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C.M.A.Nos.1189 and 1190 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.1189 and 1190 of 2020

Mohammed Billal @ Bilal ... Appellant in C.M.A.1189/2020
Ansar Sherif @ Ansari ... Appellant in C.M.A.1190/2020

Vs.

1.Bhakiyalakshmi Traders

(Since R1 remained exparte before the Forum,
hence R1 presence may be dispensed with)

2.The Reliance General Insurance Company Limited,
Reliance Towers,
Sasthri Bhavan Road,
Nungambakkam.
Chennai – 600 034. ... Respondents in both the C.M.As.

Common Prayer:

Civil Miscellaneous Appeals filed under Section 30 of the Employee's Compensation Act, to set aside the award dated 10.01.2020 passed in E.C.Nos.207 and 208 of 2016 respectively, on the file of the Joint Commissioner of Labour – II, Chennai.

For Appellant : M/s.A.Subadra
for M/s.K.M.Ramesh

For Respondents : R1 - Exparte
Mr.P.Suresh Srinivasan for R2



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COMMON JUDGMENT

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The applicants before the Joint Commissioner of Labour – II, Chennai are the appellants herein. These appeals have been filed seeking to set aside the award dated 10.01.2020 passed in E.C.Nos.207 and 208 of 2016 respectively, by the Joint Commissioner of Labour – II, Chennai.

2.The brief facts of the case is that the appellants were working as loadman in the first respondent's lorry bearing Registration No.TN.18-H-5209 and was getting Rs.18,000/- as monthly wages along with Rs.600/- as daily batta. On 17.05.2016 at about 2.00 p.m., they were working as loadmen at J.P.Cement Godown, Kavankarai, Chennai, to load cement bags on the above said lorry. At that time, the driver of the lorry drove the vehicle in reverse gear in a rash and negligent manner and dashed against the cement bags, as a result of which, the applicants struck inbetween the cement bags and sustained injuries and they were taken to Government Stanley Hospital, Chennai, wherein, they were treated as inpatient for one month. Thereafter, the injured applicants filed claim petitions, claiming compensation of Rs.7 Lakhs each.



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3.After adjudication, the Joint Commissioner of Labour – II, Chennai, awarded the following compensation to the claimants/ applicants therein and aggrieved by the same, the appellants have filed these appeals:

(i)In E.C.No.207 of 2016 the Joint Commissioner of Labour – II fixed a sum of Rs.7,09,416/- as compensation and directed the second respondent Insurance Company to deposit the compensation along with interest from 17.05.2016 to the date of deposit before the Court of Commissioner for Employees Compensation and Joint Commissioner of Labour – II, Chennai, by way of demand draft, within a period of 30 days.

(ii)In E.C.No.208 of 2016 the Joint Commissioner of Labour – II fixed a sum of Rs.6,72,840/- as compensation and directed the second respondent Insurance Company to deposit the compensation along with interest from 17.05.2016 to the date of deposit before the Court of Commissioner for Employees Compensation and Joint Commissioner of Labour – II, Chennai, by way of demand draft, within a period of 30 days.

4.The learned counsel appearing for the appellants submitted that as per Section 4(1)(b) of the Employees Compensation Act, 1923



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where permanent total disablement results from the injury an amount equal to sixty per cent of the monthly wages of the injured employee multiplied by the relevant factor; or an amount of One Lakh and Forty Thousand Rupees, whichever is more has to be awarded. However, in the present case, though each of the appellants received a sum of Rs.18,000/- as monthly wages along with Rs.600/- as daily batta, the Joint Commissioner of Labour – II by relying upon Section 4(1)(b) of the Employees Compensation Act, fixed a sum of Rs.8,000/- as the monthly wages and awarded compensation which is very meagre.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the appellants have not filed any proof for their income before the Joint Commissioner of Labour – II. In the absence of any proof, the Joint Commissioner of Labour – II rightly relied upon Section 4(1)(b) of the Employees Compensation Act, 1923 and fixed a sum of Rs.8,000/- as the monthly wages and awarded compensation and therefore the impugned orders warrant no interference.

6.Heard the arguments advanced on either side and perused the materials available on record.



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7.The facts in the present case is not disputed. The manner in which the accident happened is also not disputed. The multiplier factor considering the age of the appellants is 197.06 and 186.90 respectively and the same is also not disputed. The point for consideration in these appeals is whether $\frac{1}{2}$ of the monthly wages have to be taken into consideration for awarding compensation or Rs.8,000/- in terms of Section 4(1)(b) of the Employees Compensation Act, 1923?

8.For better appreciation, Section 4(1)(b) of the Employees Compensation Act, 1923, is extracted hereunder:

'4. Amount of compensation.—(1) *Subject to the provisions of this Act, the amount of compensation shall be as follows, namely:—*

(b) where permanent total disablement results from the injury

an amount equal to sixty per cent of the monthly wages of the injured employee multiplied by the relevant factor; or an amount of one lakh and forty thousand rupees, whichever is more'



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9.Perusal of the above provision makes it clear that where permanent total disablement results from the injury an amount equal to sixty per cent of the monthly wages of the injured employee multiplied by the relevant factor where there is proof for monthly wages. In the present case, there is no proof for monthly wages and the relevant factor was correctly applied based on the age of the appellants. The Joint Commissioner of Labour – II after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned orders warrant no interference.

10.These civil miscellaneous appeals are dismissed. The award dated 10.01.2020 passed in E.C.Nos.207 and 208 of 2016 respectively, by the Joint Commissioner of Labour – II, Chennai, are confirmed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Joint Commissioner of Labour – II,
Chennai.

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M.DHANDAPANI,J.
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