



C.M.A.(MD) No.24 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD)No.24 of 2017

Subbulakshmi.

...

Appellant

(Minor/appellant declared as major and guardianship of her mother
is discharged vide order dated 12.07.2021
in C.M.P(MD)No.925 of 2017)

vs.

1.The Management of Muthu Spinning Mills (P) Ltd.,
Represented by its Manager,
Manavasi Post,
Karur.

2.The Secretary to the Labour Department
State of Tamil Nadu, St.George Fort,
Chennai – 5.

3.The Commissioner of Labour,
DMS, Teynampet,
Chennai.
Respondents

...

[R2 & R3 are *suo moto* impleaded vide order dated 24.01.2017 &
30.01.2017 in C.M.A.(MD)No.24 of 2017]

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the
Workmen Compensation Act, 1923, against the award dated 01.08.2000



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in W.C.Application.No.166 of 1999 on the file of the Deputy Commissioner for Workmen Compensation, Triuchirappali.

For appellant : Mr.D.Boopal

For Respondents

for R1 : Mr.G.Mohankumar

for R2 & R3: Mr.V.Omprakash

Government Advocate

J U D G M E N T

The claimant before the Commissioner under the Workmen's Compensation Act has preferred the above appeal seeking enhancement of the compensation.

2. Since the liability of the respondent to pay the compensation is not under challenge, the facts leading to the filing of the claim petition are not necessary for the disposal of this appeal.

3. The learned counsel for the appellant submitted that the Commissioner, while determining the compensation, had fixed the income at Rs.1,200/- p.m., which is very low and hence, prayed for enhancement.

4. The learned counsel for the first respondent, per contra,



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submitted that the commissioner had fixed the income correctly in the absence of any evidence on record and therefore, no interference is called for.

5. The following substantial question of law arises in the above appeal:

'Whether the salary determined by the Commissioner at Rs.1,200/- p.m. in the absence of any evidence on the salary of the appellant, is in accordance with law?'

6. Though the appellant challenges the finding of the Commissioner fixing disability at 44%, the said finding, being factual in nature, cannot be set aside in the absence of any substantial question of law that arises in this regard. However, this Court finds that the claimant, in her evidence adduced before the Commissioner, had established that she was earning at Rs.2,500/- p.m. The respondent had not produced any contra evidence. In the light of the evidence adduced on the side of the claimant, the Commissioner ought not to have assumed that the income would be at Rs. 1,200/- p.m. and rendered the finding in that regard. The said finding is



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perverse.

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7. The accident took place on 22.11.1998. By virtue of the explanation II to Section 4 of the Workmen Compensation Act, 1923, if the monthly income exceeds Rs.2,000/- it must be deemed to be Rs. 2,000/- at relevant time. Therefore, the compensation has to be $60/100 \times 2000 \times 44/100$ (disability) $\times 228.54$ (factor) = Rs.1,20,669/-.

8. It is represented by the learned counsel for the first respondent that the compensation awarded by the Commissioner at Rs.72,401/- has already been deposited as early as on 16.11.2000.

9. Hence, the respondent is directed to deposit the balance amount of Rs.42,268/- (Rs.1,20,669/- - Rs.72,401/-) with interest at 12% p.a. from the date of the claim petition till the date of deposit along with the interest for the earlier deposited amount within a period of eight weeks from the date of receipt of a copy of this order.

10. On such deposit, the claimant/appellant shall be permitted to withdraw the compensation, along with interest, less the amount already



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withdrawn, if any, by filing suitable application before the Commissioner.

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11. In the result, this Civil Miscellaneous Appeal is partly allowed.

No costs.

24.10.2024

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

To

1. The Deputy Commissioner for Workmen Compensation,
Triuchirappali.

2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN,J

apd

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