



WEB COPY



C.M.A.No.1772 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1772 of 2020

Manikandan

... Appellant

Vs

1.S.Manvizhi

2.National Insurance Co.Ltd,
Third Party Cell HUB
No.46. Regina Mansion,
Moore Street, Parrys,
Chennai-600001.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Employees's Compensation Act, against the Award dated 17.09.2019 made in E.C.No.22 of 2018 on the file of the Joint Commissioner of Labour-I, Chennai.

For Appellant ... Mr.A.Subadra

For Respondents ... R1- Exparte
... Mr.S.Vadivelu for R2.



C.M.A.No.1772 of 2020

WEB COPY

JUDGEMENT

Aggrieved by impugned award dated 17.09.2019 passed by the Joint Commissioner of Labour-I, Chennai in EC.No.22 of 2018, the present appeal has been filed by the claimant/appellant seeking enhancement of compensation.

2. The Appellant/claimant was working as a car driver with the 1st respondent on a monthly salary of Rs.20,000/- along with daily wages to the tune of Rs.300/- per day. During the course of his employment, on 19.04.2017, at about 11.30 am, when the claimant was driving the a car bearing Regn No.TN-32-F-1500 belonging to the 1st respondent, insured with the 2nd respondent, a Two Wheeler which came in the same direction, suddenly crossed the claimant's car, due to which, the claimant lost control of his vehicle and dashed against the central part of the road, thereby the claimant sustained grievous injuries and the claimant was admitted in the Government



C.M.A.No.1772 of 2020

Hospital, Chrompet and thereafter he was taken to the Rajiv Ganthi Hospital.

Subsequently, the claimant has filed a petition claiming compensation for the injuries sustained by him before the Authority for Workmen's Compensation. After adjudication, the authority has awarded a sum of Rs.2,56,284/- with an interest @ 12% p.a. Challenging the said award, the claimant has filed the present appeal.

3. Learned counsel appearing for the Appellant/claimant submitted that the compensation awarded by the authority is grossly inadequate. At the time of accident, the claimant was earning a sum of Rs.20,000/- and his income was affected during the period in which he was under treatment which was purely on account of the said accident. However, without considering the same, the authority had erroneously fixed the notional income as Rs.8,000/- per month which is on the lower side. Hence the compensation awarded by the Tribunal requires to be reconsidered and prays for enhancement of compensation.



C.M.A.No.1772 of 2020

WEB COPY

4. Per contra, learned counsel appearing for the second respondent/Insurance Company submitted that though it is the claim of the Appellant that he was earning a sum of Rs.20,000/- per month, no proof of income has been placed by him in order to substantiate the said claim. In the absence of any proof of income, the monthly income of the appellant has been rightly fixed by the authority at Rs.11,335/- based on G.O.(2D)No.91 L & E (J1) dated 12.12.2023 which does not require any interference.

5. This Court, heard the learned counsel appearing for the petitioner as well as the 2nd respondent-Insurance Company and perused the materials available on record.

6. The main issue that arises for consideration in the present appeal is with regard to the fixation of monthly wages by the authority at Rs.8,000/- as notified by the Central Government u/s 4(1-B) of the Workmen's Compensation Act.



C.M.A.No.1772 of 2020

WEB COPY

7. It is the case of the claimant that he was earning a sum of Rs. 20,000/- per month which is more than the wages fixed by the authority and therefore, entitled for higher compensation in terms of Section 4(1)(a) of the Act. Though such a claim is made, however, the claimant has not placed any material either before the authority or before this Court in order to substantiate his stand with regard to receipt of monthly income to the tune of Rs.20,000/- . In the absence of any proof of income, the authority by invoking Section 4(1-B) of the Act, had fixed the monthly wages at Rs.8,000/- as per the notification of the Central Government dated 18.01.2010.

8. Once the employee has not established the salary received by him through documentary evidence, necessarily, the authority has to resort to Section 4 (1-B) and the provision u/s 4 (1)(a) of the Act would not be available to the claimant to claim compensation. Rightly appreciating the aforesaid provision, the authority has granted the compensation to the claimant which, by no stretch, could be termed to be unreasonable or perverse and, therefore,



C.M.A.No.1772 of 2020

the same does not warrant any interference.

WEB COPY

9. Accordingly, the Civil Miscellaneous Appeal is dismissed and the impugned award dated 17.09.2019 made in E.C.No.22 of 2018 is confirmed.

There shall be no order as to costs.

01.12.2023

Index : Yes / No

Speaking Order / Non-speaking order

Neutral Citation Case : Yes / No

NHS

To

1. The Joint Commissioner of Labour-I,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.



WEB COPY



C.M.A.No.1772 of 2020



WEB COPY



C.M.A.No.1772 of 2020

M.DHANDAPANI, J

NHS

C.M.A.No.1772 of 2020

01.12.2023