



C.M.A.No.3309 of 2010

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A. No.3309 of 2010

N.Kuppusamy

... Appellant/Petitioner

Vs.

1.G.K.S.Kalsi Constructions,
B-1, Girish Apartments, Chennai.

2.The United India Insurance Co. Ltd.,
64, Armenian Street,
Catholic Centre, Chennai – 1.

3.The United India Insurance Co. Ltd.,
38, Anna Salai, Chennai – 2.

4.The General Manager,
Southern Railways,
Chennai – 3.

5.The Manager,
Irong International Limited,
Kenzs Towers, Block 'C' III Floor,
West Usman Road, Chennai – 17. ... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923, against the judgement and decree made in W.C. Case No.103 of 2002 dated 29.12.2004 on the file of the



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Commissioner for Workmen Compensation – II at Chennai.

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For Appellant : Mr.K.R.Ponnusamy
for M/s.Anand & Suryas

For Respondents : Not Ready in Notice [R1, R2 & R5]
Mr.S.Arunkumar [R3]
M/s.M.Vijay Anand [R4]

JUDGEMENT

The Civil Miscellaneous Appeal is filed against the judgment and decree made in W.C.No.103 of 2002, dated 29.12.2004 on the file of the Commissioner for Workmen Compensation – II, Chennai.

2. It is the case of the appellant that, the appellant/applicant was working with the first respondent as Supervisor for the past seven years and was drawing a salary of Rs.2,773/- per month till the date of accident. Whiles, on 04.08.1997 at about 2.30 hours, when he was working in the construction of Mass Rapid Transport System Bridge Work at Mylapore, while he was inspecting the concrete mixture machine, he slipped and his right arm was caught in the wheel of mixture machine, as a result of which, the applicant sustained crush injury on the right hand resulting in amputation of right hand upto shoulder. Thereafter, he was admitted in



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the hospital and took treatment and thereafter, he was discharged from hospital on 15.08.1997. Therefore, he filed an application claiming a sum of Rs.3,10,000/- before the Workmen Compensation Court – II under the Workmen Compensation Act. After adjudication, the Workmen Compensation Court passed an order awarding a sum of Rs.1,76,803/- as compensation. Not satisfied with the same, the applicant is before this Court.

3. The learned counsel appearing for the appellant submitted that the appellant sustained crush injury, thereby his right arm was amputated upto shoulder, for which the doctor assessed the disability at 90%. however, the Workmen Compensation Court had reduced the disability to 80%, which is wholly unsustainable. He further submitted that the Tribunal ought to have assessed the disability of the appellant at 100%. Accordingly, he prays for allowing the appeal.

4. Per contra, the learned counsel appearing on behalf of the third respondent/Insurance Company submitted that, the independent doctor who assessed the appellant had issued a certificate by assessing the



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disability at 90%. The Tribunal, considering the fact that the doctor who assessed the appellant was not an expert in that field, since he was a general practitioner, had reduced the disability to 80% and awarded compensation by adopting multiplier method, which is wholly sustainable and the same does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

5. Though the appeal is filed in the year 2010, however, till date, the appellant has not taken any effective steps to serve notice to the first respondent. Considering the pendency of this appeal for more than a decade, this Court is inclined to dispose of this appeal based on the available materials on record.

6. The factum and manner of the accident is not disputed by the parties and so also the liability. Therefore, this Court is not entering into the said aspect. The only grievance of the applicant is with regard to the quantum of compensation awarded by the Workmen Compensation Court. It is claimed by the appellant/applicant that he was employed with the first respondent as Supervisor and he met with an accident during the course of



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his employment on 04.08.1997, thereby he sustained crush injury, due to which, his right arm was amputated upto shoulder, for which, the doctor had assessed the disability at 90%. The Tribunal, by considering the treatment documents and disability certificate, had reduced the disability to 80%. The Tribunal, on the basis of the material that the assessment of disability was not by an expert, but by a general practitioner, had reduced the disability to 80%, which cannot be said to be erroneous and, therefore, the same does not require any interference of this Court.

7. It is further claimed by the appellant that the Workmen Compensation Court ought to have fixed the monthly income of the appellant as Rs.2,773/-. From the evidence of the appellant, it is seen that at the time of accident, the appellant was working as a Supervisor with the first respondent and was earning a sum of Rs.2,773/- per month. However, as per Inspection Report/Ex.R.2, it is seen that the salary for the post of Supervisor is Rs.2,000/-. Though the appellant claims that his salary was Rs.2773/- per month, however no material whatsoever has been placed by the appellant to prove that his monthly income is Rs.2773/-. The Tribunal, on the basis of Ex.R.2, which fixed the monthly income at Rs.2000/-, had



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fixed the monthly income of the appellant at Rs.2000/-, which is also based on materials and, therefore, no interference is warranted with the same.

8. Further, by considering the age of the appellant at the time of accident, the Tribunal has fixed the age factor as 184.17 and had rightly awarded a sum of Rs.1,76,803/- as per the Workmen Compensation Act, which is also correct and does not require interference. Hence, the appeal is liable to be dismissed.

9. Accordingly, the appeal is dismissed and the judgement and decree passed by the Commissioner for Workmen Compensation – II, Chennai in W.C. Case No.103 of 2002, dated 29.12.2004 is confirmed. There shall be no order as to costs in the present appeal.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

1.The Commissioner for Workmen Compensation – II,



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2.The Section Officer,
V.R.Section,
High Court, Madras.



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M.DHANDAPANI, J.,

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