

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO. 209 OF 1995

Secretary,
Maharashtra State Road Transport Corporation
and Others. ..Appellants.

v/s.

Smt. Prabha Shamrao Mathade & Ors. ..Respondents

Mr. S.S. Hegde for the Appellant.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 28th JULY, 2022.**

P.C.

1. This is an appeal against the judgment and order dated 4th January, 1995 in W.C. Application No.35/B-6/1991, passed by the Commissioner for Workmen's Compensation at Kolhapur. By the impugned judgment, the learned Commissioner allowed the application for compensation under Section 22 of the Workmen's Compensation Act, 1923 filed by the Respondents herein and directed the Appellant -Maharashtra State Transport Corporation to pay to the Respondents compensation of Rs.66,516/- with interest @ 6% per anum from the date of death of deceased Shamrao Matade, till final realization.

2. The Respondent No.1 is the widow, and Respondent Nos.2 and 3 are the children of Shamrao Matade who was employed as a driver with the Appellant Corporation since 1968. On 27.1.1990, said Shamrao

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Matade suffered heart attack while he was on duty. He was shifted to the C.P.R. hospital , Kolhapur. He died two days later while undergoing treatment in the said hospital. The Respondents, who shall be hereinafter referred to as the Claimants, filed an application for compensation under Section 22 of the Workmen's Compensation Act, 1923, alleging that the deceased Shamrao Matade had suffered heart attack due to pressure of work and that his death had occurred out of and in the course of employment. The Claimants claimed that the deceased was 46 years of age and was earning wages of Rs.1000/- per month. They claimed lumpsum compensation of Rs.66,516/- with 50% penalty and interest @12% from the date of accident till realization.

3. The Appellant disputed that the death of Shamrao Matade was due to an injury in an accident arising out of and in the course of the employment. The Appellant claimed that the deceased had died a natural death.

4. Learned Commissioner, after considering the evidence on record has observed that the deceased had suffered heart attack in the course of the employment and considering the age and salary of the deceased, awarded compensation of Rs.66,516/-. Being aggrieved by this judgment, the Appellant Corporation has filed this appeal.

5. The short point for consideration is whether the death of the deceased was in an accident arising out of and in the course of his employment with the Appellant.

6. It is not in dispute that the deceased Shamrao Matade was working as a driver for the Appellant-Corporation. On 27th January, 1990, he was driving the bus which was plying on Belgaum - Kolhapur route. The evidence on record reveals that he had complained of chest pain when the bus had reached at Kagal. He was given primary treatment and shifted to C.P.R. Hospital at Kolhapur. He expired on 29th January, 1990 while undergoing treatment at C.P.R. Hospital.

7. The evidence of Dr. Ajit Bhalchandra Joshi, Medical Practitioner at C.P.R Hospital, Kolhapur, reveals that the deceased was admitted in the hospital on 27.1.1990. He had complained of chest pain, and he was sweating. The doctor has deposed that the patient had suffered severe heart attack and he was given necessary treatment. He was an indoor patient till his death on 29.1.2022.

8. In ***Parampal Singh vs. National Insurance Company, (2013) 3 SCC 409***, the driver of a truck suffered a health set back and therefore he parked the vehicle at the roadside. Immediately thereafter he fainted and when taken to the hospital, the doctors declared that he was brought dead. The Hon'ble Supreme Court while considering the question whether the death of the deceased was in an accident arising out of in in the course of his employment, considered the decisions in ***Mackinnon Mackenzie & Co. vs. Rita Fernandes 1969 ACJ 419 (SC)***, ***Shakuntala Chandrakant Shrishti vs. Prabhakar Maruti Gavali & Anr (2007) 11 SCC 668***, ***Mallikarjuna G. Hiremath vs. Oriental Insurance Co. Ltd.***

(2009) 13 SCC 405 and Mackinnon Mackenzie & Co. vs. Ibrahim Mohammed Isak (1969) 2 SCC 607 and concluded that there was causal connection to the death of the deceased with that of his employment as a truck driver. The Hon'ble Supreme Court took note of the fact that the when a professional heavy vehicle driver undertakes the job of such driving as his regular avocation it can be safely held that such constant driving of heavy vehicle, being dependent solely upon his physical and mental resources and endurance, there was every reason to assume that the vocation of driving was a material contributory factor, if not the sole cause that accelerated his unexpected death to occur which in all fairness should be held to be an untoward mishap in his life span. The Hon'ble Supreme Court observed that such an "untoward mishap" can be reasonably described as an "accident" as having been caused solely attributable to the nature of employment indulged in with his employer, which was in the course of such employer's trade or business.

9. In the instant case, the deceased was 46 years of age and he was employed as a heavy vehicle driver on inter state route. The claimants have deposed that the deceased had expired as a result of work pressure. Though there is no medical evidence to show that the proximate cause of death was due to the strain and stress of work, the other circumstances, as noted by the Hon'ble Supreme Court in the case of Parampal Singh, show a causal connection between employment and death. Hence, the learned Commissioner was justified in concluding that the death of the

deceased was in an accident arising out of and in the course of his employment.

10. Under the circumstances, the appeal is dismissed.

(ANUJA PRABHUDESSAI, J.)