

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM

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

C.M.A.No.2111 of 2014

Mr.S.Rajendran

... Appellant/Appellant

Vs.

1.Mr.Sampath

2.The Branch Manager,
United India Insurance Company Limited,
Tharapur Towers,
826, Anna Salai,
Chennai 600 002.

... Respondents/Opposite Parties

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the Award dated 25.06.2014, made in W.C.No.326 of 2012 on the file of the Deputy Commissioner of Labour-II, Chennai.

For Appellant : Mr.F.Terry Chellaraja

For Respondents : Mr.G.Udayasankar for R2

Batta due for R1

J U D G M E N T

The award dated 25.06.2014 passed in W.C.No.326 of 2012 is under challenge in the present civil miscellaneous appeal, mainly on the ground that the compensation awarded is inadequate and not in commensurate to the gravity of injuries sustained by the appellant.

2. The appellant was working as a Driver in Auto bearing Registration No.TN-07-AF-2379 under the first opposite party. He was receiving a salary of Rs.450/- per day as daily wage employee. At the time of accident, the appellant was aged about 54 years. The Auto dashed against the MTC Bus bearing Registration No. TN-01-N-4521. As a result, the appellant sustained grievous injury. He was admitted in CM Hospital, Perungudi, Chennai and undergone treatment. Thereafter, the

appellant filed a claim petition under the Employees Compensation Act.

3. The Deputy Commissioner for Workmen Compensation Labour adjudicated the issues and passed an award holding that the appellant is entitled for compensation of Rs.2,91,317/- along with interest at the rate of 12% per annum.

4. The learned counsel for the appellant mainly contended that the monthly salary of Rs.7755/- fixed by the Deputy Commissioner of Labour is erroneous in view of the fact the salary for the employee under the Employees Compensation Act was amended and the Central Government issued notification stating that Rs.8000/- would be the minimum salary with effect from 18.01.2010. The notification was issued on 31.05.2010.

5. When the effect of the notification was given with effect from 18.01.2010, in all the cases decided thereafter, the minimum salary for the employees is to be fixed as Rs.8000/- per month. In the present case, the Deputy Commissioner of Labour has fixed the monthly salary of Rs.7755/- per month. Thus, this Court is of the opinion that the minimum salary fixed by the Central Government is to be adopted.

6. In the present case, the notification was issued by the Government unambiguously stating that the amount of monthly wages with effect from the date of publication is fixed as Rs.8000/-. Thus, the appellant is entitled for monthly salary of Rs.8000/- as may be fixed by the Government of India under Section 4(1) of the Employees Compensation Act, 1923.

7. This Court is of the considered opinion that in the present case, the Deputy Commissioner of Labour fixed the salary as Rs.7755/- which is to be enhanced as Rs.8000/-. Accordingly, the revised compensation to be granted to the appellant is Rs.3,00,522/-.

8. Thus, the appellant is entitled for total compensation of Rs.3,00,522/- along with interest at the rate of 12% per annum as per Section 4(A) 3(a) of the Employees Compensation Act. The interest is to be calculated from the date of the accident. Accordingly, the respondents are directed to deposit the entire modified award amount along with the accrued interest within a period of 12 weeks from the date of receipt of a copy of this order. On such deposit, the appellant is directed to withdraw the entire compensation amount by filing appropriate application before the competent authority and the payments are to be made through RTGS.

9. Accordingly, the award dated 25.06.2014 in W.C.No.326 of 2012, stands modified and C.M.A.No.2111 of 2014 stands allowed in part.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsk

To

The Deputy Commissioner of Labour-II,
Chennai.

+1cc to M/s.M.Malar, Advocate Sr.2061

+1cc to Mr.G.Udayasankar, Advocate Sr.2523

C.M.A.No.2111 of 2014

BS(CO)
srg 26/02/2021



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