



C.M.A.(MD)No.621 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.621 of 2020

and

C.M.P.(MD)No.6501 of 2020

The Branch Manager,
M/s.United India Insurance Company Ltd.,
No.7-A, West Veli Street,
Madurai – 625 001.

... Appellant

Vs.

1.M.Mookkammal

2.M.Kamala

3.M.Santhanakumar

4.M.Vimaladevi

5.Verayi

6.The President,
AL-Ameen Ethim Khana School,
AL-Ameen Nagar, K.Pudur,
Madurai – 625 007.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 30 of Employees's Compensation Act, 1923, to set aside the award dated 04.01.2019, passed in E.C.No.21 of 2014 on the file of the Commissioner of Labour (Commissioner



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for Employees's Compensation), Madurai.

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For Appellant	: Mr.C.Karthik
For R6	: Mr.M.Mohamed Japarullah Khan
For R1 to R4	: No Appearance
For R5	: Died

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/insurance company, challenging the award passed by the Commissioner of Labour (Commissioner for Employees's Compensation), Madurai, in E.C.No.21 of 2014 dated 04.01.2019.

2.For the sake of convenience, the parties are arrayed herein as per the rank in E.C.No.21 of 2014.

3.The factual matrix of the present case, briefly stated, are as under:-

The legal heirs of the deceased person, namely, Mahendran @ Machendran are the petitioners before the Commissioner of Labour. The respondent is the President of AL-Ameen Ethim Khana School. The second respondent is the insurance company. On 04.12.2012, at about 08.15 a.m., the deceased Mahendran had picked up the hostel students of AL-Ameen Ethim Khana School in the school bus of the first respondent bearing registration No.TN-59-AJ-5224 for dropping them in the aforesaid school. In the course of



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travel, suddenly he was encountered with cardiac arrest. Following which, he was given first aid at Raja Priya Hospital at Madurai and thereafter, referred to Arun Hospital, at Nelpettai, Madurai, for speciality treatment. After undergoing treatment for a period of two days, he was discharged on 06.12.2020 and after the discharge on the same day, he passed away because of massive cardiac arrest. Seeking to compensate the death of the said person, his legal heirs had laid the Petition for compensation before the Commissioner of Labour.

4. One witness was examined and 17 documents were marked on the side of the claimants/respondents 1 to 5. No witness was examined and no document was marked on the side of the respondents. The learned Tribunal allowed the claim petition, directing the second respondent/insurance company to pay a sum of Rs.5,69,056/- as compensation to the claimants/respondents 1 to 5. Challenging the same, this Civil Miscellaneous Appeal is filed.

5. The learned counsel appearing for the appellant submitted that more particularly as to the fact whether the Commissioner of Labour is correct in passing an award, by directing the appellant insurance company to pay compensation amount on behalf of the employer, when the policy of the insurance vehicle do not apply in the matter of cardiac arrest, but the same is



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covered only for motor vehicle accident.

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6.The learned counsel appearing for the appellant/Insurance company further submitted that, it is ridiculous on the part of the Commissioner of Labour for having fixed the liability on the appellant insurance company to pay the compensation on behalf of the employer, when the accident had never happened at all. The death was not due to any motor vehicle accident at all, but due to the cardiac arrest suffered by the deceased, which was duly proved before the learned Tribunal, by marking necessary medical documents and medical reports as Ex.P12, Ex.P13, Ex.P14, Ex.P15 Ex.P16 and P17. That apart, the policy document marked as Ex.P11, would make it clear that the said policy would cover only the cases of motor vehicle accident. On that basis, he pressed for allowing the Appeal.

7.Per Contra, the learned counsel appearing for the 6th respondent submitted that the Commissioner of Labour had properly observed that the insurance company failed to prove that the death did not occur due to accident, with appropriate oral and documentary evidence. That apart, the Commissioner of Labour had relied upon the policy marked as Ex.P10 and proceeded to conclude that the insurance company is entitled to pay the compensation, since



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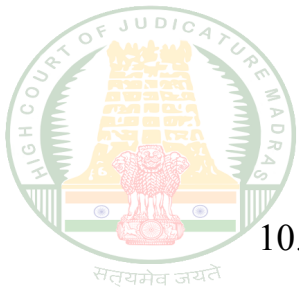
the policy covered the period from 13.04.2012 and 12.04.2013 and since the policy was subsisting on the date of accident, that is, on 04.12.2012, the insurance company is entitled to pay.

