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C.M.A.No.2549 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.2549 of 2021

1.Amutha

2.Suresh

3.Manikandan

... Appellants

Vs.

1.R.Ilayaval

2.Reliance General Insurance Co. Ltd.,
Plot No.6, Haddows Road,
Reliance House,
Nungambakkam,
Chennai – 6.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Employee's Compensation Act, against the Award dated 12.11.2018 and made in E.C.No.395 of 2015 on the file of the Joint Commissioner of Labour-II Chennai and received the same on 12.07.2019.

For Appellants : M/s.M.Malar

For Respondents : Exparte vide EB [R1]
Mr.S.Arun Kumar [R2]



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JUDGEMENT

WEB COPY Challenging the Award passed by the Joint Commissioner of Labour II, Chennai in E.C.No.395 of 2017, dated 12.11.2018, the applicants have filed the present appeal before this court.

2. The appellants are the mother, father and brother of the deceased Balakrishnan. The deceased was working as a driver in the car bearing Regn.No.TN-31-BV-4170, owned by the 1st respondent and insured with the 2nd respondent and received a sum of Rs.10,000/- per month as salary. Whiles, on 10.07.2015 at about 7.00 p.m., when he was driving the said car in Pettakulam, Sozhatharam – Sri Mushnam road, he lost his control and hit on a tree, due to which, the car got capsized. Thereby, the deceased sustaining multiple grievous injuries and he was taken to Government Hospital, Sidambaram and referred to Rajiv Gandhi Government General Hospital, Chennai. In spite of the treatment given, he succumbed to the injuries leading to the registration of Crime No.134/2015. Therefore, the applicants have filed a claim petition claiming a sum of Rs.20,00,000/- before the Joint Commissioner of Labour – II, Chennai under the Employee's Compensation Act. After adjudication, the Employee's Compensation Court passed an award



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awarding a sum of Rs.8,95,840/- as compensation. Challenging the same, the appellants have the present appeal before this Court.

3. Learned counsel appearing for the appellants submitted that, though the deceased had earned more than sum of Rs.10,000/- per month, however, the Employee's Compensation Court had fixed the monthly income of the deceased at Rs.8,000/-, which is wholly unsustainable. Accordingly, she prays for allowing the appeal.

4. Per contra, learned counsel appearing on behalf of the second respondent/Insurance Company submitted that, no document has been filed before the Employee's Compensation Court in order to prove the income of the deceased and in the government order issued by the Central Government, the minimum wages was fixed at Rs.8,000/-, based on which, the Employee's Compensation Court fixed the monthly income as Rs.8,000/- and awarded compensation, which is wholly sustainable and the same does not require any enhancement. Accordingly, he prays for dismissal of the appeal.



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

6. The facts in the present case are not disputed with regard to the employment of the deceased under the 1st respondent and the death of the deceased during the course of employment is also not in dispute. The issue arises for consideration in this appeal is with regard to fixation of monthly income of the deceased ?

7. Though the appellants claim that the deceased earned more than a sum of Rs.10,000/- per month and received salary from the first respondent/employer, however, the employer was set *ex-parte* and no document has been filed before the Employee's Compensation Court to prove the income of the deceased. In such circumstances, by following the government order issued by the Central Government dated 27.01.2014 in G.O.Ms.2(D) No.03, Labour and Employment Department, fixing the income as Rs.12,849/-, the Workmen Compensation Court has fixed the income of the deceased at Rs.8,000/- as per Workmen Compensation Act, 4(1) Explanation (II) and awarded compensation in favour of the appellants, which in no way is perverse, arbitrary or



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unreasonable and the same cannot be interfered with. Hence, the appeal is liable to be dismissed.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed and the award passed by the Joint Commissioner of Labour-II, Chennai in E.C.No.395 of 2015, dated 12.11.2018 is confirmed. The 2nd respondent/insurance company is directed to deposit the amount of compensation quantified by the authority to the credit of E.C.No.395 of 2015 within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the authority is directed to disburse the amount directly to the bank account of the appellants/applicants through RTGS within a period of two (2) weeks thereafter. No costs.

18.12.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Joint Commissioner of Labour-II, Chennai.



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M.DHANDAPANI, J.,

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