



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-09-2025

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THE HONOURABLE MRS.JUSTICE N. MALA

CRP No. 978 of 2023

and

CMP No.7246 of 2023

M/s.Bajaj Allianz General
Insurance Company Limited,
'ISANA KATTIMA BUILDING'
V floor, Opp. to Pollution Control Building,
Poonamallee High Road,
Arumbakkam, Chennai-600 106.

Petitioner(s)

Vs

1. Manikandan,
S/o. Manjunathan, Mekkalur Village,
Kilpenathur Taluk,
Tiruvannamalai District.
Presently residing at Old Street,
Chidambaram Town, Cuddalore.

2.Palanivel,
S/o. Kathirvel,
No.583, Avalurpettai Main Road,
Mekkalur Village and Post,
Tiruvannamalai District.

Respondent(s)



Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 25th August, 2022, passed in I.A.No.82 of 2022, in E.C.No.72 of 2019, by the Commissioner for Employees Compensation (Learned Joint Commissioner of Labour-II), at Chennai.

For Petitioner(s): Mr.J.Michael Visuvasam

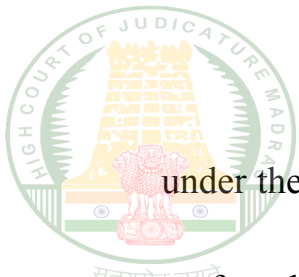
For Respondent(s): M/s.C.Venkatesan,
for R1
No appearance for R2

ORDER

This Civil Revision Petition is filed to set-aside the order dated 25.08.2022, passed in I.A.No.82 of 2022, in W.C.No.72 of 2019, by the Joint Commissioner of Labour Court, Chennai.

2. The brief facts of the case are as follows:

The 1st respondent preferred a Claim Petition, in E.C.No.72 of 2019, under the Employees Compensation Act, 1923, before the Commissioner for Employees Compensation (Joint Commissioner of Labour-II), Chennai, seeking compensation for loss of earning capacity, due to injuries sustained in an accident that occurred on 22.04.2018, during the course of his employment,



under the 2nd respondent. While so, the petitioner, insurer of the 2nd respondent, preferred I.A.No.82 of 2022, seeking refer the 1st respondent to the Medical

Board, for fair and correct assessment of physical disability, so that the loss of earning capacity could be accordingly determined fairly and justly. The Joint Commissioner, however dismissed the petition filed by the petitioner on the ground that the petition was premature. Aggrieved by the order passed by the Joint Commissioner, the petitioner preferred the above Civil Revision Petition.

3. The learned counsel for the petitioner submitted that the Joint Commissioner erred in dismissing the petitioner's application as premature. The learned counsel further submitted that Joint Commissioner failed to consider the binding precedents of this Court, reported in 2016 (1) TNMAC Page. 609 and 2017(1) TNMAC Page. 106, and the order passed by this Court dated 16.09.2020, in C.R.P.No.586 of 2018. The learned counsel further submitted that on the same day of dismissal of the I.A, the Joint Commissioner permitted the 1st respondent, to be examined by the Doctor namely, Dr.M.Balamurugan, who certified the disability of the petitioner at 40%. The learned counsel further



submitted that the Joint Commissioner failed to note that Doctor,

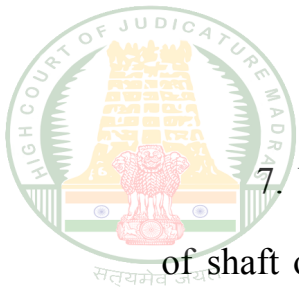
M.Balamurugan was not only a stock witness, but that he had also not treated

the petitioner. The learned counsel therefore prayed that Civil Revision Petition may be allowed.

4. The learned counsel for the 1st respondent on the other hand submitted that the impugned order called for no interference, since the Joint Commissioner, as per the Division Bench Judgment of this Court, was vested with discretion, to refer or not to refer the 1st respondent to the Medical Board. The learned counsel further submitted that the Joint Commissioner had rightly held that the petition was premature. For all the reasons, the learned counsel prayed for dismissal of the Civil Revision Petition.

5. I heard both the learned counsels and perused the materials on record.

6. The facts of the case are undisputed. The issue is whether the dismissal of the petitioner's application to refer the 1st respondent to the Medical Board is valid or not.



7. Undisputedly, the petitioner sustained non-schedule injury of fracture of shaft of right femur in the accident which occurred on 22.04.2018. Under identical circumstances, a learned Judge of this Court in C.R.P.No.586 of 2018, vide order dated 16.09.2020, after discussing the Division Bench judgment of this Court, held as follows:

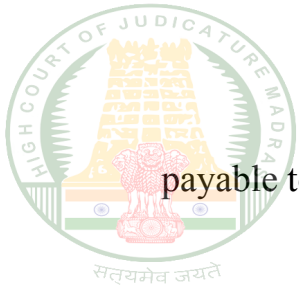
“15. Looking at from any angle, the object of reference to the Medical Board is to weed out the element of guess work and reduce the uncertainty in the determination of just compensation. Therefore, I do not think that the Commissioner, Employees Compensation was right in dismissing the application filed by the Insurance Company and concluding that decision relating to the reference to the medical board could be taken after the evidence of the claimant's Doctor is recorded. I am of the considered opinion that at least in cases, which are not covered by the injuries mentioned in the schedule, the Commissioner, Employees' Compensation would be justified in referring the injured claimant to the medical board so as to have the final opinion on the nature of the injuries and the extent of disability caused by such injuries. The Division Benches, earlier, have laid down the procedure to be followed in such references. Once the medical board gives an opinion, the necessity of oral evidence, in respect of such opinion can also be dispensed with. This would definitely save lot of time in examination of the medical experts or Doctors of the claimant



before the Commissioners concerned.

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 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 2016 (1) TNMAC 609 and 2017 (1) TNMAC 106 would apply to cases arising under the Employees' Compensation Act also."

The aforesaid judgment squarely applies to the facts of the present case, since the injury sustained by the petitioner is also a non-scheduled injury and the reason assigned by the learned Joint Commissioner, for dismissing the petition was also that, it was premature. Under the facts and circumstances of the case and in view of the aforesaid judgment of this Court, the impugned order dated 25.08.2022, is set aside. Consequently, a direction is issued to the Joint Commissioner, Labour-II, Chennai, to refer the 1st respondent to the Medical Board, for the purpose of calculating the compensation



payable to the 1st respondent.

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Civil Revision Petition is accordingly allowed. No costs. Consequently,
the connected miscellaneous petition is closed.

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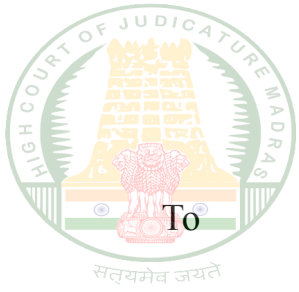
09-09-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

1. The Joint Commissioner for
Employees Compensation,
Labour -II, Chennai.

2. Manikandan

S/o. Manjunathan, Mekkalur Village,
Kilpenathur Taluk, Tiruvannamalai
District. Presently residing at Old
Street, Chidambaram Town, Cuddalore.

3. Palanivel

S/o. Kathirvel, No.583, Avalurpettai
Main Road, Mekkalur Village and Post,
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N.MALA J.

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