

(2003) 04 MAD CK 0177

In the Madras High Court

Case No : Civil Miscellaneous Appeal No. 162 of 1995

Smt. Chandra and Mr. Nanda Rao (expired)

APPELLANT

Vs

Loganathan Electricals and The Chief General Manager,
Madras Telephones

RESPONDENT

Date of Decision : 10-04-2003

Acts Referred:

Workmens Compensation Act, 1923 — Section 30

Citation : (2003) 04 MAD CK 0177

Hon'ble Judges : S. Sardar Zackria Hussian, J;P. Sathasivam, J

Bench : Division Bench

Advocate : G. Kathirvelu, for the Appellant; V. Girishkumar, for R. 1 and R. Santhanam, A.C.G.S.C. for R. 2 and 3, for the Respondent

Judgement

1. The applicant in W.C. No. 226 of 1989 on the file of the Commissioner for Workmen's Compensation, is the appellant in the above appeal.

2. In respect of death of one Prabakaran in the course of his employment, i.e., on 15.06.1989, his mother has made an application before the Commissioner for Workmen's Compensation, claiming a sum of Rs. 67,200/- as compensation. Before the Commissioner, the applicant herself was examined as P.W.1. According to her, her son was aged about 20 years and working as an Electrician under the first respondent, who was a Contractor to 2nd and 3rd respondents in the premises at No. 34, 53rd Street, Ashok Nagar, Chennai. While so, on 15.06.1989, in the course of his employment, the deceased was electrocuted and taken to K.K. Nagar Government Hospital, where he declared dead. According to P.W.1, the deceased was paid Rs. 750/- per month. She claimed compensation of Rs. 67,200/-. Though the Commissioner has granted the compensation as claimed, has not granted interest for the said amount.

3. The learned counsel for the appellant by drawing our attention to the specific averment in her application that her son was an Electrician and according to G.O.Ms.No. 2384 dated 02.11.1988 of Labour and Employment Department,

would contend that by applying the said Government Order, the compensation may be awarded, taking her son as an Electrician (Class-I). In the light of the said contention, we have carefully perused the application of the applicant, counter statement, order of the Commissioner under challenge as well as the grounds of appeal.

4. In para 2 of the application, the applicant has specifically stated that "her son Prabhakaran, aged 20 years was working under the first opposite party - respondent as Electrician for the past three months prior to his death on a monthly wages of a sum of Rs. 750/- per month." In the counter affidavit the respondent merely denied the said allegation. In this regard, it is useful to refer G.O.Ms.No. 2384 dated 02.11.1988 of Labour and Employment Department, in and by which the Government fixed the minimum rates of wages per day in construction of building, stone crushing etc., Among the other details, serial No. 7 in Schedule relates to Electrician.

----- S.No. Class of Employees					
Minimum Rate of Wages			as per day.		
-----			Zone-A	Zone-B	Zone-C
Rs. P.	Rs. P.	Rs. P.	7. Electrician Class-I	32.00 30.00	26.00 Class-II 29.00 27.00
24.50	-----				

5. The learned counsel for the appellant by pointing out the said Government Order would contend that in the light of the assertion of the applicant in the application that her son was an Electrician, it is, but proper for the Commissioner to grant compensation based on the minimum wages fixed by the Government of Tamil Nadu. Though the said Government Order was not brought to the notice of the Commissioner, inasmuch as the said order dated 02.11.1988 of the Government was prior to the accident, we are of the view that the applicant is entitled to claim minimum wages as prescribed and notified by the Government of Tamil Nadu. This aspect was not considered by the Commissioner while determining the compensation. Inasmuch as the applicant had lost her only son at the age of 20, we inclined to accept the said argument and determine the compensation in the following manner.

"1. Age of the deceased .. 20 2. Factor to the age 20 .. 224 3. Monthly Wages .. Rs. 900/- 4. Compensation .. Rs. 900 x 40 x 224 100 .. Rs. 90 x 4 x 224 = Rs. 80,640.00"

Accordingly, we hold that the applicant / appellant is entitled compensation of Rs. 80,640.00.

6. The Commissioner, after fixing the compensation amount of Rs. 67,200/-, directed the second respondent to pay the said amount within one month from the date of receipt of the said order, failing which six percent simple interest will be imposed. In this regard, it is relevant to refer the Division Bench decision of this Court in the case of The Oriental Insurance Company Ltd., vs. Kaliya Pillai reported in 2002 (4) C.T.C. 469. The Division Bench after considering the

relevant provisions from the Workmen's Compensation Act, 1923 read with Schedule IV, as well as various decisions of other High Court has held that the interest shall be paid for the award amount after expiry of 30 days from the date of accident till the date of payment. In the light of the said decision, we direct respondents 1 and 2 to pay the compensation amount as ordered above with interest at 6% per annum from 15.07.1989 till the date of payment. The appeal is allowed to this extent. No costs.

It is stated that the first respondent - Contractor has paid the entire award amount as granted by the Commissioner, namely Rs. 67,200/-; accordingly, we grant eight weeks time from today for payment of the balance amount.