road,
Chennai-600 034. ... Respondents/Respondents

PRAYER : Civil Miscellaneous Appeal is preferred under Section 30 of the Workmen Compensation Act, against the Award dated 22.11.2013 made in W.C.No.443 of 2012 on the file of the Deputy Commissioner of Labour-II, Chennai.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : Ms.R.Sreevidhya

J U D G M E N T

The Award dated 22.11.2013 passed by the Deputy Commissioner of Labour-II, Chennai in WC No.443 of 2012, is under challenge in the present Civil Miscellaneous Appeal.

2. Learned counsel for the appellant mainly contended that the factum regarding the accident was established and the quantum of compensation is also not disputed by the appellant. 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 sole question of law raised in the present Civil Miscellaneous Appeal on hand is that the statutory interest of 12% per annum for the quantum of Award is not fixed from the date of accident. Contrarily, the interest was directed to be paid on expiry of 30 days from passing the Award, which is improper.

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 lis 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. In view of the fact that the claimant is entitled for the statutory interest of 12% from the date of accident, the same is to be granted.

13. Accordingly, the Award dated 22.11.2013 passed in W.C. No.443 of 2012 by the Deputy Commissioner of Labour-II, Chennai, stands modified and the appellant is entitled for 12% per annum interest with effect from the date of accident. Thus, the balance interest amount is to be calculated and deposited by the respondents, within a period of twelve weeks from the date of receipt of a copy of this judgment and on such deposit, being made, the appellant is permitted to withdraw the amount by filing an appropriate application and payments are to be made through RTGS. Consequently, Civil Miscellaneous Appeal No.1451 of 2016 stands allowed in part. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Svn

To

The Deputy Commissioner of Labour-II,
Chennai.

COPY TO

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

+1cc to Mr.K.Varadhakamaraj, Advocate Sr.4811
+1cc to Mr.R.Sreevidhya, Advocate Sr.4455

C.M.A.No.1451 of 2016

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srg 05/03/2021