

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-09-2026

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THE HON'BLE MR.JUSTICE SHAMIM AHMED**CMA No. 2673 of 2026**

CMP.Nos.20510 and 25491 of 2026

CNR: {HCMA012649232025}



Case QR

The Deputy Director
Employees State Insurance Corporation,
Represented by its Deputy Director,
Coimbatore 641045

..Appellant(s)

Vs

1. Chandramathi, W/o. Sakthivel (Late),
3/51- Kumarapalayam, Arasampalayam P.O,
Kinathukadavu - 641 604.
2. K.U. Sudalamuthu and Co. Pvt. Ltd
73/14, Solavampalayam Village,
Kinathukadavu - 642109.
3. Luxmi Fibres, Kheri Village,
Gurudwara Road, Nahan Tehsil,
District Sirmour, Himachal Pradesh.

..Respondent(s)

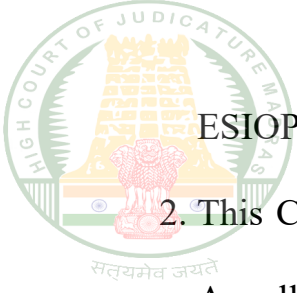
Prayer:- This Civil Miscellaneous Appeal is filed to set aside the order of the
Employees State Insurance Court, Coimbatore, dated 10.06.2025 in E.S.I.O.P
No. 19 of 2023

For Appellant(s): Mr.Nirmalkumar Mohandoss

For Respondent(s): No Appearance

JUDGEMENT

1. This Civil Miscellaneous Appeal is filed to set aside the order of the
Employees State Insurance Court, Coimbatore, dated 10.06.2025, passed in



ESIOP.No.19 of 2023.

2. This Court heard Mr.Nirmal Kumar Mohandoss, the learned counsel for the Appellant, considered his submissions and also perused the entire materials placed on record.

3. The facts of the case are that one M.Sakthivel, the husband of the 1st Respondent (since deceased) was the employee of the 2nd Respondent Company, from 28.05.2012 to 25.11.2020 and he was insured with the Appellant Corporation. The deceased was deputed by the 2nd Respondent Company to the 3rd Respondent Company, at Himachal Pradesh for erection and commission of bulb moulding machines and he died on 25.11.2020. The 1st Respondent/claimant, who is the wife of the deceased employee, had filed a claim petition, before the Appellant Corporation for the death of her husband, who died on 25.11.2020, in the 3rd Respondent Company, while he had been deputed to the 3rd Respondent by the 2nd Respondent. By the order dated, 02.12.2022, the claim petition of the claimant was rejected. Hence, the claimant had preferred ESIOP.No.19 of 2023, before the ESI Court, Coimbatore, claiming dependants' benefit under the provisions of the ESI Act, 1948.

4. Before the ESI Court, on side of the claimant, PW.1 (claimant) was examined and Ex.P1 to P8 were marked and on the side of the Appellant Corporation, RW1 to RW.4 were examined and Ex.R1 to R11 were marked. By the impugned order, dated 10.06.2025, the ESI Court had allowed the said



petition, holding that the claimant is entitled to the dependants' benefit under the ESI Act, from the Appellant Corporation, with interest at the rate of 7.5% p.a. from the date of the claim petition till the date of payment. As against the same, this Civil Miscellaneous Appeal has been filed by the ESI Corporation, Coimbatore.

5. In this appeal, the Coordinate Bench of this Court, by the order dated, 04.08.2026 had passed the following order:-

“The Civil Miscellaneous Appeal is admitted on the following substantial question of law:-

(a) Whether the presumption under Section 51A of the Employees State Insurance Act, 1948, with respect to an accident arising in the course of employment, can be applied where the death was caused by a disease and not by an accident?

(b) Whether the deceased having died due to natural cause and not due to an accident or an occupational disease, can be said to have died due to an employment injury as contemplated under the ESI Act?

2. A prima facie case has been made out and hence, there shall be an order of interim stay subject to the condition that the appellant deposits 50% of the compensation amount within a period of four weeks from the date of receipt of a copy of this order.

