

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-07-2026

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

**CMA No. 2121 of 2026
and CMP No.16270 of 2026**

United India Insurance Co. Ltd.,
No.13-A, SBI Complex
Nethaji Road,
Manjakuppam
Cuddalore - 607 001.

..Appellant(s)

Vs

1. Devanathan
S/o.Kaliyamoorthy

2.R.Chandra
W/o Ramasamy

Respondent(s)

PRAYER

Civil Miscellaneous Appeal filed under Section 30 Employees Compensation Act, 1923, to set aside the order dated 22-11-2024 made in EC.No.154 of 2023 passed by the Joint Commissioner of Labour II, on the file of the Joint Commissioner of Labour-II for Employees Compensation, Chennai -06 and be pleased to dismiss the said claim application against the appellant herein after holding that owner of the Lorry/2nd Respondent alone made liable.

For Appellant(s): Mr. J.Vijaya Raghavan

For Respondent(s): Mrs.V.Ramya Rao for R1



JUDGMENT

This appeal has been filed by the Insurance Company against the order passed by the Joint Commissioner of Labour-II for Employee's Compensation, Chennai-06, dated 22.11.2024.

2.The 1st respondent filed the petition before the Joint Commissioner of Labour on the ground that he was engaged as an alternate driver by the 2nd respondent and he was travelling in the vehicle on 12.09.2022 from Namakkal to Uttar Pradesh. The regular driver was driving the vehicle and at about 12.00 noon, the vehicle in which the 1st respondent was travelling dashed against the rear side of a parked lorry, as a result of which the 1st respondent sustained a serious EPL injury to the left thumb for which he underwent treatment and a procedure was performed on 28.09.2022. The injury resulted in restriction of extension of the IP joint in the left thumb. It is under these circumstances, the petition came to be filed before the Joint Commissioner of Labour against the 2nd respondent who is the employer/injured and the appellant who is the insurer.

3.The appellant took a stand that the alternate driver is not covered under the policy and the policy only covers the paid driver who actually drives the vehicle and therefore the Insurance Company denied their liability under the policy 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 an employer-employee relationship between the 1st and 2nd respondents herein and that the Insurance policy covered the accident which resulted in the 1st respondent sustaining injuries in the course of his employment.

5.Having rendered the above finding, the Joint Commissioner of Labour fixed the total compensation of Rs.3,80,222/- and the same was directed to be paid along with interest at the rate of 12% per annum. Aggrieved by the same, the Insurance Company has filed the present appeal before this Court.

6.Heard the learned counsel for the appellant/Insurance Company and the learned counsel for the 1st respondent.

7.The substantial question of law that is involved in the present case is;

Whether the 1st respondent who admittedly claims to be an alternate driver is covered under the policy which covers only the driver who actually drives the vehicle and without any additional premium collected to cover the alternate driver also ?



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8.The learned counsel for the appellant submitted that there is no insurance cover for an alternate/spare driver and the liability of the Insurance Company has to be strictly construed as per the policy that has been issued and if the policy does not cover an alternate/spare driver, the liability cannot be fastened against the Insurance Company. To substantiate this submission, the learned counsel relied upon the judgments of the Apex Court in the **Manager, National Insurance Co.,Ltd., vs. Saju P.Paul and another** reported in **2013 1 TA MAC 2025** and **Ramashray Singh .vs. New India Assurance Co.,Ltd., and Others** reported in **2003 3 CTC 380**.

9.The further submission made by the learned counsel for the appellant is that the injury was not assessed by the Medical Board and that the Joint Commissioner of Labour has unilaterally fixed the disability at 27% which is in violation of the schedule appended to the Workmen's Compensation Act and consequently an excessive compensation has been fixed in the present case, which also requires the interference of this Court.

10.Per contra, the learned counsel for the 1st respondent submitted that the 1st respondent has established the employer-employee relationship with the 2nd respondent and there was no contra evidence available on the side of the Insurance Company. It is submitted that the policy in question was a comprehensive policy which covered a driver. Considering the welfare

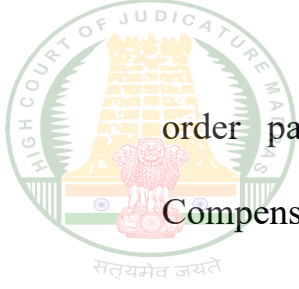


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legislation, an alternate driver carrying goods for long distances, must also be brought within the purview of the driver more particularly where only a single claim has been made by the alternative driver. To substantiate this submission, the learned counsel relied upon the judgment of the Karnataka High Court in **Narayana Naika .vs. J.D.Subbaraya Sheregar** dated 24.07.2023. The learned counsel also relied upon the judgment of the Karnataka High Court in **Mohammedgouse .Vs. Mohammed Ismail and another** dated 28.6.2024. The learned counsel also placed reliance upon the judgment of the Orissa High Court in **Bishnu Priya Baral and others .vs. Manas Ranjan Swain and Another** dated 05.07.2023.

