

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.167 of 2014

Asarfi

.. Appellant/Appellant

Vs.

1.Project Executive,
Valliammal Society and SRM Institute,
Department of Construction,
Chennai - 33.
(R1 remained exparte before the Forum)

2.United India Insurance Company Limited,
A5 and A6, II Floor,
No.27, Appasamy Towers,
Sir Thiagaraya Road,
Near Nagesh Theatre,
T.Nagar,
Chennai - 600 017.

.. Respondents/Opposite Parties

PRAYER : Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act, praying to set aside the award dated 18.04.2009 and made in W.C.No.241 of 2007, on the file of the Deputy Commissioner of Labour - I, Chennai.

For Appellant : Mr.F.Terry Chellaraja

For Respondents: R1-exparte

R2-No Appearance

J U D G M E N T

The appellant herein is the petitioner in W.C.No.241 of 2007, filed this petition claiming compensation for the grievous injury sustained by him. The accident took place on 01.03.2007, while he was under the employment of first respondent as construction labour for a monthly salary of Rs.8,000/-.

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.2,03,318/- and directed the second respondent to deposit the amount within 30

days, failing which, the appellant is entitled for interest from the date of accident. Aggrieved by the order, the appellant preferred this appeal.

4. On perusal of the records, it is seen that, on the side of the appellant, he was examined as PW.1 and Ex.P1 to P7 were marked and there is no evidence on the side of the respondent. Considering the evidence, the Commissioner of Labour awarded a sum of Rs.2,03,318/- and directed the second respondent to deposit the amount within 30 days, failing which, the appellant is entitled for interest from the date of accident till realization.

5. The learned counsel appearing for the appellant submitted that the appellant restricted his claim in the appeal only with regard to the interest awarded by the Commissioner of Labour, in case of default made by the appellant. The appellant also submitted his objection.

6. On considering the fact that the Commissioner of Labour awarded compensation of Rs.2,03,318/- 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 appellant is entitled to interest from the date of the accident.

7. Aggrieved by the order with regard to the interest portion alone, the appellant 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.

8. 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.

9. 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.

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

11. 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.

12. As discussed above, it is very clear that the claimant is entitled to the interest on the amount of compensation with effect from the date of accident. Therefore, the appeal is allowed, the 2nd 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.

13. 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.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Deputy Commissioner of Labour I
Chennai

Copy to

The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mr.J.Michael Visuvasam, Advocate sr 7665.

+1 CC to Mrs.M. Malar, Advocate sr 7911.

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BS (CO)
SP(12/03/2021)