IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.03.2023

PRONOUNCED ON : 06 .06.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CMA.No.967 to 969 of 2017

1. The Management of Uralikkal Estate
M/s.Tata Coffee Limited, Valparai-642 127 Appellant-CMA.967/2017

2. The Management of Old Valparai Estate
Valparai, Coimbatore Appellant-CMA.968/2017

3. The Management of Uralikkal Estate
M/s.Tata Coffee Limited, Valparai-642 125 Appellant-CMA.969/2017

Vs

1. G.Nagalakshmi R1-CMA.967/2017
2. R.Kannan R1-CMA.968/2017
3. Subramanian R1-CMA.969/2017

4. The United India Insurance Company Limited
Bangalore 560002 R2-All CMAs

Prayer:- These Civil Miscellaneous Appeal have been filed, against the orders dated, 05.10.2016, made in ECC.Nos.28, 40 and 86 of 2015, by the Deputy Commissioner of Labour, Coimbatore.

For Appellants : Mr.M.Vijayan for M/s.King and Partridge

For Respondents : Mr.V.Suriya Sankar for Mr.R.Munuswamy

JUDGEMENT

1. This Civil Miscellaneous Appeal have been filed, against the orders dated, 05.10.2016, made in ECC.Nos.28, 40 and 86 of 2015, by the Deputy Commissioner of Labour, Coimbatore.

2. All the claimants were working under the respective Appellant Estates as permanent labourers. The claimants in CMA.Nos.967 and 968 of 2017 have filed the claim petitions, before the Labour Commissioner, seeking compensation for the injuries sustained by them on 15.06.2013 and 10.06.2013, during the course of their employment with the Appellant Estates. The claimant, who is the husband of the deceased, namely, Prasanna, in CMA.No.969 of 2017 has filed the claim petition, before the Labour Commissioner, seeking compensation, for the death of his wife on 24.02.2015, during the course of her employment with the Appellant Estate. The claim petitions were contested by both the Employer and the Insurance Company, by filing separate counters.
3. In CMA.No.967 of 2017, on the side of the claimant, PW.1 and PW.2 were examined and Ex.P1 to Ex.P5 were marked and on the side of the Employer and the Insurance Company, RW.1 and RW.2 were examined and Ex.R1 to R3 were marked. In CMA.No.968 of 2017, on the side of the claimant, PW.1 and PW.2 were examined and Ex.P1 to Ex.P10 were marked and and on the side of the Employer and the Insurance Company, RW.1 and RW.2 were examined and Ex.R1 to R3 were marked. In CMA.No.969 of 2017, on the side of the claimant, PW.1 was examined and Ex.P1 to Ex.P6 were marked and on the side of the Employer and the Insurance Company, RW.1 and RW.2 were examined and Ex.R1 to R3 were marked.
4. The Labour Commissioner, on considering the entire oral and documentary evidence and the decisions of various courts, by the impugned orders, has

awarded compensation to the claimants, as detailed below:-

(a) In CMA.No.967 of 2017, the Labour Commissioner arrived at a compensation of Rs.1,33,629/- (Rs.5181x60/100x186.90x 23/100) to be payable by the Employer and a further compensation of Rs.9,904/- (Rs.384x60x/100x186.90x23/100) to be payable by the Insurance Company. The interest on the sum of Rs.1,43,533/- at the rate of 12% p.a. from thirty days from the date of the accident till 08.12.2014 and interest on the sum of Rs.1,33,629/- at the rate of 12% p.a. from 29.10.2015 till the date of deposit shall be payable by the Employer The interest on the sum of Rs.9,904/- at the rate of 12% p.a. from 29.10.2015 till the date of deposit shall be payable by the Insurance Company.

(b) In CMA.No.968 of 2017, the Labour Commissioner arrived at a compensation of Rs.1,40,174/- (Rs.4053x60/100x192.14x 30/100) to be payable by the Employer and a further compensation of Rs.13,281/- (Rs.384x60x/100x192.14x 30/100) to be payable by the Insurance Company.

(c) The interest on the sum of Rs.1,53,455/- at the rate of 12% p.a. from thirty days from the date of the accident till 26.10.2015 and interest on the sum of Rs.1,40,174/- at the rate of 12% p.a. from 27.10.2015 till the date of deposit shall be payable by the Employer. The interest on the sum of Rs.13,281/- at the rate of 12% p.a. from 27.10.2015 till the date of deposit shall be payable by the Insurance Company.

(d) In CMA.No.969 of 2017, the Labour Commissioner arrived at a compensation of Rs.67,973/- (Rs.788x50/100x172.52) to be payable by the Employer and a further compensation of Rs.4,98,152/- (Rs.5775x50x/100x172.52) to be payable by the Insurance Company and a further sum of Rs.5,000/- was awarded towards funeral expenses to be payable by the Insurance Company.

