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IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 29.03.2019  
CORAM:  
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN  
C.M.A.No.1774 of 2012 and  
M.P.No.1 of 2012

The Divisional Manager,  
National Insurance Company Ltd.,  
Puducherry

...2nd respondent/Appellant

Vs.

Selvam (died)  
Son of Natesan

1.Natesan  
2.Meni ...Petitioners/Respondents1 &2  
(Parents of Late Selvam)  
3.Elavararsi Ranganathan  
...Ist Respondent/  
3rd Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 22.12.2011, in M.C.O.P.No. 568 of 2005, on the file of the Motor Accidents Claims Tribunal, (Additional Sub Judge Presiding Officer), Pondicherry.

For Appellant : Mr.S.Vadivel  
For R1&R2 : Mr.K.Sasidaran

For R3 : No appearance

#### JUDGMENT

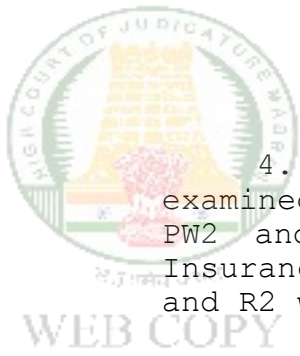
This Civil Miscellaneous Appeal is filed by the National Insurance Company Limited, challenging, the order passed in M.C.O.P.No. 568 of 2005, on the file of the Motor Accidents Claims Tribunal, Additional Sub Judge, Presiding Officer), Pondicherry. They have filed the present appeal questioning both the liability to pay compensation and the quantum of compensation awarded by the Tribunal.



(i) The 1st claimant/deceased Selvam was working as a cleaner with the 3rd respondent in respect of the vehicle namely, Lorry and as such, at the time of accident, i.e., 02.09.2004, when the deceased was working as cleaner, and proceeding with the lorry bearing Registration No.TN 31 ED 5290 along with load of Jalli and when the said vehicle was nearing Prammadesam, near Kattali Koot Road, Tindivanam, due to rash and negligent driving of the driver of the third respondent, the deceased fell down on the road and sustained grievous injuries over the back bone and its surface and immediately taken to the Government General Hospital, Pondicherry for treatment, wherein, he had been directed to take treatment at K.K.Nagar Hospital, Chennai, wherein he was operated over the spinal cord and also took treatment for his grievous injuries. The deceased thereafter was taken to the Puthur Hospital, for further treatment. Now, both the legs of the deceased have not functioned and the same were under the inoperative condition and therefore, he was unable to move even a single feet.

(iii) It is further submitted that the deceased was the elder male issue of his parents, except him, there are unmarried younger sisters and brothers. All of them were depending upon the income of the deceased, but due to the injuries/accident, they have been suffering a lot, apart from mental agony.

<https://hcservices.ecourts.gov.in/hcservices/>



4. Before the Tribunal, the deceased 1st claimant was examined as PW1 and the Doctor who treated him was examined as PW2 and Exhibits P1 to P12 were marked. On behalf of the Insurance Company, R.W.1 and R.W.2 were examined and Exhibits R1 and R2 were marked.

5. The Tribunal based upon Exhibit R1 F.I.R has categorically held that the injured (now deceased) was alighting from the lorry and at the time, he fell down on the road and sustained grievous injury over the backbone and subsequently, he died. He was working as a cleaner and the accident has taken place due to the rash and negligent driving of the driver of the third respondent's lorry and taking note of the fact that as per Exhibit P3, the driver has a valid driving licence to drive the vehicle and also taking note of Exhibit P2 copy of the Insurance Certificate, the Tribunal has held that the third respondent and the appellant/Insurance Company are jointly and severally liable to pay the compensation.

6. On the point of quantum, based upon Exhibit P6 copy of the Accident Register, Exhibit P4 Disability Certificate and Exhibit P7, P8 and P9 discharge summaries from 3 hospitals and Exhibit P11 Death Certificate of the Selvam, the Tribunal has held that the deceased died due to the injuries and awarded the compensation of Rs.6,10,000/- and directed both the owner of the vehicle and the Insurance Company to pay the compensation.

7. The learned counsel for the Insurance Company would submit that the deceased was only a cleaner and he is not covered under the policy. Taking note of the fact that Exhibit P5 Registration Certificate of the vehicle and the driving licence which is marked as Exhibit P3 and Exhibit P2 Insurance Certificate which is also marked as Exhibit R1 on the side of the respondents, the Tribunal has held that the injured/deceased was a cleaner and as per the terms of the policy, the Insurance Company and the third respondent are liable to pay the amount jointly and severally and such a finding based upon the documentary evidence, is just and proper and does not warrant any interference in the appellate stage.

8. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The order passed by the Tribunal is upheld.



(iii) The appellant-Insurance Company is directed to deposit the entire amount awarded by the Tribunal i.e., Rs.6,10,000/- together with interest at the rate of 7.5% per annum (if not already deposited) to the credit of M.C.O.P.No. 568 of 2005, dated 22.12.2011, on the file of the Motor Accidents Claims Tribunal, Additional Sub Judge Presiding Officer, Pondicherry within a period of eight weeks from the date of receipt of a copy of this order.

(iv) The claimants are equally permitted to withdraw the above amount, in the manner known to law.

Sd/-  
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

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To

The Motor Accidents Claims Tribunal,  
Additional Sub Judge Presiding Officer,  
Pondicherry.

copy to

The Section Officer  
VR Section  
High Court, Madras-104

+1 cc to Mr.S.Vadivel Advocate sr30340  
+1 cc to Mr.K.Sasindran Advocate sr30542

C.M.A.No.1774 of 2012 and  
M.P.No.1 of 2012

pvs (co)  
aa25/10/2019