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W.A.No.972 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 15.07.2024

Pronounced on: 21.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.A.No.972 of 2024

1. N. Ramar S/o. Naghu Reddiar
2. G. Chandrasekaran S/o. Gurusamy Reddiar ... Appellants

vs.

1. M/s. Soundararaja Mills Limited,
represented by its authorized signatory,
Nedungadu, Karaikal, Puduchery - 609 603.

2. The Secretary to Government (Labour),
Labour Department,
Government of Puducherry,
Puducherry-9.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patents to set aside the order dated 24.07.2023 in W.P. No.2284 of 2017 in so far as restricting the amount payable to each of the appellant as Rs.93,000/- instead of Rs.6,15,814/- as illegal, arbitrary and contrary to law and



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consequently direct the 1st respondent management to pay the amount as per the Revenue Recovery Certificate issued by the 2nd respondent, award costs.

For Appellants : Mr. Balan Haridas

For Respondents : Mr. R. Swarnavel [for R1]
Mr. J. Kumaran,
Government Pleader, Puducherry.
[for R2]

JUDGMENT

(Judgment of the Court was made by P.DHANABAL,J.)

This Writ appeal has been preferred as against the order passed in W.P. No.2284 of 2017 dated 24.07.2023, wherein the 1st respondent herein has filed a Writ petition before the Writ Court, challenging the order passed with reference to No.1089/AIL/LAB/T/2016/1911 issued by the 2nd respondent relating to the issuance of certificate under Section 33C(1) of the Industrial Disputes Act, 1947. The said Writ petition was disposed of by holding that the appellants are entitled to Rs.93,000/- with 6% interest from 01.03.2017 till the date of payment and the parties can approach the Hon'ble Apex Court for clarification as to whether the interest is simple interest or compound interest.



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2. The case of the appellants is that they were working in the 1st respondent Mill and subsequently dismissed from service pursuant to the disciplinary proceedings initiated by the 1st respondent. The appellants raised industrial dispute and the same was dismissed. Challenging the same, they filed a Writ petition in W.P. No.2589 of 1988 and the same was allowed on 19.07.1991. As against the said order, the 1st respondent filed a Writ Appeal in W.A. No.1291 of 1991 and the same was dismissed on 12.06.2002. Against which, the 1st respondent has filed a Civil Appeal No.2892 of 2005 before the Hon'ble Supreme Court of India, where a consent order was passed on 05.11.2009 for payment of Rs.3,25,000/- to each of the appellant together with interest @ 10% from 19.07.1991 till the date of payment. Thereafter, the 1st respondent paid a sum of Rs.3,25,000/- on 08.02.2010. But, even as on date, the interest payable by the 1st respondent was Rs.6,37,000/-. Therefore, the 1st respondent has to pay a balance sum of Rs.4,18,000/- with interest from 08.02.2010. Therefore, a recovery certificate was issued by the 2nd respondent holding that the 1st respondent Mill is liable to pay a sum of Rs.6,15,814/- to each of the appellants. Against which, the 1st respondent has preferred the Writ petition in W.P. No.2284 of 2017 and the same was disposed of by the Writ Court. Against which, the present appeal has been filed.



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3. The learned counsel appearing for the appellants would contend that the Hon'ble Supreme Court of India directed the 1st respondent to pay an amount of Rs.3,25,000/- to each of the appellants together with interest @ 10% on 19.07.1991 till the date of payment. Thereafter, the 1st respondent paid a sum of Rs.3,25,000/- on 08.02.2010 and the interest payable by the 1st respondent was Rs.6,37,000/-. Therefore, the 1st respondent has to pay a sum of Rs.4,18,000/- with interest thereafter. Therefore, the 2nd respondent has issued a recovery certificate to that effect for an amount of Rs.6,15,814/- to each of the appellants. Against which, the 1st respondent has preferred a Writ petition before the Writ court to consider that the Hon'ble Supreme Court of India has directed the 1st respondent to pay an amount of Rs.3,25,000/- to each of the appellants with interest @ 10% from 19.07.1991 to till the date of payment. But the Writ Court, without considering the same, directed the 1st respondent to pay a sum of Rs.93,000/- to each of the appellants with interest @ 6% from 01.03.2017 till the date of payment. The findings is contrary to the revenue recovery certificate issued by the 2nd respondent. The revenue recovery certificate has been issued by taking into account the amount payable, interest payable on the same and after deducting the amoutn already paid.



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The appellants have filed a Calculation memo after deducting wages under Section 17B of the Industrial Disputes Act already received and the said amount would come to a sum of Rs.6,15,814/- to each of the appellants. Therefore, the order passed by the Writ Court is not in consonance with the order passed by the Hon'ble Supreme Court and there is no dispute in respect of the interest as to whether it is simple interest or compound interest. As on date, there is an outstanding balance of Rs.4,34,467/-. Therefore, the above said amount has to be paid by the 1st respondent to the appellants.

4. The learned counsel appearing for the respondents would contend that as per the direction of the Hon'ble Supreme Court, the respondent management has paid a sum of Rs.3,25,000/- on 08.02.2010. The interest was calculated at Rs.6,04,000/-, 17B wages paid till that date was Rs.2,19,000/-, balance interest to be paid is Rs.3,85,000/-. But the demand of appellants was exorbitant at Rs.23,32,911/-. As per the direction of this Court, an amount of Rs.3,25,000/- was paid on 01.03.2017 and the balance to be paid is Rs.60,000/-. However, the Writ Court directed the 1st respondent to pay a sum of Rs.93,000/- along with interest @ 6% from 01.03.2017 till the date of payment. The total amount would come to



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Rs.1,33,920/-. The said amount was paid to both the appellants through demand draft dated 12.06.2024 drawn on State Bank of India, Karaikkal. Therefore, there is no any due to the appellants. Hence the present Writ appeal is liable to be dismissed.

