

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.3262 of 2019 and
CMP.NO.18750 of 2019

M/s.Bajaj Allianz General Insurance Company
Limited, K.M.A. Complex, I Floor,
Ram Nagar, Bye-pass Road,
Madurai.

... Appellant

vs.

1.Jayakumar
2.M.Velusamy

.. Respondents

Civil Miscellaneous Appeal filed under Section 30 of the
Employees' Compensation Act, 1923 against the Award dated
01.03.2019 passed in E.C.No.1006 of 2015 by the learned
Commissioner for Employees Compensation at Coonoor.

For Appellant : Mr.J.Michael Visuvsam

For Respondents : ...

JUDGMENT

This Civil Miscellaneous Appeal has been filed under
Section 30 of the Employees' Compensation Act, 1923, against the
Award dated 01.03.2019 passed in E.C.No.1006 of 2015 by the
learned Commissioner for Employees Compensation at Coonoor.

2. The matter is listed today under the caption, ''for
admission''.

3. Learned Counsel appearing for the appellant would
submit that the injured claimant was working as a load man under
the 2nd respondent, namely, M.Velusamy, who is the owner of the
Tractor Trailer bearing Registration No.TN 28 F 3552 which has
been insured with the appellant herein. While so, on 23.02.2006
at about 1.30 p.m. near Pudhukombal Balamurugan Chamber, the
driver of the tractor drove the vehicle with high speed, rashly
and negligently and also stopped the vehicle suddenly to reverse
the trailer. In this incident, the claimant-injured fell down

on the road and the tractor's backside wheel ran over his right knee, as a result, he sustained multiple grievous injuries. His bone got completely fractured above the right knee portion. Immediately, he was taken to Maruthi Hospital, Namakkal and the claimant spent Rs.40,000/- and above to his medical expenses.

4. The learned Counsel for the appellant would further submit that thereafter, on information from the hospital, a criminal case was also registered in Crime No.107/2006 for offences under Sections 279 and 338 of IPC on 24.02.2006. At the time of accident, the injured/claimant was working as a Load man in the Tractor Trailer bearing Registration No.TN 28 F 3552 and he was also aged about 29 years, receiving only Rs.150/- as a daily wage. Due to the accident, the injured has been made permanently unfit to do his normal course of work and duty. Therefore, the claimant has made a claim before the Deputy Commissioner of Labour, Salem (Camp at Namakkal).

5. The learned Counsel for the appellant would also submit that the Commissioner for Employees' Compensation, Conoor, without looking into the stand taken in the counter affidavit by the appellant herein that the tractor and the attached trailer were registered only for the purpose of agricultural use and not for commercial purposes, has passed the award. Therefore, according to the learned Counsel for the appellant, as the award passed by the Commissioner for Employees' Compensation, Conoor, is against the terms and conditions of the insurance policy issued by the appellant herein, the said award is liable to be set aside.

6. This Court is unable to find any merit in the submission of the learned Counsel for the appellant. The reason being that when the appellant assails the impugned award on the ground that the learned Commissioner for Employees' Compensation has not considered the terms and conditions mentioned in the Insurance Policy that the vehicle-in-question should be utilised only for agricultural purpose and not for commercial purpose, the appellant ought to have filed a copy of the Insurance Policy along with this appeal, but he has not done so. Therefore, it is very difficult to make out a case by him. Secondly, it is an admitted case that the injured/claimant, while working as a load man under the 2nd respondent Mr.M.Velusamy, the owner of the Tractor Trailer bearing Registration No. TN 28 F 3552 which has been insured with the appellant and was also enjoying the insurance coverage, on 23.02.2006 at about 1.30 p.m. near Pudhukombal Balamurugan Chamber, due to the rash and negligent driving of the driver of the Tractor Trailer and also stopping of the vehicle suddenly to reverse the trailer, fell down on the road and the tractor's backside wheel ran over his right knee and he sustained grievous

injuries. Accepting the case of the injured-claimant, the learned Commissioner for Employees' Compensation by assessing the Disability of the injured at 40% has awarded only a sum of Rs.1,80,650/-. Thirdly, the appellant has also deposited the entire award amount. Therefore, this Court is of the view that for the grievous injuries sustained by the injured/claimant at the age of 29 years, the Commissioner for Employees' Compensation has rightly passed the award.

7. In the result, the appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

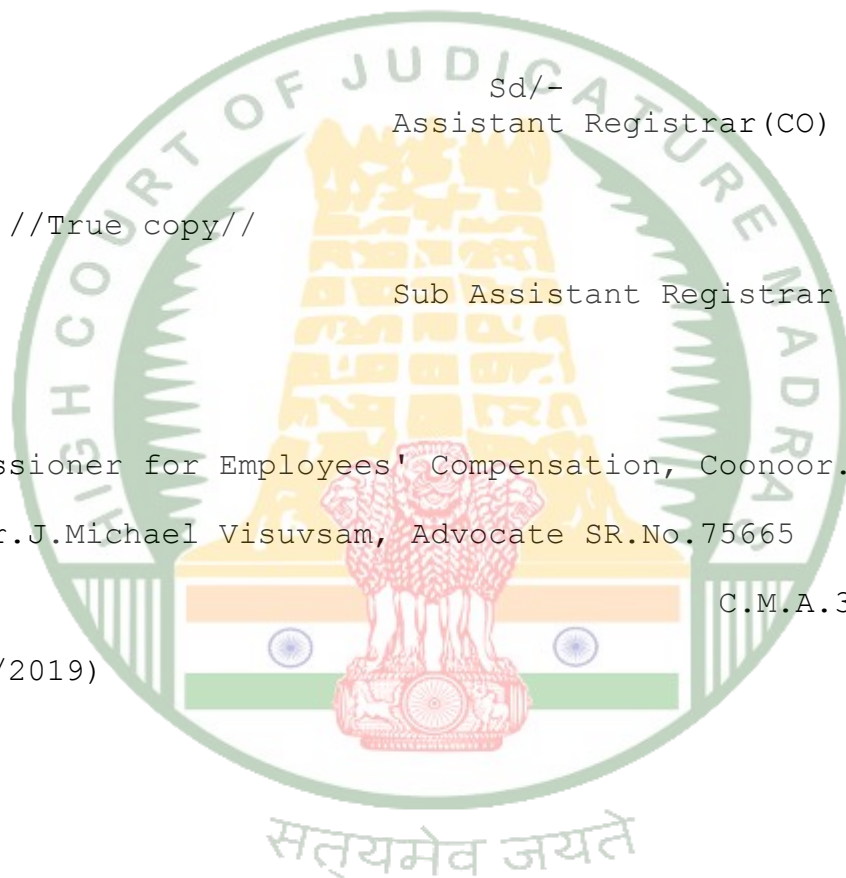
To

The Commissioner for Employees' Compensation, Coonoor.

+1cc to Mr.J.Michael Visuvsam, Advocate SR.No.75665

C.M.A.3262 of 2019

VG I(CO)
GMY(16/10/2019)



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