

(1958) 07 MAD CK 0017
In the Madras High Court

Kali Ammal

APPELLANT

Vs

The Manager, Sri Ranga Vilas Mills

RESPONDENT

Date of Decision : 25-07-1958

Acts Referred:

Citation : (1958) 71 LW 814 : (1958) 2 MLJ 550

Hon'ble Judges : Ganapatia Pillai, J

Bench : Division Bench

Judgement

Ganapatia Pillai, J.—This is an appeal against the order of the Additional Commissioner for Workmen's Compensation, Madras, refusing to

pay any compensation to the appellant for the death of her husband; The appellant is the widow of one Kanniappan who was employed as a

switchboard assistant in the power-house of Sri Ranga Vilas Mills, Ltd., Peelamedu, Coimbatore. He went to work in the Mills as usual on 20th

January, 1955 and the evidence is that he was found lying at about 9-15 or 9-45 A.M. near the water-tank 100 yards distant from the place

where the doffing boys of the Mill were working. The workman was taken to the Mill Hospital and after some medical attention was given there he

was taken to the Headquarters Hospital at about 11 or 11-30 A.M. There Dr. Kalyanaraman of that hospital examined him and diagnosed the

complaint as sub-arachnoid haemorrhage. According to this doctor this haemorrhage can occur either spontaneously without any cause or as a

result of blood diseases or by injury caused to the skull. The next day the workman died in the hospital. The post-mortem examination of the

corpse was conducted by another doctor Dr. Meera Bai who agreed with the diagnosis made by Dr. Kalyanaraman.

2. An attempt was made to establish through the evidence of witnesses examined on behalf of the widow of the deceased workman that at the time when Kanniappan fell down he was working on the top of an electric post near the water-tank, and that he fell down from the post as a result of an electric shock and received injuries which resulted in the sub-arachnoid haemorrhage. The only witness examined in support of this allegation is Kavundaiya, son of Palani Goundan. Even he had no direct knowledge of the fall of Kanniappan from the top of the electric post. In fact the nature of the injuries sustained by Kanniappan, abrasion on the right forehead, a small injury in front of the ear and a small cut on the upper lip Would indicate that the fall, if at all there was one, could not have been from a height of say 15 or 20 feet. Mr. Ramachandran for the appellant contends that the workman could have slipped from the top to some distance holding on to the post and then had the fall, say from a height of five or ten feet. Of course, this version is quite possible but I am unable to find any evidence to support this version. The management examined two witnesses who were co-workers with the deceased. They were Ran-ganathan and Gopalaswami. Both of them stated that Kanniappan complained of chest pain when he was actually doing work in the power-house as a switchboard attender and that he went out to have a drink of tea. Gopalaswami in particular stated that when he was going out he was walking unsteadily and was about to fall down and he ran to his rescue and as soon as he fell he was carried to the Mill Hospital. The point is not whether to prefer the evidence of these two witnesses Ranganathan and Gopalaswami examined on behalf of the management to the evidence of Kavundaiya, because Kavundaiya does not given any account at all as to how Kanniappan met with his fall. Even brushing aside the oral evidence of these witnesses the medical evidence, in my opinion, clearly establishes that the three minor injuries sustained by Kanniappan, one on the forehead, the other in front of the ear and the third on the right upper lip, could not be the result of any fall from any height say 20 feet or even 10 feet. Both the doctors examined in the case are clearly of opinion that if the workman had failed from some height, they would have expected serious injuries on the skull. Thus it is not established in the case that the injury which was the cause of death, namely, sub-arachnoid haemorrhage was the direct result of a fall from any electric post on which Kanniappan was

working during the course of his employment.

3. There was a discussion at the bar whether if the accident, the fall, occurred while Kanniappan was going out in the course of the discharge of his

duties, it could be said to arise out of employment. That the fall, if any, sustained by him arose in the course of employment admits of no doubt. But

unless something more is established than the evidence available in this case I am unable to find that the workman died of accident arising out of his

employment. Two decisions were cited by the learned Counsel for the appellant Bhagubai Vs. General Manager, Central Railway, V.T., Bombay,

, and Vishram Tesu v. Dadabhoy Hormasji and Co. (1941) 44 Bom. L.R. 285. Both these decisions do not apply to the facts of this case. In

Bhagubai v. Central Railway¹, a railway employee had to walk through the railway quarters to reach his post of duty at about midnight and that

was the only access he had to his place of duty. While he was thus proceeding along the pathway inside the railway quarters he was attacked by

some persons and he died. A Bench of the Bombay High Court held that the accident, namely, the injuries by which he died arose out of

employment of the workman. The facts were rather unusual but on the finding that the route which the workman took to reach his place of

employment lay within the railway compound and was the only route which he could take, I do not think that the decision can be taken exception

to. But no such principle can apply to the instant case. In Vishram Tesu v. Dadabhoy Hormasji and Co. (1941) 44 Bom. L.R. 285, a workman

employed in a barge had to sleep at night time on the dock and it was found that when he was sleeping he had fallen into the river and got

drowned. The Court held that sleeping on the barge in an unprotected place was part of the peril to which the workman was subject during the

course of his employment and if as a result of this he fell into the river and died though the evidence did not disclose the actual cause of death the

Court held that out of the two probable causes of death, death by drowning rather than death by suicide should be found. This led to the result that

the Court held that the accident arose out of employment of the employee. The principle of this decision also has no application to the facts of the

instant case. The true principle is that the employer would not be liable to pay compensation for injury sustained by the worker unless the accident

or injury arose not only in the course of discharge of his duties but also when it arose out of his employment or in other words as the direct result of discharge of his duties.

4. This appeal, therefore, fails and is dismissed. No costs.