5. Heard both sides'. Perused all the materials available on record.

6. In this case, there is no dispute that the Hon'ble Supreme Court has directed the 1st respondent to pay a sum of Rs.3,25,000/- together with interest @ 10% from 19.07.1991 till the date of payment. Both sides have filed calculation memos. As per the calculation memo of the appellants, the 1st respondent management made their 1st payment for a sum of Rs.3,25,000/- on 08.02.2010. Interest @ 10% for Rs.3,25,000/- from 19.07.1991 to 08.02.2010 would come to a sum of Rs.6,04,000/-. Therefore, total amount has to be paid is Rs.9,29,000/-. 17B wages at Rs.2,19,000/- was paid. After deducting the 17B wages, the amount would come to Rs.7,10,000/-. The amount paid at Rs.3,25,000/- on 08.02.2010 has to be deducted and thereby, the amount due was Rs.3,85,000/- and interest for the said amount will carry from the date of 08.02.2010. The second payment at Rs.3,25,000/- was made on 01.03.2017 till the date of



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payment. Interest @ 10% on Rs.3,85,000/- from 08.02.2010 till 01.03.2017 was Rs.2,69,500/-. Total amount to be paid as on 01.03.2017 is Rs.6,54,500/- is due. After deducting the payment paid on 01.03.2017 for a sum of Rs.3,25,000/-, the balance amount would come to Rs.3,29,500/-. The said amount of Rs.3,29,500/- would carry interest @ 10% from 01.03.2017 till date of realization. The 3rd payment was made on 19.06.2024 for an amount of Rs.1,33,920/-. Interest @ 10% on Rs.3,29,500/- from 01.03.2017 till 19.06.2024 would come to a sum of Rs.2,38,887/-. Total amount would come to Rs.5,68,387/-. After deducting the amount of Rs.1,33,920/- paid on 19.06.2024, the balance would come to Rs.4,34,467/-.

7. The above said calculation has been denied by the respondent and he admitted that the 1st instalment was paid on 08.02.2010 for a sum of Rs.3,25,000/- and interest would come to Rs.6,04,000/-. 17B wages paid is Rs.2,19,000/-. After deducting amount, balance would be Rs.3,85,000/-. Again a sum of Rs.3,25,000/- was paid on 01.03.2017. The balance amount of Rs.60,000/- alone has to be paid. This is the calculation of the respondent.



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8. On careful perusal of the calculation memo filed by the respondent, they omitted to calculate the principal amount of Rs.3,25,000/-, thereby they calculated the interest. There is no dispute in respect of payment made by the respondent and the appellants also admitted the receipt of amount paid by the 1st respondent to the appellants. But the 1st respondent failed to calculate the interest for the amount due.

9. It is well settled law that as far as decree amount is concerned, if the payment is paid in part, the 1st apportionment is in respect of deduction of interest, cost and thereafter the principal amount. In the case on hand also, the 1st payment of Rs.3,25,000/- was made on 08.02.2010 and thereafter, there is an outstanding balance of Rs.3,85,000/-. The 2nd payment of Rs.3,25,000/- was made on 01.03.2017. The said amount of Rs.3,85,000/- would carry 10% interest. As on date of 01.03.2017, interest for Rs.3,85,000/- would come to Rs.6,54,500/-. After deducting the said amount of Rs.3,25,000/-, the remaining amount would come to Rs.3,29,500/-. The said amount would carry interest from 01.03.2017 to 19.06.2024, where the amount of Rs.1,33,920/- was paid to the appellants. After deducting the said amount of Rs.1,33,920/-, the amount would come to Rs.4,34,467/-. Therefore, the calculation memo filed by the appellants is



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correct and the calculation memo filed by the respondents is not in consonance with the order passed by the Hon'ble Supreme Court.

10. While the facts are being so, the Writ Court passed an order directing the 1st respondent to pay a sum of Rs.93,000/- with interest at 6% p.a. from 01.03.2017 till date of payment and directed the parties to approach the Hon'ble Apex Court to ascertain whether the interest is simple or compound. Even as per the calculation memo filed by both the parties, the interest is calculated only on simple interest and not on the compound interest. Therefore, there is no question of compound interest or simple interest would arise. The Writ Court without considering the above said facts, directed the 1st respondent to pay a sum of Rs.93,000/- with interest @ 6% from 01.03.2017 till date of payment and the same is unsustainable and liable to be set aside.

11. In view of the above discussions, this Court is of the opinion that the order passed by the Writ Court is liable to be set aside by allowing the appeal.



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12. In the result, the Writ Appeal is allowed. The order passed in Writ petition in W.P. No.2284 of 2017 is set aside and the Writ petition is dismissed and the 1st respondent is directed to pay the balance amount of Rs.4,34,467/- as per the calculation memo filed by the appellants within **2 (two) months** from the date of this order. No costs. The connected miscellaneous petition is closed.

(J.N.B.J.) & (P.D.B.J)

21.08.2024

mjs

Internet : Yes

Index:Yes/No

Neutral Citation:Yes/No

To

1. M/s. Soundararaja Mills Limited,
represented by its authorized signatory,
Nedungadu, Karaikal, Puduchery - 609 603.

2. The Secretary to Government (Labour),
Labour Department,
Government of Puducherry,
Puducherry-9.



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J.NISHA BANU,J
and
P.DHANABAL,J

(mjs)

Pre-delivery judgment in
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