



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.04.2025

PRONOUNCED ON :02.06.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

S.Muthuramalingam

... Appellant

VS.

General Manager,
Southern Railway Head Quarters,
Part Town,
Chennai 600 003

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Workmen's Compensation Act, to set aside the order dated 13.03.2001 in W.C.No.12/2000 on the file of the Commissioner for Workmen's Compensation – I, Chennai – 600 006 and pass an award for a sum of Rs.91,498/- against the Respondent with interest at the rate of 12% p.a. from the date of accident.



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C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

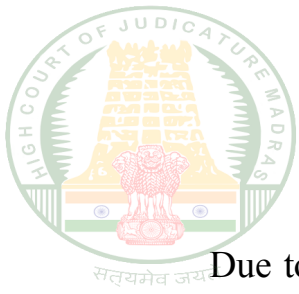
For Appellant : Mr.A.Shanmugaraj

For Respondent : Mr.A.R.Sakthivel

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Workman challenging the order passed by the Commissioner for Workmen's Compensation - I, Chennai-6, in W.C.No.12 of 2000, dated 13.03.2001.

2. It is the case of the appellant that he was working as Chief Commercial Inspector under the respondent. According to him, his nature of work was to meet the Officers of different companies for collecting the documents and informations and also to trace the consignments, lockers, parcel and wagons. On 26.02.1998, the respondent deputed the appellant to attend official work in connection with court cases. The appellant travelled in Bangalore Mail by utilising duty pass. As per the rules, the appellant had to stay at Railway Subordinates Guest House. On 27.02.1998, when the appellant was taking bath in the Guest House, he got slipped and fell down.



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

WEB COPY

Due to the said accident, the appellant sustained fracture and dislocation in the neck of right femur and right hip. He had been treated as inpatient at Railway Hospital, Bangalore from 27.02.1998 to 28.02.1998 and thereafter, he continued his treatment as inpatient at Railway Hospital, Perambur, Chennai from 28.02.1998 to 21.03.1998. Thereafter, he was treated as outpatient till 03.08.1998. Due to the injuries suffered by him, the appellant's movement got restricted and he suffered permanent disability. The appellant sent a Legal Notice on 04.10.1999 to the respondent demanding payment of compensation and the same was not properly responded. Hence, the appellant filed a claim petition before the Commissioner for Workmen's Compensation.

3. The claim made by the appellant was resisted by the respondent on the ground that the appellant got slipped in bathroom due to his negligence and hence, the respondent was not liable to pay compensation. The claim petition was also resisted on the ground that the accident did not occur during the course of employment with the respondent. It was also claimed that the injuries suffered by him did not result in loss of earning capacity



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

and therefore, respondent sought for dismissal of the claim petition.

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4. Before the Labour Commissioner, the claimant was examined as PW.1 and a Doctor was examined as PW.2. 10 documents were marked on the side of the claimant as Exs.P1 to P10. On the side of the respondent, one witness was examined as RW.1 and 4 documents were marked as Exs.R1 to R4.

5. The Labour Commissioner on consideration of evidence available on record came to the conclusion that the accident had occurred during the course of employment and fixed the disability at 45%. The Labour Commissioner directed the respondent to pay a sum of Rs.91,498/- as compensation to the appellant within 30 days from the date of the order and in default, the respondent was directed to pay interest at the rate of 12% from the date of claim petition to the date of actual deposit.

6. Aggrieved by the direction issued by the Labour Commissioner to pay interest only from the date of petition, that too only on default of



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

payment as directed, the appellant/claimant has filed this appeal.

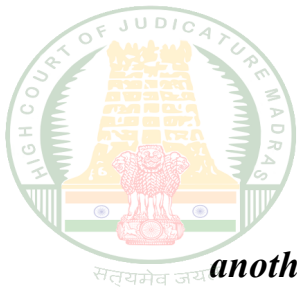
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7. At the time of admission, this Court formulated the following substantial question of law by order dated 28.03.2025:-

“Whether the Commissioner for Workmen's Compensation - I had committed an error in not awarding interest at the rate of 12% per annum from the date of accident as per Section 4A (3) of the Workmen's Compensation Act?”

8. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent on the question of law formulated at the time of admission.

