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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 05.12.2024**

**CORAM**

**THE HON'BLE MR. JUSTICE M.DHANDAPANI**

**C.M.A.No.2986 of 2021  
and CMP.No.17009 of 2021**

M/s. United India Insurance Co. Ltd.,  
Motor Third Party Cell,  
No.134, Sillingi Building,  
Greams Road,  
Chennai-6.

.... Appellant

-VS-

1. E.Rukkmani

2. K.Selvi

3. Ravi.G.

... Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, to set aside the final award dated 15.04.2021 (received on 21.04.2021) passed in E.C.No.100 of 2018 by the Commissioner for Employees Compensation (Joint Commissioner of Labour-I) at Chennai and dismiss the above claim petition.

For Appellant : Mr.J.Michael Visuvasam

For Respondents : Mr.K.Balaji RR1 & 2

**J U D G M E N T**

This appeal has been filed by the appellant to set aside the final award dated 15.04.2021 (received on 21.04.2021) passed in E.C.No.100 of 2018 by



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the Commissioner for Employees Compensation (Joint Commissioner of Labour-I) at Chennai.

2. It is the case of the claimant that on 07.03.2018, the deceased was driving the TATA Ace goods vehicle bearing Reg. No.TN 09 BV 4934 from VRL courier service, Ekkattuthangal to unload iron bars carried in the vehicle, at a company in Malaipattu Village, near Manimangalam and while he was turning into Gandhi road, Tambaram, the deceased complained of pain in the left hand and while nearing SM handwares, Manimangalam Junction at about 4.00 P.M. He suddenly fell on the steering wheel and became unconscious. The cleaner cum loadman who was in the vehicle took him to the hospital and the Doctor declared him dead at 6 pm. The death occurred only due to severe stress and strain of driving the goods vehicle for long hours. The death occurred during the course of employment while driving the goods vehicle for long hours and due to stress and stress of driving. Thereby, the claimants has filed a claim Petition before the Commissioner claiming compensation of Rs.3,00,000/- against the owner of the vehicle and its insurer.

3. Before the Tribunal, during trial, in order to prove the case, on the side of the claimants, one witness was examined and and marked 10 documents viz.,



Exs.P1 to P10, On the side of the Insurance company, one witness was examined and no documentary evidence was marked. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition in part and awarded a sum of Rs.8,20,400/- Aggrieved by the said award, the appellant/insurance company has filed this appeal before this Court for questioning the liability as well as quantum.

4. The learned counsel for the appellant/insurance company submitted that the respondents 1 and 2 have not produced any medical evidence and failed to establish that the deceased died due to stress and strain. The cleaner has not examined before labour Court. Except PW1, who is the wife of the deceased, no other witness was examined before the Commissioner to prove that the deceased died due to stress and strain. In the absence of any witness, the Commissioner has passed award as against the appellant, which is unsustainable one and the same is liable to be set aside by allowing this appeal.

5. Per contra, learned counsel appearing for the respondent/claimants submitted that PW1 is the wife of the deceased. The cleaner was lodged a complaint before the Police Station and Ex.P1 is the FIR which clearly shows that the manner in which the death was happened. During the course of



employment, the deceased died. The Commissioner has fixed the liability and after elaborate trial, the Commissioner has passed award which is perfectly in order and it does not need any interference. Hence, this Court may dismiss the appeal.

6. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. The factum of the accident is not disputed by the parties. The issue arises in the present appeal is that whether the deceased died during the course of employment due to "stress and strain". It is equally undisputed fact that the deceased has employed with the second respondent employer. He driven the vehicle from the employer's park to a company at Malaiyampattu Village near Manimangalam for unloading the iron rods along with the cleaner, who is the informant. While carrying the goods on the way to the company, the deceased complained pain in the left hand, for which, the cleaner has purchased a medicine from nearby medical shop. Even thereafter, the deceased was not cured. Hence, the cleaner went to buy water. On returning, he found that the deceased fell down in the steering wheel unconsciously. Thereafter, the cleaner



has taken the deceased to the hospital. The Doctor, who treated the deceased, declared as dead. There is no material evidence to show that the deceased workman was suffering from a heart ailment. The said fact has elaborately discussed by the Commissioner.

8. Now a question would arise, whether the death of the deceased was out of the employment. From the perusal of the oral evidence of PW1 and the contents of Ex.P1/FIR, it appears that the deceased drove the vehicle consistently. Admittedly, as on the date of accident, the deceased was aged about 34 years. He meets with his unexpected death, may be due to heart failure during the course of employment, as mentioned in the Post-mortem examination report. While he was driving the vehicle, he intimated the same to the cleaner of the vehicle. Due to non availability of medical assistance, he died in the vehicle itself. The facts and circumstances of the case would reveal that due to long journey without any alternate driver with load vehicle would cause stress and strain to the person, who driving the vehicle continuously.

9. As discussed above, the facts were proved by the legal heirs of the deceased. The nature of job of the driver involved with stress and strain is also proved. Hence, the Commissioner of Labour has rightly passed the award and



there is no error committed on his part. Considering the facts and circumstances of the case, this Court is of the view that the authority relied on by the appellant is totally differs from the facts of the present case. Accordingly, the respondents/claimants have proved their claim before the Commissioner and based upon the oral and documentary evidence award was passed, which requires no interference by this Court.

10. Accordingly, the appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The award passed by the Tribunal is confirmed.

**05.12.2024**

*Rli*

Index: Yes/No

NCS : Yes/No

To

The Commissioner for Employees Compensation  
(Joint Commissioner of Labour-I) at Chennai.

**C.M.A.No.2986 of 2021**



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