

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A. No. 1017 of 2005

and

C.M.P. No. 5753 of 2005

National Insurance Company Limited,
Namakkal.

... Appellant/2nd Respondent

Vs

1. Sagirajaan
2. Minor Shamem Banu
3. Minor Segitha Banu

(Minors are represented by
their mother and next friend R1)

4. Seeraj

5. V. Saravanan

... Respondents

Prayer: Civil Miscellaneous Appeal has been filed under Section 30 of the Workmen's Compensation Act, 1923, against the Award dated 27.12.2004 made in W.C. No. 466 of 2002 on the file of the Workmen's Compensation Commissioner, DCL, Salem.

For Appellant	: Mr. S. Arun Kumar
For R1	: Mr. K. Vijaya Kumar
For R2 & R3	: Minors represented by R1
For R4 & R5	: Not ready in notice

JUDGMENT

The Appellant is aggrieved by the impugned award dated 27.12.2004 passed by the Deputy Commissioner of Labour, Salem in W.C. No. 466 of 2002. By the impugned order, the Deputy Commissioner of Labour, Salem has awarded compensation to the claimants who are the Respondents 1 to 3, i.e., his wife and children of the deceased Liyakath Ali.

2. It is the contention of the Appellant Insurance Company that admittedly the deceased Liyakath Ali aged about 37 years was suffering from dysentery and while returning from Maharasthra after delivering load he developed Miocardial Arrest

ie., Heart Attack and died and therefore the death was due to natural cause and it is not an employment injury, warranting compensation.

3. However, the Deputy Commissioner of Labour allowed the Claim petition filed by the Respondents/Claimants by holding that the death was due to employment injury and therefore, the Respondents/Claimants were entitled to compensation. The Witnesses examined by the Insurance Company, viz., the driver of the vehicle (Vijaya Kumar) turned hostile and he has given evidence against the Appellant.

4. I have consider the evidence on record and submissions. In the appeal the Appellant has raised following substantial questions of law:-

1. Whether the Workmen's Compensation Commissioner of Labour can award compensation to person not coming under the purview of Workman as defined under Section 2(n) of the Act?

2. Whether the Deputy Commissioner of Labour was correct in awarding compensation inspite of the fact that death has not occurred as envisaged under Section 3(1) of the W.C.Act?

3. Whether the Deputy Commissioner erred in applying Section 4 of the W.C. Act, when there is no cause of action?

4. Whether the Deputy Commissioner was correct in holding the Appellants are liable to pay the compensation awarded without appreciating the evidence of R.W.2?

5. Whether the Authority has jurisdiction to entertain the above claim?

6. Whether the Deputy Commissioner of Labour was correct in holding that the appellant inspite of the fact the policy does not cover the said risk?

7. Whether the Deputy Commissioner of Labour was correct in holding that the appellant is liable to pay compensation for a person not coming within the purview of Section 147(1)(b)(i) of the M.V. Act?"

5. The deceased was unwell after he had delivered load in Maharashtra and was taken to treatment. However, the vehicle appears to have been driven back by co-driver when the deceased suffered severe heart attack and died on 07.07.2000 at about 10.00 p.m., while the vehicle was on the move. This would

indicate that the deceased was not well and stressed and strained on account of work pressure which would have hastened heart attack. Therefore, the reasoning of the Deputy Commissioner of Labour cannot be questioned. In view of the same, I am of the view that the Award passed by the Deputy Commissioner of Labour cannot be interfered. The Award is well reasoned and requires no interference.

6. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

arb

To

1. The Workmen's Compensation Commissioner,
DCL, Salem.
2. The Section Officer,
Vernacular Section,
High Court of Madras.

+lcc to Mr. S. Arun Kumar, Advocate sr.98168

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vba(co)
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