



C.R.P(MD)No.1314 of 2011 &
C.M.A(MD)No.1351 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 05.11.2025

Pronounced on : 23.01.2026

CORAM:

THE HONOURABLE MS.JUSTICE R. POORNIMA

C.R.P(MD)No.1314 of 2011 & C.M.A(MD)No.1351 of 2012
and
M.P(MD)Nos.1 of 2011 & 1 of 2012

C.R.P(MD)No.1314 of 2011

M/s.Subam Papers (P) Ltd.,
Vaduganpatti, Tirunelveli.
Rep. by its Director Balakumar.

.. Petitioner/petitioner/respondent

Vs.

A.Kandhan

..Respondent /respondent/ Petitioner

PRAYER: This Civil Revision Petition is filed under Section 227 of
Constitution of India to allow the Civil Revision Petition and set aside the



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Fair and Decreetal Order dated 18.06.2011 made in unnumbered I.A.No.--

of 2010 in W.C.No.49 of 2008 on the file of the Deputy Commissioner of Labour (Commissioner for Workmen Compensation), Tirunelveli.

For Petitioner : Mr.M.Jerin Mathew

For Respondent : Ms.T.V.Lokanayaki
for Mr.A.Parameswaran

C.M.A(MD)No.1351 of 2012

M/s.Subam Papers (P) Ltd.,
Vaduganpatti, Tirunelveli.
Rep. by its Director Balakumar.

.. Appellant/ Respondent

Vs.

A.Kandhan

.. Respondent /petitioner

PRAYER: This Civil Miscellaneous Appeal is filed under Section 30(1) of Workmen's Compensation Act, to allow the Civil Miscellaneous Appeal and set aside the Fair and Decreetal Order dated 04.09.2012 made in W.C.No.49 of 2008 on the file of the Deputy Commissioner of Labour (Commissioner for Workmen Compensation), Tirunelveli.



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For Appellant : Mr.M.Jerin Mathew

For Respondent : Ms.T.V.Lokanayaki
for Mr.A.Parameswaran

COMMON ORDER

The Civil Revision Petition has been filed against the Fair and Decretal Order dated 04.09.2012 made in I.A.No.-- of 2010 in W.C.No.49 of 2008 on the file of the Deputy Commissioner of Labour (Commissioner for Workmen Compensation), Tirunelveli.

The Civil Miscellaneous Appeal Petition has been filed against the Fair and Decretal Order dated 04.09.2012 made in W.C.No.49 of 2008 on the file of the Deputy Commissioner of Labour (Commissioner for Workmen Compensation), Tirunelveli.

2. The company filed an unnumbered I.A. before the Tribunal stating that the disability of 52% is high and the medical disablement is to be assessed by referring the patient to Tirunelveli Medical College Board. Hence, he prays to refer the matter to the Medical Board of Tirunelveli Medical College at the cost of the Management.



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3. The respondent/petitioner submits that the petitioner has already been examined by a competent Doctor and issued disability certificate. Apart from the fact that no valid ground is pleaded for referring the petitioner to the Medical Board. Hence, prays to dismiss the petition.

4. After hearing the parties, the Tribunal dismissed the petition. Aggrieved by the said order, the present Civil Revision Petition has been filed by the Subam Papers (P) Ltd., who is the petitioner before the Tribunal in unnumbered I.A.-. on the following among other grounds :

(a) That the Tribunal ought to have seen that unless the loss of earning capacity of the respondent workman is ascertained by the competent Medical College, the claim of compensation could not be sustained.

(b) That the Tribunal ought to have seen that the respondent workman had suffered only a temporary partial disablement and as such he is not eligible to claim any compensation.

Hence, the appellant seeks to set aside the order of the Tribunal and allow the Civil Revision Petition.



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5. Brief facts of the petition filed by the petitioner before the Tribunal are as follows:

(a)The petitioner was working under the respondent. During the course of his employment, on 21/04/2007 at about 4.30 p.m., when he was cleaning the bulb in a machine, he met with an accident and thereby, he sustained grievous injuries. Immediately, the petitioner was admitted to the Raja Hospital at Pettai, where he received first aid. Thereafter, he was admitted to the Galaxy Hospital, Vannarpettai, Tirunelveli, underwent treatment in the said hospital from 21.4.2007 to 25.06.2007. The Galaxy Hospital has charged a total amount of Rs1,94,193/- towards medical treatment, in which his father managed to pay only a sum of Rs.45,000/- and the balance amount of Rs1,75,671/- was paid by the petitioner to the Galaxy Hospital.

(b) The petitioner is aged 19 years, at the time of the accident. He was hale and healthy and free from any ailment. He was drawing a salary of Rs3,000/- per month from the respondent. Therefore, he prays to pass an award of Rs1,75,671.60 to the petitioner.



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6. Brief averments contained in the counter filed by the respondent, are as follows :

The respondent disputes all the averments contained in the petition contending that the petitioner has not followed the safety instructions. This respondent has spent a huge sum of Rs.1,04,207/- towards treatment, but he suppressed the facts. The petitioner has not suffered from 52% permanent disability. The respondent is not liable to pay any compensation for the said accident arising out of the petitioner's carelessness.

7. During the trial, on the side of the petitioner, P.W.1 to P.W. 3 were examined and Ex.P1 to Ex.P11 were marked. On the side of the respondent, R.W.1 was examined and no document was marked.

8. After hearing the parties, the Tribunal allowed the petition and awarded a sum of Rs1,85,286/- towards compensation. The Tribunal directed the appellant/respondent to pay the entire award amount within a period of thirty days.



