

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL Nos.1492 and 1500
of 2008

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COMMON JUDGMENT:

These appeals are preferred questioning common order dated 30.04.2005 in W.C.Nos.26 of 2002 and 120 of 2003 on the files of Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Krishna District at Vijayawada (for short, 'lower Authority').

2. The contention of the appellant-Insurance Company in both the appeals is as the death of the deceased is due to heart-attack, which was a natural death as per Ex.A.6-final report and Ex.A.7-Postmortem, there is no liability on the part of the Insurance Company. It is submitted in **Divisional Manager, New India Assurance Company Limited v. Alahari Varalaxmi and others**^[1], this Court has clearly held that in case of natural death i.e., due to heart-attack, there is no liability on the Insurance Company unless that heart-attack is due to the stress and strain.

3. On the other hand, advocate for claimants submitted that claimants specifically pleaded in the application that heart-attack was due to stress and strain as the deceased was driving the vehicle continuously in discharge of his duties, therefore, Insurance Company is liable and the lower Authority has rightly granted compensation.

4. Advocate for claimants relied on a judgment of the Hon'ble Supreme in **Param Pal Singh through father v.**

National Insurance Company and another^[2],

5. The short point involved in these two appeals is whether the Insurance Company is not liable in view of the fact that death of the deceased was due to heart-attack?

6. In Divisional Manager, New India Assurance Company Limited referred above it is held that "when a workman dies of heart attack or chest pain, the claimants have to plead and establish by acceptable evidence that employment related stress and strain had triggered or aggravated the heart attack. If the workman had history of heart disease earlier or was made to work beyond prescribed standards with regard to time and quantity of work there could be relationship between employment and stress but it has to be proved by producing cogent and convincing evidence. Mere allegation that workman suffered stress and strain which resulted in heart attack would not be sufficient. The nature of employment, the duties performed by the workman, the duty hours, the onerous nature of the job, etc., are all factors which need to be considered by the Commissioner for Workmen's Compensation. On a mere allegation that the workman died of heart attack due to stress and strain or the long hours of employment would not be sufficient."

But, in Param Pal Singh's case, the Hon'ble Supreme Court observed at para 29 is as follows:

Applying the various principles laid down in the above decisions to the facts of this case, we can validly conclude that there was causal connection to the death of the deceased with that of his employment as a truck driver. We cannot lose sight of the fact that a 45-year-old driver meets with his unexpected death, may be due to heart failure while driving the vehicle from Delhi to a distant place called Nimiaghat near Jharkhand which is about 1152 km away from Delhi, would have definitely undergone grave strain and stress due to such long distance driving. The deceased being a professional heavy vehicle driver when undertakes the job of such driving as his regular avocation it can be safely held that such constant driving of heavy vehicle, being dependent solely upon his physical and mental resources and endurance, there was every reason to assume that the vocation of driving was a material contributory factor if not the sole cause that accelerated his unexpected death to occur which in all fairness should be held to be an untoward mishap in his lifespan. Such an “untoward mishap” can therefore be reasonably described as an “accident” as having been caused solely attributable to the nature of employment indulged in with his employer which was in the course of such employer’s trade or business.”

7. So, from the above referred Supreme Court decision, it is clear when the death was due to the stress and strain it can be reasonably described as an accident and attributable to the nature of employment indulged and in this case, claimants specifically pleaded in their

application that the death was due to strain and stress on account of continuous driving and the same was also deposed by the claimants in their evidence and considering the same, the lower Authority accepted the claim of claimants as the death was during the course of employment of the deceased. In view of the specific evidence and pleading with regard to strain and stress, the objection of the Insurance Company is not tenable and the decision relied on by the Insurance Company has no application, particularly in view of the observations of the Supreme Court in Param Pal Singh's case.

8. For these reasons, I am of the view that both the appeals are devoid of merits and accordingly dismissed.

9. Miscellaneous petitions pending, if any, shall stand closed. No costs in both the appeals.

S. RAVI KUMAR, J

15th June 2016.

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[\[1\]](#) 2011 ACJ 1306

[\[2\]](#) (2013) 3 SCC 409