

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 04.04.2018	Delivered on: 27.06.2018
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CORAM

THE HONOURABLE Mrs.JUSTICE S.RAMATHILAGAM

C.M.A.No.2715 of 2006

United India Insurance Co. Ltd.,
Branch Office
Sankagiri. .. Appellant/2nd Respondent

-Vs-

1.Pavayee
2.M.Natarajan .. Respondent/2nd Petitioner/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, 1923, against the award dated 28.11.2003 made in W.C.No.422 of 2000 on the file of the Commissioner for Workmen's Compensation, Deputy Commissioner for Labour, Salem for the following among other.

For Appellant .. Mrs.C.Harini for
.. Mr.N.VijayaRaghavan

For Respondents... No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the award made in W.C.No.422 of 2000 on the file of the Commissioner for Workmen's Compensation, Deputy Commissioner for Labour, Salem.

2. W.C.No.422 of 2000 was filed by the petitioner / 1st respondent herein, claiming compensation for the death of P.Chellamuthu who was working as a Cleaner in the lorry bearing Registration No.TN28/Y-1653, which belongs to the first respondent and insured with the second respondent / appellant herein. The Commissioner of Workmen's compensation analysed the evidence and documents and after considering all the aspects with regard to the employment of the deceased as Cleaner and

the fact that he had also met with an accident and died while he was under employment, his age and loss to the family was assessed and awarded a sum of Rs.2,24,000/- as compensation to be paid by the second respondent / appellant herein / Insurance Company. Aggrieved against the award of the Commissioner of the Workmen's compensation, this Civil Miscellaneous Appeal has been preferred.

3. According to the learned counsel for the appellant, the authority has grossly erred in arriving at a finding that the death was due to injuries, in the absence of any record for treatment and in the absence of Post Mortem Certificate. The authority has also failed to notice that the death was due to jaundice and renal failure and not due to any injuries sustained in the accident. Hence, in the absence of any other relevant document to show that the deceased was under continuous medical treatment for a long period and the injuries sustained by him was the cause for the death, the award passed by the authority has to be set aside.

4. On perusal of Ex.A5, Wound Certificate, which reveals that the deceased sustained injuries and his toe in the right leg got amputated. It is also observed that he was discharged on 03.08.2000. Again on 06.04.2001, he was admitted in the hospital and he died on 09.04.2001 and the reason stated is that his death was due to acute renal failure and jaundice. Ex.P7 is the relevant document. It is argued by the appellant that he was discharged from the hospital on 03.08.2000 and again after long period on 06.04.2001, he was admitted in the hospital and died on 09.04.2001. Hence, the deceased died only due to the renal failure and jaundice and it cannot be said that the death was caused due to the injuries sustained by the deceased at the time of accident. Further there is no continuous medical records for proving the fact that the death was caused due to the injuries sustained by him. Further it is argued that there is no post mortem certificate filed for the same.

5. It is observed from the documents produced that the cause of death seems to be infection and post traumatic septicemia which resulted in multi organ failure. It is clearly proved by the petitioner that the deceased was only 22 years at the time of accident and he also sustained injuries which resulted in amputation of toe, which cannot be denied.

6. The argument of the appellant is that there is no medical reference for continuous treatment and on production of postmortem certificate cannot be taken into account, because there was a long duration gap between the date of the accident and date of death.

7. Hence, because of the infection and post traumatic septicemia, the renal failure has occurred. It is observed from the order that the deceased got his injury infected which has been clearly the Authority. Hence, the finding of the Tribunal does not warrant any interference and the appeal stands dismissed. No costs.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

dna

To

1. The Commissioner for Workmen's Compensation
The Deputy Commissioner for Labour,
Salem.

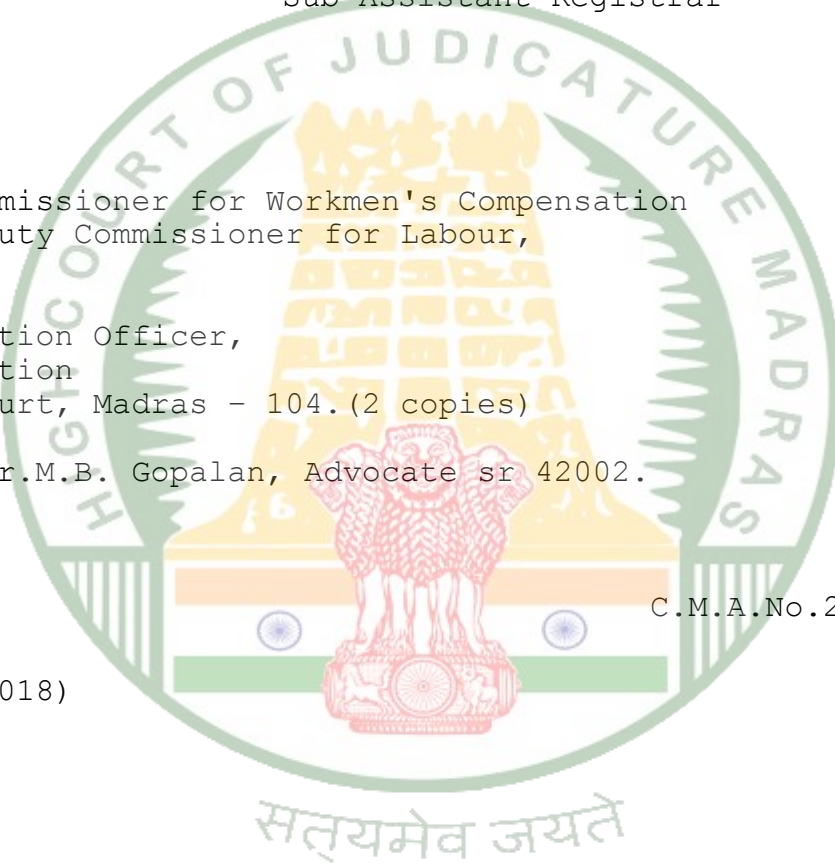
2) The Section Officer,
V.R.Section
High Court, Madras - 104.(2 copies)

+1 CC to Mr.M.B. Gopalan, Advocate sr 42002.

C.M.A.No.2715 of 2006

RJ(CO)

SP(23/07/2018)



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