



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	25.02.2021
Date of Judgment	08.06.2021

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLIC.M.A(MD)No.42 of 2015andMP(MD)No.1 of 2015

Royal Sundaram Alliance Insurance Company Limited,
Chennai-600 002.

: Appellant/2nd Respondent

Vs.

1.Tmt.G.Poornakala

2.Minor Muthu Kavia

3.Minor Valarmathi

: R1 to R3/Petitioners

(Minor respondents 2 and 3 herein
are represented by their mother and
guardian 1st respondent)

4.P.Sridhar

: 4th Respondent/1st Respondent

PRAYER:- Civil Miscellaneous Appeal has been filed under
Section 30 of Workmen Compensation Act against the award, dated
28.09.2012 made in WC No.33 of 2011 on the file of the Workmen
Compensation (Deputy Commissioner of Labour), Tirunelveli.

For Appellant

: Mr.S.Srinivasa Raghavan

For R1 to R3

: Mr.Robert Chandrakumar

for Mr.S.Senthil Sankara Nathakumar

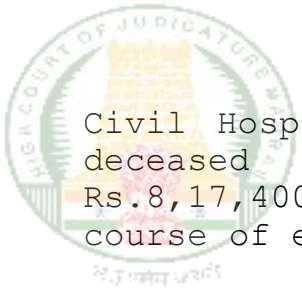
For 4th Respondent

: No appearance

J U D G M E N T

This Civil Miscellaneous Appeal is directed against the award,
dated 28.09.2012 made in WC No.33 of 2011 on the file of the Workmen
Compensation (Deputy Commissioner of Labour), Tirunelveli.

2.The short facts of the case is that on 05.03.2011 at about
9.30 hours, while the deceased Ganesan was driving the Lorry TN-09-
AC-9109 belonging to the 4th respondent herein from Ahmadnagar
(Maharashtra State) to Sivakasi and while he was driving the said
Lorry near Gurunahak Dhaba at Ahmadnagar developed chest pain and
immediately, he was admitted at Civil Hospital Ahmadnagar and
treated as patient. During the course of his treatment, he died at



Civil Hospital Ahmadnagar on 07.03.2011. The legal heirs of the deceased filed a claim petition seeking compensation of Rs.8,17,400/- alleging that the deceased died out of and in the course of employment under the 4th respondent herein.

3.The claimants have stated that the deceased was 32 years at the time of accident and she was working as driver, thereby he was getting Rs.8,000/- per month. It is alleged that the said P.Ganesan died only during the course of employment under the 4th respondent herein.

4.In the counter filed by the Appellant Insurance Company, they disputed the manner of accident and their liability to pay compensation.

5.Before the Workmen Compensation tribunal, on the side of the claimants, 1 witness was examined and marked 8 documents. On the side of the Insurance Company, no witness was examined and no document was filed.

6.The learned Workmen Compensation Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the Lorry died during the course of his employment and awarded compensation of 6,20,105/- and directed the appellant Insurance Company to pay the compensation amount to the claimants. Aggrieved over the same, the appellant Insurance Company is before this court.

7.This Civil Miscellaneous Appeal is admitted on the following question of law:-

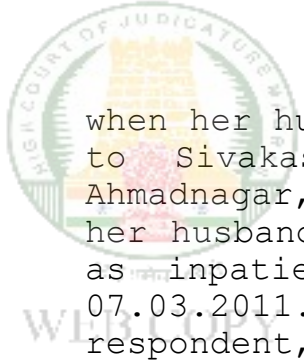
"Whether the learned Commissioner for Workmen Compensation is entitled to render a finding as to the cause of death of the deceased workmen and the nexus aspect of the same without any medical evidence and oral evidence of a medical practitioner?

8.Heard the learned counsel appearing on either side and perused the materials available on record.

9.The main contention of the appellant/2nd respondent is that the death of the deceased was not in the course of employment and hence, the appellant Insurance Company is not liable to pay the compensation. On the other hand, the learned counsel appearing for the respondents 1 to 3 submitted that the death of the deceased was due to the stress and strain during the course of employment. For that, the learned counsel appearing for the respondents 1 to 4/claimants submitted the decisions reported in 2019(1) TN MAC 788 (Kannammal and others Vs. N.Balasubramanian and others) and 2019(1) TN MAC 470 (National Insurance Company Limited Vs. Pappathi and others).

<https://hcservices.ecourts.gov.in/hcservices/>

10.In this case, the wife of the deceased was examined as PW1. PW1 during her evidence stated that on 05.03.2011 at 9.30 hours,



when her husband was driving the Lorry TN-09-AC-9109 from Ahmednagar to Sivakasi. While her husband reaching Gurunahak Dhaba at Ahmadnagar, her husband suffering from heart chest pain and then, her husband was taken to Ahmadnagar Hospital, where he was admitted as inpatient and during the course of treatment, he died on 07.03.2011. But on the other hand, on the side of the appellant/2nd respondent, it is stated that the deceased was suffering from Chronic Cardia problem for a very long time and the death was due to cardio respiratory arrest and hence, it is prvoed that the deceased was not died out of stree and strain of work, but due to his heart ailment, when he was suffering for a long period before his death. To prove it, no document was filed on the side of the appellant/2nd respondent.

11.It is admitted that the alleged vehicle came from Ahamedbad to Sivakasi. The nature of the work of the deceased involves strees and strain. Hence, from the evidnece of PW1 and nature of work, it reveals that the deceased was died due to stress and strain in his work. No contra evidence was let in on the side of the appellant/2nd respondent to prove that the deceased before his death had heart problem. Considering the nature of work of the deceased stress and strain arose and due to it, heart problem arose and due to the heart problem, there was a chance for the death of the deceased. Hence, on the basis of the evidence of PW1 and documents filed, the learned Duputy Commissiner of Workmen Compensation has correctly come to the conclusion that the death was due to stress and stain only out of and in the course of employment.

12.This court see no reason to interefere with the findings of the Commissioner of Workmen Compensation, Tirunelveli. Accordingly, the substantial question of law is answered in favour of the respondents 1 to 4/claimants.

13.In the result, this Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD II)

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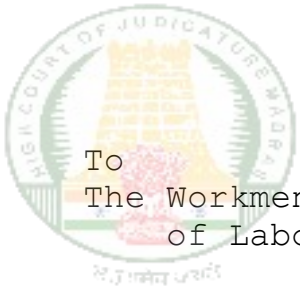
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Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To
The Workmen Compensation (Deputy Commissioner
of Labour), Tirunelveli.

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Copy to:
The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2c)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-19080[F] dated
09/06/2021)

CMA (MD) No.42 of 2015
08.06.2021

KK (23.06.2021) 4P 5C