IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

WRIT PETITION NO.5818 OF 2021

THE SUPERINTENDING ENGINEER THE MAHARASHTRA ELECTRICITY DISTRIBUTION COMPANY LTD AND ANOTHER
VERSUS
MAHENDRA BHASKARRAO NANDGAONKAR THROUGH LRS VIDYA MAHENDRA NANDGAONKAR AND ANOTHER
...
Advocate for the Petitioners : Shri Malte Uday S.
Advocate for the Respondents : Shri Patil Shrikant S.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 22nd March, 2022

Per Court:

1. By this Writ Petition, the petitioner/ employer seeks to challenge the judgment and order dated 10.05.2019 delivered by the Labour Court, Dhule in Complaint (IDA) No.10/2017 by which, the petitioner has been directed to pay an amount of Rs.90,000/- as arrears of medical bill reimbursement within two months, failing which, the interest at the rate of 6% has been granted.

2. I have considered the strenuous submissions of the learned advocates and have perused the petition paper book with their assistance. What emerges from the record is as under :-

(a) The deceased applicant is said to have suffered a paralytic attack in August, 2009, when he was in employment of the petitioner as an Assistant Lineman.

(b) It is undisputed that Rule 20 of the Service Regulations provides for reimbursement of medical bills even of an Assistant Lineman.

(c) The deceased had tendered the compilation of medical bills of having taken treatment with Siddhi Vinayak Multi Specialty Hospital and having purchased medicines from Siddhi Vinayak Medical and General Stores.

(d) The deceased has conceded that he did not keep the photostat copies of the bills before tendering them to the employer.

(e) As the deceased did not receive the medical reimbursement, he finally approached the Labour Court on 06.04.2017, which is after around 07 years and 04 months.

(f) The deceased applicant did not have any record to indicate to the Labour Court as to how he has computed the outstanding expenses at Rs.90,000/-.

(g) The petitioner/ employer did not produce the bills before the Labour Court on the pretext that no bills are found in their files.

(h) The petitioner has now taken a stand in paragraph 3(e) that, in the process of drafting this petition, the entire record of the petitioner was called for by the learned advocate and the bills were traced out which aggregate to Rs.35,307.90. All these documents are photostat copies of the treatment papers and charges, purchase of medicines, certain tests and C.T. scans performed at other hospitals, etc..

3. I find from the impugned order, which is passed on the claim made by the deceased applicant by putting forth round figure of Rs.90,000/-, that there was no documentary evidence before the Labour Court to draw a conclusion that the computation of Rs.90,000/- was correctly made by the applicant. The claim as regards reimbursement of the medical bills cannot be crystallized or quantified on the basis of surmises or assumptions. Monetary claims have to be precise and the Labour Court has to take efforts to calculate the total amount, which is to be sanctioned. The orders under Section 33-C(2) of the Industrial Disputes Act, 1947, are not to be passed casually and on misplaced sympathy.

4. In the above backdrop, the petitioner/ employer has fairly produced the photostat copies of the bills and receipts that it could dig out from it's records. It needs mention that though Section 33-C(2) does not prescribe any limitation, such claims have to be filed within a reasonable time as these are monetary claims and there has to be enough material before the Labour Court to compute the exact amount, which it could conclude to be the outstanding amount towards the employer and which has not been paid. Merely because the claimant contends that he does not have any photostat copy of medical bills and rounds off his claim to a particular figure, should not be the guiding principle or the basis for the

Labour Court to accept the said figure without taking efforts of computing the exact amount, which can be said to be outstanding towards the employer.

5. As the petitioner has produced certain receipts on record, which indicate a figure of around Rs.35,000/-, the interest component can be granted to the claimant though both the parties are equally at fault, in the sense that the petitioner employer should have cleared the bills by way of reimbursement with promptitude and at the same time, the claimant should not have waited for 08 years to raise the claim.

6. In this backdrop, the learned advocates for the petitioner as well as the respondent submit that in the peculiar facts of this case and keeping in view the photostat copies of the receipts produced by the employer, this Court may quantify the amount payable taking into account some interest to be added.

7. In view of the above, though the impugned judgment of the Labour Court is unsustainable and the only option available was to remit the matter back to the Labour Court, I am refraining from doing so primarily for the reason that the claimant has passed away and his legal heirs are on record. Secondly, by adding the interest component to the amounts, which are visible to this Court on the basis of the bills produced by the petitioner, the interest of justice would be sub-served by quantifying the amount in this proceeding.

8. As such, this Writ Petition is partly allowed. The amount of Rs.50,000/- deposited by the petitioner in this Court pursuant to the order dated 08.04.2021, would be withdrawn by the widow of the claimant, namely, Vidya Mahendra Nandgaonkar, along with accrued interest. Over and above the said amount, the petitioner/ employer shall pay an amount of Rs.10,000/- as interest, to the said widow by a demand draft on or before 11.04.2022.

9. Needless to state, the impugned order of the Labour Court shall stand modified and the entire claim of the deceased applicant shall stand satisfied with this order.

kps **(RAVINDRA V. GHUGE, J.)**