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C.R.P.Nos.3551 and 3558 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.Nos.3551 and 3558 of 2022
and
C.M.P.Nos.18885 and 18891 of 2022

C.R.P.No.3551 of 2022:

M/s.Liberty General Insurance Company Limited,
No.88, G.N.Chetty Road,
Level-4, Unit No.F4, T.Nagar,
Chennai – 600 017.

... Petitioner

Vs.

1.Janarthanan

2.R.Muthukumaran

... Respondents

C.R.P.No.3558 of 2022:

M/s.Liberty General Insurance Company Limited,
No.88, G.N.Chetty Road,
Level-4, Unit No.F4, T.Nagar,
Chennai – 600 017.

... Petitioner

Vs.

1.Vimalraj

2.R.Muthukumaran

... Respondents



Prayer in C.R.P.No.3551 of 2022: Civil Revision Petition is filed under Article 227 of the Constitution of India against the Order dated 24.08.2022 in I.A.No.65 of 2022 in E.C.No.105 of 2020 on the file of the Commissioner of Labour-2 and Joint Commissioner of Labour-2, Chennai.

Prayer in C.R.P.No.3558 of 2022: Civil Revision Petition is filed under Article 227 of the Constitution of India against the Order dated 24.08.2022 in I.A.No.66 of 2022 in E.C.No.109 of 2020 on the file of the Commissioner of Labour-2 and Joint Commissioner of Labour-2, Chennai.

For Petitioner : Mr.M.B.Raghavan
for M/s.M.B.Gopalan Associates
in both revisions

For Respondents : Ms.Ramya V. Rao
for R1 in both revisions

R2 – No appearance
in both revisions

COMMON ORDER

These Civil Revision Petitions are filed against the orders dated 24.08.2022 in I.A.Nos.65 & 66 of 2022 in E.C.Nos.105 &109 of 2022.

2. The revision petitioner is the M/s.Liberty General Insurance Company Limited filed an Interlocutory Applications in I.A.Nos.65 & 66 of



2022 to refer the 1st respondent in both the applications for medical examination before the competent Medical Board. The Joint Commissioner of Labour-2, Chennai, rejected the application on the ground that there is no necessity to send the 1st respondent for medical examination.

3. The learned counsel for the petitioner contended that the assessment of disabilities are vital for the purpose of grant of compensation and therefore, the Joint Commissioner of Labour-2, Chennai committed an error in rejecting the application. This Court has considered the issue in the case of ***The United India Insurance Company Limited Vs. Venugopal and Others*** decided in ***C.R.P.No.586 of 2018***, wherein, the Court made the following observation:-

“16. I therefore, conclude that wherever the request made by the Insurance Company or an employer for reference to the medical board, the Commissioner, Employees Compensation shall refer the claimant to the medical board, if the injuries are not covered by the schedule to the enactment and the injuries are of such nature that there will be an element of guess work in deciding



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the extent of permanent disability caused by such injuries. The directions issued by the Division Benches of this Court in Prabhu's case reported in MANU/TN/4033/2016 : 2016(1) TNMAC 609 and 2017 (1) TNAMC 106 would apply to cases arising under the Employees' Compensation Act also.”

4. By sending the 1st respondent for medical examination, no prejudice would be caused to the Joint Commissioner of Labour-2 and in fact on assessment of nature of injury, the authority would be in a position to grant just compensation in accordance with law. Thus, there is no reason whatsoever to reject the application filed by the revision petitioner.

5. Consequently, the orders dated 24.08.2022 passed in I.A.Nos.65 & 66 of 2022 in E.C.Nos.105 & 109 of 2020 are set aside and the 1st respondent in both the applications shall appear before the Competent Medical Board at Cuddalore, who in turn shall examine him and submit a report within a period of three (3) months.



6. Accordingly, these Civil Revision Petitions stand allowed.

Consequently, the connected Civil Miscellaneous Petitions are closed. No costs.

20.01.2023

rpl/mps

Index : Yes

Speaking order

To

The Commissioner of Labour-2 and
Joint Commissioner of Labour-2,
Chennai.



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S.M.SUBRAMANIAM, J.

rpl/mps

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