9. The learned counsel appearing for the appellant would submit that as per the provisions of Workmen's Compensation Act (as it was known at the time of accident), the employer is liable to pay compensation from the date of accident. In support of his contention, he relied on the judgment of the Apex Court in ***Pratap Narain Singh Deo vs. Shrinivas Sabata and***



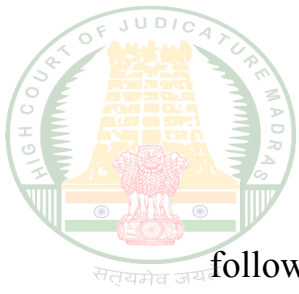
C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

another reported in **1976 A.C.J 141 (SC)**.

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10. Per contra, the learned counsel appearing for the respondent would submit that as per Section 4-A(3) of the Workmen's Compensation Act, 1923 (now known as Employee's Compensation Act, 1923), the employer is liable to pay interest if he commits default in paying the compensation due under the Act within one month from the date it fell due. According to him, the compensation amount becomes payable only on the adjudication of the dispute by the Labour Commissioner and therefore, the liability of the employer to pay compensation starts only after expiry of 30 days from the date of adjudication by the Competent Authority/Labour Commissioner. In support of his contention, he relied on the judgments of the Apex Court in ***National Insurance Co. Ltd. vs. Mubasir Ahmed and another*** reported in **CDJ 2007 SC 165 : (2007) 2 SCC 349** and ***Kamla Chaturvedi vs. National Insurance Co. and others*** reported in **CDJ 2008 SC 1941 : (2009) 1 SCC 487**.

11. Section 4-A of the Employee's Compensation Act, 1923 reads as



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

follows:-

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“4A. Compensation to be paid when due and penalty for default.- (1) Compensation under section 4 shall be paid as soon as it falls due.

*(2) In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the *[employee], as the case may be, without prejudice to the right of the*[employee] to make any further claim.*

(3) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the Commissioner shall--

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent. per annum or at such higher, rate not exceeding the maximum of the lending rates of any scheduled bank as may be specified by the Central Government by notification in the Official Gazette, on the amount due; and

(b) if, in his opinion, there is no justification for



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

WEB COPY

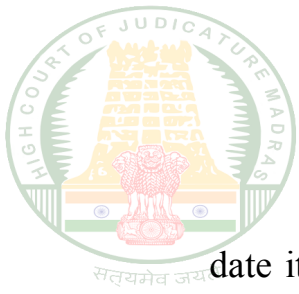
the delay, direct that the employer shall, in addition to the amount of the arrears and interest thereon, pay a further sum not exceeding fifty per cent. of such amount by way of penalty:

Provided that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.

Explanation.--For the purposes of this sub-section, "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934).

*(3A) The interest and the penalty payable under sub-section (3) shall be paid to the *[employee] or his dependant, as the case may be. "*

12. A perusal of the same would indicate that Section 4-A(1) of the Act declares compensation amount becomes payable as soon as it falls due. The consequence of failure to pay compensation as soon as it falls due is declared by Section 4-A(3). It says that if the employer committed default in payment of compensation due under the Act within one month from the



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

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date it fell due, the Commissioner shall direct the employer to pay interest on the compensation amount at the rate of 12% per annum. It also talks about further consequence in case of absence of justification for the delay. Therefore, the crucial question in this case is when the compensation payable under the Act became due. The said question was examined by the Three Member Bench of the Apex Court in ***Pratap Narain Singh Deo*** case cited supra and it was categorically held by the Apex Court in that case that the employer was liable to pay compensation as soon as the accident occurs. The relevant observation of the Apex Court reads as follows:-

“6. It has next been argued that the Commissioner committed a serious error of law in imposing a penalty on the appellant under section 4A(3) of the Act as the compensation had not fallen due until it was 'settled' by the Commissioner under section 19 by his impugned order dated May 6, 1969. There is however no force in this argument.

7. Section 3 of the Act deals with the employer's liability for compensation. Sub-section (1) of that section provides that the employer shall be liable to pay compensation if "personal injury is caused to a workman by accident arising out of and in



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

WEB COPY

the course of his employment." It was not the case of the employer that the right to compensation was taken away under sub-section (5) of section 3 because of the institution of a suit in a civil court for damages, in respect of the injury, against the employer or any other person. The employer therefore became liable to pay the compensation as soon as the aforesaid personal injury was caused to the workman by the accident which admittedly arose out of and in the course of the employment. It is therefore futile to contend that the compensation did not fall due until after the Commissioner's order dated May 6, 1969 under section 19. What the section provides is that if any question arises in any proceeding under the Act as to the liability of any person to pay compensation or as to the amount or duration of the compensation it shall, in default of agreement, be settled by the Commissioner. There is therefore nothing to justify the argument that the employer's liability to pay compensation under section 3, in respect of the injury, was suspended until after the settlement contemplated by section 19. The appellant was thus liable to pay compensation as soon as the aforesaid personal injury was caused to the appellant, and there is no justification for the argument to the contrary." (emphasis supplied)