11.Insofar as the quantum of compensation is concerned, the learned counsel submitted that the Joint Commissioner of Labour had taken into consideration the fact that the EPL injury sustained by the 1st respondent to the left thumb has resulted in the restriction of the extension of the IP joint, which has a direct impact on the avocation of the 1st respondent who was a driver. Hence, it is contended that the compensation fixed by the Tribunal is just and reasonable and the same does not require the interference of this Court.

12.This Court has carefully considered the submissions made on either side and the materials available on record and has carefully gone through the



order passed by the Joint Commissioner of Labour-II for Employees Compensation.

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13.The substantial question of law that has been framed by this Court directly touches upon the liability of the Insurance Company under the policy. Hence, this issue is first taken up for consideration.

14.In the case in hand, the petition was filed by the 1st respondent before the Joint Commissioner of Labour under Section 10(1) of the Workmen Compensation Act by taking a specific plea that the 1st respondent was engaged as a driver (alternate driver) under the 2nd respondent and there was an employer-employee relationship between the 1st and 2nd respondents. This claim made by the 1st respondent has been denied by the appellant in the counter affidavit.

15.In the case in hand, the 2nd respondent is the employer and the 2nd respondent had engaged the services of a driver and an alternate driver to carry the goods from Namakkal to Uttar Pradesh. The same has also been spoken to by the 1st respondent, who was examined as PW.1.

16.When the goods are carried for long distances, it is a normal practice to have a driver and an alternate driver so that they share the burden of driving



the vehicle alternately. Therefore, it is not unusual to have an alternate driver in a vehicle carrying goods over long distances. In any event, the plea taken by the 1st respondent and which has been substantiated in evidence, has not been discredited on the side of the appellant Insurance Company.

17. Having rendered the above finding, it must be seen as to whether the spare/alternate driver is also covered under the policy.

18. The insurance policy was marked as Ex.P.4. On going through the same, it is seen that it is a comprehensive policy and that the premium has been paid to meet the liability of a paid driver.

19. The bone of contention is that the policy covers only the driver on wheels and not an alternate/spare driver.

20. This Court will now consider the judgments relied upon by the learned counsel for the appellant in the judgment in Saju Paul case. The Apex Court was dealing with a claim petition that was filed under the Motor Vehicles Act. That was a case where the policy covered only the driver and the claimant, who was the injured took a plea that he was an alternate driver. The Apex Court while construing the provision under Section 147(1) of the Motor Vehicles Act, held that the claimant in that case, at the best can be treated only as a gratuitous

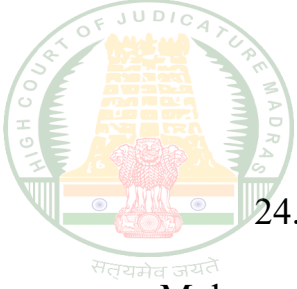


passenger and the insurance policy covered only the driver and the cleaner and therefore the claimant in that case was not covered under the policy and as a consequence, the Insurance Company cannot be mulcted with any liability.

21. In the second case, viz., Ramashray Singh, that was a case where the claimant claimed himself to be a passenger who was travelling in the vehicle which had been taken on hire. The Apex Court, on construing the policy came to a conclusion that the policy covered only a class of persons specified in the policy and not every other person/passenger and therefore the claimant was not covered under the policy and consequently, the Insurance Company cannot be mulcted with any liability.

22. At this juncture, this Court must deal with the judgments that were relied upon by the learned counsel for the 1st respondent.

23. In the judgment in **Narayana Naika** Case, the Karnataka High Court was dealing with a claim made under the Workmen Compensation Act and the Court was directly dealing with the claim made by a spare driver. The High Court held that the policy in question was a package policy and it also covered a paid driver. The Court took into consideration the fact that the claimant therein was engaged as a spare driver by the employer and therefore the premium that was paid for covering the risk of the driver will also cover the spare driver.

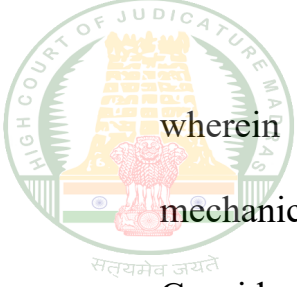


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24.The judgment of the Division Bench of the Karnataka High Court in Mohammed gouse case makes this position even more clearer where it was held that if two separate claims are made in respect of driver and spare driver, unless an additional premium is paid, the insurer will not be liable to pay compensation for both the drivers. However, if the claim is in respect of only one driver and that driver happens to be a spare driver, the policy will cover such a driver and the Insurance Company will be liable to pay the compensation.

