



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-07-2026

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

**CMA No. 227 of 2022
and CMP No.1587 of 2022**

M/s.Bajaj Allianz General Insurance
Company Ltd.,
No.25/26, Prince Towers
Ground Floor
Nungambakkam.

Appellant(s)

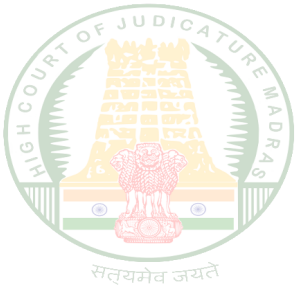
Vs

1. G.Lalithammal
W/o. Ganesan
- 2.G.Selvi
D/o. Ganesan
- 3.Minor Sureka
D/o.Ganesan
Rep. By her mother G.Lalithammal
- 4.Yogamoorthy
S/o.Subramanian Naidu

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 30 of the Employee's Compensation Act, 1923, to set aside the final award dated 12th October, 2021, passed in E.C.No.345 of 2009, by the learned Commissioner for Employees Compensation (Joint Commissioner of Labour-II) at Chennai.



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For Appellant(s): Mr.J.Michael Visuvasam

For Respondent(s): Ms.M.N.Shabeena Banu
for R1 & R3

JUDGMENT

This appeal has been filed by the Insurance Company challenging the order passed by the Joint Commissioner of Labour-II, Commissioner for Employees Compensation, Chennai.

2.The 1st respondent is the wife and the 2nd and 3rd respondents are the daughters of the deceased Ganesan. They filed petition under Section 10(1) of the Workmen Compensation Act, 1923, on the ground that the deceased Ganesan was employed with the 4th respondent as a driver and in the course of employment, the deceased was driving the vehicle from Melmaruvathur towards Bangalore on 06.4.2008 and when the car reached Perungappur village cross road at 12.45 hours, the car tyre burst and the vehicle capsized and the deceased died on the spot. An FIR came to be registered in Crime No.36 of 2008. It is under these circumstances, the petition came to be filed before the Deputy Commissioner of Labour-II, Chennai.

3.The appellant Insurance Company filed a counter and took a stand that there was no employer-employee relationship between the deceased and the 4th



respondent herein and therefore the claim made by the respondents 1 to 4 herein is unsustainable and sought for the dismissal of the petition.

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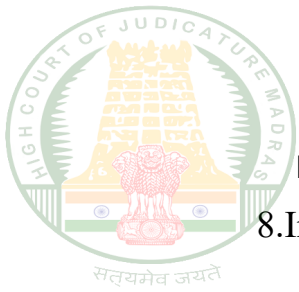
4.The Joint Commissioner of Labour on considering the facts and circumstances of the case and on appreciation of evidence came to a conclusion that there was a employer-employee relationship between the deceased and the 4th respondent herein and consequently rendered a finding that the accident took place in the course of employment and directed compensation of Rs.3,15,440/- to be paid by the Insurance Company with interest at the rate of 12% p.a. Aggrieved by the same, the present appeal has been filed before this Court.

5.Heard the learned counsel for the appellant/Insurance Company and the learned counsel for the respondents 1 and 3.

6.This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also went through the order passed by the Joint Commissioner of Labour-II, Chennai.

7. The question of law that arises in the present appeal is ;

(a) Whether there was an employer-employee relationship between the deceased and the 4th respondent herein and the accident had taken place in the course of employment warranting the payment of compensation by the Insurance Company to respondents 1 to 4



herein?

8. In the case in hand, except for *ipse dixit* of PW.1, who is the wife of the deceased, there is not a scrap of paper to establish that there was an employer-employee relationship between the deceased and the 4th respondent herein. The 4th respondent also conveniently remained ex-parte and did not contest the case.

9. The appellant Insurance Company was able to establish that the 1st respondent herein viz., the wife of the deceased had filed an independent claim petition in MACT OP No.142 of 2008, before the Motor Accident Claims Tribunal, Gingee against the 4th respondent herein who is the owner of the vehicle and the appellant Insurance Company. In this claim petition, the parties were able to reach a settlement and the award came to be passed by the Lok Adalat and a sum of Rs.66,000/- was settled in full quit in favour of the 1st respondent herein.

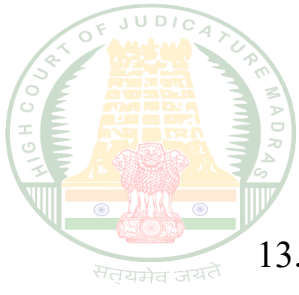
10. Unfortunately, this was concealed before the Joint Commissioner of Labour-II, Chennai and in the cross examination the 1st respondent makes a statement that she has not seen the accident and she was not aware as to who was driving the car at the time of the accident. The 1st respondent had claimed for compensation for the very same accident as against the owner of the vehicle and the appellant Insurance Company and the 1st respondent conveniently deposes in this case that she has not seen the accident and she was not aware as



to who drove the car. This evidence tendered by the 1st respondent clearly establishes that the parties have attempted to hoodwink the system and claim compensation. The 1st respondent was aware of the fact that such a claim could not have been made under Section 166 of the Motor Vehicles Act. Therefore, when it came to the 1st respondent, an independent claim petition was filed under Section 166 of the M.V.Act and when it came to her deceased husband, a different method was adopted as if the deceased was working under the owner of the vehicle and he drove the car in that capacity and the claim was made under the Employees Compensation Act.

11.The Joint commissioner of Labour-II, Chennai has merely gone by the statement made by the 1st respondent as if her husband was working as a driver under the 4th respondent without taking into consideration the crucial facts which establishes that the claim itself is unsustainable. The substantial question of law is answered accordingly in favour of the appellant Insurance Company.

12.The upshot of the above discussion, the order passed by the Joint Commissioner of Labour-II, Commissioner for Employees Compensation, Chennai, in E.C.No.345 of 2009 dated 12.10.2021, is liable to be set aside and the same is hereby set aside. The compensation amount deposited by the appellant Insurance Company along with accrued interest shall be permitted to be withdrawn by the appellant Insurance Company.



13. In the result, this Civil Miscellaneous Appeal is allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

28-07-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To

The Joint Commissioner of Labour-II
Commissioner for Employees Compensation
Chennai.



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N.ANAND VENKATESH J.

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