

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.240 of 2014

- 1.Mrs.Kanti Devi
- 2.Minor.Manjith Kumar
- 3.Kaya Yadhav
- 4.Virmala Devi
- 5.Raghul Kumar

... Appellants

Vs.

- 1.Harikumar  
(R1 remained exparte before the forum)
- 2.The New India Assurance Company Limited,  
No.80, Arcot Road,  
Porur,  
Chennai - 600 116.

... Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act, praying to set aside the award dated 05.10.2009 and made in W.C.No.106 of 2008, on the file of the Deputy Commissioner of Labour - II, Chennai.

For Appellants : M/s.A.Subadra for  
M/s.M.Malar

For Respondents : M/s.A.Salomi for R2  
R1-Exparte

J U D G M E N T

The appellants herein are the petitioners in W.C.No.106 of 2008, filed this petition claiming compensation for the fatal death of deceased viz., Rahees Kumar, husband of the first petitioner, who died due to the accident happened on 27.08.2007, during the course of his employment under the first respondent and the vehicle was insured with the second respondent.

2. The second respondent contested the case and the first respondent remained ex-parte.

3. After full trial, the learned Deputy Commissioner of Labour-II, Chennai, awarded a sum of Rs.4,28,044/- and directed the second respondent to deposit the amount within 30 days, failing which, the petitioners are entitled for interest from the date of accident. Aggrieved by the finding, with regard to the interest, the appellants come forward with this appeal.

4. The learned counsel appearing for the appellants submitted that the appellants restricted her claim in the appeal only with regard to the interest awarded by the Commissioner of Labour with default clause. The second respondent also submitted his objection.

5. On considering the fact that the Commissioner of Labour awarded compensation of Rs.4,28,044/- with interest and directed the second respondent to deposit the amount within 30 days from this order and if the second respondent fails to deposit the amount, the appellants are entitled to interest from the date of the accident.

6. Aggrieved by the order with regard to the interest portion alone, the appellants preferred this appeal, contending that the Commissioner for labour ought to have awarded interest from the date of the accident and not by default clause thereby he prayed to award interest from the date of the accident.

7. Point for Consideration:

(i) whether the appellant is entitled to claim interest from the date of the accident as it falls due as per provision under Section 4-(A)(3)(a) of the Workmen Compensation Act.

8. On perusal of the award passed by the learned Deputy Commissioner of Labour-II, Chennai, it reveals that in default payment alone, he granted interest.

9. The learned counsel for the 2<sup>nd</sup> respondent submitted that the Commissioner of Labour rightly awarded the interest and raised his objections with regard to the claim made by the appellants.

10. But, as per Section 4-(A)(2) of the Workmen Compensation Act, the employer is bound to make provisional payment based on the extent of liability, and he accepts the same as per Section 4-(A)(1) of Act, compensation under Section 4 shall be paid as soon as it falls due. A combined reading of said provision makes it clear that an employer is bound to make even provisional payment also as soon as it falls due. The

words as soon as means, immediately after the accident, in which the workmen sustains injuries or dies. However in the ratio laid down in 2010(2) TN MAC 80 DB consonance with the ratio laid down by the Larger Bench of Hon'ble Supreme Court of India reported in Pratap Narain Singh Deo v.Srinivas Sabata and another, 1976 (1) SCC 289 and Kerala State Electricity Board v. Valsala,K., 2000 ACJ 5 (SC) held interest on compensation payable after 30 days from the date of accident.

11. As discussed above, it is very clear that the claimants are entitled to the interest on the amount of compensation with effect from the date of accident. Therefore, the appeal is allowed, the 2<sup>nd</sup> respondent is directed to pay the interest at the rate of 12 % per annum, after 30 days from the date of the accident till the date of realization as the award amount. The amount shall be deposited within a period of four weeks from the date of receipt of a copy of the judgment.

12. With regard to other findings, the order passed by the learned Deputy Commissioner of Labour-II, Chennai, is confirmed. Accordingly the appeal is allowed. No Costs.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ub

The Deputy Commissioner of Labour-II,  
Chennai.

+1cc to M/s.C.Ramesh Babu, Advocate Sr.7439  
+1cc to M/s.M.Malar, Advocate Sr.7721

C.M.A.No.240 of 2014

jp II[co]  
srg 08/03/2021

WEB COPY