



C.M.A.No.181 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 20.04.2023

Delivered on: 27.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.M.A.No.181 of 2016

&

C.M.P.No.1648 of 2016

The General Manager
Southern Railway
Park Town
Chennai-600 003

... Appellant

Vs.

R.Pushpa

... Respondent

PRAYER: Appeal filed under Section 30 of the Workmen's Compensation Act, 1923 to set aside the order dated 23.05.2014 made in W.C.No.398 of 2013 by the Deputy Commissioner of Labour- II, Chennai-6.



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For Appellant : Mr.M.Vijay Anand

For Respondent : Mr.C.Chokkalingam

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the General Manager Southern Railway as against the order of the Deputy Commissioner of Labour, Workmen's Compensation(II) in W.C.No.398 of 2013 dated 23.05.2014.

2. The respondent herein as the applicant moved the Deputy Commissioner of Labour seeking compensation for the death of her husband C.Rajasekar on 06.06.2010. According to the claimant her husband was employed as a senior store watchman of Southern Railway drawing a salary of Rs.31,401/- per month and that on 27.05.2010 at about 7.35 a.m, after discharging his duties, her husband was walking on the railway track when he slipped and fell and sustained head injuries. Though he was admitted in the Government hospital at Thiruthani and later at Railway hospital at



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Chennai, he succumbed to the head injuries on 06.06.2010.

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3. Alleging that the accident occurred out of and during the course of employment of her husband, the claimant sought for compensation of Rs.10,00,000/-.

4. However, it is the case of the appellant that the accident occurred after the completion of duty hours and moreover when the deceased was crossing the railway track without using the foot over bridge and therefore prayed that the appellant cannot be saddled with any liability.

5. Before the Deputy Commissioner of Labour, the claimant examined herself as P.W.1 and filed Exs.P1 to P12. On the side of the appellant, one Mr.K.Dhanasekaran was examined as R.W.1 and Exs.R1 and 2 were marked.

6. The Deputy Commissioner of Labour, after assessing the oral and documentary evidence, found that the accident occurred only in the course of



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employment and passed an award to the tune of Rs.9,52,724/-.

7. Aggrieved by the said award of the Deputy Commissioner of Labour, the employer viz., the appellant herein has come forward with the above Civil Miscellaneous Appeal finding fault with the findings of the Deputy Commissioner of Labour that the accident had occurred in the course of employment and contended that there was no nexus or connection between the accident and employment.

8. Heard Mr.M.Vijay Anand, learned counsel appearing for the appellant and Mr.C.Chokkalingam, learned counsel appearing for the claimant/respondent. This Court has also perused the oral and documentary evidence available on record.

9. The counsel for the appellant strenuously argued that the duty hours of the deceased was between 7 p.m and 7 a.m and since the accident occurred only at 7.35 a.m, by no stretch of imagination it can be said that the accident



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occurred during the course of employment and prayed for the appeal being allowed.

10. On the other hand, the counsel for the respondent/claimant prayed for the award to be confirmed as there was no infirmities in the findings of the Deputy Commissioner of Labour.

11. At the outset, this Court holds that there is absolutely no merit whatsoever in the contention that the accident did not occur during the course of employment. The test that should be applied is only the proximity of time and not the exact time of the accident to deny compensation on a technical ground that the accident occurred out of employment hours. No fault can be found with the deceased whose duty ends at 7 a.m to have met with an accident at 7.35 a.m while returning home. A window period of thirty minutes cannot be said to be so fatal in order to come to a conclusion that the accident was not in the course of employment and deny compensation to the family of the deceased employee.



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12. The Tribunal has rightly found that the appellant is liable to pay the compensation to the claimant. This Court does not find any infirmity in the said findings in this regard and the same is not liable to be interfered with. However, the Deputy Commissioner Labour has taken the monthly salary at Rs. 15,741/- per month to arrive at the total compensation. In cases arising under Workmen's Compensation Act a maximum of Rs.8,000/- per month can alone be taken for the purpose of computing compensation. Therefore, the Tribunal was clearly in error in taking the monthly salary at Rs.15,741/- and accordingly passing the award for Rs.9,52,724/-. This Court is conscious of the fact that the Central Government, under a Gazette Notification No.S.O.1258(E) dated 31.05.2010 has fixed a maximum ceiling of Rs.8,000/- in cases falling under the Employees Compensation Act or the Workmen's Compensation Act. This Court, therefore, has to necessarily interfere with the quantum of compensation awarded to the respondent. The revised calculation is as here under:



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Statutory factor 121.05. (age of the deceased being 59)

Monthly salary Rs.8,000/-.

Total compensation = $50/100 \times 121.05 \times 8,000/-$ = Rs.4,84,200/-

13. In fine, the Civil Miscellaneous Appeal is partly allowed. No costs.

Consequently, connected miscellaneous petition is closed.

27.04.2023.

Internet: Yes

Index: Yes/No

Speaking order

Neutral Citation: Yes/No

kpr

To

1. Deputy Commissioner of Labour- II,
Chennai-6.



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P.B.BALAJI, J.,
kpr

Pre-delivery judgment in
C.M.A.No.181 of 2016

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