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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2021

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.2768 OF 2018

&

CMP.NO.18433 OF 2018

United India Insurance Co. Ltd.,
No. A5 & 6, II Floor, Appasamy Towers,
New 27, Sri Thyagaraya Road,
(Next to (Old) Theatre Nagesh),
T. Nagar, Chennai - 600 017.

... Appellant

.Vs.

1. Albones
2. Chandrasekar
3. Thambiraj
4. Indra
5. M/s.SRM Engg Construction Corporation Ltd.,
No.2, Veerasamy Street, West Mambalam,
Chennai - 600 033.

... Respondents

Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, 1923 against the award dated 31.08.2017 made in W.C.No.162 of 2013 on the file of Workmen's Compensation Authority (Employee's Compensation Authority), (DC1) at Chennai.

For Appellant : Mr.C.Paranthaman

For Respondents : Ms.A.Subadra
for M/s.M.Malar
for R1 to R4.
R5 - No Appearance

JUDGMENT

(This case was heard through Video Conferencing)

This Appeal has been filed by the Insurance Company challenging the award dated 31.08.2017 passed by the Deputy Commissioner of Labour - I, Chennai under the Employees Compensation Act, 1923 in W.C. No. 162 of 2013.



2. Heard, Mr.C.Paranthaman, learned counsel for the Appellant and Ms.A.Subadra, learned counsel for the respondents 1 to 4. Despite service of notice on the fifth respondent and their name having been printed in the cause list today, there is no representation on their side.

3. This Appeal is admitted on the following substantial questions of law:

1. Whether the learned Commissioner is right in holding that the deceased Shanmugathai is an employee of the 5th respondent?

2. Whether the learned Commissioner is right in holding that the insurer appellant is liable to pay interest as per the policy condition?

4. The main contention of the Appellant Insurance Company in the Appeal is that being a contractual liability the Tribunal ought not to have awarded interest to the respondents/ applicants under the impugned award. It is their contention that since the insurance policy does not provide for payment of interest, they are not liable to pay interest to the respondents/ applicants.

5. Mr.C.Paranthaman, learned counsel for the Appellant drew the attention of this Court to the insurance policy in support of the contention raised by the Appellant / Insurance Company in this Appeal. He also relied upon a decision of the Hon'ble Supreme Court in the case of P.J. Narayan vs Union of India (Uoi) and Others reported in 2004 ACJ 452 which was followed by a Single Bench Judgment of this Court in the case of Bharti AXA General Insurance Company Limited vs T. Pappa and 3 others in CMA No.628 of 2020 dated 17.02.2021.

6. Admittedly, under the Employees Compensation Act, 1923, there is no statutory liability for the Insurance Company to pay the compensation but it is only a contractual liability. As seen from the insurance policy issued by the Appellant to the 5th respondent which has been marked as Ex.P6 and Ex.R2, it is clear that no interest is payable under the policy to the claimant. However, as seen from the impugned Award, the Deputy Commissioner of Labour - I, Chennai has erroneously awarded interest at 12% per annum to the respondents/ applicants. The relevant paragraph of the order of the Hon'ble Supreme Court in P.J. Narayan vs Union of India (Uoi) And Others reported in 2004 ACJ 452 referred to by the learned counsel for the Appellant reads as follows:



amount paid by them by filling an appropriate application before the Deputy Commissioner of Labour - I, Chennai.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ab/vsi2

To

1. The Deputy Commissioner - 1,
Workmen's Compensation Authority,
(Employee's Compensation Authority),
Chennai-6.
2. The Section Officer,
V.R. Section,
High Court, Madras.

+2cc to Mr.C.Paranthaman, Advocate, S.R.No.52538

+1cc to M/s.M.Malar, Advocate, S.R.No.52675

CMA.No.2768 of 2018
&
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PMK (CO)
CS/08/11/2021