(2015) 05 MAN CK 0026

In the Manipur High Court

Case No : Miscellaneous First Appeal No. 1 of 2011

The National Insurance Co. Ltd. APPELLANT

Vs

Achoubi Begum and Others RESPONDENT

Date of Decision : 25-05-2015

Acts Referred:

Motor Vehicles Act, 1988 — Section 147, 147(1)(b)
Workmens Compensation Act, 1923 — Section 30

Citation : (2015) 3 ACC 613 : (2015) 146 FLR 730 : (2015) 3 LLJ 391

Hon'ble Judges : Laxmi Kanta Mohapatra, C.J

Bench : Single Bench

Advocate : A. Deny Sharma, for the Appellant; H. Dijen, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Laxmi Kanta Mohapatra, C.J—This appeal under Section 30 of the Workmen''s Compensation Act, 1923 has been preferred by the Insurance Company challenging the award passed by the Commissioner, Workmen''s Compensation, Manipur in Claim Case No. 12 of 2006.

2. The claimant respondent No. 1 is the widow of deceased employee, Md. Ayub Khan.

3. The claimant respondent No. 1 filed the claim petition before the Commissioner for Workmen''s Compensation claiming compensation of Rs. 5 lakh on allegation that her deceased husband was a workman employed by the respondent No. 2. Her deceased husband had been employed by the respondent No. 2 for loading and unloading Timbers. On 8.6.2004 her husband had been employed by the respondent No. 2 in the above purpose and while travelling in a vehicle belonging to respondent No. 2, the said vehicle met with an accident and fell down from a Bridge on a inter-village-road near Ghotovi and Chekhama Villages in the district of Dimapur. As a result of such accident her husband sustained bodily injuries and ultimately succumbed to the injuries. The further

claim of the claimant respondent No. 1 is that her deceased husband was aged about 30 years at the time of death and was receiving monthly wage of Rs. 3000/- per month. It was also stated in the claim petition that the claimant respondent No. 1 had not received any compensation from the employer. Consequently, the claim application was filed for awarding of compensation of Rs. 5 lakhs.

4. The respondent No. 2, who is the employer and owner of the vehicle which met with the accident, admitted the claim of the respondent No. 1. However, the stand taken by the respondent No. 2 was that the vehicle was insured and any compensation payable to the claimant respondent No. 1 is to be indemnified by the Insurance company.

5. The learned counsel for the Insurance Company also filed written statement admitting the Insurance policy which was valid at the time of accident. However, the stand taken in the written statement of the appellant was that the husband of the claimant respondent No. 1 is not covered by the policy as no additional premium was paid to cover such employee.

6. The Commissioner, Workmen''s Compensation, on analysis of the evidence both oral and documentary, came to the conclusion that the deceased husband of the claimant respondent No. 1 was a workman within the meaning of the Act and the accident took place in course of employment under respondent No. 2. So far as the quantum of compensation is concerned, the Commissioner came to a conclusion that the deceased was around 27 years of age at the time of accident and was getting monthly wage of Rs. 2400/-. Accordingly, compensation of Rs. 2,56,284/- was directed to be paid on or before 30.9.2007 failing which the award would carry interest @ Rs. 12% per annum.

7. Shri A. Deny Sharma, learned counsel for the appellant raised only one issue with regard to liability of the Insurance Company for payment of compensation awarded by the Commissioner, Workmen''s Compensation. It was contended by the learned counsel that under the policy, the deceased who was working as a labourer is not covered as no additional premium was paid by the respondent No. 2 to cover such labourer and therefore the Insurance Company is not liable to pay the compensation.

8. Shri H. Dijen, learned counsel for the respondent No. 1 submitted that u/s. 147(1)(b) of the M.V. Act, 1988, the Insurance Company is liable to pay the compensation and reliance was placed by the learned counsel on a decision of the Gauhati High Court in the case of National Insurance Company Ltd. v. Lilu Rani Majumdar and Ors reported in : 2005 (1) T.A.C. 56(Gau). Paragraph 2 of the above judgment which is relevant for the purpose of this case is quoted below:

"2. It is contended by the learned counsel for the Insurance Company that under Section 147 of the Motor Vehicles Act, 1988, liability of the Insurance Company to pay the compensation for the death of the employee in the goods carriage vehicle would arise only if extra premium is paid by the owner of the vehicle to the Insurance Company. The submission of the learned counsel for the Insurance Company is devoid of any substance. First proviso to Section 147(1)(b) of the Act clearly covers the case of an employee who was carried in the goods vehicle and the Insurance Company is statutorily liable to cover the risk of an employee carried in the goods vehicle. Admittedly, at the relevant point of time the deceased was engaged by the truck owner, which is a goods carrier and when he met with an accident, he was carried in the vehicle. That being the case, the liability of the Insurance Company to indemnify the owner arises out of the insurance police under Section 147 of the Motor Vehicles Act, 1988. The point raised by the learned counsel for the Insurance Company is squarely covered by a decision rendered by the Apex Court in the case of Ramashray Singh Vs. New India Assurance Co. Ltd. and Others, (2003) 2 ACC 706 : (2003) ACJ 1550 : AIR 2003 SC 2877 : (2003) 116 CompCas 643 : (2003) 3 CTC 380 : (2003) 6 JT 97 : (2003) 3 LLJ 740 : (2003) 135 PLR 796 : (2003) 5 SCALE 377 : (2003) 10 SCC 664 : (2003) 1 SCR 666 Supp : (2003) 2 UJ 1263 ."

The above judgment of the Gauhati High Court has been followed by this Court in the case of National Insurance Co. Ltd v. Md. Abdul Rashid @ Sabdin and anr. vide Misc. First Appeal No. 1 of 2010 disposed of on 4.2.2011.

9. In view of the above decision of the Gauhati High Court rendered on the basis of an Apex Court judgment, I find no force in the contention of the learned counsel for the appellant that the Insurance Company has no liability to pay the compensation, the deceased not being covered under the policy.

No other point having been raised in this appeal, I find no merit in the same and accordingly this appeal is dismissed.