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CMA No. 2000 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-07-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2000 of 2023

1.S.Sarasu
W/o.Srinivasan
2.R.Srinivasan
S/o. Ramapillai

Appellant(s)

Vs

1.B. Shafi
2. Magma HDI General Insurance Company
Ltd.,
Navin's Presidium, 3rd Floor, N.M.Road,
New No.17/19, Old No.103 "B" Block,
No.34, Nelson Manickam Road,
Chennai-29.

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act 1923, praying to enhance the amount awarded in E.C.No. 116 of 2019, dated 18.08.2022, on the file of Commissioner for Workmen's Compensation -II (Joint Commissioner of Labour-II) Chennai.



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For Appellant(s): Mr.K.Vardha Kamaraj

For Respondent(s): Mrs R. Sree Vidhya For R2

JUDGEMENT

The appellants have filed this appeal to enhance the amount awarded in E.C.No. 116 of 2019, dated 18.08.2022, on the file of Commissioner for Workmen's Compensation -II (Joint Commissioner of Labour-II), Chennai.

2. Heard, Mr.K.Vardha Kamaraj, learned counsel for the appellants and Mrs.R. SreeVidhya, learned counsel for the 2nd respondent and perused the material available on records.

3. The appeal was admitted on the following substantial question of law:

“Whether the learned Commissioner was correct in fixing the income of the deceased at Rs.8,000/- per month when the deceased was earning Rs.12,000/- per month (at the rate of Rs.200/- per day), as per the oral evidence of the appellants and the prevailing minimum wages?”



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4. The accident occurred in the year 2018. Considering the period of the incident, the notional income fixed by the Court is in accordance with Section 4(1)(b) of the Workmen's Compensation Act and the notification dated 31.05.2010. Based on that, the notional income comes to Rs.8,000/- per month. Therefore, the Tribunal had rightly fixed the monthly income as Rs.8,000/-, which does not warrant any interference by this Court.

5. To support her contentions, the learned counsel for the second respondent produced the decision of Hon'ble single Court reported in 2024(1)TN MAC 261, *Managing Director, S.V.Chem Intermediates Pvt., Ltd., Vs. M.Subamalar*, in which it was held as follows:

"53. Insofar CMA.No.1583 of 2020 is concerned, the impugned order reveals that the wife of the deceased, who examined herself as PW1 had deposed that the deceased was earning a sum of Rs.7,000/- as monthly wages in addition to a sum of Rs.100 towards daily allowance. however, to substantiate the same, no documentary evidence has been filed. The employer of the deceased has also not been examined to prove the monthly wages of the deceased. Taking



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into consideration the fact that the accident had happened in the year 2012 in which the deceased had breathed his last, though the monthly wages has been stated to be Rs.7,000/- in addition to Rs.100 towards daily allowance, as deposed by PW1, the authority, given the benefit of the Notification issued by the Central Government in exercise of the powers conferred under Section 4(1-BB) of the Act, had taken the monthly wages at Rs.8,000/- and quantified the compensation, which cannot be said to be erroneous, as the same is in line with the reasoning and the decision of this Court above."

The above decision of Hon'ble Single Court is squarely applicable to the facts of the present case.

6. Accordingly, the Civil Miscellaneous appeal is dismissed, as it is devoid of merits. The findings of the Tribunal are confirmed. There shall be no order as to costs.

(i). The second respondent / General Insurance Company Ltd., is directed to deposit the compensation amount, i.e., Rs.8,02,600/- (after deducting the amount already deposited), together with interest at the rate of 12% per annum from the date of the accident till the date of deposit, to the credit of E.C. No.



116 of 2019 on the file of the Commissioner for Workmen's Compensation-II

(Joint Commissioner of Labour -II), Chennai, within a period of four weeks

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from the date of receipt or uploading of a copy of this order.

(ii). On such deposit being made by the 2nd respondent, the appellant/claimant is at liberty to withdraw the same, after following due process of law.

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Index: Yes / No

Speaking order: Yes / No

Internet: Yes

Neutral Case Citation: Yes / No

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To
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1. The Commissioner for Workmen's
Compensation -II, (Joint Commissioner
of Labour-II) Chennai.

2. MAGMA HDI
General Insurance Co.Ltd.,
Navins Presidium, 3 rd Floor, N.M.
Road, N.No.17/19, Old No.103, B
Block, No.34, Nelson Manickam Road,
Chennai 29.

3. The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMILSELVI J.
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