13. The learned counsel appearing for the respondent relied on two

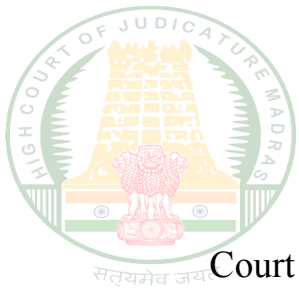


C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

WEB COPY

judgments of the Apex Court wherein it was stated that the amount payable under the Act becomes due only on adjudication of the claim by the Competent Authority. Both the cases relied on by the learned counsel appearing for the respondent namely ***Mubasir Ahmed*** case and ***Kamla Chaturvedi*** case, were decided by Two Member Bench of the Apex Court.

14. Unfortunately, the decision of the Apex Court in ***Pratap Narain Singh Deo*** case decided by Three Member Bench of the Apex Court was not brought to the notice of the subsequent Two Member Bench. It is settled law that when there is a conflict of opinion between Three Member Bench and Two Member Bench, the view of the Larger Bench will prevail over the view of the Bench with lesser Coram. Therefore, I am bound by the view expressed by the Three Member Bench of the Apex Court. Infact, in ***Mubasir Ahmed*** case cited by the learned counsel appearing for the respondent, the Apex Court referred to earlier judgment in ***Maghar Singh vs. Jashwant Singh*** reported in ***1998 (9) SCC 134***. The ***Maghar Singh*** case was decided by a Three Member Bench. In the said decision, the Apex



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

WEB COPY

Court considered the effect of amendment to Section 4-A(3) and applicability of the amended provision to the accident that occurred prior to 1995. In the said decision, the Apex Court did not consider the question from which date the compensation payable under the Act became due.

15. Even though, the said question was not specifically considered after deciding the issue regarding the rate of interest for the accident that had occurred prior to the amendment, the Hon'ble Apex Court directed the payment of compensation from the date of accident, not from the date of adjudication by the Competent Authority. Therefore, even in the ***Maghar Singh*** case referred to by the Two Member Bench of the Apex Court, interest was directed to be paid from the date of accident, not from the date of adjudication. The same was also not properly brought to the notice of the Two Member Bench which decided the ***Mubasir Ahmed*** case.

16. In view of the settled position, when there is a conflict of opinion between Two Benches of the Apex Court, the view expressed by the Bench with Larger Coram will prevail over the view expressed by the Bench with



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

WEB COPY

lesser Coram, I prefer to follow the decision of the Three Member Bench of the Apex Court in *Pratap Narain Singh Deo* case cited supra and consequently, I hold that the Labour Commissioner ought to have directed payment of interest on the compensation amount from 29.03.1998 to the date of realisation. The liability of the employer to pay interest starts on expiry of 30 days from the date on which the compensation becomes payable. In the case on hand, the accident had occurred on 27.02.1998. This Court already came to the conclusion, the compensation amount becomes payable on the date of accident. The 30 days period expired on 28.03.1998 (1998, being non leap year, Feb' 1998 had only 28 days). Hence, I direct the respondent to pay interest from 29.03.1998. Accordingly, the question of law framed at the time of admission is answered in favour of the appellant and against the respondent.

17. The Civil Miscellaneous Appeal stands allowed by directing the respondent to pay compensation amount as fixed by the Commissioner for Workmen's Compensation - I, Chennai-6, with interest at the rate of 12% per annum from 29.03.1998 to the date of realisation. No costs.



C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

Consequently, the connected civil miscellaneous petition is closed.

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02.06.2025

Index :Yes / No
Speaking order :Yes / No
Neutral Citation :Yes / No
dm

To

- 1.The Commissioner for Workmen's Compensation – I,
Chennai – 600 006.
- 2.The Section Officer,
VR Section,
High Court, Madras.



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C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

S.SOUNTHAR, J.

dm

Pre-delivery Judgment made in
C.M.A.(NPD).No.251 of 2002
and C.M.P.No.3601 of 2003

02.06.2025