



C.M.A.(MD) No.1333 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.1333 of 2024

A.Selvam
Appellant

...

VS.

1.K.Sasikumar

2.The Branch Manager
M/s.Reliance General Insurance Company
2nd Floor, PLC Kanagu towers,
No.15-A, Thillai Nagar 11th cross,
Trichy – 18.
Respondents

...

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Workmen Compensation Act, against judgment and decree dated 29.09.2020 passed in W.C.No.43 of 2019 by the Deputy Commissioner of Labour, Tiruchirappalli.



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For appellant : Mr.N.Sudhagar Nagaraj
For Respondents :
For R1 : No appearance
For R2 : Ms.K.R.Shivashankari

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the award dated 29.09.2020 passed in W.C.No.43 of 2019 by the Deputy Commissioner of Labour, Tiruchirappalli for enhancement of compensation.

2. Despite the receipt of the notice, the first respondent neither appeared nor entered appearance through counsel.

3. Heard arguments of the learned counsel for the appellant Mr.N.Sudhagar Nagaraj and the learned counsel for the second respondent Ms.K.R.Shivashankari.

4. Upon consideration, the Authority, by fixing his monthly income as per the Central Government notification No.S.O.1258 (E), Ministry of Labour and Employment dated 31.05.2010, has



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granted compensation of Rs.5,65,770/-. Besides that, he is also entitled to the medical expenses of Rs.5,83,296/-.

5. The learned counsel for the appellant would vehemently argue that as per the abovesaid notification, his monthly income was fixed at Rs.8,000/- p.m, but the appellant was earning a sum of Rs.11,619/- per month. He would further argue that as the accident took place on 19.01.2019, the Authority ought to have followed the recent notification of the Central Government and sought for enhancement of compensation.

6. The learned counsel for the second respondent would defend by stating that as per the abovesaid Central Government Notification, the monthly income of the claimant was fixed by the Authority and sought for dismissal of the appeal.

7. The date of accident is 19.01.2019. The manner, in which the accident took place, is not in dispute.

8. It is relevant to note that the said Central Government notification came to effect in the year 2010. Meanwhile, the



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Minimum Wages were fixed by the State Government in G.O. 2D.No.3, Labour and Employment Department, dated 27.01.2014 and it was notified by the State government for the year 2014 as Rs.10,127/- p.m. The Minimum Wages Act is also a welfare legislation. The main question is whether the minimum wages fixed by the State of Tamil Nadu can be taken for the purpose of computing the compensation under the Workmen Compensation Act. In particular, the Minimum Wages fixed by the State Government is for the benefit of the employee.

9. In this situation, I am reminded of the observations made by the Hon'ble Supreme Court in ***Director of Enforcement vs. Deepak Mahajan*** reported in **1994 (3) SCC 440**, as follows:

“Though the function of the Courts is only to expound the law and not to legislate, nonetheless the legislature cannot be asked to sit to resolve the difficulties in the implementation of its intention and the spirit of law. In such circumstances, it is the duty of the Court to mould or creatively interpret the legislation by liberally interpret the statute.”



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10. The object behind the Workmen Compensation Act is to grant just compensation in case of injury or death of the workmen.

In this case, the employee has suffered both bone fracture in left leg and he suffered amputation below knee of the right leg. Apart from this, he suffered both bone fracture of left leg with skin and shaft tissue loss. Though the Doctor has assessed his disability at 50%, the Authority has fixed his functional economic disability at 64%.

11. The Central Government notification was passed in the year 2010 and the State Government has fixed the minimum wages in the year 2014, whereas the date of accident is 19.01.2019. In order to advance the cause of justice and in order to mould the relief in better terms, this Court is of the firm view that the minimum wages fixed by the State Government can be substituted in place of minimum wages fixed as per the said Central Government notification.

12. In order to do complete justice to the claimant, who suffered from amputation below knee in right leg and suffered both



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bone fracture on the left leg, this Court is inclined to enhance the monthly income at Rs.10,127/-, as per the Notification of State Government in G.O.2D.No.3, Labour and Employment Department, dated 27.01.2014. Hence, the compensation to the claimant is calculated as follows:

$$60/100 \times 10127 \times 184.17 \times 64/100 = \text{Rs.}7,16,194/-$$

13. In addition to that, the Authority has granted an amount of Rs.5,83,296/- based on the medical bills. Based on the abovesaid minimum wages, the compensation is computed as follows:

$$\text{Rs.}7,16,194/- + \text{Rs.}5,83,296/- = \text{Rs.}12,99,490/-$$

14. In the result,

(i) The Civil Miscellaneous Appeal stands allowed. No costs.

(ii) The compensation awarded by the Authority is enhanced from Rs.11,54,066/- to Rs.12,99,490/-.

(iii) The second respondent/Insurance Company shall deposit the enhanced amount of Rs.12,99,490/- (less the amount already deposited if any) with accrued interest at the rate of 12% p.a. after 30 days from the date of accident till the date of realisation through



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RTGS/NEFT to the credit of W.C.No.43 of 2019 on the file of the Deputy Commissioner of Labour, Tiruchirappalli, within a period of 12 weeks from the date of receipt of a copy of this order.

(iv) On such deposit, the appellant/claimant is entitled to withdraw the amount with interest, after adjusting the amount already deposited, if any, by filing appropriate application before the Authority.

(v) The claimant/appellant is directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Authority below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

29.01.2025

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



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To
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1.The Deputy Commissioner of Labour,
Tiruchirappalli.

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

R.KALAIMATHI,J



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Pre-delivery order made in
C.M.A.(MD) No.1333 of 2024

29.01.2025