

(2016) 03 KAR CK 0007
In the Karnataka High Court
Case No : MFA No. 31764 of 2012 (MV).

Divl. Traffic Controller, KSRTC, Bangalore	APPELLANT
Vs	
Padmaja alias Anupama and Others	RESPONDENT

Date of Decision : 01-03-2016

Acts Referred:

Motor Vehicles Act, 1988 — Section 147

Citation : (2016) AAC 1028

Hon'ble Judges : Mrs. S. Sujatha, J.

Bench : Single Bench

Advocate : Shivashankar H. Manur, Advocate, for the Appellant; Sudheer Kulkarni, Advocate and Smt. Preeti Patil, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Mrs. S. Sujatha, J. - This appeal is by the appellant-Corporation challenging the award passed by Motor Accident Claims Tribunal at Lingasugur in MVC No. 196/2006 wherein the Tribunal has awarded a sum of Rs. 6,77,000/- with interest at 6% per annum to the claimants/respondent Nos. 1 to 4.

2. The learned counsel appearing for the appellant-Corporation placing reliance on the judgment of the Apex Court in the case of Uttar Pradesh State Road Transport v. Kulsum and others ((2011) 8 Supreme Court Cases 142) and the judgment of this Court in the case. The Managing Director, NEKRTC v. Smt. Rajamma alias Rajashree in MFA No. 32278/2011 disposed of on 19th August, 2014, would contend that the Tribunal has committed an error in fastening liability on the appellant-Corporation instead of respondent No. 7-Insurance Company.

3. Per contra, learned counsel appearing for respondent No. 7 supports the judgment and award passed by the Tribunal and would contend that there is no error committed by the Tribunal in holding that the appellant-Corporation and respondent No. 7-Insurance Company are liable to satisfy the award.

4. The question, which requires to be considered in this appeal are :

Whether the vehicle involved in the accident was hired and the valid insurance policy exists on the date of the accident and whether the insurer is liable to satisfy said award?

5. This identical question was the subject matter before the Apex Court in Kulsum's case (supra) as well as in the judgment of this Court in the case of Smt. Rajamma (supra). As such, issue involved in the case is no more res integra in view of the said judgments. Under the circumstances, following the law enunciated by the Apex Court and this Court, the judgment and award passed by the Tribunal to the extent of fastening liability on the appellant-Corporation is set aside. Respondent No. 7-Insurance Company is fastened with liability to satisfy the entire claim.

6. For the above said reasons, the appeal is allowed.

7. The amount in deposit, if any, shall be refunded to the appellant-Corporation.

8. It is also made clear that the appellant-Corporation shall be liable to make the payment of interest awarded by the Tribunal for the delayed period of 654 days that occurred in filing the appeal.

9. In view of disposal of main appeal, I.A. 2/2012 does not survive for consideration and accordingly rejected.