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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 24.06.2025

PRONOUNCED ON: 26.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.300 of 2022
and
C.M.P.(MD)Nos.2738 and 6947 of 2022

The Manager,
HDFC ERGO General Insurance
Company Limited,
No.11, Rajiv Gandhi Nagar,
New No.528, Old No.559, 2nd Floor,
Anna Salai, Thenampettai,
Chennai-600 001.
: Appellant / Respondent No.2

Vs

1.Jessy Binoy
2.Minor Agnuas Mariyam
3.Minor Augustin
(Minor respondents 2 and 3 through
their mother next fried the first
respondent herein) : Respondent Nos.1 to 3/Petitioners

4.The Manager,
VCM & Sons,
Valiakalathil Rocke Chrusharing Unit,
Poothakuzhy (Post),
Pampadi – Changanacherry,

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Kottayam District,
Kerala.

5. Murugan : Respondents 4 & 5/Respondents 1 & 2

PRAYER:- Civil Miscellaneous Appeal filed under Section 30 of the Employee Compensation Act, against the order dated 28.10.2021, passed in E.C.No.72 of 2015, on the file of the Commissioner for Employees Compensation Tribunal at Dindigul sofaras the liability to pay the compensation is concerned.

For Appellant : Mr.V.Sakthivel

For Respondents :Mr.A.Theethar
for R.1 to R.3

: Mr.R.Sivakumar
for R.4

: No Appearance for R.5

JUDGMENT

This Civil Miscellaneous Appeal is directed against the order passed in E.C.No.72 of 2015, dated 28.10.2021, on the file of the Commissioner of Employees Compensation Tribunal, Dindigul.

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2. The appellant/Insurer who was mulcted with the liability to pay compensation of Rs.6,19,944/- with interest at 12% p.a., to the respondents 1 to 3 / claimants for the death of Binoy Ramachandran, consequent to an accident occurred on 02.09.2011, challenged the liability mulcted on it.

3. It is not in dispute that the first respondent/ claimant is the wife, the second respondent / claimant is the daughter and the third respondent / claimant is the son of the deceased Binoy Ramachandran. It is also not in dispute that since the fourth respondent has not entered into appearance before the Commissioner for Employees Compensation, an award came to be passed on 06.10.2017 and thereafter the fourth respondent has moved an application for setting aside the exparte order and the said petition came to be allowed.

4. The case of the claimants is that the deceased Binoy Ramachandran was working in the crusher owned by the fourth respondent Company and during the course of employment, on 02.09.2011 the deceased had taken the tractor bearing Registration No.TN-69-AX-0911, which was purchased by the fourth respondent

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Company, from Kottayam to Kumuli main road and at the place near Matha Kovil bend, the tractor got capsized and as a result of which, the said Binoy Ramachandran died on the spot. On the basis of the complaint lodged, F.I.R., came to be registered in Cr.No.57 of 2011, on the file of the Kumuli Police Station. It is the further case of the claimants that the said tractor was purchased by the fourth respondent from the fifth respondent Murugan, that the said vehicle was insured with the appellant in favour of the fifth respondent, that the deceased was receiving monthly salary of Rs.6,500/- and Rs.50/- as daily batta totalling Rs.8,000/- from the fourth respondent and that therefore, the claimants being the legal heirs of the deceased Binoy Ramachandran, are entitled to get compensation from the appellant as well as the respondents 4 and 5.

5. The defence of the fourth respondent is that the deceased Binoy Ramachandran is not a workman of the fourth respondent, that the deceased Binoy Ramachandran was a casual labour under the sub-contractor Saji Varghese, Kunnel House, Ithithanam Kara, the contractor of the fourth respondent Company, that the fourth respondent paid the funeral expenses to the tune of Rs.70,000/- and subsequently paid Rs.50,000/- cash to the first claimant, that the fourth respondent also paid

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Rs.2,50,000/- on 17.02.2012 to the claimants for which the first claimant executed a receipt in favour of Mariamma Mathew, W/o V.C.Mathew, Valiyakalthil House, Ithithanam P.O., Changanacherry one of the partners of the fourth respondent Company, that the fourth respondent had insured the deceased Binoy Ramachandran in a personal accident policy with New India Assurance Company and also under the Universal Health with New India Assurance Company and after the death of Binoy Ramachandran, the claim was made and on that basis, the New Indian Assurance Company remitted the amount of Rs.4,00,000/- under the personal accident policy and Rs.25,000/- under the Universal Health Policy in favour of the first claimant through RTGS transfer and that the claimants had received a total amount of Rs.7,95,000/- from the fourth respondent towards the death of the above Binoy Ramachandran as compensation and as such, they are not entitled to get further amount from the fourth respondent. It is the further case of the fourth respondent that the tractor involved in the accident was belonging to the fifth respondent Murugan and the same was purchased by the fourth respondent Company on 02.09.2011 for Rs.4,84,000/- for which, the fifth respondent executed a sale receipt in favour of the fourth respondent, that the said vehicle was validly insured with the appellant at that time for the

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period between 21.02.2011 and 20.02.2012 and that therefore, the third respondent is liable to pay the compensation and the petition as against the fourth respondent is liable to be dismissed.

