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CMA No.1788 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 15.12.2025**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**C.M.A.No.1788 of 2022**

**and**

**CMP.No.12943 of 2022**

M/s.Oriental Insurance Company Limited,  
Divisional Office,  
No.90-A, KVA Complex,  
Thuraiyur Road, Namakkal.

... Appellant

Vs.

1.Senthilkumar,  
S/o.Perumal  
2.K.Jeganathan,  
S/o. Kandasamy,

... Respondents

**PRAYER :** Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, prays to set aside the order passed in EC.No.132 of 2018, dated 18.04.2022 on the file of Commissioner for Employees Compensation, Deputy Commissioner of Labour, Coonoor, Erode.

|               |                                                     |
|---------------|-----------------------------------------------------|
| For Appellant | : Mr.M.B.Raghavan<br>for M/s.M.B.Gopalan Associates |
| For R1        | : Mr.I.Abrar md Abdullah                            |
| For R2        | : No appearance                                     |



CMA No.1788 of 2022

## **JUDGMENT**

**WEB COPY** The appellant has filed this appeal against the award passed in EC.No.132 of 2018, dated 18.04.2022 on the file of Commissioner for Employees Compensation, Deputy Commissioner of Labour, Coonoor, Erode.

2. Challenging the award passed by the Deputy Commissioner of Labour, in E.C.No.132 of 2018 on the file of the Commissioner for Employees Compensation, Coonoor, Erode, the 2nd respondent has preferred this appeal.

3. Before the Tribunal, the 1st respondent/applicant filed a petition under Section 10(1) of the Workmen's Compensation Act, stating that he was employed as a cleaner under the 2nd respondent herein in the lorry bearing Registration No. TN 30 F 7263. On 04.01.2018 at about 7.00 p.m., the applicant, who was working as a cleaner and was also driving the said lorry, left the vehicle at a workshop as it required repair. In order to purchase spare parts for the lorry, he took a motorcycle belonging to his employer/2nd respondent. While travelling from Ernavaram to Tindamangalam, an unknown lorry coming from the opposite direction hit



CMA No.1788 of 2022

him, causing grievous injuries. In spite of treatment, he was unable to fully recover and was not able to perform his normal work. He claimed compensation, including Rs.10,000/- towards medical expenses. The owner of the lorry remained ex parte. The lorry was insured with the Oriental Insurance Company/appellant.

4. Before the Tribunal, the owner of the vehicle admitted that the claimant was employed as a cleaner under him for about one year. He further stated that when the lorry was under repair, the claimant took his motorcycle to purchase spare parts and was hit by an unknown vehicle, sustaining grievous injuries which rendered him incapable of working as before. He also stated that the claimant was receiving a monthly salary of Rs.15,000/-.

5. The learned counsel for the appellant / insurance company contended that they were not aware of any employer–employee relationship between the insured and the claimant. They further contended that the accident did not occur while the claimant was discharging his duties as a cleaner in the insured lorry bearing Registration No. TN 30 F 7263. Hence, they contended that they were not liable to pay any



CMA No.1788 of 2022

compensation and, at the most, only the owner would be liable.

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6. Both parties adduced oral and documentary evidence. On the side of the claimant PW.1 and P.W.2 were examined and Exs.A.1 to A12 were marked. On the side of the respondents D.W.1 was examined and Exs.B1 was marked.

7. On considering the evidence, the Commissioner of Labour concluded that, as per the admission of the owner of the vehicle, the claimant had been employed as a cleaner for about one year. Considering the medical records, the Commissioner further concluded that the claimant sustained injuries while performing duties connected to his employment, i.e., purchasing spare parts for the lorry. Though he was travelling on a two-wheeler at the time, the Commissioner held that the accident occurred during the course of employment and that the lorry was insured with the appellant. Accordingly, an award of Rs.5,09,823/- was passed directing the insurance company to deposit the said amount within four weeks. Aggrieved by the said award, the insurance company / appellant has preferred this appeal.



CMA No.1788 of 2022

WEB COPY

8. The learned counsel for the appellant submitted that the accident did not occur during the course of employment. The claimant sustained injuries while riding a two-wheeler belonging to the owner, and not while working in or travelling in the insured lorry. Therefore, the insurance company cannot be held liable, as the two-wheeler was not covered under the policy.

9. By way of reply, the learned counsel for the claimant submitted that the employer admitted the employment relationship and also admitted that the claimant took the motorcycle to purchase spare parts for the lorry which was under repair. This activity, being incidental to his employment as a cleaner, was part of his duty. Therefore, the accident occurred during the course of employment. The Labour Commissioner rightly appreciated the evidence and passed a just award requiring no interference.

10. Considering the rival submissions and the admission made by the 2nd respondent that the claimant was employed as a cleaner in the lorry bearing Registration No. TN 30 F 7263, which was insured with the appellant at the time of the accident, it is the contention of the appellant



CMA No.1788 of 2022

that the accident did not occur during the course of employment. As per the facts of the case, the claimant, while driving a two-wheeler belonging to the 2nd respondent, was hit by an unknown vehicle. The claimant contended that he took the two-wheeler to purchase spare parts for the lorry, but there is no proof that the lorry was under repair. It is an admitted fact that the accident occurred while he was driving a two-wheeler belonging to the 2nd respondent. The said two-wheeler was not insured with the appellant insurance company. Therefore, the accident did not occur in the course of employment connected with the lorry, and the insured vehicle was not involved in the accident. Hence, the insurance company cannot be held liable to pay compensation.

11. Since the accident was not connected with the use of the insured lorry and occurred when the claimant was riding the two-wheeler belonging to the 2nd respondent, the 2nd respondent/owner alone is liable to compensate the claimant.

12. In the said accident, the claimant/1st respondent sustained grievous injuries. Therefore, the entire award amount of Rs.5,09,823/- is directed to be deposited by the 2nd respondent herein within eight weeks



CMA No.1788 of 2022

from the date of receipt of a copy of this order, failing which the claimant

is at liberty to execute the award in the manner known to law. Until realisation of the award amount with accrued interest, the 2nd respondent is directed not to alienate the lorry or the two-wheeler belonging to him. The lorry and two-wheeler bearing Registration Nos. TN 30 F 7263 and TN 28 AF 1991 respectively are directed to be attached.

13. Accordingly, the Civil Miscellaneous Appeal is allowed. The award passed by the Tribunal is modified. Consequently, the connected miscellaneous petition is closed.

**15.12.2025**

Index:Yes/No

Speaking/non Speaking order

Neutral Case citation: yes/no

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To

1. The Commissioner for Employees Compensation,  
Deputy Commissioner of Labour, Coonoor, Erode.
2. The Section Officer, V.R. Section,  
High Court of Madras.



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CMA No.1788 of 2022

**T.V.THAMILSELVI, J.**

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