

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	08.10.2018
Date of Judgment	24.10.2018

WEB COPY

DATED : 24.10.2018

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPASATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

WRIT APPEAL (MD) No.708 of 2014

and

MP (MD) No.1 of 2014

1.The District Collector,
Trichy District, Trichy.

2.The District Labour Officer,
Office of the District Labour Officer,
Social Security Scheme,
Trichy District.

: Appellants/Respondents

Vs.

E.Kamatchi

: Respondent/Writ Petitioner

Writ Appeal has been filed under Clause 15 of Letters Patent against the order, dated 29.01.2014 and made in W.P.(MD)No.13325 of 2013 on the file of this court.

Prayer in WP(MD). 13325/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to disburse the maximum ceiling amount for a sum of Rs. 1,00,000/- towards the accident death benefit and a sum of Rs. 2,000/- as funeral expenses in lieu of the death of the petitioner s Daughter-in-Law S.Natcharammal @ Natchiyar on 03.06.2007 under the personal accident insurance scheme covering the workers under the Tamil Nadu Construction Workers Welfare Scheme and further direct the respondent to pay an interest at the rat of 18% for the belated payment from the date of death of the petitioner s Daughter in Law S. Natcharammal on 03.06.2007 and pass such further or other orders.

For Appellants : Mr.Aairam K Selvakumar
Additional Government Pleader
For Respondent : Mr. P.Pethu Rajesh

J U D G M E N T

<https://hcservices.ecourts.gov.in/hcservices/> of the Court was made by T.KRISHNAVALLI, J)

The Writ Appeal has been directed under Clause 15 of Letters Patent as against the order of the learned single Judge of this



court, dated 29.01.2014 made in W.P(MD)No.13325 of 2013 on the file of this court.

2.It is manifested from the records that the respondent/writ petitioner had filed a writ petition under Article 226 of Constitution of India to issue a Writ of Mandamus directing the appellants to disburse the maximum ceiling amount for a sum of Rs.1,00,000/- towards the accident death benefit and a sum of Rs.2,000/- as funeral expenses for the death of the writ petitioner's daughter-in-law S.Natcharammal @ Natchiyar on 03.06.2007 under the Personal Accident Insurance Scheme covering the workers under the Tamil Nadu Construction Workers Welfare Scheme and further to direct the appellants to pay an interest at the rate of 18% for the belated payment from the date of death of the writ petitioner's daughter-in-law S.Natcharammal @ Natchiyar on 03.06.2007.

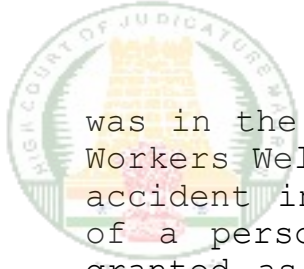
3.In the writ petition, it was contended by the writ petitioner that her daughter-in-law was doing vegetable vending business and her husband was assisting her. On 03.06.2007, while they were returning to their home after finishing their business activity, they met with an accident and both of them died on the same day. In this regard, a case in Crime No.300 of 2007 was registered by the Sub Inspector of Police, Samayapuram Police Station under Sections 279, 337 and 304(A) IPC. As per the Tamil Nadu Construction Workers' Welfare Scheme, the legal heirs of the deceased are entitled to get insurance coverage for a sum of Rs.1,00,000/- for the death happened due to the accident and the funeral expenses for a sum of Rs.2,000/-. Since, the writ petitioner is the only legal heir of the deceased, she sent several requisitions to the 2nd appellant in person to disburse the above insurance coverage. But the 2nd appellant disagreed with the same and intended to disburse only a sum of Rs.15,000/- by treating the death as natural death. Hence, the writ petition.

4.This court, by order, dated 29.01.2014 directed the second respondent to consider the representation made by the writ petitioner seeking death benefit of Rs.1,00,000/- as well as Rs.2,000/- towards funeral expenses.

5.Having been aggrieved by the order of the learned single Judge of this court, dated 29.01.2014, the appellants being the respondents in the above writ petition stand before this court with this appeal.

6.Heard both sides and perused the materials available on record.

7.The respondent herein is the mother-in-law of the deceased. The case of the respondent/writ petitioner is that her daughter-in-law was selling vegetables on the road side and her son assisted the deceased and on 30.06.2007 while they were returning to their residence after finishing their business activity, they met with an accident and died on the same day and at the time of her death, she



was in the family way and she was the member under the Construction Workers Welfare Board and the members are covered under the personal accident insurance scheme and under the said scheme, for the death of a person in accident, the maximum amount of Rs.1,00,000/- is granted as insurance as well as funeral expenses of Rs.2,000/- and for the natural death, a sum of Rs.15,000/- is granted and the writ petitioner is a widow and who is aged about 71 years and since her daughter-in-law and her son died in the accident, she has no other person to take care and she is struggling for her daily bread and hence, she has submitted an application seeking maximum amount of Rs.1,00,000/- as death benefit of her daughter-in-law, but the second appellant has not considered her submission and hence, he filed the writ petition and prays that she is entitled to benefits in lieu of the death of her daughter-in-law under the Personal Accident Insurance Scheme covered under the Tamil Nadu Constructions Workers Welfare Scheme.

