



C.M.A.No.276 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.276 of 2015

1.Muthayammal

2.Nagalakshmi

3.Vijayalakshmi

... Appellants

..Vs..

1.R.Subramanian

2.United India Insurance Company Limited.,

Branch Office, 5-B/11 upstairs,

Salem Road,

Rasipuram.

...Respondents

(The 1st respondent set ex parte before the DCL, Salem)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount in W.C.No.59 of 2008 dated 30.04.2010 on the file of Deputy Commissioner of Labour, Salem along with interest and cost.

For Appellant : Mr.C.Thangaraju

For Respondents : Ms.I.Malar for R2

Ex parte – R1

JUDGMENT

This appeal has been filed by the appellants/claimants seeking enhancement of the award amount in W.C.No.59 of 2008 dated 30.04.2010 on the file of Deputy Commissioner of Labour, Salem, along with interest.



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2. On 03.05.2007 at 11.30 p.m., one Nagarasan, driver of the lorry bearing Regn.No.KA-01-C-6364 driving on the NH-4 Road, T. Begur, near Prashali bricks factory, dashed against one lorry bearing Regn.No.KA-04-9351 on its back side, which due to repair stood on the road. Due to the said impact, the said Nagarasan sustained injuries all over the body and he died subsequently in the Hospital where he was rushed for treatment. Thereafter, the appellants/claimants filed a petition before the Deputy Commissioner of Labour, Salem. The Deputy Commissioner of Labour, Salem, adjudicated the issues with reference to the documents and evidences. The Deputy Commissioner of Labour, Salem, made a clear finding that the accident occurred only due to the rash and negligent act of the driver of the vehicle belonging to the first respondent. Accordingly, the second respondent, insurer of the vehicle, is made liable to pay a compensation to the appellants/claimants.

3. As far as the quantum of compensation is concerned, the learned counsel appearing on behalf of the appellants mainly contended that the



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compensation awarded by the Deputy Commissioner of Labour, Salem is inadequate and on the lesser side. The deceased sustained fatal injuries and therefore, the Deputy Commissioner of Labour, Salem, ought to have granted more compensation under various heads. The Deputy Commissioner of Labour, Salem, without considering the evidence and exhibits, has granted a meagre compensation of Rs.4,33,060/-. It ought to have fixed the notional income based on the minimum wages Act and also to award other reasonable heads to the Dependents. It ought to have awarded interest within 30 days from the date of accident, as per the rulings of the Apex Court instead of granting only default interest. It ought to have granted permission to withdraw the entire deposited amount to the claimants since Insurance Company has deposited the entire award amount. The reasons stated by the DCL, refusing to withdraw the amount by the claimants, is unsustainable.

4. The learned counsel appearing on behalf of the second respondent/ Insurance Company disputed the contention by stating that the Deputy Commissioner of Labour, Salem, has granted reasonable



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compensation under various heads and no enhancement needs to be granted.

He further submitted that the appellants 2 and 3 are the married sisters of the deceased driver Nagarasan and hence the appeal is liable to be dismissed as against them. Hence the appeal in *toto* is liable to be dismissed.

5. Heard the learned counsel for the appellants/claimants and the learned counsel for the second respondent and perused the entire materials available on record.

6. Before the Deputy Commissioner of Labour, Salem, on the side of the Appellants/claimants, one witness was examined as PW1 and eight documents were marked as Ex.P1 to Ex.P8. On the side of the respondents, neither witness was examined nor document was marked.

7. A perusal of the award would reveal that Ex.P1 is the Copy of the First Information Report registered by the police; Ex.P2 is the Death Certificate; Ex.P3 is the Post mortem certificate; Ex.P4 is the driving licence; Ex.P5 is the RC book; Ex.P6 is the copy of Insurance policy; Ex.P7



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is the Legal declaration and Ex.P8 is the Legal Heir Certificate. In Ex.P3, it is stated as follows:

“Death is due to multiple organ injuries causing damage to the vital organs brain and lungs as a result of road traffic accident. (Chest injury and head injury)”

8. There was Insurance policy coverage for the said lorry as seen from the Insurance policy which was marked as Ex.P6 by the second respondent/Insurance Company before the Deputy Commissioner of Labour, Salem. In Ex.P6, it is stated that the lorry bearing Regn.No.KA-01-C-6364 has been insured in the second respondent/Insurance Company from 30.07.2006 to 29.07.2007 and the said accident occurred on 03.05.2007. Hence, the insurance policy is in force during the date of accident.

9. As seen from the impugned award, without considering the date of accident, the Deputy Commissioner of Labour, Salem, has passed the award that the Compensation amount of Rs.4,33,060/- shall be deposited by the second respondent within 30 days of receipt of the order in single



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instalment, in default, it shall carry 12% interest from the date of accident till the date of deposit. Therefore, this Court is of the opinion that it would be appropriate to modify that the claimants are entitled to 12% interest from the 31st day of accident till the date of deposit. Therefore, this Court is inclined to modify the finding of the Deputy Commissioner of Labour, Salem, in respect of interest alone. Except the same, there is no modification with regard to the quantum of compensation awarded by the Deputy Commissioner of Labour, Salem.

10. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed.

(ii) The second respondent/Insurance Company is directed to deposit the Award amount together with interest at 12% per annum from the 31st day of accident till the date of deposit to the credit of W.C.No.59 of 2008 within a period of six weeks from the date of receipt of a copy of this Judgment.



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(iii) On such deposit being made, the Deputy Commissioner of Labour, Salem, is directed to transfer the award amount along with accrued interest to the bank account of the appellants/claimants through RTGS within a period of two weeks thereafter. No costs.

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Index: Yes/No

Interest

Speaking/Non-Speaking Order: Yes/No

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To

1. The Deputy Commissioner of Labour,
Salem.

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



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