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C.M.A. No.3490 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.A. No.3490 of 2021

Prabhu

... Appellant / Petitioner

Vs.

1. Kandasamy

2. The Manager,
New India Assurance Company Limited,
K.V.R.Complex, III Floor,
80 feet road, Senguthapuram,
Karur 639002.

... Respondents /Opposite parties

Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, 1923, against the Award and Decree passed in E.C. No.419 of 2017 dated 10.05.2021, on the file of the Deputy Commissioner for Employees Compensation/Corporation of Labour, Coonoor.

For Appellant	:	M/s.S.Seethalakshmi for Mr. C.Thangaraju
For R1	:	No appearance
For R2	:	M/s.S.R.Sumathy

JUDGMENT



C.M.A. No.3490 of 2021

This Civil Miscellaneous Appeal has been filed by the employee seeking enhancement of compensation for the injuries sustained by him during the course of employment awarded in E.C. No.419 of 2017 dated 10.05.2021, on the file of the Deputy Commissioner for Employees Compensation/Corporation of Labour, Coonoor.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The case of the workmen is that he sustained employment injury on 26.05.2017 at about 11.00 p.m., while unloading the limestone at TNPL Cement Factory at karur. Immediately, he was admitted into various hospitals and after taking treatment he has come forward with the claim petition claiming compensation of Rs.10,00,000/- for the injuries sustained by him during the course of employment. According to the medical records, he has sustained fracture on his left foot.



4. The first respondent is the employer. The second respondent is the Insurance Company. It is the admitted case that the workmen herein is covered by the Insurance Policy and based on the insurance coverage, he has approached the Deputy Labour Commissioner seeking compensation for a sum of Rs.10,00,000/-. The first respondent - Employer has not contested the claim and the second respondent -Insurance Company has disputed that the injuries sustained by the claimant was not related to employment injury. They have also disputed the disability sustained by the workmen.

5. Based on the evidences placed on record, the Deputy Labour Commissioner has held that the claimant herein has sustained employment injury and since no income proof has been adduced, based on the Central Government Notification, fixed the notional income of the claimant as Rs.8,000/- per month by the Deputy Labour Commissioner and by adopting the factor prescribed under the Workmen Compensation Act and awarded compensation.

6. Aggrieved over the quantum of compensation awarded, the employee has approached this Court by way of filing of this appeal and that



by raising substantial question of law that the monthly income fixed by the claimant based on the Central Government Notification is not proper since the employee was earning monthly income of Rs.15,000/- per month. Hence adoption of Central Government Notification for awarding compensation is not proper. The learned counsel for the employee has further stated that since the employee is a lorry driver by profession and his income is more than Rs.15,000/- and the same has not been properly considered by the Deputy Labour Commissioner while awarding compensation. Hence prays to enhance the compensation by fixing monthly income of Rs.15,000/-. She has also submitted that the medical expenses incurred was also not properly ordered to be compensated.

7. The learned counsel for the Insurance Company has submitted that based on the evidences placed on record, the Deputy Labour Commissioner has passed an award is proper. Hence, no need for interference of the same by this Court.

8. I have considered the rival submissions made on both sides and also perused the records.



9. Eventhough, the employee claimed that he was earning a sum of Rs.15,000/- per month as notional income but he has not proved his income before the Deputy Labour Commissioner and he has not even taken any steps to produce Salary Certificates by the first respondent, who is the employer before the Deputy Labour Commissioner. Since no evidence has been placed on record to prove the monthly income of the workmen, the Labour Commissioner has applied Central Government Notification prescribed maximum applicable income for the workmen, who suffered injury or death. Accordingly, notional income of Rs.8,000/- per month was taken up by the Deputy Labour Commissioner and this Court finds there is no infirmity in the fixation of notional income and the same is hereby confirmed.

10. The next contention with regard to the medical expenses incurred by the employee/claimant is concerned, he has incurred a sum of Rs.1,50,000/- immediately, after the accident and that he has requested to grant additional sum of Rs.1,00,000/- for future medical expenses but however, there was no evidence placed on record in support of the same. The claimant has produced medical bills for a sum of Rs.41,725/- after



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deducting Rs.1,000/- which was spent for medical legal services and records, the Deputy Labour Commissioner has awarded a sum of Rs.40,725/- as medical expenses. This Court is of the view that since the compensation awarded under the head of medical expenses is only based on the medical bills and no other materials have been produced to substantiate the quantum of compensation claimed under the head medical expenses including future medical expenses, this Court is of the view that no interference is required for awarding medical expenses. Accordingly, this Court finds no merits in the appeal and the same is liable to be dismissed.

11. Accordingly, the Civil Miscellaneous Appeal filed by the claimant is dismissed. The Award and Decree passed in E.C. No.419 of 2017 dated 10.05.2021, by the Deputy Commissioner for Employees Compensation/Corporation of Labour, Coonoor is hereby confirmed. There shall be no order as to costs in the present appeal.

08.01.2024

ssi

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No



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To:

1. The Commissioner for Employees Compensation/
Commissioner of Labour,
Coonoor.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.



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K. RAJASEKAR, J.

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