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CMA No. 2055 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 2055 of 2023

Ganesan

... Appellant

Versus

1.Suresh

2.National Insurance Co. Ltd.,
D. No. 19/B, SR Complex, Rajamani Thottam,
Bhavani Main Road, NH – 47,
Sankari Taluk,
Salem District – 637 301.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 30(1) of the Employee's Compensation Act to enhance the award amount in the order dated 23.12.2022 made in E.C. No. 132 of 2018 on the file of the Joint Commissioner of Labour/Commissioner of Employees' Compensation, Salem.

For Appellant : Mr. T.S.Arthanareeswaran

For Respondents : R1 - Exparte

Ms. N.B.Surekha (for R2)



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J U D G M E N T

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The appellant has preferred the instant appeal seeking enhancement of compensation awarded by the Commissioner of Labour in E.C. No. 132 of 2018 dated 23.12.2022.

2.The appellant had filed the claim petition stating that he was employed under the first respondent herein and had sustained injuries on 14.12.2017 during the course of employment; and that he had suffered permanent disability and hence, the respondents are liable to pay compensation.

3. The first respondent filed a counter denying the averments made in the claim petition and stated that the appellant sustained injuries due to his own negligence and that in any case, the first respondent had a valid insurance policy with the second respondent. Thereafter, he remained *ex parte* before the Commissioner.

4.The second respondent filed a counter denying all the averments made in the claim petition stating that the accident did not take place



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during the course of employment; and that in any case, the compensation claimed by the claimant is excessive and prayed for dismissal of the petition.

5.The appellant examined himself as PW1 and marked Ex.P.1 to Ex.P.17. The respondents neither examined any witness nor marked any document.

6.The Commissioner, after taking into consideration the oral and documentary evidence let in on the side of the appellant, held that the appellant sustained injuries during the course of employment and held that the first respondent is liable to pay compensation and directed the second respondent, the insurer to pay the compensation.

7.The learned counsel for the appellant submitted that the income fixed by the Commissioner was meagre although the appellant had established that he was earning Rs. 30,000/- per month. The learned counsel therefore, prayed for enhancement of compensation.

8.Though the first respondent has been served none has entered



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appearance.

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9.The learned counsel for the second respondent submitted that the accident did not take place during the course of employment and hence, prayed for dismissal of the appeal.

10.On perusal of records, it is seen that the appellant had established that he was employed under the first respondent herein. He had also established that he sustained injuries during the course of employment. The injuries were assessed by the Medical Board and the Medical Board had issued disability certificate stating that the appellant had 20% permanent disability. There is no dispute with regard to the above said facts. However, it is the case of the appellant that the Commissioner ought not to have fixed Rs. 8,000/- as the income per month. It is seen from the records that the appellant had not produced any document to substantiate his claim that he had earned a monthly income of Rs. 30,000/-. Therefore, this Court is of the view that the Tribunal was right in fixing the income of the appellant as Rs. 8000/- per month as per the Central Government notification, determining the wages for the relevant period. Therefore, this Court is of the view that the award of the



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Commissioner is just and reasonable and no interference is called for.

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11. In the result, this Civil Miscellaneous Appeal is dismissed. The second respondent is directed to deposit the award amount determined by the Joint Commissioner of Labour/Commissioner of Employees' Compensation, Salem within a period of four (4) weeks together with the interest determined by the Tribunal, if not already deposited. On such deposit, the appellant is permitted to withdraw the same along with interest and costs, less the amount if any, already withdrawn. No costs.

13.09.2023

ay

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Joint Commissioner of Labour/
Commissioner of Employees' Compensation,
Salem.
2. The Section Officer,
VR Section,
Madras High Court,
Chennai – 600 104.



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SUNDER MOHAN, J

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