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9. Aggrieved by the said order, the present Civil Miscellaneous Appeal has been filed by the Subam Papers (P) Ltd., who is the respondent before the Tribunal against the liability fixed on them on the following among other grounds :

a) That the Tribunal erred in determining the salary and assessing the loss of earning capacity at 52% while there was no evidence to that effect from the doctor who gave treatment to the respondent.

b) The impugned award passed by the Tribunal is arbitrary and without any basis and hence, the appellant is not liable to pay the compensation.

Hence, the appellant seeks to set aside the award of the Tribunal and allow the Civil Miscellaneous Appeal.

10. The learned counsel for the respondent, reiterates the arguments as per the averment contained in the petition.

11. Heard the learned counsel on either side and perused the material available on records.



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12. Now, this Court has to decide the following points for consideration :

(1) Whether the Labour Commissioner was justified in awarding compensation to the respondent while unnumbered I.A.- in W.C.No.49 of 2008 is challenged by filing CRP. (MD)No.1314 of 2011 which was pending before this Court and not yet decided ?

(2) Whether the compensation awarded by the Tribunal is proper or liable to be set aside ?

13. Point No.1

As regards the unnumbered interim application filed by the revision petitioner seeking a direction to the claimant to appear before the medical board for proving the extent of disability, the same was dismissed by the trial Court.

14. According to the petitioner the disability certificate issued by PW2, is not reliable as PW2 had not treated the claimant at the time of injury, and it's not an expert competent to assess and issue a disability certificate.



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15. The disability certificate filed by the claimant under Ex.P9 was issued by Dr.S.Ramaguru, the Professor of Orthopaedics, Tirunelveli Medical College and Hospital, Tirunelveli. The disability certificate dated 17.02.2008 was marked as Ex.P9. During his evidence PW2, clearly deposed that upon examination of the claimant, he found that the claimant had sustained fractures in both upper limbs and that plates had been fixed after surgery. He further stated that due to injury to his hip and lower abdomen, the hip bones had not united properly. He further stated that the claimant had undergone surgery on his right leg and that plates had been fixed. He further noticed that the movement of all the above-mentioned parts was restricted and therefore, he assessed the partial permanent disability at 52%. The certificate Ex.P9 issued by PW2 was supported by the discharge summary issued by Galaxy Hospital, which was marked as Ex.P1, by the claimant.

16. Ex.P1 clearly shows that the claimant was admitted to the Galaxy Hospital on 22.4.2007 and discharged on 21.6.2007. During that period he had undergone three surgeries for the injuries sustained by him



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viz., 1. Laprotomy and bowel resection on 24.4.2007, (2).1.Tibia, 2. Symphysis pubis diastasis on 4.5.2007 and 3. surgery conducted on 8.5.2007 for the following injuries. 1. # Midshaft of (Rt) Humerus 2. # U/3 of (L) Humerus. Therefore, the certificate issued by PW2, based on the medical records, the x-ray taken on the date of examination and the physical examination of the claimant, does not require any reassessment at this belated stage as the certificate of disability was issued after verifying the medical records, conducting a physical examination and considering all other relevant aspects. Therefore, the revision against the order passed in unnumbered IA is devoid of merit and is liable to be dismissed. The trial Court rightly dismissed the same which is proper and warrants no interference. Hence, the order passed by the trial Court is hereby confirmed. Point No.1 is answered accordingly.

17. Point No.2

As far as the compensation awarded by the trial Court is concerned, the appellant admitted the existence of the employer-employee relationship. It is not in dispute that the accident occurred during the course of employment. The claimant was examined as PW1 and during



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his evidence, he categorically stated that he was not permitted to continue in employment and that due to his disability, he is unable to do any work and is suffering for his livelihood. He further stated that a notice was issued to the respondent, but no reply was received.

18. The appellant contended that a sum of Rs.1,04,207/- was paid by him to the claimant towards his medical expenditure, however, no document was produced by the appellant in support of the said claim. The appellant did not deny that they had discontinued the claimant after the accident.

19. PW3, Mr.Rajan, the Administrative Officer of the hospital also stated that a sum of Rs.1,94,193/- was paid by the claimant for the medical expenses. Though the claimant claims that he was earning a sum of Rs.3,000/- per month as salary, he has not produced his salary certificate in support of his claim. Therefore, the Tribunal taking into account, the cost of living and revealing market rates fixed his monthly income at Rs.2,700/- p.m. Thereafter, it determined the age of the workmen as 23, on the date of the accident. The trial Court applied



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relevant factors in fixing the partial permanent disability awarded a sum of Rs.1,85,286/- against which the claimant did not prefer any appeal. This court finds that the compensation awarded is just and proper and no interference is warranted against the order of the Tribunal. The Civil Miscellaneous Appeal lacks merit and the same is liable to be dismissed. Point No.2 is answered accordingly.

20. C.R.P(MD)No.1314 of 2011

In the result, the Civil Revision Petition is dismissed. The Order dated 18.06.2011 made in unnumbered I.A.No.-- of 2010 in W.C.No.49 of 2008 on the file of the Deputy Commissioner of Labour (Commissioner for Workmen Compensation), Tirunelveli is hereby confirmed. No costs. Consequently, connected Miscellaneous Petitions are closed.

21. C.M.A(MD)No.1351 of 2012

In the result, the Civil Miscellaneous Appeal is dismissed. The Order dated 04.09.2012 made in W.C.No.49 of 2008 on the file of the Deputy Commissioner of Labour (Commissioner for Workmen



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Compensation), Tirunelveli, is hereby confirmed. No costs.

Consequently, connected Miscellaneous Petition is closed.

23.01.2026

Index : Yes / No

NCC : Yes / No

RM

To

The Deputy Commissioner of Labour
(Commissioner for Workmen Compensation),
Tirunelveli.

Copy to

1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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R. POORNIMA, J.

RM

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