

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.3600 of 2013

Sakthivel,
S/o.Ariyaputhiran.

.. Appellant

Vs.

1.R.Shanmugavel,
S/o.Ramachandran.

2.The United India Insurance Company Ltd.,
NO.488 and 489, Sarguru Complex,
Nandanam,
Annasalai,
Chennai - 600 035.

.. Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act, to set aside the award dated 09.07.2012, made in W.C.No.34 of 2009, on the file of the Deputy Commissioner of Labour-II, Chennai.

For Appellant : M/s.M.Malar

For Respondents : Mr.C.Paranthaman for R1

J U D G M E N T

The appellant herein filed W.C.No.34 of 2009, claiming compensation from the respondents for the injuries sustained by him, due to the accident happened on 08.06.2008, while he was serving under first respondent. The second respondent herein, is the Insurance Company under whom the first respondent vehicle was insured before the Deputy Commissioner of Labour-II, Chennai, the second respondent contested the case. After full trial, the Commissioner of Workmen Compensation, Chennai, awarded compensation of Rs.74,873/- by directing the second respondent therein to pay the said amount within a period of 30 days, failing which, interest at the rate of 12% from the date of the accident till realisation should be paid.

3. Aggrieved by the said award, the petitioner preferred this appeal.

WEB COPY

4. The appellant preferred appeal on the following grounds:

(i) Deputy Commissioner of Labour-II, without considering the loss of earning capacity as 100% imposed the lesser award, which is against law;

(ii) The Commissioner of labour failed to fix the monthly salary of Rs.56,000/- and erroneously fixed Rs.4,000/- per month, while calculating the income of the injured;

(iii) The Commissioner of Labour also erred in fixing the disability and erroneously fixed 50% instead of 20%. Further, interest was not awarded from the date of the accident and in default of deposit alone, he imposed interest, which is unsustainable.

5. On a perusal of records, it is seen that on the side of the petitioner/appellant, P.W.1 and P.W.2 were examined and on the side of the respondent, R.W.1 was examined and exhibits Ex.P.1 to Ex.P.9 and Ex.R.1 and R2 was marked before the trial Court.

6. At the time of the arguments, the learned counsel for the appellant

restricted her claim with regard to the interest portion alone. In fact, on perusal of the records, the Commissioner of Labour after full enquiry rightly assessed the disability of the petitioner/appellant and also fixed the income, whereby, arrived the award amount, according to the legal proposition which calls for no interference by this Court.

7. But, while awarding the interest, in default only, he granted interest at the rate of 12%, which was strongly objected by the appellant herein.

8. Under Section 4(A) of the Workmen Compensation Act, injured is entitled for the interest if employer defaults in paying compensation due. In the instant case amount was not deposited, within four weeks as directed by the Deputy Commissioner of Labour, Chennai. Hence, the petitioner is entitled for simple injuries at the rate of 12% from the date of accident till passing of the decree with subsequent interest at the rate of 6% till realisation.

9. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the other findings remain confirmed. No Costs.

29.01.2021

ub

Index : Yes/No

Speaking Order: Yes/No



WEB COPY

T.V.THAMILSELVI,J.

ub



C.M.A.No.3600 of 2013

29.01.2021

WEB COPY

CMA.No.3600 of 2013

T.V.THAMILSELVI, J.

Today, the matter is listed under the caption “for being mentioned” at the instance of learned counsel for the petitioner.

2. Heard learned counsel for the petitioner.

3. Considering the submissions made, this Court directs as follows:

Paragraph No.8 of the order dated 29.01.2021, passed in CMA.No.3600 of 2013, shall be read as:

" 8. Under Section 4(A) of the Workmen Compensation Act, injured is entitled for the interest if employer defaults in paying compensation due. In the instant case amount was not deposited, within four weeks as directed by the Deputy Commissioner of Labour, Chennai. Hence, the petitioner is entitled for simple injuries at the rate of 12% from the date of accident till passing of the decree with subsequent interest at the rate

of 12 % till realisation. ."

T.V.THAMILSELVI, J.
ub

4. Registry is directed to carry out necessary corrections and
issue fresh order copy.

29.03.2021

ub



CMA.No.3600 of 2013

WEB COPY