



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CMA.No.413 of 2018

K.Velladurai

...Appellant/Petitioner

.vs.

1.K.Prabhakaran

2.Iffco-Tokio General Insurance Co. Ltd.,
Iffco Bhavan, No.128,
Habibulla Road,
T.Nagar,
Chennai - 600 017.

...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, 1923 to enhance the amount awarded in W.C.No.506 of 2012 dated 23.03.2016 on the file of the Commissioner of Workmen's Compensation - II (Deputy Commissioner of Labour - II) Chennai.

For Appellant : Mr.Varadha Kamaraj

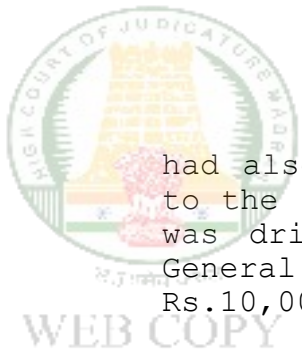
For R2 : Mr.J.Micheal Visuvasam

JUDGMENT

This appeal has been filed by the petitioner in W.C.No.506 of 2012 on the file of the Commissioner of Workmens Compenstation - II / Deputy Commissioner of Labour - II, Chennai, aggrieved by a limited portion of the order dated 23.03.2016.

2.The brief facts are that on 01.08.2012 at around 11.30 p.m in the night when the claimant was driving an auto bearing Regn. No.TN-09-AP-3470 in his capacity as salaried auto driver under the 1st respondent near Ashok Nagar 11th Avenue, to his unfortune, a Tempo Traveller bearing Regn. No. TN-22-BM-0707 came in the opposite direction and dashed against the auto. He sustained grievous injuries. Claiming that he was entitled for compensation under the provisions of Workmen's Compensation Act, 1923, the claim petition had been preferred before the Deputy Commissioner of Labour - II, Chennai.

3.It must also be mentioned that J-3 Guindy Police Station



had also registered a FIR in Crime No.398/S3/2012 with respect to the said accident. The claimant stated that the Auto which he was driving was insured with the 2nd respondent / Iffco-Tokio General Insurance Co. Ltd. The claimant claimed a total sum of Rs.10,00,000/- for injuries suffered.

4.The Commissioner for Workmens Compensation entered into a discussion on the rival claims and passed an award on 23.03.2016 granting a compensation of Rs.4,93,295/-.

5.Heard arguments advanced by Mr.K.Varadha Kamaraj, learned counsel appearing for the appellant and Mr.J.Micheal Visuvasam, learned counsel appearing for the contesting 2nd respondent / Iffco-Tokio General Insurance Co. Ltd.

6.It must be appreciated that in view of the sanguine nature of the arguments advanced, there is no necessity for me to enter into a detailed over the quantum of compensation granted or with respect to the determination of negligence. It is suffice to point out that the applicant, as a paid driver, qualified as a workmen. The accident occurred during the course of his employment, which naturally meant that any injuries suffered during the course of employment has to be examined and compensation has to be granted to the workman.

7.The income was determined at Rs.6,416/- and determining 60% as the loss of income, the Commissioner determined the compensation at $(60/100 \times 213.57 \times 6,416/- \times 60/100 = \text{Rs.4,93,295/-})$.

8.Unfortunately, interest was not granted. This non-grant of interest has arisen to the filing of the present Civil Miscellaneous Appeal.

9.The learned counsel for the appellant Mr.Varadha Kamaraj pointed out that a specific stand had been taken in the grounds of appeal that under Section 4-A (3)(a) of the Workmen's Compensation Act, 1923, interest as a concept has been recognized by the Statute. It is to be noted that within a period of 30 days from the date of accident the employer or insurer should step in to pay the compensation. If it is not done then from the 30th day onwards, for the compensation determined, interest follows at 12 % per annum till the date on which the compensation is paid.

10.This aspect is inbuilt in the Statute and the Commissioner for Workmen Compensation had been probably misdirected on that particular issue and had not probably granted interest out of oversight.



11.I would therefore grant interest and therefore, interfere with the order now under appeal only to the limited aspect of granting interest on Rs.4,93,295/- at 12% per annum in accordance with Section 4-A (3) (a) of the Workmen's Compensation Act, 1923 from the 30th day of accident till the date on which the compensation was or is actually paid. No further discussion is required, since no further reliefs are asked.

12.The Civil Miscellaneous Appeal is allowed to that limited extent. No costs.

13. It is informed by Mr.J.Micheal Visuvasam that on 10.11.2016, the compensation amount had been deposited. Therefore, interest is payable only from the 30th day of the accident till 10.11.2016 on Rs.4,93,294/-.

14.The view taken by me is strengthened by the judgment of the Hon'ble Supreme Court reported in 2015 ACJ 936, Praveenbhai S.Khambhayata v. United India Insurance Co. Ltd. and others, wherein, the Hon'ble Supreme Court had also in quite similar circumstances, placed reliance on Section 4-A (3) (a) of the Workmen's Compensation Act, 1923 and had directed that interest must be granted at the rate of 12% per annum. I would respectfully abide by such decision.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

smv

To:

The Commissioner of Workmens Compensation II
Deputy Commissioner of Labour II,
Chennai.

+1cc to Mr.Varadha Kamaraj, Advocate, Sr.No.17363

+1cc to Mr.J.Michael Viswasam, Advocate, Sr.No.17564

CMA.No.413 of 2018

SJ(CO)
RN(30/03/2022)