

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1915 of 2016

- 1.Sathya
- 2.Minor Suman
- 3.Kandammal
- 4.Ramasamy

..Appellants

(Minor Petitioner No.2 is rep.by his
next friend guardian Mother Sathya)

Vs.

- 1.Kandasamy
- 2.National Insurance Company Limited,
146-N, Kumar Complex,
Tiruchengode.

..Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, against the order dated 10.06.2016 made in W.C.No.359 of 2012 - N.No.312 of 2015 on the file of the Deputy Commissioner of Labour/Commissioner of Workmen Compensation Court, Salem.

For Appellants : Mr.C.Paraneedharan

For Respondents : Ms.N.B.Surekha

JUDGMENT

The award dated 10.06.2016 passed in W.C.No.359 of 2012, is under challenge in the present civil miscellaneous appeal.

2. The sole question of law raised in the appeal on hand is that the monthly income of the deceased was erroneously fixed as Rs.6416/- instead of Rs.8000/- which is the minimum wages notified by the Central Government under Section 4(A) of the Employees Compensation Act.

3. Admittedly, the accident occurred on 11.04.2012 and the factum regarding the accident was established and the employee employer relationship was also proved. The insurance policy was in force.

4. The Deputy Commissioner of Labour adjudicated the issues with reference to the documents and evidences and arrived a conclusion that the deceased is entitled for compensation. However, the Deputy Commissioner of Labour fixed the monthly income of the deceased as Rs.6416/- which is lesser than the minimum wages notified by the Central Government which is Rs.8000/- per month. Thus, the deceased

is entitled for fixing the monthly income of sum of Rs.8000/- per month and the said amount is to be fixed for the purpose of calculating the compensation.

5. Accordingly, this Court is inclined to enhance the monthly income of the deceased from Rs.6416/- to Rs.8000/-. The revised compensation is to be calculated as $8000 \times 50 / 100 \times 192.14 = 7,68,560$. Rs.5000/- is to be added for funeral expenses and the total compensation payable is Rs.7,73,560/-. The appellants are entitled for the modified compensation of Rs.7,73,560/- along with interest at the rate of 12% per annum from the date of accident.

6. The second respondent Insurance Company is directed to deposit the enhanced amount along with accrued interest within a period of 12 weeks from the date of receipt of a copy of this order. On such deposit, the major appellants alone are permitted to withdraw their respective portion of the award by filing an appropriate application and payments are to be made through RTGS. As far as the minor appellant is concerned, the said amount shall be deposited in an interest bearing scheme in any one of the Nationalized Bank and the same shall be renewed periodically till he attain majority.

7. Accordingly, the award dated 10.06.2016 passed in W.C.No.359 of 2012 is modified and C.M.A.No.1915 of 2016 stands allowed in part. No costs.

Sd/-

Assistant Registrar (CS.III)

/True Copy/

Sub Assistant Registrar

To

The Deputy Commissioner of Labour/
Commissioner of Workmen Compensation Court,
Salem.

+2cc to Mr.C.Paraneedharan, Advocate Sr.No.4244

+1cc to Mr.N.B.Surekha, Advocate Sr.No.4153

AKM/16.03.21 /2P-5C/

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