

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.NO.997 OF 2011

Kulaindaiammal @ Kulandai
@ Kulandai Therasa

...Appellant

Vs.

The Management of
Amaravathi Co-op Sugar Mills Ltd.,
Krishnapuram,
Udumalapet.

... Respondent

PRAYER: Civil Miscellaneous Appeal under Section 30 of Workmen's Compensation Act, 1923 praying to call for entire records relating to the order dated 16.07.2010 of the Deputy Commissioner of Labour, Coimbatore in W.C.No.41 of 2009.

For appellant : Mr.S.Saravanan

For respondent : Mr.S.Haroon Rasheed
for M/s.T.S.Gopalan & Co.

JUDGMENT

Aggrieved over the award passed in W.C.No.41 of 1999 on the file of Deputy Commissioner of Labour, Coimbatore, dated 16.07.2010, the appellant / claimant is before this Court.

2. According to the appellant, her husband was working in the respondent mill and the nature of work was that he was exposed to extremely dangerous machines where noxious fumes and dust were involved. Due to the work pressure and the hard work discharged by her husband, he developed chest pain on 26.04.2004 noon, while he was on duty. From the factory he was taken to the hospital run by the Management, first aid was given and thereafter he was taken to Bharathi Clinic by a co-worker namely Vellayan and died on the same date. On the basis of her husband's death, due to stress and strain, during the course of employment, the she laid the claim petition.

3. The claim petition was filed in the year 2008 with a delay of 12 years. The delay was condoned and claim petition was

taken on record. The respondent denied the claim to the appellant. To substantiate the claim, the claimant has examined herself as A.W.1 and marked exhibits A.1 to A.6. On the side of the respondent, the officer was examined as R.W.1 and marked Exs.R1 to R5. The authority of the Workmens Compensation Act, after elaborately considering the oral and documentary evidence, came to the conclusion that the death had happened due to stress and strain and that has no connection to the work of the deceased. Therefore, rejected the claim. Aggrieved over the same, the appellant is before this Court.

4. I have heard the arguments on both sides and considered the materials available before this Court.

5. From a perusal of the materials, on the side of the appellant it is seen that the appellant's husband developed chest pain on 26.04.2004 and died on the same day. Ex.A.3 shows that the husband of the appellant / claimant died on 26.04.2004 and Ex.A.5, medical certificate issued by the doctor on 15.05.2004 shows that he died due to cardiac arrest. Other than this, there is no evidence from the side of the appellant / claimant that the husband of claimant died out of stress and strain.

6. On the contrary, it is seen that the deceased was working as a sweeper. It appears that the gratuity due to NMR was settled by the respondent management as early as 27.08.2008. In the year 2009 only, the appellant / claimant made the claim for compensation.

7. From the above, it can be inferred that the appellant / claimant has failed to establish that her husband was doing hard work in the respondent mill and that he developed chest pain due to stress and strain. Eventhough, it is stated that the respondent deceased was taken to hospital and suffered death on 26.04.2004, there is nothing on record to show when and what time he was admitted. There is no evidence on the side of the claimant to support that the deceased suffered cardiac arrest while he was on duty and further there is no evidence to prove nexus to the ailment and employment of the deceased. The claimant has failed to prove that the death was caused due to stress and strain during the course of employment. The delay of 12 years by itself raises the doubt about bonafide of the claim. However this Court analysed entire evidence and the order passed by the authority, but could not find any reason to interfere the same.

8. In the absence of any evidence, this Court finds no grounds to interfere with the judgment and decree of the Court

below. Accordingly civil miscellaneous appeal stands dismissed.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Deputy Commissioner of Labour,
Coimbatore.

+1 cc to M/s.S.Saravanan,Advocate Sr.No. 21966

+1 cc to M/s.T.S.Gopalan & Co., SR.No.21839

AKM/27.09.19/3P-4C /

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