8.The contention of the appellants is that the death of the daughter-in-law did not take place during the course of employment and the death was due to the motor accident when the son and daughter-in-law travelling in a two wheeler and hence, the request of the respondent/writ petitioner was not considered by the appellants and hence, the respondent/writ petitioner is not entitled to the reliefs as prayed for.

9.It is admitted on both sides that the deceased is covered under the Scheme intended for Members of the Tamil Nadu Manual Workers Social Security and Welfare Scheme, 2001. As per the said Scheme, when a worker dies during the course of employment, the legal heir of the deceased is entitled to get the death benefit of Rs.1,00,000/- and a sum of Rs.2,000/- for funeral expenses and if the person dies naturally, then the legal heirs are entitled to Rs.15,000/-.

10.The learned counsel for the respondent/writ petitioner submitted that her son and daughter-in-law were selling vegetables on the road side and when they returned to their house, they met with an accident and since her daughter-in-law is the member of the Tamil Nadu manual Workers Social Security and Welfare Scheme 2001, she is entitled to get Rs.1,00,000/- towards death benefit and Rs.2,000/- towards funeral expenses. For that, the learned counsel for the respondent submitted an unreported judgment made in WP(MD) No.13369 of 2010, dated 21.10.2011. In that case, the learned single Judge of this court, following the decision of the Hon'ble Supreme Court reported in 1970(1) SCR 869 = (1969) 2 SCC 607 (Mackinnon Mackenzie and Co., (P) Ltd. Vs. Ibrahim Mahammed Issak), held as follows:-

"Para 5:... To come within the Act the injury by accident must arise both out of and in the course of employment. The words "in the course of the employment" mean "in the course of the work which the workman is employed to do and which is incidental to it." The



words "arising out of employment" are understood to mean that "during the course of the employment, injury has resulted from some risk incidental to the duties of the service, which unless engaged in the duty owing to the master, it is reasonable to believe the workman would not otherwise have suffered." In other words there must be a causal relationship between the accident and the employment. The expression "arising out of employment" is again not confined to the mere nature of the employment. The expression applies to employment as such to its nature, its conditions, its obligations and its incidents. If by reason of any of these factors the workman is brought within the scene of special danger the injury would be one which arises 'out of employment'. To put it differently if the accident had occurred on account of a risk which is an incident of the employment, the claim for compensation must succeed, unless of course the workman has exposed himself to an added peril by his own imprudent act...."

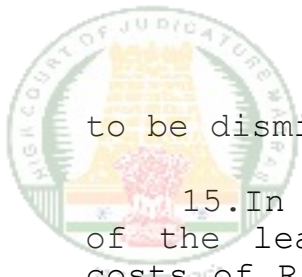
11. In this case, the respondent/writ petitioner is making a claim under the Social Construction Workers Welfare Scheme by the State Legislature. The respondent/writ petitioner filed the Identity Card to prove that her daughter-in-law is the member of the above Scheme. Hence, it is necessary to decide as to whether the deceased died in the accident, which arose both out of and in the course of employment. The above scheme creates account policy providing for compensation on account of an accident.

12. At this juncture, it is necessary to refer Clause 17(1) Explanation of the Scheme, which would run thus:-

..The Scheme only excludes the intentional self injury, suicide, attempted suicide, injury caused while under the influence of intoxicating liquor of drugs of resulting from the injured worker committing any breach of the law."

13. In this case, the son and daughter-in-law of the respondent/writ petitioner sustained injuries in an accident, when they were returning to their home. Hence, it is held that the accident occurred in the course of employment. As per the Scheme, the legal-heirs of the deceased are entitled to the benefits under the Scheme. Therefore, the second appellant was directed to consider the representation made by the respondent/writ petitioner seeking death benefit of Rs.1,00,000/- as well as Rs.2,000/- towards funeral expenses, in tune with the judgment of this Court and pass orders in accordance with law.

<https://hcservices.echidna.gov.in/hcservices> 14. From the reasons stated above, we are of the considered view that the order of the learned single Judge of this court does not suffer from any infirmity and therefore, the writ appeal is liable



to be dismissed.

15. In the result, writ appeal is dismissed confirming the order of the learned single Judge. The appellants are directed to pay costs of Rs.5,000/- to the Legal Services of Authority, attached to this Bench within a period of two weeks from the date of receipt of the copy of the order. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar(AD-I)

/True copy/

Sub Assistant Registrar(CS-II)

TO

1. The District Collector,
Trichy District, Trichy.

2. The District Labour Officer,
Office of the District Labour Officer,
Special Security Scheme,
Trichy District, Trichy.

Copy to:
The Secretary,
Legal Services Authority,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.PETHU RAJESH, Advocate, SR.No.91563

WA(MD) No.708 of 2014
24.10.2018

ER
KK/RP/SAR-2/04.12.2018/5P-5C