6. The defence of the fifth respondent is that there was no relationship of employer and employee between the fifth respondent and the deceased at any point of time, that the deceased had never worked under the fifth respondent, that the fifth respondent sold the tractor bearing Registration No.TN-69-AX-0911 several years back and handed over the vehicle documents, that the fifth respondent was not the owner of the vehicle as on 02.09.2011, the date of accident and as such, the fifth respondent is not liable for any claim, that the claimants are entitled to get compensation if any only from the fourth respondent and the appellant and that therefore, the claim petition is liable to be dismissed as against the fifth respondent.

7. The defence of the appellant/Insurer is that the Registration Certificate of the vehicle in dispute and the Insurance Policy stand in the name of the fifth respondet Murugan, that the vehicle in dispute was not validly insured with the appellant at the time of accident and the policy

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was in the name of the fifth respondnet and the same was not transferred in favour of the fourth respondent, that the fifth respondent gave a letter to their investigator stating that he sold the tractor on exchange basis to the Nellai Motors, Tirunelveli, three years back and that there is no contract between the fourth respondent and the appellant Insurer at the time of accident and there is no insurable interest between the fifth respondent and the appellant and as such, the appellant is not liable to pay any compensation to the claimants.

8. During enquiry, the first respondent/first claimant examined herself as P.W.1 and exhibited 7 documents as Exs.P.1 to P.7. The fourth respondent examined their manager Pijumone Sacko as R.W.1 and exhibited 6 documents as Exs.R.1 to R.6. The fifth respondent adduced neither oral nor documentary evidences. The appellant/Insurer examined their official as R.W.2 (wrongly mentioned as R.W.1) and exhibited two documents as Exs.R.7 and R.8 (wrongly mentiond as Exs.R.1 and R.2).

9. The learned Commissioner, upon considering the evidences both oral and documentary and on hearing the arguments of both sides, passed the impugned order dated 28.10.2021, holding that the accident was

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occurred while the deceased Binoy Ramachandran was working as a driver under the fourth respondent and also by observing that the fifth respondent remained to the registered owner of the vehicle, directed the appellant/Insurer to pay the compensation of Rs.6,19,944/- with interest from the date of accident till the date of deposit excluding the delayed period in filing the claim. Aggrieved by the impugned order, the Insurer has preferred the present Civil Miscellaneous Appeal.

10. At the time of admission, the following Substantial Questions of Law came to be formulated:

(1) Whether the Commissioner of Employees Compensation is right in directing the appellant Insurance Company to pay compensation to the respondents Nos.1 to 3/petitioners when the employer of deceased was the 4th respondent/first respondent.

(2) Whether the commissioner of Employees Compensation is right to directing the appellant Insurance Company to pay compensation to the respondents Nos.1 to 3/petitioners by holding that the owner of the vehicle bearing registration No.TN-69-AX-0911 was the fourth respondent/first respondent herein against the law laid down by the Supreme Court Naveen Kumar Vs. Vijay Kumar.

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(3) Whether the Commissioner of Employees Compensation is right to directing the appellant Insurance Company to pay compensation to the respondent Nos.1 to 3 petitioners when there is no proof for Employer-Employees relationship between the deceased and respondent No.5/second respondent namely registered owner of the vehicle bearing registration No.TN-69-AX-0911.?

11. As already pointed out, the main stand of the fourth respondent is that the deceased was not working under them directly, but he was working under the sub-contractor Saji Varghese. Admittedly, the fourth respondent has not produced any iota of evidence to show that the said Saji Varghese was a sub-contractor under the fourth respondent Company and the deceased was working under the sub-contractor. Even according to the fourth respondent, they had insured the deceased Binoy Ramachandran in a personal accident policy with New India Assurance Company and also under the Universal Health Policy with the New India Assurance Company and subsequent to the death of Binoy Ramachandran, the claim was made and on that basis amounts are settled by the New India Assurance Company. Moreover, the fourth respondent

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in their counter as well as in the evidence would admit that they have paid for funeral expenses and subsequently paid Rs.50,000/- and Rs.2,50,000/- to the claimants. P.W.1-first claimant in her evidence would reiterate their stand that her husband was only working under the fourth respondent. During cross-examination made on behalf of the fourth respondent, when it was suggested that the deceased was only working under the sub-contractor Saji Varghese, P.W.1 would reiterate that her husband was only working under the VCM Company. When P.W.1 was cross-examined by the fifth respondent side, she would say that her husband was not working under the fifth respondent, but he was only working as a driver under the VCM Company.

