

HIGH COURT OF GUJARAT**E S I C****Versus****DHIRUBHAI MORARBHAI PATEL****Date of Decision:** 14 May 2008**Citation:** 2008 LawSuit(Guj) 981**Hon'ble Judges:** [H B Antani](#)**Case Type:** First Appeal**Case No:** 2191 of 2007**Final Decision:** Appeal dismissed**Advocates:** [Shashikant S Gade](#), [Dipak R Dave](#), [Nanavati Associates](#)

[1] This appeal, preferred under section 82 (2) of the E.S.I. Act by the E.S.I. Corporation is directed against the judgment and order dated 18.10.2006 passed by Labour Court, Surat in ESI Application No. 1 of 1993 by which the learned Judge has partly allowed the application preferred by the applicants, and held that deceased Ramanbhai Dhirubhai Patel who expired on 1.11.1992 died as a result of the injuries caused to him during the course of employment and, therefore, his distraught legal heirs and representatives are entitled to dependency benefits, with interest at the rate of 9% p.a. and cost of Rs.500/-.

[2] Mr. S.S. Gade, learned advocate for the appellant contended that the learned Judge has committed an error in holding that as per section 52 of the ESI Act, the claimants are entitled to dependency benefit because the workman died as a result of the injuries suffered during the course of employment. Learned Advocate submitted that eventhough there was no nexus between the injuries sustained by the deceased and his subsequent death, the trial Court has erred in holding that there is nexus between the injury and cause of death of deceased was duly established and, therefore, the claimants are entitled to claim compensation as prayed for in the application. He also submitted that interest awarded by the ESI Court at 9% p.a. is highly exaggerated and ought not to have been awarded by the Court. Learned Judge has erred in appreciating evidence on record of the case in partly allowing the application preferred by the applicants. Thus, the learned advocate submitted that on

perusal of the entire evidence on record of the case, the appeal requires to be allowed and the impugned order passed by the trial Court is required to be quashed and set aside.

[3] As against the aforesaid submissions, Mr. Dave, learned advocate appearing for the original applicants submitted that the learned Judge has taken into consideration the injury certificate dated 21.04.83 issued by Mehta Sarvagnik Hospital, Mahavir General Hospital, Surat dated 25.09.87 and 29.05.98, discharge certificate issued by OPD Section on 23.05.87 and the disability certificate dated 26.12.91 and rightly come to the conclusion that the deceased sustained the injuries during the course of employment and died subsequently because of the injuries sustained by him in the accident. Learned advocate placed reliance on the deposition adduced by Dhirubhai Morarbhai Patel Exh.25 in support of his submission that injuries were caused during the course of employment. Learned advocate submitted that the deposition adduced by Dayabhai Mangabhai Patel Exh. 41 further corroborates the deposition of Dhirubhai Morarbhai Patel with regard to the injuries sustained by the deceased during the course of employment. Learned advocate for the original applicants also relied on the deposition of Dr. Pradip Hanumantraai Pethe Exh. 25 and submitted that considering the deposition adduced by Dr. Pradip, it becomes clear that the deceased had sustained serious injuries in spinal cord and he was completely bed ridden after sustaining injuries on 25.03.87. His movements of hands as well as legs were also restricted and virtually he was immobilized. Thus, after considering deposition of Dr. Pradip, the learned Judge has rightly held that the nexus between the injuries sustained by the deceased and his subsequent death has been duly established, and, therefore, the learned Judge rightly allowed the application preferred by the applicants and held that the applicants are allowed to dependency benefits, and there is no reason for this Court to interfere with the order passed by the learned Judge and the appeal deserves to be dismissed.

[4] This Court has heard Mr. S.S. Gade, learned Counsel of the appellant and Mr. Dave, learned advocate for the original applicants at length and in great detail. This Court has also undertaken a complete and comprehensive appreciation of all vital features of the case as well as the entire evidence on record. This Court has also considered the depositions adduced by Dhirubhai Morarbhai Patel Exh.25, Dayabhai Mangabhai Patel Exh. 41 and Dr. Pradip Hanumantraai Pethe Exh. 25 as well as the injury certificate issued by Mehta Sarvagnik Hospital dated 21.04.83, Mahavir General Hospital, Surat dated 25.09.87 and 29.05.98 and disability certificate dated 26.12.91.

[5] The depositions adduced by Dhirubhai Morarbhai Patel and Dayabhai Mangabhai Patel Exh.25 and 41 respectively makes it abundantly clear that the deceased sustained injuries during the course of employment on 25.03.1987. After sustaining

the injuries, the workman was admitted in the hospital and took medical treatment in different Hospital for a prolonged period. Even after his discharge from the Hospital, he remained totally bed ridden as he had sustained injuries in the spinal cord. On perusal of the deposition adduced by Dr. Pradip, it is evident that because of the injuries sustained by the deceased on the spinal cord, he was virtually immobilized and remained bed ridden from 1987 till his death in 1992. Movements of his hands and legs were also restricted and he had also suffered complications because of the injuries sustained by him in the accident. Thus considering the deposition adduced by Dr. Pradip, Exh. 25, it becomes clear that the deceased had sustained the injuries on his spinal cord in the factory premises while on duty on 25.03.87. After sustaining injuries, he took prolonged treatment in hospitals and subsequently remained bed-ridden till his death on 1.11.1992.

[6] Having heard the learned advocates and having perused the evidence on record, this Court is of the view that the applicants have duly established nexus between the injuries sustained by the deceased Ramanbhai Dhirubhai Patel on 25.03.1987 and his subsequent death on 01.11.92, and, therefore, considering the evidence on record of the case, I do not see any reason to interfere with the impugned order passed by the ESI Court. In the result, the appeal fails, and is hereby dismissed. No order as to costs.