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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2024

CORAM

THE HON'BLE MR.JUSTICE S.SRIMATHY

C.M.A(MD)No.618 of 2021

and

C.M.P(MD)No.5939 of 2021

The Branch Manager,
Iffco Tokio General Insurance Company Limited,
No.82, Preetham Plaza Ground Floor and First Floor,
Chandragandhi Nagar, Ponmeni,
Madurai – 625 010.

... Appellant

Vs.

1. K.Elangovan

2. K.Setrayan

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 30 of the Employee Compensation Act, against the Order, dated 18.02.2021 passed in E.C.No.42 of 2018 on the file of the Commissioner for Employees Compensation at Dindigul in so far as liability to pay the compensation is concerned.

For Appellant : Mr.V.Sakthivel

For R-1 : Mr.B.Pragash

For R-2 : No appearance



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JUDGEMENT

This Civil Miscellaneous Appeal is filed by the Insurance Company against the Order, dated 18.02.2021 in E.C.No.42 of 2018 passed by the Commissioner for Employees Compensation, Dindigul.

2. The claimant and the 1st defendant are brothers and the contention of the claimant is that the 1st defendant has engaged the claimant as his driver.

3. Even though their relationship is brothers, the 1st defendant has not deposed before the Tribunal to prove that he has engaged the claimant as driver. Hence, the Insurance Company contended the claim of the claimant cannot be accepted and considered. Considering the facts of the case, this Court is inclined to remit the case back to the Tribunal for the appearance of the 1st defendant.

4. Accordingly, this Civil Miscellaneous Appeal is allowed. The Order, dated 18.02.2021 in E.C.No.42 of 2018 passed by the Commissioner for Employees Compensation, Dindigul, is hereby set



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aside. The 1st defendant is directed to appear before the Commissioner for Employees Compensation, Dindigul, to prove the claim of the claimant. The Tribunal is directed to re-hear the claim of the claimant, after issuing notice to all the parties. No Costs. Consequently, connected miscellaneous petition is closed.

29.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Commissioner for Employees Compensation,
Dindigul.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Order made in
C.M.A(MD)No.618 of 2021

29.01.2024