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CMA.No.1562 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.1562 of 2022

Ramya

... Appellant

-Vs-

1.Thangavel
2.Royal Sundaram Alliance
Insurance Company Limited,
No.45, 46 Whites Road,
Sundaram Tower, Rayapet,
Chennai – 14.

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 30 of the Employee's Compensation Act,1923, against the order dated 20.09.2019 made in W.C.No.353 of 2015 (Old.No.160 of 2015) on the file of the Commissioner for Workmen's Compensation and Deputy Commissioner of Labour, Vellore.

For Appellant	: Mr.M.Sivakumar
For R1	: Mr.C.Munusamy
For R2	: Ms.C.Harini
	for M/s.M.B.Gopalan Assts.



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JUDGMENT

The widow of an employee named Subramani, who was a 39 year old driver, has approached this Court, challenging the dismissal of a claim petition that she has preferred before the Deputy Commissioner of Labour, Vellore for the death of her husband, while in the course of employment.

2.It is an admitted fact that Subramani was working as a driver under the first respondent and at the relevant time as the driver of the lorry bearing Regn.No.TN 34 S 7657. About the time when Subramani died, he was proceeding from Hyderabad to Salem with a load of paddy and that he was continuously driving long trips and when he was resting after parking the vehicle on the road side, he passed away.

3.The first respondent employer did not contest the claim petition, whereas the insurance company contested it and its solitary line of defense was that the death has not occasioned in the course of employment, since the victim was sleeping at the relevant time and



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placed reliance on the ratio in *Smt.Dariyao Kanwar & ors. Vs.*

M/s.United India Insurance Co. Ltd., and anr [Civil Appeal

No(S).5416 of 2012]

4.The learned counsel for the appellant/claimant submitted that it is not in dispute that the employee now in question was driving for long hours and that the nature of his avocation itself can create huge strain and stress on the physique. He added that the Commissioner has been too mechanical in his approach to the issue and sought interference of this Court.

5.Heard the learned counsel for the first respondent, whose argument was along the lines of defense of the second respondent/insurance company.

6.It may be true that the employee in question might have died in sleep but, it should not be lost sight of that he died in the very lorry that he was driving. As long as the lorry is given in custody to him for driving, it has to be considered that he is in the course of employment and if stress as an occupational hazard consumes his life, the same cannot be separated



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either from the nature of employment and the very factum of being employed.

7.This Court finds every reason to interfere with the decision of the Commissioner under the Employees Compensation Act and holds that the death has occasioned in the course of employment. Turning to the compensation payable, it will be as below;

Income	Rs..8.000/- pm
Age factor	186.9(39 years)
Loss of Income	$Rs.8,000 \times 50\% \times 186.9 = Rs.7,47,600/-$
Funeral Expenses	Rs.5,000/-
Total	Rs.7,52,600/-

8.In conclusion, this appeal is allowed and the second respondent insurance company is required to deposit Rs.7,52,600/- with interest at 12% per annum within a period of six (6) weeks from the date of receipt of a copy of this order and both the second respondent as well as the Deputy Commissioner of Laboure, Vellore are required to act on the web copy of this order. No costs.

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To

- 1.The Commissioner for Workmen's Compensation/
Deputy Commissioner of Labour, Vellore.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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N.SESHASAYEE, J.,

Tsg

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