8. Heard the learned counsel for the appellant, the learned counsel for the respondents and carefully perused the materials available on record.

9. The Hon'ble Supreme Court in the case of ***Jyothi Ademma v. Plant Engineer, Nellore Thermal Station, III***¹, has dealt with a similar case and the relevant portion is extracted as follows:-

“..... it has to be established that there was some casual connection between the death of the workman and his employment. If the workman dies a natural result of the disease which he was suffering or while suffering from a particular disease he dies of that disease as a result of wear and tear, of the employment no liability would be fixed upon the employer. But if the employment is a contributory cause or has accelerated the death, or if the death was due not only to the disease but also the disease coupled with the employment, then it can be said that the death arose out of the employment and the employer would be liable.”

¹ (2006) ACC 356 (SC)



10.The Hon'ble Supreme Court in yet another case of ***Shakuntala Chandrakant Shreshti v. Prabhakar Maruti Garvali and another***², has dealt with a similar case and the relevant portion is extracted as follows:-

“

There are a large number of English and American decisions, some of which have been taken note of in ESI Corporation (supra), in regard to essential ingredients for such finding and the tests attracting the provisions of Section 3 of the Act.

The principles are :

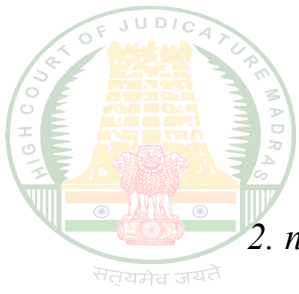
- (1) There must be a causal connection between the injury and the accident and the accident and the work done in the course of employment.*
- (2) The onus is upon the applicant to show that it was the work and the resulting strain which contributed to or aggravated the injury.*
- (3) If the evidence brought on records establishes a greater probability which satisfies a reasonable man that the work contributed to the causing of the personal injury, it would be enough for the workman to succeed, but the same would depend upon the fact of each case.*

.....

In a case of this nature to prove that accident has taken place, factors which would have to be established, inter alia, are :

- 1. stress and strain arising during the course of employment*

² Appeal (Civil) No.4778 of 2006



2. nature of employment

3. injury aggravated due to stress and strain

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The deceased was traveling in a vehicle. The same by itself can not give rise to an inference that the job was strenuous. Only because a person dies of heart attack, the same does not give rise to automatic presumption that the same was by way of accident. A person may be suffering from a heart disease although he may not be aware of the same. Medical opinion will be of relevance providing guidance to court in this behalf.

Circumstances must exist to establish that death was caused by reason of failure of heart was because of stress and strain of work. Stress and strain resulting in a sudden heart failure in a case of the present nature would not be presumed. No legal fiction therefor can be raised. As a person suffering from a heart disease may not be aware thereof, medical opinion therefore would be of relevance. Each case, therefore, has to be considered on its own fact and no hard and fast rule can be laid down therefor.”

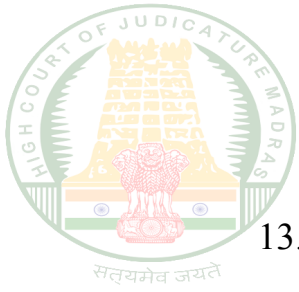
11. In the instant case, the death happened not due to the occurrence of any accident at all, but due to cardiac arrest suffered by the deceased and the same has been duly substantiated by the appellant/insurance company by duly making necessary medical documents and medical reports as Ex.P12 to Ex.P17.



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By marking those documents, it has been properly distinguished that the death as natural result of cardiac arrest which the deceased was suffering from and the same did not happen due to any contributory cause in the course of his employment. To substantiate a claim properly, a sheer proof of death during the cause of use of motor vehicle during the course of employment as a driver would not suffice, but it is necessary to prove that the death had happened due to an accident. On failure to prove so, the appellant/insurance company cannot be fastened with liability.

12.However, I am of the considered view that the Commissioner of Labour ought not to have recorded the cardiac arrest suffered by the deceased, in the course of driving vehicle as accident and on that basis, directing the insurance company to pay the compensation, will not stand the scrutiny of law and the Commissioner of Labour ought to have directed the employer to pay the compensation. Accordingly, setting aside that portion of the impugned order, this Court hereby, direct the sixth respondent employer School to pay the compensation as awarded by the learned Tribunal within eight weeks from the date of receipt of copy of this order.



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13.In view of the above, the Civil Miscellaneous Appeal is allowed.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

05.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

1.The Commissioner of Labour,
(Commissioner for Employees's Compensation), Madurai.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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