

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.4035 of 2019

S.Chithraivel

.. Petitioner

vs.

1.Varadharajan

2.Divisional Manager,
United India Insurance Co.Ltd.,
No.103/B-1,
Union Bank of India upstairs,
Madurai Salai,
Virudhunagar.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under 30 of Workmen Compensation Act, 1923 against the order dated 18.06.2018 passed in W.C.No.744 of 2015 on the file of the Commissioner for Workmen's Compensation Coonoor.

For Petitioner : Mr.C.Thangaraju

For Respondent : Mr.Arunkumar for R2
R1-No-appearance

O R D E R

The Judgment and decree dated 18.06.2018 passed in W.C.No.744 of 2015 is under challenge in the present Civil Miscellaneous Appeal.

2. The Substantial question of law raised in the present appeal is that whether the Tribunal is right in fixing the income of the injured as per Section 4(1) Explanation II of Workmen Compensation Act, 1923 instead of applying G.O.Ms.(2d) J.1 No.47 Labour and Employment (J1) Department, dated 01.08.2013.

3. The appellant is the claimant, who filed an application under Section 10(1) of the Workmen Compensation Act for compensation on the ground that he was working as a driver in a Lorry bearing Reg.No.TN 67-E-4257 and on 26.12.2014, the

petitioner met with an accident and sustained fractures and multiple injuries all over the body. Thereafter, the application was filed seeking compensation.

4. The second respondent/Insurance Company also contested the case before the Deputy Commissioner of Labour.

5. The learned counsel for the appellant mainly contended that the minimum wages fixed by the Deputy Commissioner of Labour is in-correct and in violation of the minimum wages fixed by the Government of Tamil Nadu in G.O.Ms(2D).J1.No.91 dated 12.12.2013. As per the order passed by the Government of Tamil Nadu, the minimum wages for workmen during the relevant point of time was Rs.9,787/-. The said Government Order was issued on 12.12.2013 and the accident occurred on 26.02.2014. Therefore, the Deputy Commissioner of Labour ought to have fixed the minimum wages of Rs.9,787/- instead of Rs.8,000/-.

6. This Court is of the considered opinion that the Central Government fixed the minimum wages as Rs.8,000/- under Section 4(1B) of the Employee's Compensation Act. The said fixation was done in the year 2010 with effect from 18.01.2010. Before 2010, the minimum wages as per the Central Government was Rs.4,000/-. Subsequently, in the year 2013, the Government of Tamil Nadu issued G.O.Ms(2D).J1.No.91 dated 12.12.2013 fixing the minimum wages as Rs.9,787/-. Therefore, the Deputy Commissioner of Labour ought to have granted the minimum wages of Rs.9,787/- instead of Rs.8,000/-. The Workmen's Compensation Act is a welfare legislation. Once the Government enhanced the minimum wages, the claimants are entitled for enhanced minimum wages as the earlier fixation was done under Section 4(1B) of the Act by the Central Government in the year 2010. Thereafter, the minimum wages under the Act was not enhanced. In view of the fact that the Government of Tamil Nadu fixed minimum wages as Rs.9,787/-, the amount of compensation is to be enhanced and accordingly, the monthly income of the claimant is fixed at Rs.9,787/- instead of Rs.8,000/-. Further, the Deputy Commissioner of Labour awarded a sum of Rs.1,96,408/- (Rupees One Lakh Ninety Six Thousand Four Hundred and Eight Rupees Only) towards the medical expenditure. Thus, the appellant is entitled for the total compensation of Rs.7,15,519/- (Rupees Seven Lakhs Fifteen Thousand Five Hundred and Nineteen Rupees Only) along with interest at the rate of 12% per annum. The second respondent/Insurance Company is directed to deposit the enhanced compensation along with accrued interest within a period of 12 weeks from the date of receipt of a copy of this Order and on such deposit, the appellant/petitioner is permitted to withdraw the entire amount by filing an appropriate application and the payments are to be made through RTGS. Thus, the judgment and decree dated 18.06.2018 passed in W.C.No.744 of 2015 stands

modified. Consequently, Civil Miscellaneous Appeal stands allowed in part. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssb

To

1.The Commissioner for Workmen's Compensation,
Coonoor.

+2cc to Mr.C.Thangaraju, Advocate, S.R.No. 3935

C.M.A.No.4035 of 2019

JP II(CO)
GN(16/03/2021)



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