

(2011) 04 KAR CK 0011

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 20403 of 2010 (MV)

The New India Assurance Co. Ltd.

APPELLANT

Vs

Sri Vitthal Anappa Hullennavar

RESPONDENT

Date of Decision : 12-04-2011

Acts Referred:

Motor Vehicles Act, 1939 — Section 173 (1)

Citation : (2011) 04 KAR CK 0011

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : S.S. Sajjan for Sri Ravi G. Sabhahit, for the Appellant; Bahubali N. Kanabargi, for R1, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar

1. This appeal by the insurance company u/s 173[1] of the Motor Vehicles Act, 1938, questioning the order and Award of the Tribunal in MVC No.207 of 2006 dated 18.8.2009 on the file of the Civil Judge [Sr. Dn.,] and Addl. MACT, Raibag, whereby the Tribunal had made the appellant - insurance company jointly liable to pay compensation of a sum of Rs. 1,36,260/- to the claimant - a person insured due to an accident caused by a truck bearing registration No.KA-23/5569, the owner of which truck had been indemnified by the insurer in respect of third party claims by the issue of relevant policy in this regard.

2. The sole ground urged by the appellant - insurance company to wriggle out of its liability is that the driver of the tractor did not have a valid driving licence at the time of the accident.

3. This is not the same ground which is urged in this appeal which was a contention which had been taken before the Tribunal also

4. On this aspect I have heard Sri. S S Sajjan, learned counsel for the appellant

and Sri, Bahubali N Kanabargi, learned counsel for the first respondent.

5. A perusal of the order passed by the Tribunal, particularly, on issue No.2 which was a specific issue framed by the Tribunal on this aspect, indicates that the Tribunal bestowed its attention, found as a matter of fact, the insurance company had not been able to make good its version that the driver of the vehicle did not have a valid driving licence on the date of the accident and on the circumstantial evidence, namely that the driver was not charge sheeted by the Police being conspicuously absent, concluded that there was no way of inferring that the driver did not have a valid driving licence as was sought to be contended. It was therefore that the Tribunal rejected this argument.

6. Undaunted, the present appeal by the insurance company.

7. Mr. S S Sajjan, learned counsel for the appellant reiterates the same ground.

8. No exception can be taken for the finding recorded by the Tribunal. There is absolutely no merit in this appeal, more a frivolous and cantankerous appeal, is dismissed levying cost of Rs. 5,000/- on the insurance company. Cost to be deposited before the Tribunal within four weeks from today along with balance of the award amount.

9. The amount in deposit is directed to be transmitted to the Tribunal forthwith and the balance amount to be deposited before the Tribunal within four weeks. Thereafter, the Tribunal is directed to disburse the amount in favour of the claimants in terms of the Award of the Tribunal. If the cost is not deposited, that can also be released as part of the Award by the respondents -claimants.