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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11..2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2915 of 2019

Perumal (died)

1. Uma Maheswari
2. Minor Karthick Raja
3. Minor Hemavathy
(Minors are rep. By the first appellant
as natural guardian and next friend)

... Appellants

Vs

Dakshinamoorthy (Died)

1. Iffco Tokyo General Insurance co. Ltd.,
2nd Floor, No.28, Noth Usman Road,
T.Nagar, Chennai-17.

... Respondents

Civil Miscellaneous Appeal filed under Article 30 of the Workmen's Compensation Act, against the award dated 08.04.2015 and made in WC.No.191/2011 on the file of the Deputy Commissioner of Labour-II Chennai.

For Appellant : Ms.A.Subadra

For Respondent : Mr.J.Michael Visuvasam

J U D G M E N T



enhancement of the compensation in against the award dated 08.04.2015 and made in WC.No.191/2011 on the file of the Deputy Commissioner of Labour-II Chennai.

2. It is the case of the appellant/claimant that 19.11.2010 at about 20.05 hrs on Perumal who was working as a driver in a car bearing Reg. No.PY 01 AR 1119, belong to one Dhakshinamoorthy, met with an accident. Due to the said accident, the appellant sustained grievous injuries. Thereafter, the appellant has filed a claim petition before the Workmen's Compensation Court claiming a sum of Rs.10,00,000/- .

3. Before the Tribunal, during trial, in order to prove his case, on the side of the appellant, 15 documents were adduced and on the side of the respondent, no witness was examined and no documents were adduced.

4. After analyzing the oral and documentary evidences, the Tribunal has awarded a sum of Rs.3,60,393/- as compensation payable by the insurance company.

5. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellant has come forward with this appeal before this



Court.

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6. Learned counsel for the appellant submitted that the injured claimant was working as a driver under one Dhakshinamoorthy and received a sum of Rs.9,000/- per month as salary. In order to prove the same, before the workmen's court, the claimant has produced necessary documents to prove his income and the Labour Court fixed the income of the injured as Rs.3986/- which is erroneous. Further, as per Section 4(1)(B) of the Workmen's Compensation Act, the Central Government itself has issued notification by fixing the basic monthly salary at Rs.8,000/- for the injuries. Ignoring the said notification, the Labour Court passed award to the claimant, which is very meagre and the learned counsel prays to re-visit the said award.

7. The learned counsel appearing for the second respondent /Insurance Company fairly submitted that a notification has been issued by the Central Government prior to the award passed by the Tribunal. However, the same was not considered by the Labour Court.

8. Considering the facts and circumstances of the case and as rightly



the Central Government as fixed the basic monthly salary as Rs.8000/- as per Section 4(1)(B) of the Workmen's Compensation Act. In view of the fair submission made by the learned counsel for the second respondent, this Court is inclined to modify the award passed by the Labour Court in respect of the head viz., loss of income and this Court fixes the salary of the deceased at Rs.8000/-. The loss of income is calculated as follows:

Age of the deceased = 38

Relevant Factor = 189.56

Monthly income = 8000/-

Loss of earning capacity : 40%

= $60/100 \times 189.56 \times 8000 \times 40/100$

= **Rs.4,52,931/-**

This court modifies the award as follows:

Loss of earning capacity = 4,52,931/-

Medical Bills = 88,973/-

Total = Rs.5,41,904/-

9. The compensation awarded by the Tribunal is modified as above and accordingly, the appeal is allowed. However, there shall be no order as to costs.



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10. The second respondent is directed to deposit the award amount of Rs.5,41,904/- rounded off to **Rs.5,42,000/-** along with interest at 12% p.a., from the date of the accident till date of deposit, less the amount, if any, already deposited, to the credit of the claim petition before the Labour Court, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Labour Officer is directed to deposit the same to the bank account of the legal heirs of the claimant in the ratio of **50:25:25** through RTGS within a period of two weeks thereafter.

10.11.2023

Index : Yes/no
Internet : Yes/no
Speaking Order/Non speaking order

To

The Deputy Commissioner of Labour-II Chennai.



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M.DHANDAPANI.,J.

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