3. Post this Appeal for hearing on 25.09.2026. The Registry is directed to call for the original records in this case.”

6. Thereafter, the above CMP.No.25491 of 2026 has been filed, to extend the time, granted by this Court, by the order dated, 04.08.2026, by a further period of two weeks for depositing 50% of the compensation amount. Thus, it is seen that the above conditional order of the Coordinate Bench of this



Court, dated 04.08.2026, has not been complied with. It is also stated by the learned counsel for the Appellant that the Appellant has not deposited 50% of the compensation amount, as ordered by the ESI Court, till date.

7. It is contended by the learned counsel for the Appellant that the deceased /insured person had not died due to any “accident” or any disease, which has nexus with his occupation, i.e. occupational disease and that the deceased died due to “ruptured liver abscess with pyo peritoneum with sepsis”, which was a natural disease, not having any connection with his employment and hence, it was not an occupational disease and that the death of the deceased employee had not occurred in the course and out of his employment and therefore, the Appellant Corporation is not liable to pay the dependants' benefits to the claimant, since the death was not caused due to “employment injury'.

8. The conditional order dated, 04.08.2026 has not been complied with. Thus, it shows the intention of the Appellant Corporation that they are not interested in prosecuting this appeal, by not complying with the conditional order, dated 04.08.2026, passed by the Coordinate Bench of this Court as well as the order of the ESI Court, dated 10.06.2025. Even in the time extension application in CMP.No.25491 of 2026, the Appellant has not taken any justifiable or convincing reason for not complying with the conditional order, passed by the Coordinate Bench of this Court, dated 04.08.2026. Thereafter, the learned counsel for the Appellant proceeded to argue the case on merits.



Thus, the Appellant has not complied with the orders of the Court.

Accordingly, this Court proceeds to dispose of this appeal on merits of the case.

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9. The object of the Employees' State Insurance Act, 1948 (Act 34 of 1948) is to provide certain benefits to the employees or dependants in case of sickness, maternity, employment injury, death, etc., to give effect to Article 1 of the Universal Declaration of Human Right, 1948, which assures human sensitivity of moral responsibility of every state that all human beings are born free and equal in dignity and rights. In recognition of the said rights only, the Act 34 of 1948 was enacted and the same is to be liberally construed as it is a social legislation.

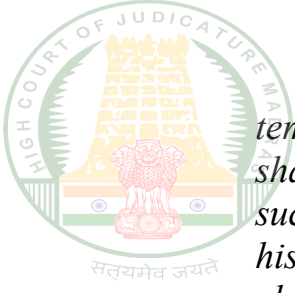
10. It is relevant to quote the provisions of Sections 2(8), 51A, 52 and 52A of the Employees State Insurance Act (Herein after referred to as the ESI Act), as under:-

2. Definitions:- *In this Act, unless there is anything repugnant in the subject or context:-*

(8) "employment injury" *means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment, being an insurable employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India ;*

51A. Presumption as to accident arising in course of employment. *For the purposes of this Act, an accident arising in the course of an employee's employment shall be presumed, in the absence of evidence to the contrary, also to have arisen out of that employment.*

52. Dependant's benefit:- *(1) If an insured person dies as a result of an employment injury sustained as an employee under this Act (whether or not he was in receipt of any periodical payment for*



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temporary disablement in respect of the injury) dependant's benefit shall be payable at such rates and for such period and subject to such conditions as may be prescribed by the Central Government to his dependants specified in 3sub-clause (i), sub-clause (ia) and sub-clause (ii) of clause (6A) of section 2.

(2)In case the insured person dies without leaving behind him the dependants as aforesaid, the dependants' benefit shall be paid to the other dependants of the deceased at such rates and for such period and subject to such conditions as may be prescribed by the Central Government.

