

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****FIRST APPEAL No. 956 of 2007****For Approval and Signature:****HONOURABLE MR.JUSTICE P.B.MAJMUDAR**

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1 Whether Reporters of Local Papers may be allowed  
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of  
the judgment ?

Whether this case involves a substantial question of  
4 law as to the interpretation of the constitution of  
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**REGIONAL DIRECTOR****Versus****SHUSHILABEN K. ALAPPA & OTHERS**

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**Appearance :**

MR HEMANT S SHAH for the Appellant

MR PANKAJ R DESAI for the respondents

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**CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR****Date : 28/02/2007****ORAL JUDGMENT**

It is unfortunate that in a matter where an employee suffered  
serious heart trouble during the course of employment and simply

because he might have died after few days in the hospital the Employees State Insurance Corporation, which is a statutory body has challenged the order of the ESI Court on the ground that even though the employee has suffered heart problem during the course of employment, he died subsequently in the hospital. It is required to be noted that the application was preferred by the widow and two sons of the deceased employee.

The deceased was serving in the Ring Frame Department of the company, namely, Bombay Dying and Manufacturing Company Limited, Jamnagar. The deceased was insured with the appellant – Corporation and he is covered under Employees' State Insurance Act, 1948. It is not in dispute that the deceased while performing his duty on 4.9.1992 suffered injury on his chest while removing reel from Ring Frame and the handle of the machine hit him on his chest and because of the said injury he was removed to Irwin Hospital, Jamnagar but before the treatment could be commenced, he died in the hospital at 4 PM on account of “Cardio respiratory failure on account of pathology in lungs and heart” . The ESI Court after appreciating the evidence ultimately came to the conclusion that the heirs of deceased are entitled to get the claim as the deceased employee has sustained employment injury under the Act. The order is passed as back as in the month of May 2005, which is now impugned at the instance by the appellant-corporation by way of filing this appeal.

Mr Shah, learned counsel for the appellant submitted that the employee ultimately died in the hospital and not at factory premises. This argument is absurd on the face of it. The ESI Court after appreciating the oral evidence found that the deceased had sustained injury at the factory premises and ultimately died in the hospital due to

cardio respiratory failure on account of pathology in lungs and heart. It is nobody's case that the deceased had not received any injury on his chest for which witnesses have been examined. The ESI Court has considered the said aspect in paragraph 2 of the order in detail. In paragraph 6 the ESI Court observed that in the course of employment the deceased felt giddiness and he fell down in the premises itself. Subsequently, he was admitted in hospital where he died. It cannot be disputed that the injury in question can be said to be received by the workman during the course of employment. If a person suffers heart attack at the time of performing his duty, he is entitled to the benefits under the Act. The ESI Court has rightly found that it is not necessary there has to be any physical injury sustained by the employee during the course of employment so as to be entitled to get the benefits under the Act.

Considering the detailed reasoning given by the ESI Court, this is not a case in which interference of this Court is warranted. No question of law much less substantial question of law arises in this matter. Hence, the appeal is dismissed with no order as to costs.

(P.B.MAJMUDAR, J.)

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