



C.M.A No.63 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A. No.63 of 2023

A. Chinnapaiyan (Deceased)

C.Annammal

... Appellant

Vs.

1.M/s.Garuda Logistics Services Private Limited
No.109, East Coast Road
Akkarai, Chennai - 600 119

2.The Manager (Legal department)
United India Insurance Company Limited
Third Party Claims, 4th Floor, Sillingi Building
No.134, Greams Road
Chennai - 600 006

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 30 of Employee's Compensation Act, 1923, against the judgment and decree dated 20.10.2022 in E.C. No.69 of 2017 on the file of Commissioner of Workmen's Compensation - I (Joint Commissioner of Labour - I), Chennai.



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For Appellant : Mr.J.Ravikumar

For Respondents : Mr.J.Michael Visuvasakm for R2

JUDGMENT

The mother of the victim has preferred this appeal challenging the perceived inadequacy of the compensation, awarded by the Commissioner under the Employee's Compensation Act.

2. The victim was barely 21 years old and admittedly he was working as a driver in a bus bearing Registration No.TN-21 AZ-4854. At the fateful moment he was wiping the windshield of his bus from outside when a truck which was parked before the bus took reverse without taking care to see the presence of the victim and as a result of which he was literally sandwiched between the bus and the truck. He died on the spot. Seeking compensation, the parents of the victim moved the Commissioner of Workmen's Compensation - I (Joint Commissioner of Labour - I), Chennai. The claim petition was preferred in June 2017. The Tribunal has fixed the total compensation at Rs.6,69,344/- reckoning the income of the victim at Rs.5,966/- per month, which includes the funeral expenses



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at Rs.5,000/-. In arriving at the compensation, the Tribunal ignored the initial delay in filing the claim petition, but took into account the period during which the claim petition was dismissed for default.

3. Aggrieved by the inadequacy of the compensation and the interest declined to be paid for the default period, this appeal is filed. It may be mentioned, during the pendency of the claim petition before the Tribunal, the father of the victim passed away.

4. The only contention which the learned counsel for the appellant canvassed was that the income of the victim ought to have been reckoned at Rs.8,000/- under Section 4(1)(b) of Employee's Compensation Act. On this Mr.J.Michael Visuvasam, the learned counsel for the second respondent has fairly conceded that in terms of the statute, Rs.8,000/- has to be reckoned. Since the victim is 21 years old, 222.71 must be reckoned as the factor. Now the computation of compensation is determined as below:

$$\text{Rs.8,000/-} \times 50/100 \times 222.71 = \text{Rs.8,90,840/-}$$



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To this Rs.5,000/- to be added towards funeral expenses. The gross value of the compensation payable is Rs.8,95,840/-.

5. In conclusion, the civil miscellaneous appeal is allowed in part. The award of the Tribunal is enhanced to Rs.8,95,840/- from Rs.6,69,344/- The insurance company has deposited the amount awarded by the Tribunal and it is now required to deposit the differential sum with interest at the rate of 12% per annum on the said differential sum excluding the period during which the claim petition was in default, to be specific, between 19.04.2018 and 16.08.2022 and the same is required to be deposited within a period of six weeks. No costs.

29.11.2023

Asr

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Commissioner of Workmen's Compensation - I
(Joint Commissioner of Labour - I), Chennai.



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N.SESHASAYEE, J.

Asr

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