



C.M.A.No.799 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 04.12.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.799 of 2021**

**And**

**C.M.P.No.4716 of 2021**

The New India Assurance Company Limited  
II Floor, No.17, Fort Main Road,  
Shevapet, Salem – 2.

... Appellant

Vs.

1.Annapoorani  
2.N.Boopathy

... Respondents

**Prayer:**

Civil Miscellaneous Appeal filed under Section 30 of the Employees Compensation Act, 1923, to set aside the order dated 21.09.2020 made in E.C.No.404 of 2015 on the file of the Commissioner of Workmen's Compensation (Commissioner of Labour) at Coonoor and be pleased to dismiss the above application.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : Mr.M.Vignesh for R1  
for M/s.J.Thomas Saran Singh  
Mr.Maneesh for R2  
for M/s.I.Abrar Md. Abdullah



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## **J U D G M E N T**

The second respondent before the Commissioner of Workmen's Compensation is the appellant herein. This appeal has been filed against the order passed in E.C.No.404 of 2015 on 11.12.2017 dated 21.09.2020 by the Commissioner of Workmen's Compensation (Commissioner of Labour) at Coonoor.

2.The learned counsel appearing for the appellant submitted that the first respondent filed claim petition before the Commissioner of Workmen's Compensation (Commissioner of Labour) at Coonoor, claiming compensation of Rs.10 Lakhs for the death of her son Vetrivel alleging that the deceased Vetrivel was working as cleaner in the John Deere Company LMV Harvester Mountain with Tractor bearing Registration No.TN 28 AZ 9487 owned by the second respondent for about three years and on 22.12.2010 at about 07.00 p.m., during the course of employment, the driver of the said vehicle drove the vehicle in a rash and negligent manner near Pogavadi Village, Bellari, Karnataka, due to which, the vehicle capsized in the water filled deep pit and the deceased Vetrivel died on the spot.

3.The learned counsel appearing for the appellant further submitted that after adjudication, the Commissioner of Workmen's



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Compensation (Commissioner of Labour) at Coonoor, fixed a sum of Rs.6,24,986/- + Rs.5,000/- for funeral expenses as compensation and directed the appellant to deposit a sum of Rs.6,29,986/- before the Court of Commissioner for Workmen's Compensation, by way of demand draft drawn in favour of the Deputy Labour Commissioner, Coonoor, within a period of 30 days and also directed to deposit interest at the rate of 12% from the date of accident till the date of deposit for the compensation amount of Rs.6,24,986/-, by way of demand draft drawn in favour of Deputy Labour Commissioner, Coonoor, within a period of 30 days from the date of receipt of a copy of the order. Aggrieved by the same, the appellant Insurance Company has filed this appeal.

4.The learned counsel appearing for the appellant further submitted that the deceased travelled as a gratuitous passenger in the tractor driven by its driver and in the tractor the seating capacity is one, i.e., for driver and further submitted that as per the F.I.R., the deceased was sitting next to the driver of the tractor which is unauthorized one. The learned counsel further submitted that only the driver is covered by the premium paid and further submitted that the deceased ought to have travelled in the trailer and not in the tractor



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sharing the seat of the driver. Hence, the Insurance Company is not liable to pay any compensation to the claimant. Therefore, the Court of Commissioner for Workmen Compensation directing the appellant to deposit the compensation amount is not sustainable one.

5.Per contra, the learned counsel appearing for the first respondent/ claimant submitted that the deceased was employed as cleaner with the owner of the tractor and the owner of the tractor had paid premium covering the cleaner and further submitted that the policy premium was paid for driver, conductor and cleaner and the same was collected by the appellant Insurance Company and further submitted that in the present case, the cleaner alone lost his life due to the rash and negligent driving of the driver of the tractor and hence the Court of Commissioner for Workmen Compensation directed the appellant to deposit the compensation amount, which warrants no interference.

6.Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents and perused the materials available on record.



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7. Admittedly, the deceased was employed as cleaner with the owner of the tractor. The owner of the vehicle had paid premium for driver, conductor and cleaner and the same had been collected by the appellant Insurance Company. In the present case, the cleaner has lost his life during the course of employment, due to the rash and negligent driving of the driver of the tractor insured with the appellant and hence the Court of Commissioner for Workmen Compensation directed the appellant to deposit the compensation amount, which warrants no interference.

8. The civil miscellaneous appeal is dismissed. The order passed in E.C.No.404 of 2015 on 11.12.2017 dated 21.09.2020 by the Commissioner of Workmen's Compensation (Commissioner of Labour) at Coonoor, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

**04.12.2024**

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Index: Yes/ No  
Speaking Order: Yes/ No  
NCC: Yes/ No



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**M.DHANDAPANI,J.**  
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WEB COPY

To

1.The Commissioner of Workmen's Compensation  
(Commissioner of Labour) at Coonoor.

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