



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos.1214 of 2014 and 667 of 2015
and
M.P. (MD) .No.2 of 2014

C.M.A. (MD) No.1214 of 2014

The Divisional Manager,
The United India Insurance Company Limited,
Divisional Office,
Jeeva Jothi Building,
Salai Road, Dindigul.

... Appellant

Vs.

1.P.Lavanya
2.Minor P.Gopi Prasad
3.C.Jeyaraman @ Jeyaraj
4.J.Rani
(The minor Respondent No. 2 represented
through her mother and natural guardian
the Respondent No.1 herein)

5.V.Selvam
6.The Manager,
Bajaj Allianz Insurance Co. Ltd.,
No.108, 2nd Floor,
T.P.K. Road,
Madurai.

... Respondents

Prayer: Appeal filed under Section 30 of the Workmen's Compensation Act 1923, against the order dated 30.04.2014 made in W.C.No.107 of 2009 on the file of the Commissioner for Workmen's Compensation, Dindigul.

For Appellant : Mr.C.Jawahar Ravindran

For R-1 to R-4 : Mr.K.Kumaravel

For R-5 : Mr.A.George Stephen Kanikkari raj

For R-6 : Mr.J.S.Murali



C.M.A. (MD) No. 667 of 2015

- 1.P.Lavanya
- 2.Minor P.Gopi Prasad
- 3.C.Jeyaraman @ Jeyaraj
- 4.J.Rani

(2nd petitioner is a minor represented through her mother and natural guardian the 1st petitioner herein)

... Appellants

Vs.

- 1.V.Selvam

- 2.The Manager,
Bajaj Allianz Insurance Co. Ltd.,
No.108, 2nd Floor,
T.P.K. Road,
Madurai.

- 3.The Divisional Manager,
United India Insurance Company Limited,
Divisional Office,
Jeeva Jothi Building,
Salai Road, Dindigul.

... Respondents

(The Second respondent is not necessary party in this appeal. Hence, the second respondents is given up.)

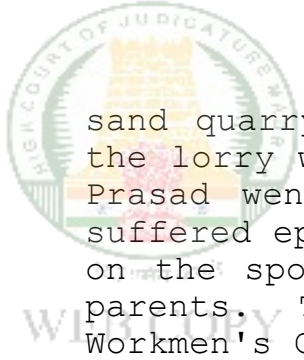
Prayer: Appeal filed under Section 30(1) of Workmen's Compensation Act 1923, against the order dated 30.04.2014 and amended order dated 22.05.2014 made in W.C.No.107 of 2009 on the file of the Commissioner for Workmen's Compensation cum Deputy Commissioner for Labour, Dindigul.

For Appellant	: Mr.K.Kumaravel
For R-1	: Mr.G.Thalaimutharasu
For R-2	: Mr.J.S.Murali
For R-3	: Mr.C.Jawahar Ravindran

COMMON JUDGMENT

The insurer has filed C.M.A (MD).1214 of 2014. The claimants have filed CMA.(MD).No.667 of 2015.

2. One Prasad was working as a cleaner in the lorry insured with United India Insurance Company Limited, appellant in CMA.(MD).No.1214 of 2014. It is the case of the claimants that the said Prasad was travelling in an insured lorry bearing Registration No.TN-10-U-5911, from Chennai to Villupuram to take the load from



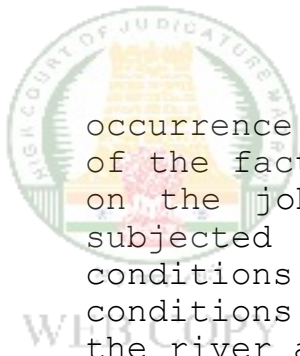
sand quarry site at Korai River. After reaching the sand quarry, the lorry was parked for getting the token. At that time, the said Prasad went near the river to attend to the call of nature. He suffered epileptic fits and fell into the river and drowned and died on the spot. The claimants are his wife, minor son and the aged parents. They filed W.C.No.107 of 2009 before the Commissioner for Workmen's Compensation, Dindigul. The authority under the Workmen's Compensation Act, 1923 passed an award dated 30.04.2014, directing the insurer to pay a sum of Rs.4,22,340/-. Since the interest was directed to be paid only in the event of default of deposit, the claimants have filed CMA (MD).No.667 of 2015.

