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C.M.A. No.789 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.789 of 2021

1. Chitra

2. Sivapathy

... Appellants

vs.

1. S. Govindaraj

2. Divisional Manager,
New India Assurance Company Ltd.,
No.29, Ram Complex,
Paramathi Road,
Namakkal District.

.... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the order dated 12.06.2020 passed in E.C. No.219 of 2018 on the file of Commissioner for Commissioner of Labour, Coonoor.

For Appellants
For Respondents

: Mr.C. Thangaraju
: Ms.Rathina Thara for R2

JUDGMENT

This appeal has been filed by the claimants seeking enhancement of compensation under the Employees Compensation Act, 1923.



C.M.A. No.789 of 2021

2. Heard Mr.C. Thangaraju, learned counsel for the appellants and

Ms.Rathina Thara, learned counsel for the 2nd respondent / Insurance Company.

3. The Commissioner has assessed the compensation payable to the appellants / claimants for the death of Palanivel a sum of Rs.6,03,680/- as detailed hereunder:-

<i>Salary</i>	: Rs.8,000/-
<i>Age</i>	: 51
<i>Multiplying Factor</i>	: 149.67
<i>Compensation</i>	: $Rs.8000/- \times 50/100 \times 149.67$ = Rs.5,98,680/-
+ Funeral expenses	: Rs.5,000/-

	Rs.6,03,680/-

4. The deceased Palanivel was working as a Heavy Vehicle driver. The Commissioner for Workmen's Compensation has rightly assessed his monthly income at Rs.8,000/- as per the provisions of the Employees Compensation Act, 1923. No contra evidence has been produced by the appellants / claimants to prove that the deceased was earning more than Rs.8,000/-p.m. The 1st respondent had also contended before the Commissioner that the deceased was only a spare driver. The Commissioner after giving due consideration to the evidence available on



C.M.A. No.789 of 2021

record has rightly assessed the monthly income of the deceased at Rs.8,000/-. Therefore, there is no scope for interference with regard to the same. The total compensation awarded by the Tribunal excluding funeral expenses works out to Rs.5,98,680/- which has been calculated by the Commissioner only in accordance with the formula prescribed under the Employees Compensation Act, 1923.

5. However, the Commissioner has erroneously awarded a lesser compensation of Rs.5,000/- towards funeral expenses. It is settled practice that a sum of Rs.15,000/- is awarded as compensation for funeral expenses. Excepting for the said modification to the impugned award, the compensation awarded by the Commissioner does not call for any interference. Accordingly, this Civil Miscellaneous Appeal is disposed of by enhancing the compensation payable to the appellants / claimants from Rs.6,03,680/- to Rs.6,13,680/-. No costs.

6. The 2nd respondent / Insurance Company is directed to deposit the balance amount of Rs.10,000/- to the credit of the E.C. No.219 of 2018 on the file of the Commissioner for Workmen's Compensation, Commissioner of Labour, Coonoor, within a period of four weeks from



C.M.A. No.789 of 2021

the date of receipt of a copy of this order. On such deposit being made, the appellants are permitted to withdraw the entire award amount including the additional amount deposited by the 2nd respondent / Insurance Company by filing an appropriate application before the Commissioner for Workmen's Compensation, Commissioner of Labour, Coonoor.

12.04.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

To
1. The Commissioner
Commissioner of Labour, Coonoor.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.



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C.M.A. No.789 of 2021

ABDUL QUDDHOSE, J.

vsi2

C.M.A. No.789 of 2021

12.04.2024