

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.06.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

C.M.A.No.2492 of 2015

1.Tmt.S.Thangamani
2.Minor.S.Sudhakar
3.Minor.S.Dharshini

...Appellants/Petitioner

Versus

1.K.C.Shanmugham
2.National Insurance Co.Ltd.,
Karthikeya Complex, 1st Floor,
403, B-10, Mettur Main Road,
Bhavani.

...Respondents/Respondents

This Civil Miscellaneous Appeal is filed under Section 30(1) of the Workmen's Compensation Act against the order of the Commissioner for Workmen's Compensation, Salem in W.C.No.338 of 2013 dated 20.07.2015.

For Appellants : Mr.S.Kaithamalai Kumaran

For Respondent - 2 : Mr.S.Vadivel

JUDGMENT

1. The appellants herein are the legal representatives of certain Selvaraj who was working as a driver of lorry under the first respondent had died in the course of his employment. On 11.12.2011, he had suffered Chest pain during the course of his employment and on the way to Hospital, he had passed away at around 10:00 a.m. Therefore, the appellants herein (legal representatives of deceased Selvaraj) have approached the Deputy Commissioner of Labour Claim in W.C.No.338 of 2013 seeking compensation under the provisions of Workmen's Compensation Act.

2. Neither the employer of Selvaraj nor the Insurance Company have contested the matter. However, Vide its order dated 20.07.2015, the Tribunal below had dismissed the claim on the ground that the claimants have not produced any documentary evidence to show that the Selvaraj died in the course of employment. This is a matter in which even the Insurance Company has not contested the fact that the employee had died in the course of employment due to heart attack. The fact that whether his heart attack was due to the stress caused in

relation to his employment. In this context, it may not be appropriate for the Tribunal to hold that it is against the petitioners/appellants, more so, while implementing a beneficial legislation.

3. This Court therefore allows this appeal and set aside the order passed by the Commissioner for Workmen's Compensation, Salem in W.C.No.338 of 2013 dated 20.07.2015 and remand the matter back to the Tribunal for quantifying the compensation in terms of the Workmen Compensation Act, for which purpose both the parties may be heard. The Tribunal is directed to dispose of the matter within a period of two months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

mrr

To

The Commissioner,
Workmen's Compensation,
Salem.

+1cc to Mr.S.VADIVEL, Advocate, S.R.No.36878

+1cc to Mr.S.KAITHAMALAI KUMAR, Advocate, S.R.No. 36862

C.M.A.No.2492 of 2015

GJ ii(CO)
TR(20/06/2018)

सत्यमेव जयते

WEB COPY