

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1616 of 2020

1.Mrs.Anthony Vimala
2.Jesu Rajan

..Appellants

Vs.

1.Mrs.S.Iswariya
2.Minor Michael Jenish
3.Mr.M.Sundarar
4.Cholamandalam MS General Insurance
Company Limited,
No.154, Shawwallace Building,
2nd Floor, Thambu Chetty Street,
Parrys, Chennai - 600 001.

..Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of Employee's Compensation Act, against the Award dated 23.12.2019 and made in E.C.No.131 of 2018 on the file of the Commissioner for Employee's Compensation Court/Joint Commissioner of Labour-II, Chennai.

For Appellants :M/s.A.Subadra

For Respondents :R1 & R2 - Mr.Amar D.Pandiya
R4 - Mr.J.Michael Visuvasam
R3 - Not ready in notice

J U D G M E N T

The Award dated 23.12.2019 passed in E.C.No.131 of 2018 is under challenge in the present Civil Miscellaneous Appeal.

2. The Substantial question of law raised in the present appeal on hand is that the monthly income fixed by the Joint Commissioner of labour as Rs.8,000/- is improper, in view of the fact that the Government of Tamil Nadu, during the year 2013, issued an order in G.O.2D.No.91 dated 12.12.2013 under the Minimum Wages Act and as per the Said Government order, the minimum wages to be fixed for workman is Rs.11,619/-. Undoubtedly, the Central Government issued a Notification under

Section 4(1B) of the Employees Compensation Act, fixing the minimum wages as Rs.8,000/- by way of Notification dated 31.05.2010. However, the said ceiling fixed was not enhanced for a long time and meanwhile, the State Government under the provisions of the Minimum Wage Act, fixed the Minimum wages as Rs.11619/-.

3. It is contended that the beneficial fixation of minimum wages under the provisions of the Minimum Wages Act is to be taken into consideration for the purpose of fixation of monthly income for calculation of compensation. The issues in this regard are elaborately adjudicated by this Court in C.M.A.No.897 of 2018 dated 27.01.2021 and the relevant paragraphs are extracted hereunder:

4. In view of the facts and circumstances, the monthly income of Rs.8,000/- fixed by the Joint Commissioner of Labour is enhanced to Rs.11,619/- and accordingly, the appellant is entitled for the total compensation of Rs.12,77,800/- [50/100X219.95X11,619/-] (Rupees Twelve Lakhs Seventy Seven Thousand and Eight Hundred only) along with the interest at the rate of 12% per annum from the date of expiry of 30 days from the date of accident. Thus, the 4th respondent is directed to deposit the beneficial award amount along with the accrued interest within a period of 12 weeks from the date of receipt of a copy of this judgment and on such deposit, the appellants are permitted to withdraw the amount by filing an appropriate application and the payments are to be made through RTGS. The interest is to be paid only up to the date of original deposit of the award amount.

5. Accordingly, the Award dated 23.12.2019 passed in E.C.No.131 of 2018 stands modified and consequently, the Civil Miscellaneous Appeal in C.M.A.No.1616 of 2020 stands allowed in part. No costs.

सत्यमेव जयते
Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kak

To

The Commissioner for Employee's Compensation Court/
Joint Commissioner of Labour-II, Chennai.

+1cc to Mr.Amar D.Pandiya, Advocate Sr.20413

+1cc to Mr.J.Michael Visuvasam, Advocate Sr.20497

+1cc to Mrs.M.Malar, Advocate Sr.20954

C.M.A.No.1616 of 2020

GSM(CO)
KM(29/04/2021)



WEB COPY