

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CMA No.274 of 2015

S.Athithan

..Appellant

vs.

1.V.Sivam

2.United India Insurance Company Ltd.,
No.2, Dr.Sankaran Road,
Namakkal Town

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

..Respondents

PRAYER : Civil Miscellaneous Appeal is preferred under Section
30 of the Workmen Compensation Act, against the Award dated
30.04.2010 made in W.C.No.288 of 2008 on the file of the Deputy
Commissioner of Labour, Salem.

For Appellant : Mr.Ma.P.Thangavel

For Respondent-1 : No Appearance

For Respondent-2 : Ms.I.Malar

J U D G M E N T

The Award dated 30.04.2010 passed in
W.C.No.288 of 2008 by the Deputy Commissioner of Labour, Salem,
is under challenge in the present Civil Miscellaneous Appeal.

2. The substantial question of law mainly
raised by the appellant in the present Civil Miscellaneous
Appeal is that the monthly income of the claimant fixed by the
Deputy Commissioner of Labour is lesser than that of the minimum
wages notified by the Central Government under Section 4-A of
the Employees Compensation Act.

3. The Deputy Commissioner of Labour fixed the monthly income of the claimant as Rs.3,799.50 instead of fixing as Rs.4,000/- per month. There is no dispute with reference to the factum regarding the accident and the findings of the Deputy Commissioner of Labour.

4. Learned counsel for the appellant-claimant contended that the monthly income of the claimant is erroneously fixed by the Deputy Commissioner of Labour, which is contrary to the Notification issued by the Central Government under Section 4-A of the Employees Compensation Act.

5. Thus, this Court is inclined to enhance the monthly income fixed by the Deputy Commissioner of Labour from Rs.3,799/50 to Rs.4,000/-. Accordingly, the claimant is entitled for the modified compensation amount of Rs.1,27,074/- along with interest at the rate of 12% per annum from the date of accident till the date of deposit.

6. The second respondent-Insurance Company is directed to deposit the difference amount along with accrued interest, within a period of twelve weeks from the date of receipt of a copy of this judgment and on such deposit, the claimant is permitted to withdraw the Award amount after filing an appropriate application before the Competent Authority and payments are to be made through RTGS.

7. Accordingly, the Award dated 30.04..2010 passed in W.C. No.288 of 2008 by the Deputy Commissioner of Labour, Salem, stands modified and consequently, Civil Miscellaneous Appeal No.274 of 2015 stands allowed in part. However, there shall be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Svn
To

The Deputy Commissioner of Labour,
Salem.

C.M.A.No.274 of 2015

GMR (CO)
SP (04/03/2021)