52A. Occupational disease:- (1)If an employee employed in any employment specified in Part A of the Third Schedule contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in the employment specified in Part B of that Schedule for a continuous period of not less than six months contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the Corporation may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment, the contracting of the disease shall, unless the contrary is proved, be deemed to be an "employment injury" arising out of and in the course of employment.(2)(i)Where the Central Government or a State Government, as the case may be, adds any description of employment to the employments specified in Schedule III to the Workmen's Compensation Act, 1923 (8 of 1923), by virtue of the powers vested in it under sub-section (3) of section 3 of the said Act, the said description of employment and the occupational diseases specified under that sub-section as peculiar to that description of employment shall be deemed to form part of the Third Schedule.(ii)Without prejudice to the provisions of clause (i), the Corporation after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in the Third Schedule and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively and thereupon the provisions of this Act shall apply, as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.(3)Save as



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provided by sub-sections (1) and (2), no benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment. (4) The provisions of section 51A shall not apply to the cases to which this section applies. ”

11. **Section 2(8)** of the ESI Act defines “**employment injury**” as a personal injury caused by an accident or occupational disease, **arising out of and in the course of employment**. **Section 51A** of the ESI Act further creates a presumption that an accident arising **in the course of employment**, also arose **out of employment**, unless contrary evidence is produced.
12. The expressions “**arising out of**” and “**in the course of**” employment are both required to be satisfied. A mere accident, while travelling to the workplace does not automatically constitute an employment injury and there must be a connection between the accident and the employment.
13. **Section 52 of the ESI Act** provides dependants' benefit, in cases, where an insured person **dies as a result of an employment injury**. The benefit is payable to the dependants specified in Section 2(6-A) of the ESI Act. **Section 52A of the ESI Act** provides a statutory mechanism, under which specified diseases contracted in specified employments are **deemed to be employment injuries**, subject to the requirements of Parts A, B and C of the Third Schedule.
14. The term “**In the course of employment**” relates substantially to the time/place/circumstances of employment, whereas the term “**arising out of employment**” requires a causal connection with the employment.



15. Therefore, the basic chain of proof is that **Insured employee = employment injury = death resulting from employment injury = dependant = Section 52 benefit.**

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16. In this case, according to the Appellant, the admitted facts are that the deceased was the employee of the 2nd Respondent herein from 28.05.2012 till his death on 25.11.2020 and the deceased was insured with the Appellant Corporation and that the 2nd Respondent herein had issued a deputation letter, dated 29.10.2020, deputing the deceased along with another co-worker, to the 3rd Respondent Factory at Himachal Pradesh for a period of 30 days from 01.11.2020 and that the deceased died during the period of deputation on 25.11.2020.

17. As per the averments of the counter of the 2nd Respondent and adopted by the 3rd Respondent, filed before ESI Court, while the deceased was working at the 3rd Respondent's Factory, on 25.11.2020 at about 4.30 p.m. the deceased developed some uneasiness and he died on the way to the Hospital. Even as per the counter affidavit filed by the Appellant Corporation before the ESI Court, on 25.11.2020, the deceased felt uneasiness and thereafter, he died on the way to Civil Hospital, Cantonment at Ambala, Haryana. It is not the case of the Appellant Corporation that the deceased was not an employee on the date of the incident.

18. As stated above, as per Section 2(8) of the ESI Act, "employment injury" means a personal injury to an employee caused by accident or occupational



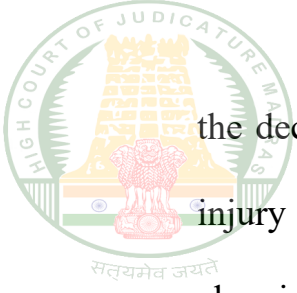
disease, arising out of and in the course of his employment, being in insurable employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India.

19. In the case on hand, the deceased was working under the 2nd Respondent Company from 2012. Thus, due to his long tenure of his work and due to stress and strain, on the date of the incident, he felt uneasiness and fell down and died on the way to Hospital. There is no contra evidence adduced by the Appellant Corporation that the deceased had some other ailment prior to his death.

20. On a perusal of the impugned order, it is seen that Ex.R4 is the employment injury report and Ex.R5 is the accident report cum spot investigation report and that based on Ex.R4 and Ex.R5, the Tribunal had found that the deceased died due to employment injury.

