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CMA No. 596 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 596 of 2023

AND

CMP NO. 4959 OF 2023

1. M/s. National Insurance Co. Ltd
Divisional Office, First Floor, Bedford
Circle, Mount Road, Coonor 643 101.

Appellant(s)

Vs

1. Murugeswari
W/o.Gajendran, Old No.86-84, New
No. 16-155-3, Manikka Estate, NC
Division, Valparai 642 127.

2.Saravana Kumar
S/o.late Ramar, Old No.86-84, New
No. 16-155-3, Manikka Estate, NC
Division, Valparai 642 127.

3.Lakshmi
D/o.late Ramar, Old No.86-84, New
No. 16-155-3, Manikka Estate, NC
Division, Valparai 642 127.

4.The Management
Manica Estate, Wood Briyar Groups



Valparai 642 127.

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Respondent(s)

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PRAYER

To allow this appeal with cost, set aside the order of the Commissioner for Employees Compensation, Coimbatore passed in EC.No.1 of 2018 dated 12.11.2019.

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For Appellant(s): Mr.N.Venkatraman For M/s M/s.
Nageswaran And Narichania

For Respondent(s): Mr.M. Selvam For Rr1 To 3 R4
-no Appearance

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to set aside the order of the Commissioner for Employees Compensation, Coimbatore passed in EC.No.1 of 2018 dated 12.11.2019.

2. The deceased Ramar was working as a Drier Operator in Monica Tea Factory and he reported to work on 06.02.2016, at around 10.15 a.m., while working, he was complained of chest pain to his co-worker, and he was immediately taken to the Stammore Hospital where he died due to the Myocardial infraction. Thereafter, the legal heirs of the said Ramar filed claim



petition in EC No. 1 of 2018 on the file of the commissioner for employee's,

Coimbatore (in short "commissioner"), claiming Rs. 4,,89,200/- as

compensation. The respondents contested the case by filing the counter

statement. On considering oral and documentary evidence, commissioner

awarded a sum of Rs.3,71,987/- with 12% interest as compensation.

Challenging the quantum of compensation, Insurance company filed this appeal.

2. The learned counsel for the Insurance company submits that as per the policy condition insurance company is not liable to pay interest or penalty to that effect he filed the policy copy/Ex.R1, but without appreciating the policy condition commissioner erroneously awarded compensation with interest. Further, he relied the judgment of the Apex Court reported in 2006 5 SCC 192 in the case of New Indian Assurance Company Limited Vs. Harshadbhai Amrutbhai Modhiya and Another:

23... On a construction of the contract in question it is clear that the insurer had not undertaken the liability for interest and penalty, but had undertaken to indemnify the employer only to reimburse the compensation the employer was liable to pay among other things under the workmen's compensation Act. Unless one is in a position to void the exclusion clause concerning liability for interest and penalty imposed on the insured on account of his failure to comply with requirements of the



workmen's compensation act of 1923, the insurer cannot be made liable to the insured of those amounts.

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3. The learned counsel for the claimants/respondents 1 to 3 submit that already the insurance deposited the award amount therefore pay and recovery method is to be ordered against the fourth respondent/employer of the deceased Ramar.

4. On perusal of the order passed by the commissioner, it reveals that the commissioner discussed about the conditions of policy more particularly with regard to exclusion column but awarded interest. It is relevant to extract the policy condition.

This policy shall not cover liability of the insured.

a...

d. For interest and/or penalty imposed on the insured under any law or otherwise.

....

5. As per the policy condition (d) the insurance company is not liable to pay interest or penalty. However, the commissioner erroneously awarded compensation with interest as such is unsustainable. Hence, interest awarded by



the commissioner for compensation is ordered to be set aside. Further, fourth

respondent/employer is directed to deposit the interest as awarded by the

commissioner within a period of eight weeks from the date of receipt of a copy

of this judgement. Since, the award amount was already deposited by the

insurance company, the claimants are permitted to withdraw the said amount.

The fourth respondent/employer is directed to deposit 12% interest for the

award passed by the commissioner within a period of four weeks from the date

of receipt of a copy of this judgement.

6. Accordingly, this appeal is partly allowed. No Costs. Pending petition(s), if any, is/are closed.

13-06-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

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4.The Management

Manica Estate, Wood Briyar Groups
Valparai 642 127.

5. The Commissioner of Employee's,
Coimbatore.

6. The Section Officer,

V.R Section, High Court, Madras.



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T.V.THAMILSELVI J.
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