25.The last judgment relied upon is the judgment of the Orissa High Court in Bishnu Priya case, which also involved an additional driver. The Orissa High Court found that the Insurance Company had received the premium to cover three persons including the driver and in that case, the claim was made for two deceased persons and it was held that the liability of the Insurance Company which was limited to three persons, also covered the additional driver who was the deceased in that case and accordingly, the Insurance Company was directed to pay the compensation.

26.A careful assessment of all the judgments shows that an Insurance Company will be liable to pay the compensation only for those persons for whom the insurance cover is given under the policy and to no other. This Court must also bear in mind the scope of definition under Section 2 (dd)(II)(c)

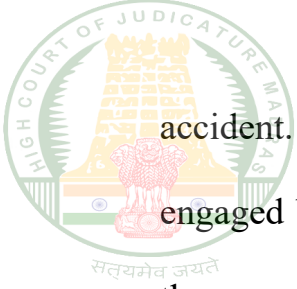


wherein an employee will include a person recruited as a driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle.

Considering such an expansive definition provided under the Employees Compensation Act, the driver must include, within its fold, an alternate/spare driver who is engaged as a driver of a vehicle carrying goods for long distances.

27.The learned counsel for the appellant drew the attention of this Court to Section 147 (1) of the Motor Vehicles Act and submitted that the proviso to that Section covers only an employee engaged in driving the vehicle and no other. Thus, according to the learned counsel for the appellant, it can cover only the driver on the wheels and not spare/alternate driver.

28.In the considered view of this Court, a beneficial legislation must be construed liberally and a Court cannot take a pedantic view while construing the policy. Admittedly, the driver of the vehicle is covered under the policy. Two scenarios may arise in a given case. There can be a case where in the accident, both the driver and the spare driver may be injured. The other scenario is where either of them are injured in the accident. In the former, since the policy covers only a paid driver, the liability of the Insurance Company will confine itself only to the driver on the wheels who was injured in the accident and it cannot cover the spare/alternate driver. In the later case, the liability of the Insurance Company will also cover the alternate driver who alone was injured in the



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accident. This is in view of the fact that both the driver and the spare driver are engaged by an employer to carry the goods over long distances and if either of them are injured in an accident, the policy has to necessarily cover such an eventuality. In such a scenario, a spare/alternate driver will be covered under the policy. Any other restricted interpretation will go against the very objective of the Employee's Compensation Act, 1923 which is a beneficial legislation.

29.The judgments that were relied upon by the learned counsel for the appellant can be distinguished on facts and this case has to be dealt with on its own facts qua the insurance policy and also the relevant provisions under the Employee's Compensation Act and the Motor Vehicles Act. The upshot of the above discussion leads to the only conclusion that the insurance policy issued by the appellant Insurance Company covers the injury sustained by the alternate/spare driver and consequently the compensation has to be paid by the Insurance Company. The substantial question of law framed by this Court is answered accordingly.

30.The next issue touches upon the compensation fixed by the Joint Commissioner of Labour. The Joint Commissioner of Labour while fixing the compensation has determined the loss of earning capacity at 27%. This was done based on the accident register and the discharge summary which was marked as Ex.P.1 and Ex.P.2. Admittedly, the disability that was suffered by the



1st respondent was spoken to only by the doctor, who was examined as PW.2 and the 1st respondent was not referred to the Medical Board.

31. In the schedule appended to the Workmen Compensation Act, even for the loss of thumb, only 30% has been fixed. Considering the nature of the injury that has been sustained by the 1st respondent, fixing 27% as loss of earning capacity is certainly on the higher side. Considering the injury sustained and the consequence as a result of the same, this Court is inclined to fix the loss of earning capacity at 10%. Such approximation is done by this Court considering the fact that the accident is of the year 2022 and by referring the 1st respondent to the Medical Board at this stage, will only further delay the process.

32. In the light of the above discussion, the compensation is modified as follows:

Rs.15,000 x 60/100 x 156.47 x 10/100 = Rs.1,40,823/-

Medical Expenses = Rs. 9,285/-

Total Compensation : Rs.1,50,108/-

33. The appellant Insurance Company has already deposited the entire compensation amount along with interest. The modified compensation amount



fixed by this Court along with interest shall be permitted to be withdrawn by the 1st respondent. The balance amount along with interest shall be permitted to be withdrawn by the appellant Insurance Company.

34. In the result, Civil Miscellaneous Petition is partly allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

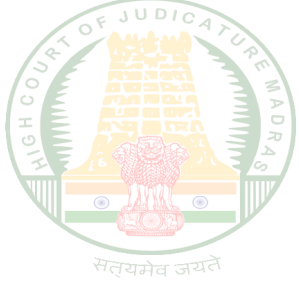
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Index: Yes
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes

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To

The Joint Commissioner of Labour II,
Joint Commissioner of Labour-II for Employees Compensation,
Chennai-06.



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N.ANAND VENKATESH J.
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