

APHC010558042022



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3333]

WEDNESDAY, THE TWENTY SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SMT JUSTICE V.SUJATHA

CIVIL MISCELLANEOUS APPEAL NO: 442 OF 2022

Between:

1. THE ORIENTAL INSURANCE COMPANY LIMITED, REP. BY ITS
DIVISIONAL MANAGER, R/O GUTTIKONDA ZOOM PLAZA, NEAR
VINAYAK THEATRE, RING ROAD, VIJAYAWADA -10

...APPELLANT

AND

1. SHAIK NAJIRA, W/O, LATE MASTANVALL AGED ABOUT 33 YEARS.
2. SHAIK JASMIN, D/O. LATE MASTANVALI, AGED ABOUT 14 YEARS.
3. SHAIK MAHABUUB SUBHANI, S/O. LATE MASTAVALI, AGED ABOUT 10 YEARS.
4. SHAIK CHAN BI, W/O. MEERA SAHEB, M/O. LATE MASTANVALI, AGED ABOUT 55 YEARS.
5. SHALK MEERA SAHEB, S/O. MASTANI FLO. LATE MASTANVAL, AGED ABOUT 60 YEARS. ALL ARE RIO HOUSE NO. 7-93, CHILUMUNA VILLAGE, DUGGIRALA MANDAL, GUNTUR DISTRICT.
6. N HEMALATHA, W/O. N. SRINIVASA RAO, R/O. NEAR MRO OFFICE, CHIMAKURTHY MANDAL, NELLORE DISTRICT. (OWNER OF TIPPER LONY NO. AP 27 TX 8169)

...RESPONDENT(S):

Counsel for the Appellant:

1. SAMBOJU BALA GOPAL

Counsel for the Respondent(S):

1.

The Court made the following Judgment :

The Civil Miscellaneous Appeal is filed by the Insurance Company/ Opposite Party No.2 under Section 30 of The Employees Compensation Act, questioning the Order, dated 13.05.2022 passed in E.C.No.2 of 2018 of Commissioner for Employees' Compensation and Assistant Commissioner of Labour, Tenali (for brevity "the Tribunal").

2. The Appellant is the Opposite Party No.2/ Insurance Company; Respondents No. 1 to 4 are the Applicants and Respondent No.5 is the Opposite Party No.1 before the Tribunal.

3. The Respondents 1 to 5 herein being the legal representatives of the deceased filed Application under Section 22 of Employees Compensation Act, 1923 claiming compensation due to death of Mr. Shaik Mastanvali (hereinafter referred to as 'the deceased') during the course of his employment.

4. On 22.01.2017 at about 10.00 pm the deceased being the driver of the lorry bearing No. AP TX 8169 with granite stone slabs from Ongole to Kerala and reached Hunsur Town, Mysur District, Karnataka and stationed the said lorry near Chandra Lorry Transport Office, Kalkaunike area of Junsur Town and slept in the premises of the above said lorry Transport Office. On the same night at about 10.00 p.m the deceased complained that he was suffering

with vomiting sensation in abdomen and asked drinking water and drunk the same and slept. Later the cleaner along with some other lorry drivers came and noticed that Shaik Masthanvali suffering with swatting body, then the deceased was shifted to K.R.Hospital by 108 ambulance with the help of employee of the said company and the doctor was examined and declared as dead on the way to the hospital, due to heart attack. The Hunsur Town Police registered a case in Crime No.2 of 2017 under Section 174 of Cr.P.C.

5. On hearing both sides, the Tribunal awarded compensation of Rs. 6,78,167/- to the Respondents No.1 to 5/ Applicants. Aggrieved by the same, the Insurance Company filed the instant Civil Miscellaneous Appeal on the ground that the Tribunal ought to have held that the deceased was died due to 'complications of internal cerebral haemorrhage' and not an employment injury as defined under the provision of Employees Compensation Act and there is no any nexus between the employment and death of the deceased. Further, the Tribunal ought to have held that the claim of the applicants is not within the ambit of Insurance Policy and also under the provisions of Employees Compensation Act among other grounds.

