



C.M.A(MD)No.1350 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1350 of 2016

and

C.M.P.(MD)No.11303 of 2016

Amirtham

Kaliyamurthy (died)

... Appellant

Vs.

1.Panneerselvam

2.The New India Assurance Company Limited,
42, Big Street, Vasavi Buildings-II Floor,
Thiruvannamalai.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act against the order of the Deputy Commissioner of Labour and Commissioner of Workmen Compensation, Trichy, made in W.C.No.451 of 2005, dated 19.04.2012.

For Appellant : Mr.N.Sudhagar Nagaraj
For R1 : No appearance
For R2 : Mr.B.Vijay Karthikeyan



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JUDGMENT

The claimant has preferred this Civil Miscellaneous Appeal.

2. It is a case of fatal. The contention of the claimant is that the Tribunal has granted compensation but while granting the interest, the Tribunal has stated if the 2nd respondent fails to deposit the amount within the stipulated time, it would carry interest at the rate of 12% per annum. Interest is a statutory provision granted under the Workmen Compensation Act itself. Hence it cannot be stated that the interest would be granted, if the 2nd respondent fails to deposit the amount within the stipulated time. Therefore, the portion of the order wherein it is stated if the 2nd respondent fails to deposit the amount within the stipulated time, it would carry interest at the rate of 12% per annum is deleted. Hence, the claimant is entitled to interest at the rate of 12% per annum from the date of accident till the date of deposit.

3. The learned Counsel appearing for the Insurance Company brought to the knowledge of this Court that the employer had employed the deceased who was a minor aged about 13 years old and hence, employer's liability cannot be fixed on the Insurance Company. However, it is seen that the Tribunal had rendered a finding that the deceased was 20 years old. Further, the present appeal is preferred



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by the claimant and the Insurance Company has not preferred any appeal, therefore, the plea of the Insurance Company cannot be entertained.

4. The 2nd respondent Insurance Company is directed to deposit Rs. 4,12,158/- (Rupees Four Lakh Twelve Thousand One Hundred and Fifty Eight only) with interest at the rate of 12% per annum from the date of accident till the date of deposit and costs to the credit of the Tribunal, less the amount already deposited, if any, within a period of eight 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 her, if any, by filing appropriate application before the Tribunal. The 2nd respondent Insurance Company is entitled to recover the interest portion alone from the employer / 1st respondent herein.

5. With the above said directions, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

15.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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1. Deputy Commissioner of Labour and
Commissioner of Workmen Compensation,
Trichy.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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