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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.2390 of 2021

Mano @ Muthumanickam

...Appellant

Vs.

1. Vijayakumar

2. Divisional Manager,
The Oriental Insurance
Company Limited
90A, Thuraiyur Road,
Namakkal - 637 001.

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 30 of Workmen Compensation Act, 1923 against the order dated 06.01.2020 made in W.C.No.364 of 2017 on the file of Commissioner for Workmen's Compensation, Commissioner of Labour, Coonoor.

For Appellant : Mr.A.Sathishkumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of the award dated 06.01.2020 made in W.C.No.364 of 2017 on the file of Commissioner for Workmen's Compensation, Commissioner of Labour, Coonoor.

2. The appellant is the claimant in W.C.No.364 of 2017 on the file of the Commissioner for Workmen's Compensation, Commissioner of Labour, Coonoor. He filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 18.07.1981. The Tribunal, after considering the pleadings, oral and documentary evidence, awarded a sum of Rs.4,19,462/-. Not being satisfied with the same, the appellant has come up with the present appeal for enhancement of the award amount.

3. The claimant, who is a Workman (Lorry Cleaner) employed



under the 1st Respondent herein contended that the order of compensation granted by the Authority under the Workmen's Compensation Act, 1923 is meagre. The injured was aged about 25 years and stated that he was drawing a sum of Rs.15,000/- per month in addition to receipt of Rs.250/- as daily batta. According to the appellant, the minimum wages prescribed under G.O.Ms.(2d)No.91, Labour and Employment (J.1) department dated 12.12.2013 is Rs.10,857/- and the same should have been taken into account for the purpose of arriving at compensation.

4.When the employee draws over and above Rs.8,000/- (at the relevant point of time, if the Provisions or Act is not amended) the maximum salary that can be taken into account for the purpose of computing/arriving at compensation was Rs.8,000/- only. Even if the salary fixed under the Minimum Wages Act is more than Rs.10,000/-, for the purpose of enactment, the wages will have to be taken into account as only Rs.8,000/-. Doctor has assessed the disability as 40% and the Authority has taken note of the same and granted the relief. The appellant is only a Lorry Cleaner and there is no iota of evidence to show that there is functional disability.

5.It is appropriate to state here that there is a vast difference between two claims, namely, Motor Vehicles Act and the Workmen's Compensation Act. As stated supra, even if the minimum wages is more, when the W.C Act prescribes maximum ceiling limit, the compensation will have to be worked out based on the ceiling prescribed under the Employees' Compensation Act, 1923 and not otherwise. In similar circumstances, I had taken one such decision in the case of United India Insurance Co.Ltd., Vs Seethammal & 2 others [C.M.A.Nos.1582 of 2013 & 2121 of 2014] decided on 23.12.2014. In such view of the matter, I find that there is no perversity in the order of the Authority in awarding compensation taking his salary as Rs.8,000/- and disability as 40% and the Appeal is liable to be dismissed.

6.In the result, this Civil Miscellaneous Appeal is dismissed and the award of the Tribunal dated 06.01.2020 made in W.C.No.364 of 2017 is hereby upheld and confirmed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dpq



To

The Commissioner for Workmen's Compensation
Commissioner of Labour,
Coonoor.

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+2cc to Mr.C.Thangaraju, Advocate, S.R.No.43263

C.M.A.No.2390 of 2021

MT (CO)
RGA (15/02/2022)