



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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| RESERVED ON  | 06.12.2021 |
| DELIVERED ON | 06.01.2022 |

**CORAM :**

**THE HONOURABLE MRS.JUSTICE S.ANANTHI**

**C.M.A. (MD) .No.813 of 2011**

The Divisional Manager,  
Bajaj Allianz General Insurance Company Ltd.,  
K.M.A.Complex, 12-G, Ram Nagar,  
Bye Pass Road,  
Madurai - 10.

...Appellant/2<sup>nd</sup> respondent

Vs.

1.Chinna Murugan  
2.Meena

...R-1/Petitioner  
...R-2/R-1

**PRAYER:** Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, to set aside the award, dated 31.12.2010 received on 09.04.2011 made in W.C.No.256 of 2006 on the file of the learned Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Dindigul and allow this Civil Miscellaneous Appeal.

For Appellant :Mr.S.Srinivasa Raghavan  
For R-1 :Mr.A.Theethar  
For R-2 :No appearance

**ORDER**

This Civil Miscellaneous Appeal has been filed to set aside the award, dated 31.12.2010 in W.C.No.256 of 2006 passed by the learned Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Dindigul.

2.The 1<sup>st</sup> respondent herein/Petitioner has filed a petition in W.C.No.256 of 2006 for compensation for the injuries sustained by him in an accident on 09.06.2006 when he was working as Cleaner under the 2<sup>nd</sup> respondent herein during the course of employment. The Labour Court has awarded a sum of Rs.2,97,793/-as compensation. Aggrieved by the order, the appellant/insurance company is before this Court.



3.Heard on either side. Perused the material documents placed on record.

4.This appeal has been filed on the ground that the learned Commissioner ought to have found that more than 10 persons were injured in the accident in dispute and three persons were found in the cabin at the time of accident and the seating capacity of the insured vehicle was only two in all, including the driver and the same would clearly prove that the injured claimant and other passengers were travelling in the insured vehicle only as unauthorised passengers. The learned Commissioner ought not to have found that the injured claimant was a cleaner of the owner of the vehicle against the material available on record.

5.The learned counsel appearing for the appellant/insurance company contended that the claimant never working as Cleaner under the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent has allowed the claimant and other persons to travel in a goods carrier for a picnic visit. On support of his contention, the appellant has produced Ex.R.1/Sub-Inspector of Police. He deposed in his cross examination that he did not know anything about the accident and the complaint was also preferred by one Muthu who was not an eye witness.

6.On the other hand, the driver of the van was examined as P.W.3 and he has clearly deposed in his evidence that on the date of accident, the claimant was travelled in the Van as Cleaner.

7.The Appellant has not raised any objection regarding quantum.

8.From the evidence of P.W.1, the relationship of employer and employee was proved. Therefore, the Tribunal has rightly allowed the claim petition.

9.Finally, this Civil Miscellaneous Appeal is dismissed by confirming the award, dated 31.12.2010 in W.C.No.256 of 2006, passed by the learned Commissioner of Workmen Compensation (Deputy Commissioner of Labour), Dindigul. No Costs.

Sd/-

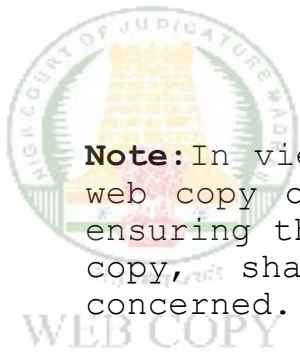
Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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**Note:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The Commissioner of Workmen Compensation  
(Deputy Commissioner of Labour),  
Dindigul.

Copy to

The Section Officer,  
V.R.Section,  
Madurai Bench of Madras High Court,  
Madurai.(2 copies)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate ( SR-664[F] dated 06/01/2022 )

+1 CC to M/s.A.THEETHAS, Advocate ( SR-1032[F] dated 10/01/2022 )

**C.M.A. (MD) .No.813 of 2011**  
**06.01.2022**

RK(25/01/2022) 3P 6C