



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2026

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

**CMA No. 476 of 2023
and connected MPs**

1. M/s.United India Insurance Company
Ltd
Sillingi Building, IV Floor, No.134,
Greens Raod, Chennai- 600006.

Appellant/II Opp Party

Vs

1. T.Amsaveni
W/O. Nagarathinam, residing at
Dharkas Kandigai Village, Moolakarai,
Kilikodi Post, Ponneri Taluk, Tiruvallur
District.

2.Nagarathinam
S/O. Tulasi Reddiar, residing at
Dharkas Kandigai Village, Moolakarai,
Kilikodi Post, Ponneri Taluk, Tiruvallur
District.

3.Minor. Latha
D/O. Nagarathinam
rep by her father Nagarathinam
residing at Dharkas Kandigai Village,
Moolakarai, Kilikodi Post, Ponneri
Taluk, Tiruvallur District.

Respondents 1 to 3/
Applicants 1 to 3

4.J.Suresh
s/o Jayaraman, No.7, Perumal Koil
Street, Pakkam village,
Thirupalaivanam

Respondent No.4/I Opp.Party.



PRAYER

CMA filed under Section 30 of the Employees Compensation Act, 1923, to set aside the Final award dated 14th September, 2021 (received on 05-03-2022) passed in E.C.No.364 of 2012 by the Learned Commissioner of Labour (Joint Commissioner of Labour-II) at Chennai.

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

For Respondent(s): Mr. R. Venkatesulu For R1 To R3
R4- No Appearance

ORDER

Challenging the order of the Joint Commissioner for Labour -II, [Workmen Compensation Commissioner-2 Court, Chennai-6], the 2nd respondent-Insurance company preferred this appeal.

2. Before the Joint Commissioner of Labour-2, the claimants 1 to 3/respondents 1 to 3 herein preferred the claim petition in E.C.No.364 of 2012, under the provisions of Tamil Nadu Workmen's Compensation Act, 1923, claiming compensation for the death of 1st petitioner's son Dayalan who met with an accident in the course of employment under the 4th respondent herein Suresh/R1 before the Joint Commissioner.

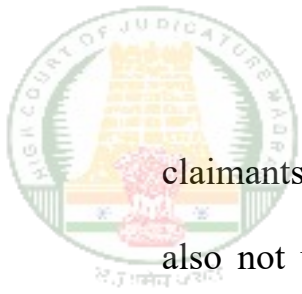


3. The parties are referred herein as per their litigative status before the Joint Commissioner. The brief facts are as follows:-

(a) The 1st and 2nd claimants are the parents and the 3rd claimant is the sister of the deceased Dayalan. The claimants 1 and 2 contended that their son was employed as Loadman under the employer R1/Respondent No.4 herein, for a monthly salary of Rs.10,000/- with daily allowance Rs.200/ and at the time of accident, his age was 21 years.

(b) On 21.03.2012, at about 2 O clock, the tractor which belongs to R1/4th respondent herein was loaded with bricks and the deceased travelled in the said tractor as loadman. When the vehicle was going near Arambakkam Police Station, due to the accident, he died. Since he died in the course of employment, the claimants claimed compensation from 1 and 2 respondents, stating that the vehicle belonged to the 1st respondent and insured with the 2nd respondent.

(c) The 1st respondent is the owner of the vehicle. He remained exparte. The 2nd respondent-insurance company contested the case stating that the deceased was not an employee under the 1st respondent and there is no employer-employee relationship between them. Apart from that, accident did not occur as alleged by the claimants. As per the police complaint, at the time of the alleged accident, deceased Dayalan has driven the tractor. However, the



claimants claimed that he was employed as Loadman. Further the tractor was also not used for agriculture purpose at the time of alleged accident and the same was utilised for commercial purpose. Therefore, the claimants are not entitled to claim compensation as they prayed for and the insurance company is not liable to pay compensation. Even if the accident was true, there was violation of the terms and conditions of the policy. Therefore, the 2nd respondent/appellant herein is not liable to pay compensation.

