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CMA No. 352 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 352 of 2023

1. RAJESWARI

W/o. Late. Sengottaiyan, Pappan Kadu,
Akarapalayam Village, Veerapandia
Via, Salem Taluk 636 308.

2. SASIREKHA

D/o. Late. Sengottaiyan, Pappan Kadu,
Akarapalayam Village, Veerapandia
Via, Salem Taluk 636 308.

3.Minor. Nithya

D/o. Late. Sengottaiyan, Pappan Kadu,
Akarapalayam Village, Veerapandia
Via, Salem Taluk 636 308. (Minor rep
by mother Rajeswari)

Appellant(s)

Vs

1. MANIMOHAN

S/o. Palaniappan, Arthanaripalayam, Nandani
Post, Paramathi Velur.

2.The Oriental Insurance Co.Ltd.,
No.44/3, Thiruvalluvar Salai, Opp To Ambika
Complex, Paramathi Vellur 638 182

3.D. Palanivel

S/o. Duraisamy, Sengodenpalayam,
Ramadevam Post, Paramathi Vellur Tk,
Namakkal Dt.



4.THANGAVEL

S/o. Sangara Gounder, No.10, S.S.S.
Building, Samrajpet, Bangalore 560 001.
Permanent Address Arthanaripalayam,
Nadandi Post, Paramathi Vellur Tk,
Namakkal Dt.

5.The National Insurance Co.Ltd.,
No.81, Vaaku Ratham Veedi, 2nd Floor,
Tiruchengode 637 211.

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 30 of Workman Compensation Act, 1923, praying to set aside the award dated 03.10.2018 made in EC No.388 of 2015 (Old No.345 of 2013) on the file of the Deputy Commissioner of Labour, Coonor.

For Appellant(s): Mr. M. Lokesh

For Respondent(s): M/s. C. Paranthaman For R1
Mrs. R. Sree Vidhya For R2,
Vide Court Order Dt. 02/02/2023
M/s. S. Vadivel
For R5 R3 - Insufficient Address
R4 - Died

JUDGEMENT

The appellants have filed this appeal to set aside the award dated 03.10.2018 made in EC No.388 of 2015 (Old No.345 of 2013) on the file of Deputy Commissioner of Labour, Coonor.

2. The learned counsel for the appellants submitted that the Tribunal failed to take note of the fact that, at the time of the deceased's death, he was



employed under the First Respondent and engaged in borewell work. The borewell lorry also belonged to the First Respondent. At the relevant time, in order to fill diesel for the support lorry, which was also engaged in the borewell digging work, the deceased drove the support lorry. After stopping the lorry to fill diesel, he suddenly collapsed and died.

3. As per the post-mortem certificate, the cause of death was due to cancer, including lung cancer. Hence, the Tribunal held that the death was not in the course of employment and therefore the claimant was not entitled to any compensation.

4. Challenging the said findings, the learned counsel for the claimants submitted that although the deceased was suffering from the disease, his death occurred during the course of employment. At the time of death, he was working as a driver, and the lorry he was driving belonged to the Fourth Respondent/Thangavel. The support lorry belonging to R4 was insured with R5. However, the Tribunal failed to consider this fact and erroneously dismissed the claim. Therefore, he prayed for the findings to be set aside.

5. The learned counsel for the Second Respondent argued that the deceased did not die in the course of employment, but due to other medical



causes. He further submitted that, at the time of death, the deceased was not driving a lorry belonging to R1. Hence, he raised objections to the claim.

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6. The learned counsel for R5 also submitted that, although the support lorry belonged to R4, the deceased was not employed under R4. Therefore, he contended that there was no liability on R4, nor did the death occur in the course of any employment. Accordingly, he prayed for dismissal of the appeal as being devoid of merit.

7. After considering the submissions from both sides, the facts reveal that the deceased was admittedly employed under R1 at the time of the incident on 29.02.2012. The borewell lorry belonged to R1 and was engaged in borewell digging work. The support lorry belonged to R4/Thangavel. In order to fill diesel, the deceased drove the support lorry belonging to R4, and after stopping the lorry, he suffered a medical emergency and died immediately.

8. The facts further reveal that the support lorry was engaged by R1 for the purpose of borewell digging, and the deceased, who was employed by R1, drove the support lorry to facilitate the work. Therefore, his death occurred in the course of his employment. Hence, both R1 and R4 are jointly liable to pay compensation.



9. The support lorry was insured with R5, and the borewell lorry was insured with R2. Therefore, both R2 and R5 are equally liable to pay compensation to the claimants. All the claimants are equally entitled to the award amount.

10. It is to be pointed out at this juncture that, though the Tribunal has negated the claim of the injured, the fact remains that it is not easy to drive a lorry, which is a heavy vehicle requiring greater concentration and physical capacity. In such circumstances, even a person having minor lung cancer could easily have his condition aggravated on account of driving such a heavy vehicle. Further, the deceased is said to have driven the vehicle belonging to the 4th respondent only based on the instructions given by the 1st respondent for filling fuel in the said vehicle. Therefore, it can be reasonably inferred that the accident arose in the course of employment. Hence, this Court is of the view that, in order to meet the ends of justice, it is inclined to grant compensation under various heads as follows:

11. On considering the submissions of both sides and upon perusal of the records, it is transpired that the accident took place on 29.02.2012 in the course of employment under R1 and R4. Under the Employees Compensation Act,



1923, compensation for death during employment is calculated as 50% of monthly wages X relevant factor or an amount of Rs.1,20,000/- whichever is more. The relevant factor herein for the deceased aged 54 years is 139.13. The monthly wage of the deceased is Rs.10,000/-. Therefore,

$$\frac{50 \times 10,000 \times 139.13}{100}$$

= Rs.6,95,650/-.

Further an amount of Rs.2,500/- is awarded under the head “funeral expenses” to the family of the deceased.

13. In the result,

(i). The Civil Miscellaneous Appeal is partly allowed.

(ii) The 2nd and 5th respondents are jointly directed to deposit the compensation amount, i.e., Rs.6,98,150/- together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of EC.No.388 of 2015 on the file of the Deputy Commissioner of Labour, Coonor, within a period of eight weeks from the date of receipt of a copy of this order.

(iv) Out of the deposited amount, the claimants 1 to 3 are entitled to the compensation amount as apportioned below:

The claimants 1 & 2, are entitled to a sum of Rs.2,24,000/- each. The 3rd



claimant, who is minor, is entitled to a sum of Rs.2,50,150/-.

(iii). The 3rd appellant / 3rd claimant / Nithya, being minor, her share of the award amount is directed to be invested in any one of the Nationalized Banks under a Fixed Deposit Scheme initially **for a period of three years** which shall be renewed periodically until she attain majority. The 1st appellant/1st claimant, being the natural guardian of the minor claimant, is permitted to withdraw the interest accrued thereon **once in three months**, and the same shall be utilized for the welfare of the minor claimant. On attaining majority, 3rd claimant is permitted to withdraw her share by following due process of law.

(iv) The claimants 1 and 2 are permitted to withdraw their respective share of the Award amount, after following due process of law.

(v). The appellants/claimants shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

There shall be no order as to costs.

09-06-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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To

1.The Deputy Commissioner of Labour,
Coonor.

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2.The Oriental Insurance Co.Ltd.,
No.44/3, Thiruvalluvar Salai,
Opp To Ambika Complex,
Paramathi Vellur 638 182.

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4.The Section Officer, VR Section,
High Court of Madras.



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