IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.01.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
C.M.A.No.1581 of 2018

1.Tmt.Sumathi

2.Minor Dinesh Barathi

3.Minor Vijaya Barathi

Minor 2 & 3 are represented by through
Next Friend and guardian Mother 1st Respondent

4.Tmt.Errammal

5.Murugan

... Appellants

Vs.

1.M.Rathnavelu

2.Reliance General Insurance Company Limited,
Sri Lakshmi Complex, 1st Floor, Barathi Street,
Omalur Main Road, Swarnapuri, Salem - 4.

..Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, to set aside the order made in W.C.No.426 of 2009 on the file of the workmen's compensation Commissioner cum Deputy Commissioner of Labour, Salem dated 30.09.2013 in respect of the rate of interest.

For Appellants : Mr.C.Kulanthaivel

For Respondents : M/s.M.B.Gopalan Associates

J U D G M E N T

This Civil Miscellaneous Appeal is filed raising the substantial question of law regarding the payment of interest to be granted under the Workmen Compensation Act.

2. The learned counsel for the appellants mainly contended that the interest of 12% is not granted from the date of accident. Contrarily, the interest was granted with effect from the expiry of period of 30 days from the date of passing of the award. Therefore, there is a huge loss in the matter of calculating the interest to the appellants.

3. This Court is of the considered opinion that Section 4-A(3)(a) of Employees Compensation Act, direct that the employer shall, in addition to the amount of arrears, pay simple interest thereon at the rate of 12% per annum or at such higher rate not exceeding the maximum of the lending rates of any Scheduled Bank, as may be specified by the Central Government, by Notification in the Official Gazette. Thus, the claimants are entitled for 12% interest as per the above provisions of the Employees Compensation Act.

4. The question arose whether 12% per annum interest is to be calculated from the date of accident or the expiry of 30 days from the date of passing of the Award.

5. In most of the cases, the Deputy Commissioners of Labour are passing the Award stating that the Award amount is to be deposited by the opposite party, within 30 days, failing which the interest at the rate of 12% is to be paid from the date of expiry of 30 days. Such a conditional payment of interest to the claimants is not contemplated under the Statute.

6. The conditional grant of interest cannot be acceptable in view of the fact that the Statute provides interest at the rate of 12% per annum. Thus, 12% per annum interest is to be calculated from the date of cause of action that is the date of accident and not from the date on which the period of 30 days expiry from the passing of the Award.

7. The conditional grant of interest is not contemplated under the Act. When the Act says 12% per annum is to be paid for compensation, then the interest is to be calculated from the date on which the cause arose for grant of compensation.

8. In every case, the cause arises on the date of accident and soon after the accident occurred, the victim is entitled for compensation. Thus, the interest is to be calculated from the date of accident and not from the date of Award or the expiry of 30 days from passing of the Award. Such conditional grant of interest is unacceptable and in all cases, the opposite party, who is liable to pay compensation, shall pay interest from the date of accident, which would be the spirit of the Act.

9. The Employees Compensation Act is a Welfare Legislation. Thus, constructive interpretation is just and necessary. Once an employee met with an accident and sustained injury or died, the Award of compensation, the interest is to be paid from the date of accident because the period of litigation is unknown to the parties. Some litigations are disposed at the early stage and some at later stage. If interest is denied, it will create inconsistency or anomaly amongst the workmen, which is certainly not justifiable. Therefore, uniformity is to be followed for grant of interest in all cases of compensation under the Employees Compensation Act.

10. In order to maintain uniformity and by interpreting the provisions constructively, this Court is of the opinion that interest is to be paid as per Section 4-A(3)(a) from the date of accident and not from the date of passing the Award or from the date of 30 days expiry from the date of Award. Both the cases are erroneous and cannot be accepted at all.

11. In view of the above facts, the award dated 30.09.2013, passed in W.C.No.426 of 2019 is modified only with reference to the date of interest paid to the appellants. Accordingly, the appellants are entitled for the payment of 12% interest with effect from the date of expiry of 30 days from the date of accident. In other words, they are entitled for 12% interest with effect from 31^{st} day from the date of accident.

12. Accordingly, the second respondent Insurance Company is directed to deposit the difference interest amount 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 appellants are concerned, the said amount shall be deposited in an interest bearing scheme in any one of the Nationalised Bank till they attain majority.

13. Thus, the award dated 30.09.2013 in W.C.No.426 of 2009 stands modified. C.M.A.No.1581 of 2018 stands allowed in part. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsk
To
The workmen's compensation Commissioner cum
Deputy Commissioner of Labour,
Salem.

+1cc to Mr.C.Kathirvel, Advocate SR.No. 5026

C.M.A.No.1581 of 2018

sr II
A.SK(04.03.2021)