

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 19.12.2016

CORAM:

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THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN**C.M.A(MD)No.1436 of 2016****and****C.M.P(MD)No.11945 of 2016**

The Chairman,
Tuticorin Port Trust,
Cargo Handling Labour Pool,
Tuticorin.

... Appellant/Respondent

Vs.

1.Mahalakshmi
2.Janaki
3.Minor Ramachandran
4.Minor Ramasamy
5.Minor Pon Muthuramaligam
6.Madathiammal
(Minors 3 to 5 rep through
their mother/guardian
first respondent)

... Respondents/Petitioners

PRAYER: Appeal filed under Section 30 of Workmen's Compensation Act, 1923 to set aside the order passed in W.C.No.66 of 2007 on the file of the Deputy Commissioner of Labour (Workmen Compensation), Tirunelveli.

For Appellant : Mr. A.Arivuchandran

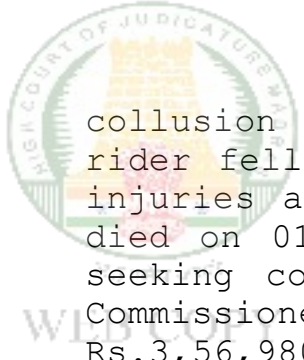
For Respondents : Mr.M.P.Senthil

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the Tuticorin Port Trust, against the award of Rs.3,56,980/- (Rupees Three Lakhs Fifty Six Thousand Nine Hundred and Eighty Only) in the claim petition filed by the legal representatives of one M.Maniraj who was working as Tally Clerk in Tuticorin Port Trust.

2. The facts of the case are as follows:

The deceased M.Maniraj, was working as a Tally Clerk in the Tuticorin Port Trust and after his shift when he was returning home by his motorcycle on 21.05.2006, on the way, a cyclist suddenly crossed the road without any indication, resulting in



collusion of two vehicles and both M.Maniraj, and the pillion rider fell down in the road. The said M.Maniraj, sustained head injuries and was taken to AVM Hospital, Tuticorin, and later, he died on 01.06.2006. Therefore, a claim petition has been filed seeking compensation under the Workmen Compensation Act and the Commissioner of Workmen, Tirunelveli, awarded a sum of Rs.3,56,980/- (Rupees Three Lakhs Fifty Six Thousand Nine Hundred and Eighty Only). Aggrieved against the said order, the appellant-Tuticorin Port Trust is before this Court.

3. The learned Counsel for the appellant submitted that the deceased workmen completed his work and was returning to his house. After crossing 12 kilometers from the work spot, he met with an accident and died. Therefore, the deceased M.Maniraj, could not have died during the course of employment. Since the work was completed and he came out, he could not be under the employment. The said contention was raised before the Commissioner of Labour, Tirunelveli, and the Commissioner of Labour, Tirunelveli, rejected the said contention relying upon the Notional Extension Theory as declared by the Honourable Division Bench of this Court in ***Superintending Engineer, Tamil Nadu Electricity Board and another -Vs- Sankupathy*** reported in **2005 ACJ 630**.

4. In that case, this Court held that the workman was deemed to be in duty even though he died in the accident after starting from his residence to the work spot.

5. In this case, reverse is happened i.e., after completing his work, he started to reach his house and on the way, he died. Therefore, the Commissioner rightly relied upon the said judgment and held that the workmen died during the course of employment.

6. The accident arising out of and in the course of employment and the Notional Extension Theory have been very elaborately discussed by the Honourable Supreme Court in ***Manju Sarkar & Others -Vs- Mabish Miah and Others*** reported in **2014 (2) TN MAC 161 (SC)** and the judgment of the Honourable Division Bench of this Court in ***Superintending Engineer, Tamil Nadu Electricity Board and another -Vs- Sankupathy*** reported in **2005 ACJ 630**. The Honourable Supreme Court held that if an employee sustained injury or death, while he was proceeding to work, it should be construed as the accident occurred during the course of employment. Therefore, when the workman returned to his residence after the work and during that time, if he died in the accident, it should be construed that the accident occurred during the course of his work as rightly found by the Commissioner.

7. Therefore, this Civil Miscellaneous Appeal is liable to be dismissed and the same is dismissed. The Deputy Commissioner of



Labour, Commissioner of Workmen's Compensation, Tirunelveli, is directed to disburse the amount which has been deposited by the appellant within a period of two weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected Miscellaneous petition is dismissed.

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Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

1.The Deputy Commissioner of Labour
Commissioner for Workmen Compensation,
Tirunelveli.

Copy To: The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to M/s.A.Arivuchandran, Advocate in SR.No. 82054
+1 cc to M/s.M.P.Senthil, Advocate in SR.No. 82141

gsr

CSL/AMI/12.01.2017 : 3P/5C

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and

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