



C.M.A.(MD).No.456 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 06.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.456 of 2017

1. S.Rameeja Begum
2. S.Sidhiq Banu
3. S.Sahubar Shadiq
4. Minor S.Sabitha Banu
5. Abdul Muthalif
6. Noor Ammal Beevi

.....Appellants/Petitioners

-vs-

1. Annammal
2. The Branch Manager,
United India Insurance Company Ltd.,
No.7, West Veli Street,
Madurai – 625 001.
Policy No.090401/31/09/02/00010477

.... Respondents /Respondents

(Cause Title accepted, vide order of this Court dated 06.04.2017,
made in C.M.P(MD) No.3175 of 2017 in C.M.A(MD) Sr 8643/2017)

PRAYER: Civil Miscellaneous Appeal filed under Section 30(1) of Workmen Compensation Act, 1923, against the impugned order, dated 03.02.2016 made in W.C.No.135 of 2012, on the file of the learned Deputy Commissioner for Labour, Madurai.



WEB COPY



C.M.A.(MD).No.456 of 2017

For Appellants : Mr.S.M.A.Jinnah

For Respondents : Mr.A.Ilango – for R2
: No appearance – for R1

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the claimants seeking enhancement of the award passed by the Deputy Commissioner for Labour, Madurai, in W.C.No.135 of 2012.

2. According to the claimants, the deceased was working as a driver of Ambassador Car belonging to the first respondent and during the course of employment, he died in an accident. The claimants had further contended that he was drawing a salary of Rs.15,000/- (Rupees Fifteen Thousand only) per month with a daily batta of Rs.100/-. The claimants sought for compensation of a sum of Rs.15,10,000/- (Rupees Fifteen Lakhs and Ten Thousand only).

3. The owner of the ambassador car had remained ex-parte and the Insurance Company had filed a counter challenging the employer and the employee relation ship and also disputing the age, occupation and monthly income of the deceased person.



C.M.A.(MD).No.456 of 2017

WEB COPY

4. The Tribunal, after considering the oral and documentary evidence let in on either side, arrived at a finding that the claimants have established the employer-employee relationship between the deceased and the first respondent in the claim petition. Thereafter, the Commissioner further found that the deceased was a taxi driver. Since there was no proof relating to the income of the deceased person, the Commissioner had relied upon the G.O. (2D)No.54, Labour and Employment (J1) Department, dated 16.10.2008, under which, the minimum wages for taxi driver was fixed at a sum of Rs.4,410/- along with Dearness Allowance of Rs.1,472/-, totally a sum of Rs.5,882/- as monthly income. However, the Deputy Commissioner has suddenly reduced the said income to Rs.4,000/- per month without assigning any reason whatsoever and thereafter proceeded to award a compensation a sum of Rs.3,56,900/- (Rupees Three Lakhs Fifty Six Thousand and Nine Hundred only). This award is under challenge in the present appeal.

5. According to the learned counsel appearing for the appellants, when the minimum wages has been fixed by the Government under the Government Order, dated 16.10.2008, at Rs.5,882/- as monthly income, the Deputy Commissioner cannot reduce the said minimum wages to Rs.4,000/- (Rupees



C.M.A.(MD).No.456 of 2017

WEB COPY

Four Thousand only) per month without assigning any reason whatsoever, especially, when the claimants contended that the monthly income of the deceased at Rs.15,000/- (Rupees Fifteen Thousand only) per month. Hence, he prayed for enhancement of the award.

6. Per contra, the learned counsel appearing for the Insurance Company had contended that since the claimants have not produced any evidence with regard to the employment or the monthly wages, the Deputy Commissioner of Labour was right in fixing the monthly income at Rs.4,000/- (Rupees Four Thousand only).

7. I have carefully considered the submissions made by the learned counsel on either side.

8. The only issue that arises consideration is whether the Deputy Commissioner of Labour was right in reducing the minimum wages fixed by the Government under the Government Order dated 16.10.2008 to Rs.4,000/- (Rupees Four Thousand only)?.



C.M.A.(MD).No.456 of 2017

WEB COPY

9. This Court finds that the Deputy Commissioner of Labour has not assigned any reason whatsoever and he has no jurisdiction to reduce the minimum wages fixed by the Government under the Government order dated 16.10.2008 for a taxi driver at Rs.5,882/-. Therefore, this Court is inclined to accept the contention of the learned counsel appearing for the appellants and proceed to award the compensation by fixing the monthly income at the rate of Rs.5,882/- per month. Therefore, the compensation amount would be at $\text{Rs.}5,882 \times 50 / 100 \times 178.49 = \text{Rs.}5,24,939/-$ (Rupees Five Lakhs Twenty Four Thousand Nine Hundred and Thirty Nine only). The award of the Commissioner of Rs.5,000/- towards funeral expenses by the Commissioner is hereby confirmed and hence, the total compensation would be at Rs.5,29,939/- (Rupees Five Lakhs Twenty Nine Thousand Nine Hundred and Thirty Nine only). Therefore, the total compensation awarded by the Deputy Commissioner for Labour, Madurai is enhanced from Rs.3,61,980/- to Rs.5,29,939/- (Rupees Five Lakhs Twenty Nine Thousand Nine Hundred and Thirty Nine only). The substantial questions of law are answered in favour of the appellant.



C.M.A.(MD).No.456 of 2017

WEB COPY

10. With the above said observation, this Civil Miscellaneous Appeal is allowed to the extent as stated above. The compensation amount has to be deposited by the Insurance Company within a period of eight weeks from the date of receipt of a copy of this order along with the statutory interest. There shall be no order as to costs.

06.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The learned Deputy Commissioner for Labour,
Madurai.
2. The Branch Manager,
United India Insurance Company Ltd.,
No.7, West Veli Street,
Madurai – 625 001.
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD).No.456 of 2017

R.VIJAYAKUMAR,J.

ebsi

C.M.A.(MD)No.456 of 2017

06.06.2023