

INSURANCE INSIGHT

Married sibling, elder to the deceased victim cannot be considered a dependent

Cases of medical negligence survives even after the death of the complainant

Non payment of road tax is not a violation of the insurance policy



Married sibling, elder to the deceased victim cannot be considered a dependent

The Hon'ble Supreme Court in the case of New India Assurance Co. Ltd. v. Anand Pal, SLP (C) 7805 of 2022, held that if the evidence shows that there are two family registers and separate families older married siblings cannot be considered as dependent on the deceased victim in a motor accident claim. Thus, the court set aside the impugned High court order awarding compensation to the married older siblings in this case.

Case of medical negligence survives even after the death of the complainant

The Hon'ble National Consumer Disputes Redressal Commission in the case of Dr. Narendra Singh Gill v. Amri Devi & Ors., R.P. No. 2592 of 2013 held that an action under a consumer complaint and an appeal alleging medical negligence survives even after death of the Complainant during the pendency of such proceeding. The legal heirs of such complainant/appellant have a right to get impleaded and continue with such proceedings.

It was further held that the State Commission correct in not impleading the insurance company with whom the opposite party was insured. It was held that in a case of medical negligence, if the doctor is held liable for compensation on account of medical and the doctor holds a valid insurance policy, then they are free to lodge their claim with the insurance company afterwards.

Non payment of road tax is not a violation of the insurance policy

The Hon'ble National Consumer Disputes Redressal Commission in the case of Gayatri Devi Nishad v. V.K. Motor Works & Ors., R.P. No. 1076-1077 of 2019 held that a mere fact of non-payment of road tax (which was paid subsequent to date of incident) for certain period prior to the date of incident, is not a valid reason to repudiate the insurance claim.

It noted that delayed payment of road tax does not amount to an offence punishable under Motor Vehicle Act, 1988 on the same footing as driving without a valid registration, either temporarily or permanent, which are in clear violation of Sections 39 and 192 of the Motor Vehicle Act, 1988. There was also no exact exclusion clause or section in the insurance policy that was shown to be violated by delayed road tax payment, and applying the principle of Contra proferentem, NCDRC held that vague repudiation grounds without specific violations cannot be allowed.

Thus, the order of the State Commission and the repudiation order of the insurance company were set aside, and the insurance company was directed to pay the loss as assessed by the surveyor.



D106 SF Defence Colony
New Delhi - 110024



asp@sinhapartners.com
www.sinhapartners.com



+91 11 41 046 911
+91 11 40 536 008