



C.M.A.No.3115 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3115 of 2017

and

CMP.Nos.19464 of 2023 and 19100 & 19101 of 2017

M/s. United India Insurance Co. Ltd.,  
Branch Office,  
No.2, Dr.Sankaran Road, Namakkal.

...Appellant

Vs.

1. Chandran
2. Senthil
3. Thangavel
4. Preethi
5. K.Ramesh

...Respondents

Civil Miscellaneous Appeal filed under Section 30 of Workman's Compensation Act, 1923 as against the order dated 02.03.2016 made in E.C.No.262/2015(New No.862/2015) on the file of the Commissioner for Employees Compensation (Deputy Commissioner of Labour) at Connoor (Namakkal Camp).

For Appellant : Ms.I.Malar

For Respondents : Mr.Ma.P.Thangavel, for R1-R4  
No Appearance, for R5



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### **JUDGEMENT**

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Challenging the order dated 02.03.2016 made in E.C.No.262/2015(New No.862/2015) on the file of the Commissioner for Employees Compensation (Deputy Commissioner of Labour) Connoor, the insurer has come up with this appeal.

2. It is the case of the appellant that, the respondents 1 to 4/claimants filed a claim petition claiming a compensation of Rs.10,00,000/- on the ground that, on 01.01.2012 at about 4.30 pm, when the deceased Nallammal was travelling in the lorry bearing Regn.No.TN-28-6549 belonging to the 1<sup>st</sup> respondent insured with the 2<sup>nd</sup> respondent, in the course of discharge of her duties, the vehicle was driven in a rash and negligent manner by its driver, due to which, the vehicle turned upside down and the deceased sustained fatal injuries and died on the spot. Since the deceased had died on the course of her employment, claiming compensation under Workmen's Compensation Act, the claim petition was filed before the Commissioner for Workmen compensation. After contest, the Commissioner, vide impugned order, awarded a compensation of Rs.5,12,049/-. Aggrieved by the said order, the appellant has come up with this



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appeal, questioning the liability of the insurer.

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3. Learned counsel for the appellant/insurance company submitted that, the CMP.Nos.19464 of 2023 & 19101 of 2017 have been filed to receive additional document, since the policy document which formed the basis for the Commissioner to grant compensation is a fabricated document and therefore the appellant/insurance company is not liable to pay the compensation. Only two substantiate that the document is a fabricated one, the present CMP's have been filed to receive the policy documents submitted by the appellant/insurance company. Further, the avocation of the deceased could not entail any employer-employee relationship between the deceased and the 5<sup>th</sup> respondent and that the type of work discharged by the deceased would not fall within the purview of employer-employee relationship. It is the further submission of the learned counsel that, the policy document submitted by the claimants shows alteration in the date of the policy and only to that effect to establish that the said policy is a fabricated one, the present civil miscellaneous petition in CMP.Nos.19464/ 2023 & 19101/2017 have been filed to receive additional evidence. Therefore, this Court may receive the additional evidence and set aside the order passed by the



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Commissioner on considering the same, as the insurance company is not liable to pay compensation.

4. Per contra, the learned counsel appearing for the respondents 1 to 4/ claimants submitted that, the dispute with regard to the fictitious nature of the policy document could be established only before the Commissioner for Workmen compensation and no documents can be received by this Court. The appellant/ insurance company not having produced the document at the relevant point of time, cannot now try to defeat the rights of the claimants to receive reasonable compensation. Accordingly, he prayed for dismissal of the appeal.

5. Heard learner counsel for the appellant and the learned counsel appearing for the respondents 1 to 4 and perused the material documents placed on record.

6. The factum and manner of the accident is not in dispute and the death of the deceased Nallammal is also not in dispute, while the employer-employee relationship between the deceased and the 1<sup>st</sup> respondent is put in issue.



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However, the main ground on which the compensation is sought to be attacked is that, the policy document submitted by the claimants is a fictitious one as there is a manipulation in the date and only to substantiate the same, the appellant has filed the CMP.Nos.19464 of 2023 & 19101 of 2017 to receive the additional documents.

7. It is to be pointed out that the policy document which has been submitted by the claimants was admitted as exhibit. If the appellant wants to dispute the same and submit additional documents in support of their case, necessarily the same cannot be done before this Court at the appellate stage, as reception of documents should be done during the trial, at which point of time, the claimants would have an opportunity to cross examine the witness through whom the said document is marked.

8. Therefore, this Court cannot adjudicate on the authenticity of the document submitted by the appellant through the present civil miscellaneous petition in CMP.Nos.19464 of 2023 & 19101 of 2017 and therefore, the proper course open for this Court would be only to set aside the order passed by the



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Commissioner and remand the matter for reception of the document and appreciation of the same on the basis of the depositions that would be made while receiving the said document. Accordingly, the impugned order dated 02.03.2016 passed by the Commissioner for Workmen's compensation made in E.C.No.262/2015 (New No.862/2015) is set aside.

9. For the reason aforesaid, this appeal stands dismissed and the matter is remanded to the Commissioner for Employees Compensation/Deputy Commissioner of Labour, Connoor for reception of additional documents and the Commissioner of Labour is directed to adjudicate the matter afresh by adducing additional documents and shall pass appropriate orders within a period of six month from the date of receipt of a copy of this order, after affording sufficient opportunity to the parties to canvass their grievances. In view of the above judgement passed in this appeal, this Court is of the view that, no order is necessary in the civil miscellaneous petitions in C.M.P.Nos.19464 of 2023 & 19101 of 2017, seeking to receive the additional



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documents mentioned and mark the same as Exhibits on the side of the appellant and accordingly, all the connected Civil Miscellaneous Petitions are closed. No costs.

**17.10.2023**

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Index : Yes/No  
Speaking order : Yes/No  
NCC : Yes/No

To:

1. The Commissioner for Employees Compensation  
(Deputy Commissioner of Labour) Connoor,
2. The Section Officer, V.R. Section, High Court, Madras.



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**M.DHANDAPANI, J.**

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