

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.01.2021
CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.491 of 2012

Mr.M.Gunasekaran

..Appellant/Petitioner

Vs.

1.Mr.La.Radhakrishnan
2.M/s.New India Assurance
Company Limited,
B.K.Building,
Second Floor,
Ramalinga Madayala Street,
Gugai,
Salem - 636 006

..Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, to set aside the order in W.C.No.182 of 2002 dated 20.02.2004 on the file of the Commissioner of Workmen's Compensation and Deputy Commissioner of Labour, Tiruchirapalli, in so far as it is against the appellant, grant costs throughout.

For Appellant : Mr.Hajee P.K.Jamal Mohamed

For Respondent : R2 - Mr.K.Vinod
R1 - No Such Address

J U D G M E N T

The Award dated 20.02.2004 passed by the Commissioner of Workmen Compensation is under challenge in the present appeal.

2. The claimant is the appellant. The Claim Petition was filed on the ground that the appellant was working as a driver in a vehicle bearing Registration No.PY 01 D 7010. The petitioner has stated that he was got a salary of not less than Rs.3,000/- per month and on 21.06.1995 at about 23.30 hours, when the appellant was driving the vehicle on the Coimbatore Palakkad NH from Thiruvananthapuram to go to the Salem with the load, the vehicle met with an accident and he sustained injuries. The petitioner states that he sustained fracture and multiple grievous injury all over the body, he was admitted in Medical College Hospital, Trichur as inpatient and thereafter, treated as outpatient and a criminal case was also registered.

3. An application was filed, seeking compensation. The Commissioner of Workmen compensation, adjudicated the issues with reference to the facts, circumstances as well as the evidence. The factum regarding the accident was established.

4. However, the learned counsel for the appellant now questions the fixation of monthly salary of Rs.1,000/- fixed by the Workmen Compensation. The accident admittedly occurred on 21.06.1995 and during the relevant point of time, as per the investigation issued by the Central Government under Section 4A of the employees Compensation Act, the minimum salary for fixation for compensation was Rs.1,000/-.

5. In view of the fact that the annual salary was not established with evidence, the Commissioner has fixed the salary, fixed by the Central Government under Section 4A of the Employees Compensation Act. When the claimants have not established the salary with an acceptable evidence, then the minimum wages fixed by the Central Government by way of an investigation under Section 4A of the Act is to be taken into consideration for the purpose of compensation.

6. In the present case, the accident occurred in the year 1995 and during the relevant point of time, the Minimum wages fixed was Rs.1,000/-. Thus, there is no perversity or infirmity as such in the matter of compensation.

7. Therefore, the Award dated 20.02.2004 passed by the Commissioner of Workmen Compensation stands confirmed and consequently, the Civil Miscellaneous Appeal in C.M.A.No.491 of 2012 stands dismissed. No costs.

Sd/-
Assistant Registrar (CS.VII)

/True Copy/

Sub Assistant Registrar

To

The Commissioner of Workmen's Compensation
and Deputy Commissioner of Labour,
Tiruchirapalli.

Copy to : The Section Officer, VR.Section,
High Court of Madras, Chennai- 104.

+1cc to Mr.J.Jayendra Krishnan, Advocate Sr.No.3913
+1cc to Mr.K.Vinod, Advocate Sr.No.4152

AKM/25.02.21 /2P-4C/

C.M.A.No.491 of 2012