

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 09-03-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.2343 OF 2013

National Insurance Co.Ltd.,
No.16, Estate Bank Road,
Coimbatore-641 018.

...Appellant/IInd Opposite party

-vs-

1.Tmt.Kannamma
2.Selvi Anitha

...Applicants/Respondents

3.The Manager,
Parry Agro Industries Ltd....Respondents/Ist Opposite party
Attikunna Estate
Attikunna Post
The Nilgiris District

Civil Miscellaneous Appeal filed under section 30 of the Workmen's Compensation Act against the order, dated 19.04.2012, passed in W.C.No.25 of 2007, on the file of Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Coonoor.

For appellant : Mrs.R.Sree Vidhya
For respondents 1 & 2 : Mr.M.Rajendran
For respondent 3 : Mr.D.Abdullah

JUDGMENT

Challenge to this appeal is the award of compensation made in W.C.No.25 of 2007, dated 19.04.2012, on the file of Commissioner for Workmen's Compensation (Deputy Commissioner of Labour), Coonoor.

2. The deceased employee was serving under the third respondent as a painter. During the course of his employment, he fell down from a height and suffered head injuries. There was blood clot in his head and, therefore, he was taken to Medical College Hospital at Calicut and, thereafter, to Ramakrishna Hospital at Coimbatore. Even though the accident had taken place on 29.11.2005, he suffered death on 12.05.2007. According to the insurance company, the death was not in consequence of the injuries, but it was due to myocardial infraction; and it cannot

be said that the death arose out of and during the course of employment and, therefore, the employer is not liable to pay compensation, so also the insurance company.

3. Learned counsel appearing for the appellant would vehemently contend that the claimant has let in evidence that the deceased employee was issued with a fitness certificate and was willing to rejoin his duty; there is a clear admission in the cross-examination of the claimant witness that the deceased was suffering from blood pressure and myocardial infraction and, therefore, the authority ought not to have held that the death was caused due to the injuries suffered in the accident, which took place in the year 2005. According to the learned counsel, when a person dies of personal disease, the employer should not be made liable for compensation under the Workmen's Compensation Act.

4. Mr. Abdullah, learned counsel for the employer, also sails with the appellant insurer and would submit that the death was not due to the injury sustained by the deceased in the year 2005, but it is out of the disease of the employee and, therefore, they are not liable to pay compensation.

5. I have heard the learned counsel for the parties and given my anxious consideration to the medical records and the evidence of the doctors before the authority.

6. On the side of respondents/claimants, two doctors were examined. On perusal of the evidence of R.W.1, it is seen that on the date of accident, the deceased fell down from a height and suffered head injuries. During the CT scan, the following injuries were found:

1. Acute infraction in left parietal area
2. Old infraction in right lentiform and left caudate nucleus
3. Periventricular ischemic changes
4. Age related atrophic changes

7. During cross-examination, the doctor, who was examined on the side of the employee, would state that there were problems in the brain in temporal area and there was hemorrhage and blood clot. In the end, he opined that there were chances of paralysis and even heart attack consequent to the injuries sustained by the employee in his head. It is also stated that the deceased was behaving like a child and that he lost his memory. All these things would go to show that the deceased had sustained grievous injuries in his head, due to which, he lost his memory and his behaviour was also like a child. The doctor would further go to state that he was not aware of the cause of death, as the deceased was not under his treatment on the fateful day. It is not the statement of the doctor that the deceased had suffered death on account of myocardial infraction. In that event, we can safely conclude

that the death of the employee was caused due to the head injuries suffered by him in the year 2005. The finding of the authority is also based on the medical records and the oral and documentary evidence of the respondents/claimants. This Court also is of the opinion that the death of the employee was due to the injuries suffered by him in his head in the year 2005. Therefore, I have no hesitation to confirm the finding of the authority under the Workmen's Compensation Act.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dixit

To

Commissioner for Workmen's Compensation
(Deputy Commissioner of Labour),
Coonoor.

copy to

The Section Officer
VR Section
High Court, Madras

+1 cc to Mr.D.Abdullah Advocate sr 18028

+1 cc to Mr.R.Sree Vidhya Advocate sr 18870

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