4. Both parties adduced evidence before the trial court. On the side of claimants, P.W.1 and 2 were examined and Ex.P.1 to P.10 were marked. On the side of the 2nd respondent, R.W.1 was examined and Ex.R.1 to R.7 were marked and Court side witnesses C.W.1 and C.W.2 were examined and documents C.1 and C.2 were marked.

5. Considering all the evidence, Joint Commissioner has held that as per the averments in the claim petition, on the date of the accident, Dayalan driven the vehicle but the 2nd respondent-Insurance company objected the same stating that the deceased Dayalan has not possessed any driving licence. So the burden is upon the claimants to establish that the deceased was holding valid licence. To that effect, the witnesses from the RTO office was examined as C.W.1 and 2 and their evidence discloses that as per the official record, there was no driving



licence in the name of Dayalan in whose jurisdiction he was living.

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6. The Joint Commissioner held that the deceased Dayalan was not possessing driving licence. But P.W.2 Munuswamy, in his evidence stated that he has driven the vehicle on the date of the accident and due to his negligent driving and because of suddenly applying brake to avoid an accident, the tractor toppled and Dayalan sustained injury in the accident and died. Before the criminal court, Munusamy paid the fine amount. So also, four ladies who were walking on the road side, sustained injury due to bricks fell down on them in the occurrence. Further, they filed claim petition seeking compensation for the injury sustained in the accident before the Ponneri Court and the said case was compromised in the Lok Adalat by the 2nd respondent – Insurance Company. Therefore, the trial Judge by relying on all the evidence, held that on the date of accident, the deceased has not driven the vehicle as driver nor possessed valid driving licence. The trial Judge further held that on the date of the accident, deceased travelled in the vehicle as Loadman and vehicle also insured with the 2nd respondent, but it was not proved that the vehicle was used for commercial purpose by the 2nd respondent. The learned Joint Commissioner, therefore, directed the 2nd respondent to pay compensation of Rs.9,01,000/- along with 12% interest per annum. Challenging the said order, the 2nd respondent Insurance company has preferred this appeal.



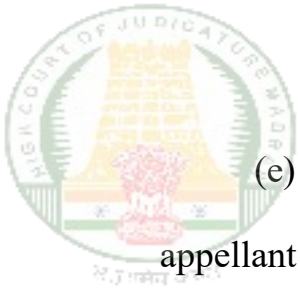
7. Learned counsel for the appellant raised the following grounds:-

(a) The learned Joint Commissioner failed to appreciate the fact that respondents 1 to 3, in order to ensure compensation for the death of Late.Dayalan, driving the Tractor-Trailer without any driving licence, have falsely claimed that the deceased was employed as a loadman, at the time of the accident.

(b) The learned Joint Commissioner had completely failed to advert to the evidence of the Appellant and the documents marked as Ex.R.3 Inquest Report, Ex.R.4 Final Report and Ex.R.7 Motor Vehicle Inspector's report, wherein it is specifically mentioned that Late.Dayalan was driving the Tractor-Trailer, at the time of the alleged road traffic accident.

(c) The learned Joint Commissioner failed to consider the fact that except for the false assertion of Aw-2 Munusamy that he was driving the Tractor-Trailer at the time of accident there was no documentary evidence to prove the said fact.

(d) The learned Joint Commissioner failed to notice the fact that the assertion of AW-2 that he presented himself before the Police for release of the Tractor-Trailer and paid fine and the said fact was also mentioned in the vehicle Release Report, were all false and was not established by producing documentary evidence for the same.



(e) The learned Joint Commissioner ought to have exonerated the appellant from payment of any compensation to the respondents 1 to 3, for the breach of conditions of the Policy of Insurance by the 4th respondent in allowing the tractor-trailer meant for ‘agricultural purpose’ to be misused for ‘commercial purpose’ by carrying bricks at the time of the accident as mentioned in Ex.P.1 FIR and asserted in the course of evidence of AW-2.

8. Considering all the grounds raised by the appellants, the appeal was admitted by this court on 28.02.2023 on the following substantial questions of law:-

“ 1. Whether the Commissioner was justified in his finding that the deceased was employed as a loadman relying on the evidence of A.W.2 without considering the credibility and trustworthiness of the evidence in the facts and circumstances of the case and the evidence placed on record by the appellant?