(e) The interest on the sum of Rs.5,66,125/-- at the rate of 12% p.a. from thirty days from the date of the accident till 07.09.2015 and interest on the sum of Rs.67,973/- at the rate of 12% p.a. from 08.09.2015 till the date of deposit shall be payable by the Employer. The interest on the sum of Rs.4,98,152/- at the rate of 12% p.a. from 08.09.2015 till the date of deposit shall be payable by the Insurance Company.

Aggrieved by the same, these appeals have been filed by the respective Employers.

5. This Court heard the learned counsel on either side and also perused the entire materials placed on record.

6. According to the Appellants, there is no loss of earning capacity, since the injured employees are continuing the same jobs and in view of the terms and conditions of the insurance policy, the Insurance Company alone is responsible to pay the entire compensation. According to the Insurance Company, the impugned compensation is just and proper.

7. In view of the categoric admissions made by the Employers in CMA.Nos.967 and 968 of 2017, in their respective counters filed before the Labour Commissioner, it was rightly held that the claimants in CMA.Nos.967 and 968 of 2017 are the permanent workers in the respective Employers and they met with the alleged accidents on 15.06.2013 and 10.06.2013 respectively and have sustained injuries, during the course of their employment with their respective Employers. Hence, this finding of the Labour Commissioner does

not warrant any interference by this Court.

8. Similarly, in CMA.No.969 of2017, considering the admission of the Appellant Estate made in their counter filed before the Labour Commissioner and the oral evidence of claimant and the material evidence and in the absence of contra evidence on the side of the Employers and the Insurance Company, it was rightly held by the Labour Commissioner that the wife of the claimant in CMA.No.969 of 2017 was a permanent worker in the Appellant Estate and during the course her employment, she died on 24.02.2015, due to work load. Hence, this finding of the Labour Commissioner cannot also be interfered with.

9. In CMA.Nos.967 and 968 of 2017, in so far as the quantum of compensation and liability is concerned, it is also admitted by the respective Employers that the claimants were drawing the salary as claimed by them in their respective claim petitions and accordingly, arrived at their monthly income at Rs.5565/- and Rs.4437.17/- respectively. Based on medical evidence, such as disability certificates and other medical records, it was held that the claimants suffered 23% and 30% disability respectively.

10. The Labour Commissioner has also found that as admitted in evidence by the Insurance Company, the claimants in CMA.Nos.967 and 968 of 2017 are the permanent workers and they were covered by the insurance policy for the period from 01.04.2013 to 31.03.2014 and necessary insurance premium were paid for them and such insurance premiums were paid at the rate of Rs.384/- per employee. The monthly incomes of the injured claimants in

CMA.Nos.967 and 968 of 2017 are arrived at Rs.5,565/- (Rs.185.50/- per day x 30) and Rs.4437.17/- respectively. Since admittedly, their salaries are insured for a sum of Rs.384/- per employee, the Labour Commissioner awarded a compensation of Rs.1,33,629/- and Rs.1,40,174/- to each of the claimants respectively to be payable by the Employer and Rs.9,904/- and Rs.13,281/- to the claimants respectively to be payable by the Insurance Company.

11.In CMA.No.969 of 2017, based on evidence, it was held by the Labour Commissioner that the claimant died during the course her employment with the Employer and the claimant was drawing a sum of Rs.218.75/- p.m. and admittedly she was covered by the Insurance Policy from 01.04.2014 to 31.03.2015 for a sum of Rs.5775/-. Accordingly, the Labour Commissioner awarded a compensation of Rs.67,973/- (Rs.788x50/100x172.52) to be payable by the Employer and Rs.4,98,152/- (Rs.5775x50/100x172.52) to be payable by the Insurance Company.

12.In all the appeals, since it was found by the Labour Commissioner based on evidence that the Insurance Company came to knowledge of the incidents only on 29.09.2015, 27.10.2015 and 08.09.2015, respectively, the Insurance Company is liable to pay interest only from those dates. It cannot be said that the said finding with regard to interest is perverse and hence, it shall stand confirmed. In the light of various decisions of various courts and the relevant provisions of the Workmen Compensation Act, particularly, Section 4A, the Labour Commissioner has awarded compensation to the claimants as stated above, by the impugned orders, which warrants no interference. Further, this Court finds no substantial question of law to entertain these appeals and hence, these appeals are deserved to be dismissed.

13.In fine, these Civil Miscellaneous Appeals are dismissed, confirming the impugned orders of the Labour Commissioner. No costs.

06.06.2023

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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A.A.NAKKIRAN, J.

Srcm

Pre-Delivery Judgement in
CMA.No.967 to 969 of 2017

06.06.2023