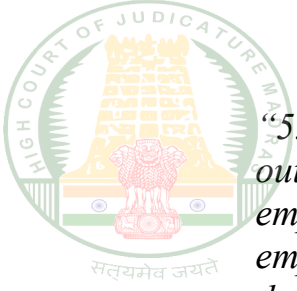
21. Ex.R9 is the letter of the co-employee, dated 13.10.2022. The Tribunal had found that as per Ex.R9, while the deceased was on duty at the 3rd Respondent Factory, on 25.11.2020 at about 4.30 p.m. he felt uneasiness and subsequently, he died on the way to the hospital and therefore, he died, while he was under the employment of the 2nd Respondent herein and that Ex.P5, post mortem report, does not speak about the cause of the death and that the Doctor, who conducted post-mortem on the body of the deceased, was not examined, to disprove the case of the claimant.

22. The Tribunal had also held that as per the evidence of RW.3, Dr. Anandan,



the deceased never took any medicine for liver disease and the employment injury due to employment can be sustained due to pressure in work, handling chemicals, doing hard work and depends on the physical efforts put forth by the deceased, while handling the machines. Ultimately, on the basis of Ex.R9 and on a careful perusal and consideration of evidence of RW.1 to RW.4, the Tribunal had held that the Appellant failed to disprove the claim of the 1st Respondent that the deceased died due to an occupational disease, arising out of and in the course of employment, by applying the Notional Extension Theory and that therefore, as per Section 51(A) of the ESI Act, it can be presumed that the deceased died due to employment injury and the death had arisen out of employment of the 2nd Respondent and consequently, the 1st Respondent herein is entitled for the dependants' benefits under the ESI Act. Accordingly, by the impugned order, dated 10.06.2025, the ESI Court had awarded the dependants' benefits to the claimant, from the Appellant Corporation under the ESI Act with interest, as stated above.

23.It is relevant to refer the decision of the Honourable Supreme Court reported in **2007 11 SCC 668:AIR 2007 SC 248 (Shakuntala Chandrakant Shreshta Vs. Prabakar Maruthi Garvali[reported])**, wherein the Hon'ble Supreme Court, had relied on its earlier judgment rendered in the case of **Mackinnon Mackenzie and Company Private Limited Vs. Ibrahim Mahammad Issak, reported in AIR 1970 SC 1906**, wherein the Honourable Supreme Court was pleased observed as follows:-



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“5. To come within the Act, the injury by accident must arise both out of and in the course of employment. The words arising out of employment are understood to mean that during the course of the employment, injury has resulted from some risk incidental to the duties of the service, which, unless engaged in the duty owing to the master, it is reasonable to believe the workman would not otherwise have suffered. In other words there must be a causal relationship between the accident and the employment. The expression arising out of employment is again not confined to the mere nature of the employment. The expression applies to employment as such to its nature, its conditions, its obligations and its incidents. If by reason of any of those factors the workman is brought within the zone of special danger the injury would be one which arises out of employment. To put it differently if the accident had occurred on account of a risk which is an incident of the employment, the claim for compensation must succeed, unless of course the workman has exposed himself to an added peril by his own imprudent act.

24. Further, in the above said case, the Honourable Supreme Court had discussed about the word 'accident' and held that with reference to legal liabilities, an accident means any unintended and unexpected occurrence, which produces hurt or loss. But, it is often used to denote any unintended and unexpected loss or hurt apart from its cause; and if the cause is not known, the loss or hurt itself would certainly be called an accident.

25. The above said judgment is squarely applicable to this case, because in this case, the deceased had worked more than seven years in the 2nd Respondent Company and the deceased died unexpectedly due to uneasiness. Therefore, the contention of the Appellant that the deceased did not die due to accident is not acceptable.

26. In Bhagyashree Bharguram Mahadik Vs. The Employees State Insurance Corporation and Another reported in CDJ 2013 BHC 1514,



wherein the High Court of Bombay, was pleased to observe as follows:-

"8. The Madras High Court further proceeded to observe at paragraph Nos.12 & 13 as under:-

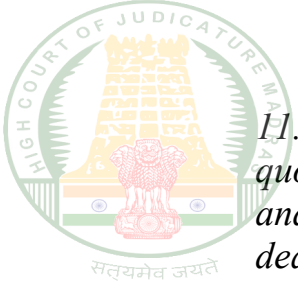
12. The object of the Employees' State Insurance Act, 1948 (Act 34 of 1948) is to provide certain benefits to the employees or dependants in case of sickness, maternity and employment injury, etc., to give effect to Article 1 of the Universal Declaration of Human Right, 1948, which assures human sensitivity of moral responsibility of every state that all human beings are born free and equal in dignity and rights. In recognition of the said rights only Act 34 of 1948 was enacted and the same is to be liberally construed as it is a social legislation."

