(2002) 12 AHC CK 0098

In the Allahabad High Court

Case No : F.A.F.O. No. 2242 of 2002

National Insurance Co. Ltd. — APPELLANT

Vs

Savitri Devi and Another — RESPONDENT

Date of Decision : 02-12-2002

Acts Referred:

Motor Vehicles Act, 1988 — Section 149(2), 15
Workmens Compensation Act, 1923 — Section 3(1)

Citation : (2003) 2 ACC 469 : (2005) ACJ 508

Hon'ble Judges : S.P. Srivastava, J;M.P. Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S.P. Srivastava, J.—Heard the learned counsel for the insurer appellant. The insurer appellant has filed this appeal u/s 30 of the Workmen''s Compensation Act, 1923, feeling aggrieved by the award of the Workmen''s Compensation Commissioner determining an amount of Rs. 1,85,170 as compensation to which the claimants were found entitled on account of the death of Suresh Chandra, the driver of the motor vehicle owned by Harbhajan Singh.

2. The Commissioner after carefully considering the evidence and the material brought on record, came to the conclusion that the driver of the motor vehicle had met his untimely death while in the course of employment. The Commissioner has further observed that although a plea had been raised that the death was really suicide and not an accident as contemplated u/s 3 of the Act but in spite of full opportunity no evidence worth the name could be led by the contestant to establish that the death was a suicide and not an accident as contemplated under the aforesaid provision.

3. The learned counsel for the appellant has tried to assail the findings of the Commissioner returned against it but has not been able to demonstrate that these findings can be taken to be suffering from any such legal infirmity which may justify an interference.

4. It may further be noticed that the Commissioner drew ample support for holding the death to be such an accident as envisaged u/s 3 of the aforesaid Act from the decision of Andhra Pradesh High Court.

5. It has been next contended that there was a breach of the terms and conditions subject to which the insurance policy had been granted inasmuch as on the date of the death the driving licence which had been granted in favour of the deceased was not renewed. In this connection, it may be noticed that there is no dispute that the validity of the licence was to expire on 29.10.1998. It could be got renewed within 30 days from the date of expiry, i.e., 29.11.1998. The driver, however, had died in the intervening night of 5/6.11.1998. Further, according to the owner himself the truck was not in a running condition and required extensive repairs for which purpose it was kept in a garage lying there for over a month. The owner had stated that the repair work had been started and was in progress when the driver had died. The Commissioner has observed in the impugned judgment that in such a situation the insurer could not be taken to be relieved from the liability on account of the validity of the driving licence having expired on 29.10.1998.

6. Taking into consideration the facts and circumstances as brought on record, no justifiable ground can be said to have been made for any interference in the aforesaid finding.

No other point has been urged or pressed. No substantial question of law arises in this appeal. This appeal consequently fails and is dismissed in limine.

