



WEB COPY

CMA No.1900 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CMA No.1900 of 2023
and CMP No.18483 of 2023**

The Director,
Sub Regional Office,
Employees State Insurance Corporation,
1897, Trichy Road, Coimbatore.

Appellant(s)

Vs

1.Banu
2.Abinaya
3.Atchaya
4.Lakshmi

5.K.K.Steels
Rep by its Manager Jayaprakash,
D.No.90, Chellappa Gounder Layout,
Rathinapuri, Coimbatore.

Respondent(s)

PRAYER:

Civil Miscellaneous Appeal filed under Section 82 (2) of ESI Act, against the order of the ESI Court, Coimbatore dated 30.05.2023 and made in ESI.CMA.No.2/2022 to set aside the same.



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For Appellant(s): Mr.G.Bharadwaj

For Respondent(s): Mr.K.Balasubramaniam for R5
Mr.V.Chinnasamy for R1 to R4

JUDGMENT

This appeal is filed by the appellant challenging the order dated 30.05.2023 passed in ESI.CMA.No.2 of 2022 on the file of ESI Court, Coimbatore.

2.For the sake of convenience, the parties are referred to as per their ranking before the ESI Court, Coimbatore.

3.The petitioners are the claimants, first respondent is the employer and second respondent is the Employees State Insurance Corporation before the ESI Court, Coimbatore.

4.The brief facts of the case are as follows:

Kumar was working as a painter under the first respondent/employer since August 2002. Due to high blood pressure,he admitted in C.S.R.Hospital, Gandhipuram on 27.01.2014. Immediately, he was taken to hospital and



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thereafter, he was taken to KMCH Hospital, Coimbatore for further treatment, where he succumbed to death on 28.10.2014. The petitioners filed E.C.No.68 of 2016 before the Labour Welfare Commission, the petitioners were directed to approach ESI Authorities for remedy. But the said petition was rejected at threshold. Then, the petitioners filed a restoration petition, the same was dismissed by giving directions to the petitioners to approach ESI Authorities. The above order was communicated to the petitioners on 11.11.2019. The petitioners again approached ESI Authorities with delay of 19 days for claiming compensation but it was rejected on 28.06.2018 without giving any proper reasons. Furthermore, the petitioners filed a claim petition claiming Rs.45,00,000/- as compensation along with family pension before the ESI Court, Coimbatore. The Presiding Officer, Principal Labour Court, Coimbatore awarded a sum of Rs.33,08,000/- as compensation. Aggrieved by the same, the present appeal has been filed.

5.It is submitted by the learned counsel for the appellant that while passing the Award, the Labour Commissioner applied calculation method based



on the Motor Accident Claims Petitions which is totally against the provisions

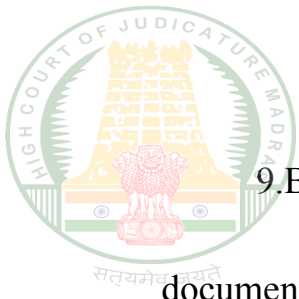
of the ESI Act and therefore, the Award passed by the Labour Commissioner is

liable to be set aside.

6.Learned counsel for the appellant raised objection with regard to the compensation awarded by the ESI Court, Coimbatore, which is against the provisions of the ESI Act and submitted a calculation.

7.Learned counsel for the appellant further submitted that the claimants are entitled to receive monthly benefits from September 2025 as per Section 58 of the ESI Act, 1948 is recorded.

8.Heard learned counsel appearing for the appellant, learned counsel for the respondents 1 to 4, learned counsel for the fifth respondent and perused the materials available on record.



9. Before the ESI Court, Coimbatore, on the side of the petitioners, 14

documents were marked as Exs.P1 to P14 and no witness was examined. On the

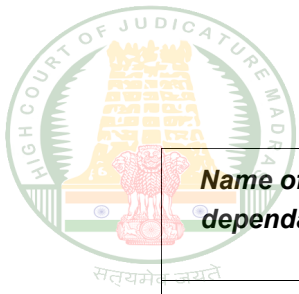
side of the respondents, Mr.Nishanth was examined as RW1 and 17 documents

were marked as Exs.R1 to R17.

10. On perusal of records, it is seen that the deceased died during the course of employment with the appellant and therefore, the calculation to be adopted by following the principles laid down under the ESI Act.

11. This Court is of the view that the objection raised by the appellant is sustainable and accordingly, the award passed by the Labour Commissioner is modified as follows:

Name of the dependants		Smt.Banu, Spouse		Ms.Abinaya K, Unmarried daughter		Ms.Akshaya K, Unmarried daughter		Smt.Lakshmi V, widowed Mother	
Period	Days	Rate	Amount	Rate	Amount	Rate	Amount	Rate	Amount
28.10.2014 to 31.07.2018	1373	187.33	2,57,204.09	124.89	1,71,473.97	124.89	1,71,473.97	124.89	1,71,473.97
28.10.2014 to 31.07.2018	1461	228.55	3,33,911.55	152.36	2,22,597.96	152.36	2,22,597.96	152.36	2,22,597.96
01.08.2022 to 06.08.2025	1102	275.38	3,03,468.76	183.58	2,02,305.16	183.58	2,02,305.16	183.58	2,02,305.16



Name of the dependants		Smt.Banu, Spouse		Ms.Abinaya K, Unmarried daughter		Ms.Akshaya K, Unmarried daughter		Smt.Lakshmi V, widowed Mother	
Total			8,94,584.40		5,96,377.09		5,96,377.09		5,96,377.09
Funeral expenses									15,000.00
Total									26,98,715.70
Rounded off to									26,98,716.00

11.1.In view of the above, the first respondent/claimant is entitled to Rs.8,94,584.40, the respondents 2 to 4/claimants are entitled to Rs.5,96,377.09 each and considering facts and circumstances of the case and submission made by the learned counsel for the respondents 1 to 4, this Court is inclined to award Rs.15,000/- for funeral expenses.

12.The respondents 1 to 4/claimants are entitled to total compensation of Rs.26,98,715.70/-.

13.The award passed by the ESI Court, Coimbatore in ESI.CMA.No.2 of 2022 dated 30.05.2023 is modified to the above extent.



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14.The appellant ESI Corporation is directed to deposit the modified award amount before the ESI Court, Coimbatore within a period of 2 weeks. On such deposit being made, the respondents 1 to 4/claimants are permitted to withdraw the amount after deducting the amount already withdrawn, if any, on making proper and necessary application before the ESI Court, Coimbatore.

15.The respondents 1 to 4/claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal.

16.The Civil Miscellaneous Appeal is partly allowed with the above terms. No costs. Consequently, connected miscellaneous petition is closed.

26.08.2025

Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No

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T.V.THAMILSELVI, J.

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To

The Presiding Officer,
Principal Labour Court,
Coimbatore (FAC).

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