



C.M.A(MD)No.783 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.783 of 2014

Palanisamy

... Appellant

Vs.

1.Sivaramakrishnan

2.The Branch Manager,
ICICI Lombard General Insurance Company Limited,
256/258, J.P.Towers 1st Floor,
Sathi Road, Erode.

... Respondents

(R1 Ex-parte before Tribunal notice
may be dispensed with)

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act, against the order dated 31.01.2012 passed in W.C.No.41 of 2008 on the file of the Workmen Compensation Tribunal, Dindigul.

For Appellant : Mr.R.Pon karthikeyan

R1 : Ex-parte

For R2 : Mr.V.Muthukamatchi

JUDGMENT

The claimant has filed this Civil Miscellaneous Appeal.



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2.It is a case of injury. The claim is made under Workmen Compensation Act. The contention of the claimant is that the disability has been assessed and fixed as 48% but the Tribunal has taken the same as 45% without any reason. Thus, the Tribunal has reduced the percentage of disability and the loss of earning capacity. It is seen that the Tribunal has not given any reason to reduce the percentage of disability. Therefore, this Court is of the considered opinion that fixation of disability as 45% is erroneous and the certificate which shows the disability as 48% is accepted by this Court and the amount must be assessed for 48% of disability.

3. The next contention of the claimant is that the Tribunal has erroneously stated if the employer fails to deposit the amount, then the amount will carry interest, which is against the statutory provisions. The interest is fixed under the statute as 12% which will be applicable after 30 days from the date of accident. Therefore, the direction given by the Tribunal regarding the interest is set aside. This Court is of the considered opinion that the interest of 12% must be paid after 30 days of date of accident till the date of deposit.

4. The enhanced award amount granted by this Court is as under:



Award granted by the Tribunal	Enhanced award granted by this court
Age = 26	Age = 26
Multiplier = 215.28	Multiplier = 215.28
Monthly Income = Rs.4,000/-	Monthly Income = Rs.4,000/-
Percentage of loss of earning capacity = 45%	Percentage of loss of earning capacity = 48% (enhanced)
Calculation of compensation: $60/100 * 4000 * 215.28 * 45/100$	Calculation of compensation: $60/100 * 4000 * 215.28 * 48/100$
Total compensation = Rs.2,32,502/-	Total compensation = Rs.2,48,003/- (enhanced)

5. Therefore, the 2nd respondent herein is directed to deposit Rs.2,48,003/- (Rupees Two Lakh Forty Eight Thousand and Three only) with interest at the rate of 12% per annum from 19.09.2007 (the date of accident is 20.08.2007, after 30 days is 19.09.2007, hence, the interest is leviable from 19.09.2007) till the date of deposit and costs to the credit of the Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal. Since this Court is enhancing the compensation, the claimants are liable to pay the balance Court fee, if any.



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6. With the above said directions, the Civil Miscellaneous Appeal is allowed. No costs.

22.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Tmg

To

1. The Workmen Compensation Tribunal,
Dindigul.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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