6. On perusal of the order passed by the Tribunal, it can be observed that the Applicant No.1 being the wife of the deceased got examined herself as AW-1 and got marked Ex.A1 to A11. In support of her case she got examined as AW-2, who is none other than the cleaner-cum-second driver of the lorry bearing No. AP 27 TX 8169, who categorically deposed that as on the date of accident at about 10.00 p.m while they were proceeding from Ongole to

Kerala with load of Granite Stone Slabs and reached Hunsur Town, Mysur District, Karnataka and stationed the said lorry near Chandra Lorry Transport Office, Kalkaunike area of Junsur Town and slept in the premises of the above said lorry Transport Office. At about 10.00 p.m the deceased complained that he was suffering with vomiting sensation in abdomen and asked drinking water and drunk the same and slept. Later the cleaner along with some other lorry drivers came and noticed that Shaik Masthanvali was sweating all over his body, then the deceased was shifted to K.R.Hospital by 108 ambulance with the help of employee of the said company and the doctor examined and declared as dead on the way to the hospital, due to heart attack. He stated that the deceased was paid an amount of Rs. 6,000/- per month as salary besides paying batta.

7. Opposite Party No.2 examined as RW-1, who is Administrative Officer of the Insurance Company, who opposed to grant payment of compensation on the ground that the deceased was died because of heart attack and it is a natural death. In the absence of any evidence on behalf of Opposite Party No.1 the Tribunal relying upon the evidence of AW-1, coupled with Ex.A1 to A11 as well as AW-2, who is an eye witness to the said accident, answered issue No.1 in favour of Claimants holding that the deceased was an employee under Section 2(1)(dd) of the Employees Act and the employee died during the course of his employment as required under Section 3(1) of the Employees Compensation Act, which in the opinion of this Court is well

reasoned, basing on the evidence and documents marked on behalf of the Claimants.

8. As per decision of Hon'ble Apex Court in "**Depot Manager, APSRTC and Another v. R. Devalaxmi and Others**"¹, wherein it was held that

- Section 3(1) – Arising out of and in the course of employment – Heart Attack – Driver had completed two trips and while on third trip at night, stopped the bus on roadside, complained of severe chest pain vomited and collapsed....Commissioner found that death due to sudden cardiac arrest could be attributed to stress and strain the deceased had undergone by duty – Commissioner's finding up-held.

9. Further, in "**Param Pal Singh v. National Insurance Company Ltd.**"² wherein it was held as follows:

Section.2(1)(n) – Workman – Driver while driving truck felt giddy, parked the vehicle on road side and fainted in the vehicle, taken to hospital and was declared brought dead....Whether the Commissioner was justified in concluding that deceased workman was employee of owner of the vehicle – Held : yes

10. The decisions cited supra are squarely applicable to the facts of this Court. Following the decisions cited supra, this Court opined that the deceased in the instant case was died during the course of his employment.

11. Now coming to the quantum of compensation, it is the case of the applicants that the deceased was aged 32 years as on the date of accident. As per Ex.A1 FIR shows 37 years, Ex.A2: Inquest Report, Ex.A4 Postmortem report, Ex.A10 Final Report and Ex.A10 Medico Legal Certificate shows 34

¹ 2015 ACJ 1101

² 2013 ACJ 526

years. Therefore, the Tribunal considered the age of the deceased as 34 years at the time of incident by relying on Ex.A4 Postmortem Report, which in fact issued by the Medical Officer.

12. The Tribunal considering the age of the deceased as 34 years as on the date of accident and taking into consideration of the wage and age of the deceased as per formula awarded, awarded an amount of Rs. 6,76,813.45/- (Rs. 6,788.50 x 50% x 199.4) towards compensation, which in the opinion of this Court is not on higher side. Hence, no interference is required.

13. So far as fixing the liability is concerned, the vehicle bearing No. AP 27 TX 8169 was duly insured with Appellant and the Policy was in force as on the date of accident, as such, the Tribunal held that Appellant and Respondent No.6 herein jointly and severally liable to pay compensation to the Respondents No.1 to 5 herein, which is rightly considered by the Tribunal.

14. Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

As a sequel, Interlocutory Applications pending, if any, shall stand closed.

JUSTICE V.SUJATHA

Dated: 22.04.2026

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