



C.M.A.No.555 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 6/11/2024

C O R A M

THE HONOURABLE Mr.JUSTICE **M.DHANDAPANI**

Civil Miscellaneous Appeal No.555 of 2007

N. Kadhiravan ... Appellant

Vs

1. M.S.Bailey Hydropower (P) Ltd
A-10 SIPCOT Industrial Park
Irungattukottai
Sriperumbudur
Kancheepuram 631 501.

2. National Insurance Co Ltd
25 (Old No.13) Mantha Complex
Third Floor, Whites Road
Royapettah
Chennai 600 014.

... Respondents

PRAYER: Appeal filed under Section 30 of the Workmen's Compensation Act, 1923 against the order dated 10/6/2006 passed in W.C.No.349 of 2005 by the Deputy Commissioner for Labour – II (Commissioner for Workmen's Compensation – II), Chennai 600 006.



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For appellant	...	Ms.A.Subadra for Mr.A.Shanmugaraj
For respondents	...	No appearance for R.1 Ms.R.Rathna Thara for R.2

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J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the order dated 10/6/2006 passed in W.C.No.349 of 2005 by the Deputy Commissioner for Labour – II (Commissioner for Workmen's Compensation – II), Chennai 600 006.

2. The facts in brief are as follows:-

On 23/8/2002, at about 4 a.m., when the appellant was doing work in the premises of the first respondent, fell down from the height of 15 feet and sustained subtrochanteric fracture in right femur as well as right hip and admitted as in-patient at Sri Ramachandra Medical hospital, Porur, from 23/8/2002 to 24/9/2002 and then continued his treatment as out-patient for six months. At the time of accident he was aged about 20 years and after



discharge, he took treatment upto 27/3/2003. Thereafter, the appellant has filed a claim petition, claiming a sum of Rs.5,00,000/- as compensation.

3. After analyzing the oral and documentary evidences, the trial Court has awarded a sum of Rs.2,21,760/- as compensation payable by the Insurance Company.

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

5. Heard Ms.A.Subadra, learned counsel for the appellant and Mr.R.Rathna Thara, learned counsel for the second respondent. There is no representation for the first respondent.

6. The learned counsel appearing for the appellant submitted that before the trial Court, first respondent had admitted that the monthly salary of the appellant is Rs.2,820/-. But, in the documents marked as exhibits, by the second respondent, it has been proved that the salary of the appellant is Rs.3,300/- and hence, trial Court had fixed the salary of the appellant as Rs.3,300/- and passed an award. However, Explanation II of Section 4 A (3) of the Workmens Compensation Act, imposed a cap on the monthly wages at



Rs.4,000/-, irrespective of the monthly wages drawn by an employee, prior to 18/1/2010. For enhancement of compensation, the present appeal is filed.

7. The learned counsel appearing for the second respondent submitted that the first respondent himself had admitted that the monthly salary of the appellant is Rs.2,820/-, whereas the trial Court had fixed his monthly salary as Rs.3,300/- which is just and reasonable, which cannot be interfered with and hence, prays for dismissal.

8. Perused the materials available on record.

9. The first respondent admitted the employer-employee relationship and also agreed that the appellant's monthly salary is Rs.2,820/- whereas the trial Court had fixed Rs.3,300/- p.m. Prior to Act 45 of 2009, by virtue of the deeming provision in Explanation II to Section 4, monthly wages of an employee were capped at Rs.4,000/- even where an employee was able to prove the payment of a monthly wage in excess of Rs.4,000/-.

10. In ***K.SIVARAMAN & ORS Vs P.SATHISHKUMAR & ANR*** (***C.A.No.9046 OF 2019 dated 13/2/2020***), the Hon'ble Supreme Court had



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gone into the nature of the deeming provision, which capped the monthly wages at Rs.4,000/- irrespective of the fact that the amount of monthly wages drawn by an employee. In the case on hand, the claims tribunal has fixed Rs.3,300/- as the monthly salary of the appellant and thus, the compensation amount is in terms of the Act. Therefore, the impugned order does not require any interference and the appeal deserves to be dismissed.

11. In view of the above, this Civil Miscellaneous Appeal is dismissed. However, if the second respondent Insurance Company has not deposited the compensation amount as awarded by the trial Court, the appellant is entitled for 12% interest from the date of order till the date of payment, which is in due compliance of Section 4 – A (3) of the Workmen's Compensation Act. No costs.

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mvs.

Index : Yes / No

Neutral Citation: Yes/No



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mvs.

To

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