12. It is pertinent to note that the fourth respondent themselves admitted that after purchasing the vehicle in dispute, when the same was driven by the deceased towards their place, the accident had occurred. As rightly pointed out by the learned Counsel for the claimants, even according to the fourth respondent, there was no involvement of Saji Varghese or any other sub-contractor in taking the vehicle by the deceased which came to be purchased by the fourth respondent. More importantly the fourth respondent company has not produced any of its

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records / accounts to show that the deceased was not their employee. Considering the above, the finding of the learned Commissioner that the deceased Binoy Ramachandran while working as a driver under the fourth respondent died in the accident during the course of employment.

13. The learned Counsel for the appellant would mainly contend that the learned Commissioner has specifically held that the deceased was an employer of the fourth respondent Company and therefore, admittedly there was no relationship of the employer and employee between the fifth respondent and the deceased, that the Registration Certificate and the Insurance policy stand in the name of the fifth respondent and not in the name of the fourth respondent and that since the deceased was not the employee of the fifth respondent and the accident was not occurred during the course of employment with the fifth respondent, neither the fifth respondent nor its insurer can be made liable. The learned Counsel would further submit that the learned Commissioner should have dismissed the claim petition as against the fifth respondent and consequently as against the appellant, but on the other hand, after holding that there existed employer-employee relationship between the fourth respondent and the deceased, has

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wrongly mulcted the liability on the appellant and that therefore, the impugned order is liable to be interfered with.

14. It is undisputed that the fifth respondent, Murugan, was the registered owner of the tractor (TN-69-AX-0911) at the time of the accident and that the appellant had issued an insurance policy in his name. The policy was in force on the date of the accident (02.09.2011). The fifth respondent claimed to have sold the vehicle to Nellai Motors, Tirunelveli, on an exchange basis three years prior, contradicting the fourth respondent's claim of purchasing the vehicle on the accident date. Although the appellant produced a letter from the fifth respondent stating the sale to Nellai Motors three years earlier, the fifth respondent failed to provide any evidence supporting this claim. Notably, the fifth respondent did not adduce any evidence whatsoever.

15. The fourth respondent claims to have purchased the vehicle from the fifth respondent on 02.09.2011, and the accident occurred while it was being taken to their place. Even if the fifth respondent's claim of selling the vehicle three years prior were true, it's implausible that he wouldn't have transferred the registration certificate and insurance policy.

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The insurance policy, valid from 21.02.2011 to 20.02.2012, raises questions about why the fifth respondent would renew it in 2011 if the vehicle was sold three years earlier. It's equally puzzling that the Insurance Company would renew the policy in the fifth respondent's name despite allegedly receiving the Ex.R.8 letter.

16. The learned Counsel for the appellant would rely on the decision of the Hon'ble Supreme Court in ***Naveen Kumar Vs. Vijay Kumar and others*** reported in ***2018(1) TN MAC 157 (SC)***, wherein the Hon'ble Apex Court has specifically held that for the purpose of the Motor Vehicles Act, the person whose name is reflected in the records of the Registering Authority is the owner and the owner within the meaning of Section 2(30) of the said Act is liable to compensate and that the claimant is not to be burdened with following a trial of successive transfers, which are not registered with the Registering Authority.

17. Very recently, the Hon'ble Supreme Court in ***Brij Bihari Gupta Vs. Manmet and others*** reported in ***2025 Live Law SC 787*** has reiterated the position that the insurer of the registered owner of a vehicle will be liable to compensate third party losses arising out of the use of the

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vehicle, if the registration of the vehicle was not changed despite its transfer. The Hon'ble Supreme Court has observed that the liability to pay falls squarely on the registered owner, even if there has been successive transfers which has to be indemnified by the insurer.

18. Considering the stand of the fourth respondent and the evidence available on record and taking note of the legal position above referred, this Court has no hesitation in holding that the fifth respondent was lawful owner of the vehicle in dispute on 02.09.2011 and that despite purchase made by the fourth respondnet on the same day, the fifth respondent remained to be the lawful owner and as such, the appellant being the insurer is liable to indemnify the fifth respondent. Hence, the decision of the learned Commissioner fasterning the liability on the appellant/insurer is perfectly legal and the same cannot be found fault with. Consequently, this Court concludes that the Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed.

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19. In the result, the Civil Miscellaneous Appeal is dismissed. The parties are directed to bear their own costs. Consequently, the connected Civil Miscellaneous Petitions are also dismissed.

26.08.2025

NCC : Yes : No
Index : Yes : No
Internet : Yes : No

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To

1. The Commissioner for Employees Compensation Tribunal
   Dindigul.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

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K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

C.M.A(MD)No.300 of 2022

26.08.2025

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