

(1996) 06 KAR CK 0062
In the Karnataka High Court
Case No : M.F.A. No. 2754 of 1995

Govindaraju

APPELLANT

Vs

Laxminarasaiah and Others

RESPONDENT

Date of Decision : 28-06-1996

Acts Referred:

Motor Vehicles Act, 1988 — Section 149, 157, 157 (1)

Citation : (1997) ACJ 1191 : (1996) ILR (Kar) 3548 : (1996) 7 KarLJ 390

Hon'ble Judges : C.N. Aswathanarayana Rao, J

Bench : Single Bench

Advocate : A.K. Bhat, for the Appellant; S.P. Shankar, for R-2, for the Respondent

Final Decision : Allowed

Judgement

C.N. Aswathanarayana Rao, J.—The short point that arises for consideration in this appeal is regarding the liability of the second respondent to pay the compensation amount determined to the appellant-petitioner.

2. For the purpose of convenience, I will refer to the parties to this appeal by the positions they have occupied in the Trial Court.

3. The petitioner, who was an employee under N.V. Somashekaraiah in his lorry bearing No. CNJ 4025, sustained injuries in an accident dated 22.8.1992 involving the said lorry. On 7.1.1993 Somashekaraiah transferred the lorry to the first respondent. The second respondent is the insurer. The Commissioner for Workman's Compensation passed the impugned order awarding a compensation of Rs. 1,05,895/- but without any interest and directed the first respondent to pay the said amount to the claimant. The authority held that the second respondent is not liable to pay the amount to the claimant. The reasoning of the Commissioner is as follows:-

"The Insurance policy issued by the second respondent was in favour of N.V. Somashekaraiah and covered the period from 4.4.1992 to 3.4.1993 in respect of

the vehicle involved in the accident. The vehicle was transferred by N.V. Somashekaraiah in favour of the first respondent on 7.1.1993. The accident took place on 22.6.1992. The Insurance Company, contended that the liability of the first respondent is only from the date of transfer i.e. 7.1.1993 upto 3.4.1993 and since the accident has taken place much earlier to 7.1.1993, there is no liability of the second respondent and therefore the second respondent is not liable to pay the compensation amount."

The Commissioner has accepted this argument and disallowed the liability of the second respondent. Being aggrieved by this finding as well as the fact that the Commissioner has not allowed the interest on the compensation amount, the appellant has filed this appeal.

4. I have heard the Learned Counsel for the parties.

5. At the time of arguments, the Learned Counsel for the second respondent himself fairly brought to my notice the defect in the reasoning of the Lower Court. There is no denial of the fact that the policy in question has been transferred by N.V. Somashekaraiah in favour of the first respondent on 7.1.1993. The document Ex. P. 13 produced before the Lower Court also establishes that fact. The Learned Counsel for the second respondent argued that by virtue of the provision u/s 157(1) of the Motor Vehicles Act. 1988, there is an automatic transfer of the benefit under the policy in favour of the transferee and therefore the first respondent and consequently the second respondent, are liable to pay the compensation amount to the claimant. Section 157(1) of the Motor Vehicles Act reads as follows:-

"Where a person in whose favour the certificate of insurance has been issued in accordance with the provision of this Chapter transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer."

The Learned Counsel for the appellant also relied upon a decision in COMPLETE INSULATIONS (P) LTD. v. NEW INDIA ASSURANCE CO. LTD. ILR 1996 KAR 799. On the same question arising in that case, the Supreme Court held as follows:-

"Section 157 of the New Act makes the transfer of Certificate of Insurance along with the Insurance Policy described therein automatic along with the transfer of the Motor vehicle together with the Policy of Insurance to the purchaser."

The decision clearly supports the submission made by the Learned Counsel for the second respondent. Therefore, the finding of the Lower Court that the second respondent is not liable to pay the compensation amount to the petitioner, cannot be sustained.

6. With regard to the interest liability, the Learned Counsel for the appellant has

relied upon an unreported decision of this Court in SMT. AKTHAR UNNISA AND ORS v. SRI SYED SAYEED AHMED AND ANR., M.F.A. 1211/1993 dt. 22.2.1995. The Learned Counsel has made available a xerox copy of the same. Hon"ble Mr. Justice S.A. Hakeem has held in that decision as follows:-

"The only other question is regarding the claimants" entitlement to interest on the amount. Since the accident is covered by a valid policy, the insurer is liable to pay interest at 6% p.a on the compensation in terms of Section 149 of the Act."

In view of this clear legal position, the Trial Court has erred in not awarding interest on the compensation. The award needs to be modified on these aspects.

7. For the reasons aforesaid, the appeal is allowed and the award passed by the Lower Court is hereby modified. The second respondent is also held liable to pay the compensation amount and the interest to the claimant. The respondents are directed to pay interest on the compensation amount awarded at 6% per annum from the date of Lower Court"s Order till the date of payment. The parties shall bear their own costs in this appeal.