2. When the breach conditions of the policy of insurance with regard to the misuse of the Tractor-Trailer for commercial purpose contrary to the intended Agricultural purpose was evident from a reading of Ex.P.1 FIR and A.W.2, whether liability mulcted on the appellant by the learned Joint Commissioner is erroneous and can be sustained?”



9. Learned counsel appearing for the respondents 1 to 3/claimants argues that before the Joint Commissioner, the claimants have established that the deceased travelled in the vehicle and also proved that the other injured persons in the accident filed claim petitions and their cases were settled in the Lok Adalat by the appellant-insurance company, which itself shows that the appellant admitted liability and therefore, the appellant-Insurance company is not entitled to dispute the award passed by the Joint Commissioner. Further, the insurance policy was in force at the time of the accident in respect of the vehicle belonged to the 4th respondent herein. Therefore, he prayed to dismiss the appeal as it lacks merits.

10. Heard and considered both sides submissions.

11. According to the claimants 1 to 3, the deceased Dayalan was employed as Loadman under the 4th respondent. This fact was not denied by the employer 4th respondent who remained exparte before the Joint Commissioner.

12. It is an undisputed fact that the vehicle involved viz., the Tractor belongs to the 4th respondent herein and insured with the appellant-insurance company. The claimants contended that the deceased was a loadman. Even, as



per the allegations in the FIR, the deceased was named as Loadman. On the date of the accident, the driver who drove the vehicle in order to prevent the accident, suddenly applied brake; the tractor toppled and due to which, the deceased was caught down under the vehicle and he died subsequently. The pedestrians at that time, viz., 4 women also got injured, for which, the Insurance Company settled the claim under Lok Adalat.

13. Learned counsel appearing for the appellant-Insurance Company contended that they settled the claim of 4 women who are pedestrians, however, the present claim is totally different from that of the injured claimants as the claimants not proved the fact that the deceased Dayalan was loadman and travelled in the vehicle. The tractor has only one seat and he was not possessing any valid licence.

14. It is relevant to note that P.W.2-Murugesan stated in his evidence that he driven the vehicle and the deceased travelled as loadman. At the time of occurrence, four women who was walking on the road, sustained injuries, so the Insurance company has settled compensation based on the same FIR. It is also revealed that P.W.2 driver Munusamy who has driven the vehicle at the time of the accident stated that the deceased Dayalan worked under 4th respondent herein/R1 as Loadman at the time of the accident, which was not denied by the



4th respondent/R1. Therefore, there exists employer-employee relationship. To that effect, award passed by the learned Joint Commissioner, is sustainable.

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15. The other contention of the learned counsel for the appellant that the tractor was not used for agricultural purpose, so there is violation of the terms and conditions of the policy of the Insurance company is also proved, therefore, the appellant is liable to pay compensation and recover the same from the owner of the vehicle. To that effect, counsel for respondents 1 to 3/claimants relied on the decision of the Supreme Court in *M.Ananthi and others vs P.Venkatesan and another, [Civil Appeal No.1175 of 2025 Arising out of SLP(C)No.377/2023]*, wherein, it is held as under:-

“ 9. In the case of National Insurance Co.Ltd., Vs. Swaran Singh and Ors:(2003) 3 SCC 297, it has been laid down that the claimant should not be allowed to suffer and rub about to release the compensation awarded and that, it is in the fitness of things that the Insurance Company in such cases should first pay and then recover the amount.”

16. Following the above principle, the appellant is directed to pay and recover the award amount from the 4th respondent herein.



17. In the result, this Civil Miscellaneous Appeal is partly allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

27-02-2026

nvsri

Neutral Citation: Yes/No



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CMA No. 476 of 2023



T.V.THAMILSELVI J.

nvsri

To

1. The Learned Commissioner of Labour

(Joint Commissioner of Labour-II) at Chennai.

2. The Section Officer, V.R.Section, High Court, Madras.

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27-2-2026