



CMA No.3134 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3134 of 2021

Judgment reserved on 26.03.2024	Judgment pronounced on 16.04.2024
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K.Ravi

Represented by his wife and
next friend Mrs.Madhammal

...

Appellant

Vs.

1.Saravanan

2.M/s.United India Insurance Company Limited

No.146/N, Second Floor,

Kumar Complex,

Anna Salai,

Tiruchengode – 637 211

...

Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order dated 28.09.2020 made in Workmen's Compensation Case No.EC 55 of 2018 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Coonoor.

For Appellant : Mr.M.Aniruthan

For R1 : No appearance

For R2 : Mr.D.Bhaskaran



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JUDGMENT

The claim petitioner is the appellant herein seeking enhancement of compensation awarded in Workmen's Compensation Case No.EC 55 of 2018 on the file of the Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Coonoor.

2. The factum of accident, manner of accident, rash and negligent driving on the part of the driver of the vehicle belonging to the first respondent and the vehicle being insured with the second respondent/insurance company, the validity of the insurance company and the employment of the appellant with the first respondent are not in dispute. Accordingly, the findings rendered by the Deputy Commissioner of Labour, Coonoor with regard to negligence are hereby confirmed.

3. Before the Authority, wife of the appellant examined herself as PW1, Medical Officer attached to Govt. Mohan Kumaramangalam Medical College & Hospital, Salem was examined as PW2 and Dr.A.Parthiban, Deepthi Hospital, Namakkal who had initially given treatment to the appellant was examined as PW3. Exs.A1 to A10 were also marked. No oral and documentary evidence were adduced on the side of the respondents.



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4. After trial, the Authority has granted a sum of Rs.5,52,850/- as compensation to the appellant. Now, this appeal has been filed by the appellant seeking enhancement of compensation.

5. Heard the learned counsel for the parties and perused the materials on records.

6. On 10.11.2021, this Civil Miscellaneous Appeal was admitted on the following substantial questions of law

(i) Whether the authority below is correct in fixing the monthly salary of the appellant / claimant at Rs.8,000/- per month ignoring the evidence which indicates the monthly salary at Rs.15,000/- ?

(ii) Whether the lower Authority is erred in determining the loss of earning power at 65% when the medical evidence clearly shows the right hand was completely incapable of using. The Authority below is ignored the medical evidence which shows the paralytic attack on the right side of the body due to accident ?

(iii) Whether the lower Authority is correct in ignoring the medical evidence which shows the words are tumbling and the appellant/claimant could not speak as before the accident ?

(iv) Whether the Authority below is perverse due to non-consideration of materials as well as oral evidence available on record and the fixing of compensation of Rs.5,52,850/- instead of Rs.10,00,000/-?



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7. The multiplier applied by the Authority is not disputed. The

contention of the learned counsel appearing for the appellant/claim petitioner is that even as per the Minimum Wages act, the salary for a driver is Rs.4584/- and alongwith DA Rs.675`1/-, the gross salary comes to Rs.11,335/-. Therefore, he would contend that lesser amount has been awarded as compensation by the Authority concerned and percentage of disability assessed by the Medical Board is also on the higher side. Due to the injuries sustained in the accident, the appellant is not able to speak and proof of affidavit has been filed by the wife of the claim petitioner in this regard. This Court finds that the employer – employee relationship between the appellant and the first respondent has been established, the factum of accident, manner of accident and the injuries sustained by the appellant in the accident are not disputed. On the date of accident, the vehicle of the first respondent was duly covered with insurance policy under the second respondent/insurance company, as could be seen from Ex.P4 – insurance policy.

8. As per the tabular annexed, the minimum salary that can be considered under the Employees Compensation Act is Rs.8,000/-. As per Ex.P5-driving licence, at the time of accident, the appellant was aged 48



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years. The corresponding age ratio applicable is 159.80 and the appellant has suffered 65% disability as per Ex.P9-disability certificate. After considering the documentary evidence Ex.P5, date of birth was fixed as 48 years and the relevant age factor was duly assessed. Similarly, considering Ex.P9-disability certificate issued by the Medical Board, 65% has been fixed as the disability of the appellant and accordingly, the compensation was arrived at Rs.4,98,576/- ($8000 \times 60/100 \times 159.80 \times 65\%$). Thus, I find that the calculation arrived at by the Deputy Commissioner of Labour, Coonoor is just and fair which does not warrant interference by this Court at this Appellate stage as the same does not suffer from any infirmity.

9. In fine,

(i) this Civil Miscellaneous Appeal stands dismissed confirming the amount of Rs.5,52,850/- awarded as compensation to the appellant alongwith interest at the rate of 12% on Rs.4,98,576/- from the date of accident till the date of deposit. No costs.

(ii) the second respondent/Insurance Company is directed to deposit the award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.



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(iii) on such deposit being made, the wife of the appellant is permitted to the award amount alongwith interest, on filing appropriate application before the Tribunal.

16 .04.2024

Index : Yes/No
Speaking/Non-speaking order
rgr

To

1.The Deputy Commissioner of Labour
Coonoor.

2.The Section Officer,
V.R. Section,
High Court, Madras.



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RMT.TEEKAA RAMAN, J.

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