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C.R.P.No.4999 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.No.4999 of 2023
and CMP.No.29186 of 2023

M/s.Bajaj Allianz General Insurance Company Ltd.,
Isana Kattima Buildings, 5th Floor,
New No.497 & 498, Poonamaalle High Road
Arumbakkam, Chennai - 106.

... Petitioner

Vs

1.Sardar

2.M/s.MGM Diamond Beach Resorts Pvt Ltd.,
M.G.M. Centre, No.1, 9th Street
Dr.Radhakrishnan Road, Mylapore
Chennai - 600 004.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 26.04.2023 made in I.A.No.98 of 2023 in E.C.No.190/2017 on the file of the Commissioner of Labour-2 and Joint Commissioner of Labour-2.

For Petitioner : Ms.R.Sree Vidhya

For Respondents : Mr.K.Varadhakamaraj for R1
Ms.K.Kokilavane for R2



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ORDER

Aggrieved by the order dated 26.04.2024 passed by the Deputy Commissioner of Labour-2 in I.A.No.98/2023 in E.C.No.190/2017 on the file of Commissioner of Labour-II for Employees Compensation, Chennai, in and by which the authority had dismissed the said interlocutory application filed by the Insurance Company, *inter alia*, seeking leave of the Court to direct the petitioner / first respondent herein to appear before the Medical Board to assess his disability, the Insurance Company is before this Court.

2. The brief facts are as follows :

- a) The first respondent herein was the petitioner in the claim petition in E.C.No.190/2017 on the file of the Deputy Commissioner of Labour-II for Employees Compensation at Chennai, seeking compensation for a sum of Rs.15.0 lakhs on account of the injuries sustained by him in an accident.
- b) It is his case that he was employed with the second respondent as a loadman on a monthly salary of Rs.18,000/-. On an ill-fated day i.e., on 10.06.2017 at about 23.30 hours, while he was returning in



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a tractor bearing Regn.No.TN-32-Y-0847, after unloading the garbage in the garbage area, and proceeding towards the East Coast Road, a bus bearing Regn.No.TN-32-N-3561 driven in a rash and negligent manner, hit the petitioner's tractor from behind near MGM Dizzie World, Muttukadu, Kanchipuram District and caused the accident, as a result of which, the petitioner sustained grievous injuries. He was just 24 years when the accident took place.

- c) Since the accident had taken place during the course of his employment, he moved the above claim petition before the Joint Commissioner of Labour-II, Chennai, against the petitioner-Insurance Company and his employer, the second respondent herein, seeking compensation for a sum of Rs.15.0 lakhs.
- d) The Insurance company who was arrayed as second opposite party in the claim petition, had filed a counter denying the employment of the claimant/petitioner as a loadman in the first respondent's company. Its principal contention is that the claimant has not sustained any grievous injury as alleged by the claimant. The Insurance Company has taken a stand that to prove that the



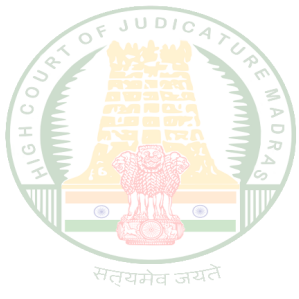
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damages/injuries caused to him was on account of the accident that had taken place on 10.06.2017, the petitioner should corroborate the same with an expert opinion and hence, it sought for the dismissal of the claim petition.

- e) The Insurance Company in its counter to the claim petition, has alleged that prior to the present interlocutory application, it had filed an application in the said Court to direct the claimant/first respondent herein to appear before the Medical Board. This application came to be allowed and the Court had directed the claimant/first respondent to appear before the Kilpauk Medical Board on 06.07.2022, on which date, the claimant did not appear. Thereafter, several opportunities were given to him, despite which, he did not appear before the Medical Board. However, the claimant/first respondent has submitted the disability certificate (Ext.P13 dated 10.01.2023) issued by a private practitioner in the Court, during his evidence.
- f) The disability certificate issued by a private doctor was objected to by the Insurance Company. Hence, it had taken out an application in I.A.No.98/2023, directing the claimant to appear before the



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Kilpauk Hospital Medical Board in pursuance to the Court's direction to appear on 06.07.2022.

- g) This application in I.A.No.98/2023 was resisted by the claimant/first respondent herein on the ground that his disability was already assessed on 10.01.2023 through a doctor, who have been examined as A.W.2. That apart, the case was posted on several occasions for the cross-examination of A.W.2, but the Insurance Company neglected to cross-examine A.W.2. Now, without cross-examining the said doctor, the Insurance Company has come forward with the application in I.A.No.98/2023, which shows the malafide intention of the insurance company to delay and protract the proceedings.
- h) The learned Deputy Commissioner of Labour-II, by order dated 26.04.2023 has dismissed the application holding that since the medical report of A.W.2, who has assessed the disability of the claimant was found satisfactory, there is no necessity to produce the claimant before the Medical Board to assess his disability once again.

Aggrieved by the same, the Insurance Company is before this Court.



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3. Heard the learned counsel for the petitioner and the learned counsels appearing for respondents 1 and 2.

4. A mere perusal of the affidavit filed in support of the interlocutory application in I.A.No.98/2023 would reveal that there was an earlier order directing the first respondent/claimant to appear before the Kilpauk Hospital Medical Board on 06.07.2022, and despite several opportunities being given to him, the first respondent/claimant has chosen not to appear before the Medical Board on those dates. This would clearly show that the claimant / first respondent has refused to comply with the orders of the Court and thereafter all of a sudden, after a lapse of 6 months, he had rushed to a private practitioner on 10.01.2023, to get a disability certificate and is now alleging that the delay was on account of the insurance company not cross-examining the A.W.2, doctor. The claimant/first respondent cannot take advantage of his wrong and plead that the present interlocutory petition filed by the Insurance Company, was nothing but an attempt to protract the proceedings.



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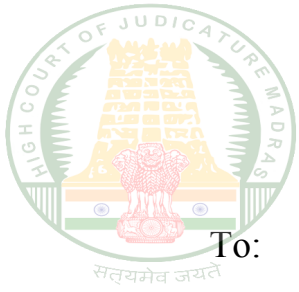
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5. In the result, the civil revision petition is allowed. The impugned order of the Deputy Commissioner of Labour-2 in I.A.No.98/2023 in E.C.No.190/2017, dated 26.04.2023, is set aside. The first respondent/claimant is directed to appear before the Kilpauk Medical Board on 30.07.2025, who shall assess the disability of the claimant and submit a report to the Commissioner of Labour-2, Workmen's Compensation Commissioner's Court, Chennai. The learned Deputy Commissioner Labour-II, upon receipt of the report from the Medical Board, shall consider and thereafter pass orders in E.C.No.4999 of 2023, within a period of one month. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2025

Index : Yes / No

Neutral Citation : Yes / No
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To:

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1. The Deputy Commissioner of Labour-II
Commissioner for Employee's Compensation-II
Chennai - 600 006.
2. The Section Officer
VR Section, High Court, Madras.



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P.T. ASHA, J.

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