13. The Supreme Court in the decision reported in AIR 1986 SC 1686 (Regional Director, Employees' State Insurance Corporation, Madras Vs. South India Flour Mills (P) Ltd.,) in paragraph 13 held as follows:

"The Act is a piece of social security legislation enacted to provide for certain benefits to employees in case of sickness, maternity and employment injury. To hold that the workers employed for the work of construction of buildings for the expansion of the factory are not employees within the meaning of Section 2(9) of the Act on the ground that such construction is not incidental or preliminary to or connected with the work of the factory will be against the object of the Act. In an enactment of this nature, the endeavour of the Court should be to interpret the provisions liberally in favour of the persons for whose benefit the enactment has been made (Emphasis Supplied)

9. It is not the case of the respondents that the petitioner's husband was previously suffering from heart related disease. The entire defence of the respondents is that the petitioner's husband died due to heart attack and it is not an employment injury.

10. There is no evidence produced to rebut the presumption that the death has arisen out of the employment. Even the Senior State Medical Commissioner on whose opinion is relied upon by the respondent has just stated "It is a natural death, there is no involvement of stress and strain of work." It is just a cryptic opinion.



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11. In the light of the Madras High Court judgment and the quotation from the decision of the Punjab and Haryana High Court and in particular that there is no controversy with regard to the death of the petitioner's husband other than the one stated by the petitioner and the medical report relied by both the parties, presumption under Section 51-A of the Act squarely applies to the facts of this case and it has to be held that the death of the petitioner's husband has happened only during the course of the employment and in the factory premises / rest room, by applying Notional Extension Theory. The petitioner is therefore, entitled to get the dependants' benefits."

27. Apart from not complying with the order of this Court as well as the impugned order of the ESI Court, even before this Court, the learned counsel for the Appellant is not able to point out any single piece of evidence to support his contentions and the grounds, raised in this appeal. There is no evidence produced by the Appellant Corporation to rebut the presumption that the death of the deceased had arisen out of the employment.

28. In view of the above, this Court is of the opinion that the ESI Court had elaborately discussed about all the aspects and fairly come to the conclusion that the deceased died, arising out of and in the course of his employment and hence, the claimant is entitled for the dependant's benefits from the Appellant Corporation under the ESI Act, with interest at the rate of 7.5% p.a. from the date of the claim petition till the date of payment. Accordingly, the substantial questions of law are answered, against the Appellant Corporation.

29. In the result, in view of the above discussions and the reasons and in the light of the decisions, referred to above, this Civil Miscellaneous Appeal is



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dismissed. The interim order dated, 04.08.2026, already granted by the Coordinate Bench of this Court shall stand **vacated**. The impugned order, dated 10.06.2025, passed in ESIOP.No. 19 of 2023, by the Employees State Insurance Court, Coimbatore, is **confirmed**. There is no order as to costs. The file is consigned to record. Consequently, the connected Civil Miscellaneous Petitions are also dismissed. The 1st Respondent/claimant is at liberty to proceed against the Appellant and recover the entire amounts, as directed by the impugned order, dated 10.06.2025 of the Employees State Insurance Court, Coimbatore, in accordance with law.

30.The Registry of this Court is directed to send copies of this judgement and order, to the Appellant Corporation, the 1st Respondent/claimant and the Respondents 2 and 3, forthwith.

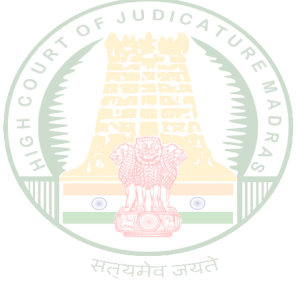
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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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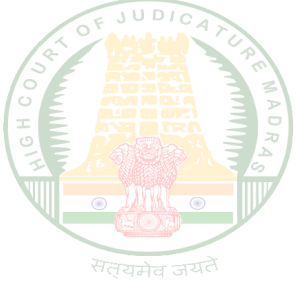
Order QR

SHAMIM AHMED, J.

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