3. Contending that the statutory requirement set out in Section 3(1) of Workmen's Compensation Act, 1923 has not been fulfilled in this case. The insurer has filed this appeal and called upon this Court to hold that the very claim petition is not maintainable.

4. The learned counsel appearing for the insurer/third respondent placed reliance on the decision of the Hon'ble Supreme Court reported in 2006 (2) TNMAC 255 (SC) (Shakuntala Chandrakant Shreshti v. Prabhkar Maruti Garvali and another) He also referred to the decisions of the learned Judges of this Court in CMA.No.2583 of 2003 and 2010 1 TNMAC 131 (Rashida Haroon Kupurade Vs. Divisional Manager, Oriental Insurance Company Ltd., and others.

5. The contention of the learned counsel for the insurer is that it is not enough for the claimants to show that the injury or death occurred during the course of one's employment. It must also be shown that the accident arose out of the employment. These twin conditions need to be satisfied. In the present case, it may be that the death of the said Prasad occurred during the course of his employment. But, there is nothing to show that the accident is attributable to the employment itself.

6. The claimants have marked Exhibits.4, P.5 and P.6 to show the manner in which the death of the said Prasad took place. The claimant examined herself as P.W.1. The driver of the lorry Karuppusamy was examined as P.W.2. The Village Administrative Officer, Chitra was examined as P.W.3. Their evidence inspires the confidence of this Court. The claimants have categorically proved that the deceased Prasad was employed as a cleaner in the insured lorry and that he was on his job and that the death occurred during the course of his employment. The lorry was engaged in transportation of sand. To lift the sand the lorry had reached the quarry site. It was waiting in queue. Token had to be taken. At that stage, the deceased Prasad in order to attend the call of nature had gone to the river side. It has been deposed by the witnesses that the deceased appeared to have suffered epileptic fits and drowned in the river and died as a result. The driver of the lorry, Karuppusamy had deposed that they had been working without any sleep and round the clock for a period of one week, prior to the



occurrence of the said event. This Court can take judicial notice of the fact that vehicles engaged in transportation of sand are put on the job continuously. The persons engaged in such work are subjected to great stress and strain. Such difficult work conditions and lack of sleep can trigger latent epileptic conditions. In this case, the deceased was said to have fallen into the river as a result of giddiness and epilepsy.

7. As rightly contended by the learned counsel appearing for the insurer one must show that the accident occurred not only during the course of the employment but also arose out of it. The giddiness and epilepsy had obviously been triggered by the difficult work condition of the said Prasad.

8. This Court therefore holds that both the conditions set out in Section 3 of the Statute are fulfilled in this case. The authority under the Act after correctly awarding compensation to the claimant erroneously held that the interest will be payable only in the event of default of deposit. As held in the decision of this Court in (2010) 10 SCC 347 - Paulraj vs. KRTC, interest must start running after one month from the date of occurrence of the accident.

9. Therefore, the award dated 30.04.2014 made in W.C.No.107 of 2009 on the file of the Commissioner for Workmen's Compensation, Dindigul is modified. The insurance company is directed to pay the interest for the award amount to be calculated 30 days after occurrence of the event.

10. CMA.(MD).No.1214 of 2014 is dismissed. C.M.A.(MD).No.667 of 2015 is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar.

To

The Commissioner for Workmen's Compensation, Dindigul.

Copy to:

The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai(2 copies)
+2CC to Mr.J.S.Murali, Advocate, SR.No. 93612, 93613
+1CC to Mr.G.Thalaimutharasu, Advocate, SR.No. 94074
+1CC to Mr.K.Kumaravel, Advocate, SR.No. 93635
+2CC to Mr.C.Jawahar Ravindran, Advocate, SR.No. 93788

C.M.A.(MD)Nos.1214 of 2014
and 667 of 2015

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