IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12/11/2025

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THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.R.P.(NPD)NO.58 OF 2022
AND C.M.P.NO.374 OF 2022

M/s.The National Insurance Company Limited,
No.751, Anna Salai,
Chennai – 600 002. ... Petitioner/ Petitioner / 2nd Opposite party

Vs.

1.V.Soundar
No.66, 54th Block,
Opposite to S.M.Nagar,
Vyasarpadi,
Chennai – 600 039. ... 1st Respondent/ 1st Respondent/ Applicant

2.C.Uma Shankar
No.151/115, Rajasekaran Nagar,
IV Street, Tondiarpet,
Chennai – 600 081. ... 2nd Respondent/ 2nd Respondent/ 1st Opposite party

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the Docket Order dated

July 03, 2019, passed in Unnumbered I.A. of 2019 in E.C.No.135 of 2015, by the Commissioner for Employees Compensation (Joint Commissioner of Labour – I) at Chennai.

For Petitioner	:	Mr.J.Michael Visuvasam
For Respondents1 & 2	:	Served - No appearance

ORDER

Feeling aggrieved by the Docket Order dated July 03, 2019 passed by 'the Commissioner for Employees Compensation (Joint Commissioner of Labour-I, Chennai)' (hereinafter referred to as 'Joint Commissioner'), the Insurance Company has preferred filed this Civil Revision Petition.

2.One Mr.V.Soundar filed a claim petition in E.C.No.135 of 2015 before the Joint Commissioner stating that he was a driver of an Auto Rickshaw bearing Registration No. TN 05 M 6222 which belonged to the first respondent, namely Uma Shankar and he met with an accident on June 06, 2015 at about 5.45 a.m., during the course of employment and thereby sustained injuries. At the time of accident, the Employer-Employee relationship was in existence and at the time of accident, the said Auto Rickshaw was duly insured with the second respondent/Insurance Company. Accordingly, he filed a claim petition before the Joint Commissioner.

3.Despite notice to the first respondent/Uma Shankar, he did not appear and contest the claim petition. The second respondent/Insurance Company appeared before the Joint Commissioner filed a counter wherein it *inter alia* denied the Insurance Policy of the vehicle bearing Registration No.TN 05 M 6222.

4.During the trial, the petitioner/claimant was examined as P.W.1 and marked Ex.P1 to P7 on the side of the petitioner. No oral and documentary evidence were marked on the side of the second respondent/Insurance Company.

5.After hearing both sides, the Joint Commissioner awarded a sum of Rs.68,494/- as compensation payable by the second respondent-Insurance Company. The award was passed on November 26, 2018.

6.On June 06, 2019, the Revision Petitioner/Insurance Company filed an Interlocutory Application praying to recall the Award dated November 26, 2018. The said Interlocutory Application was dismissed without taking on file by stating that Award was already passed on merits and the same was sent to the parties on March 13, 2019.

7.Feeling aggrieved by the Order, the Insurance Company has filed this Civil Revision Petition.

8.Mr.J.Michael Visuvasam, learned Counsel appearing for the Revision Petitioner submits that the claimant and the first respondent colluded and created a fabricated Insurance Policy as if the said policy was issued by the Insurance Company. In fact, the Insurance Company had not issued any Policy in favour of the first respondent vehicle bearing Registration No.TN 05 M 6222 for the relevant period. The policy Ex-P2, which was marked before the Joint Commissioner was fabricated and forged for the purpose of obtaining compensation from the Insurance Company. A bare perusal of the Insurance Policy would show that the Policy is a forged one. The Insurance Company came to know about the fraud played upon on the Insurance Policy only after passing of the Award.

9.Learned Counsel for Revision Petitioner submits that the act of the claimant/the first respondent is fraudulent and hence, the Award obtained by playing fraud shall be recalled by the Authorities themselves. In support of his contention, learned counsel relied upon a Judgment of the Hon'ble Supreme Court in ***United India Insurance Co. Ltd - vs- Rajendra Singh*** reported in ***(2000) 3 SCC 581.***

10. This Court has perused the typed set of papers. On perusal of Ex.P2 Insurance Policy, this Court is of the view that the Insurance Policy is surrounded by suspicious circumstances. To be noted, despite notice from this Court, the parties, namely the alleged employer and his employee/injured did not appear and contest this Civil Revision Petition.

11. Considering the facts and circumstances of the case, this Court is of the view that the Revision Petitioner has established a *prima face* case.

12. The Hon'ble Supreme Court in the aforementioned decision has held in Paragraph Nos.15 and 16 as follows:

> *"15.It is unrealistic to expect the appellant Company to resist a claim at the first instance on the basis of the fraud because the appellant Company*

had at that stage no knowledge about the fraud allegedly played by the claimants. If the Insurance Company comes to know of any dubious concoction having been made with the sinister object of extracting a claim for compensation, and if by that time the award was already passed, it would not be possible for the Company to file a statutory appeal against the award. Not only because of the bar of limitation to file the appeal but the consideration of the appeal even if the delay could be condoned, would be limited to the issues formulated from the pleadings made till then.

16.Therefore, we have no doubt that the remedy to move for recalling the order on the basis of the newly-discovered facts amounting to fraud of high degree, cannot be foreclosed in such a situation. No court or tribunal can be regarded as powerless to recall its own order if it is convinced that the order was wangled through fraud or misrepresentation of such a dimension as would affect the very basis of the claim."

13. In view of the dictum laid down by the Hon'ble Supreme Court, the Joint Commissioner ought to have numbered the Interlocutory Application filed by the Insurance Company and issued notice to the respondents therein and ought to have passed an Order on merits. On the other hand, the Joint Commissioner dismissed the Interlocutory Application without taking it on file which is not a proper procedure. Hence, this Court is inclined to allow this Civil Revision Petition. Accordingly, the Civil Revision Petition is allowed and the Order dated

July 03, 2019 passed by the Joint Commissioner is hereby set aside.

14. The Joint Commissioner is directed to take the Interlocutory Application on file if it is otherwise in order and issue notice to the respondents therein and shall pass appropriate Order as per law in the Interlocutory Application, within a period of six months from the date of receipt of a copy of this Order.

15. With the above directions, this Civil Revision Petition is allowed. Considering the facts and circumstances of the case, there shall be no order as to costs. Consequently, connected civil miscellaneous petition is closed.

12/11/2025

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No
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To

The Commissioner for Employees Compensation,
(Joint Commissioner of Labour – I),
Chennai.

R. SAKTHIVEL, J.

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