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C.M.A.No.1782 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1782 of 2021

- 1.Mageswari
- 2.Minor.Yakesh
- 3.Minor.Mathavan
- 4.Indirani

(Minor represented by their mother
Mageshwari as natural guardian)

... Appellants

Vs.

- 1.K.Chinnaraji
(Since R1 not contesting the case before
the Forum his presence may be dispensed with)

- 2.New India Assurance Company Limited,
No.45, Moore Street,
5th Floor,
Chennai – 600 001.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 30 of the Employee's Compensation Act, to set aside the award dated 07.09.2018 and made in E.C.No.17 of 2016 on the file of the Deputy Commissioner of Labour – I, Chennai.

For Appellants : Mrs.M.Malar

For Respondents : R1 – NDW

Mr.J.Michael Visuvasam for R2



C.M.A.No.1782 of 2021

WEB COPY

J U D G M E N T

This appeal has been filed by the appellants/ claimants to set aside the award dated 07.09.2018 and made in E.C.No.17 of 2016 on the file of the Deputy Commissioner of Labour – I, Chennai.

2.The learned counsel appearing for the appellants submitted that on 18.08.2015 at about 03.40 p.m., the deceased Venkatachalam was travelling as a Cleaner in the lorry belonging to the first respondent bearing Registration No.TN-29-AS-6153 at Anjalpakkam near Bharathipuram, Pazhayerur School turning. At that time, the driver of the lorry drove the vehicle in a rash and negligent manner and the lorry capsized, due to which, the deceased lost his life. Thereafter, the dependants of the deceased filed claim petition before the Commissioner of Workmen's Compensation (Deputy Commissioner of Labour – I) at Chennai, claiming compensation for the death of the deceased.

3.The learned counsel appearing for the appellants further submitted that after adjudication, the Commissioner of Workmen's Compensation (Deputy Commissioner of Labour – I) at Chennai, fixed



C.M.A.No.1782 of 2021

WEB COPY

a sum of Rs.7,88,240/- + Rs.5,000/- for funeral expenses as compensation and directed the second respondent to deposit the amount along with interest at the rate of 12% from the date of accident till the date of deposit for the compensation amount of Rs.7,88,240/-, by way of demand draft drawn in favour of the Joint Commissioner of Labour-I, Chennai-6 before the Court of Commissioner of Workmen's Compensation – I at Chennai, within a period of 30 days from the date of receipt of a copy of the order. Aggrieved by the same, the appellants claimants have filed this appeal.

4.The learned counsel appearing for the appellants further submitted that the deceased was employed as cleaner under the first respondent and was drawing a sum of Rs.15,000/- per month as salary, however, the Deputy Commissioner of Labour – I, Chennai, awarded compensation by fixing the monthly income of the deceased as Rs.8,000/-, which is very meagre and hence, the appellants are entitled for enhancement in compensation.

5.Per contra, the learned counsel appearing for the second respondent submitted that as per the Notification issued by the



C.M.A.No.1782 of 2021

Central Government dated 31.05.2010 issued under Section 4(1-B) of the Employees Compensation Act, in the absence of any income proof, a sum of Rs.8,000/- has to be considered as the monthly income for awarding compensation. In the present case, there is no income proof for the income of the deceased and the Deputy Commissioner of Labour – I, Chennai, has awarded compensation by fixing the monthly income of the deceased as Rs.8,000/-, which warrants no interference.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.

7.The accident and the manner in which the accident happened are not disputed. Section 4(1-B) of the Employees Compensation Act was introduced by amending Act 45 of 2009 which came into effect on 18.01.2010, pursuant to which, the Central Government issued Notification dated 31.05.2010, wherein, the maximum wage to be fixed in the absence of any income proof is Rs.8,000/- per month and the Deputy Commissioner of Labour – I, Chennai, has rightly awarded compensation by fixing the monthly income of the deceased as Rs.8,000/-, which warrants no interference.



C.M.A.No.1782 of 2021

WEB COPY

8.The civil miscellaneous appeal is dismissed. The award dated 07.09.2018 made in E.C.No.17 of 2016 on the file of the Deputy Commissioner of Labour – I, Chennai, is confirmed. No costs.

19.12.2024

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Deputy Commissioner of Labour – I,
Chennai.



WEB COPY



C.M.A.No.1782 of 2021

M.DHANDAPANI,J.
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C.M.A.No.1782 of 2021

19.12.2024