
(2012) 03 KAR CK 0053
In the Karnataka High Court
Case No : M.F.A. No. 5718 of 2007 (WC)

The Oriental Insurance Company Ltd.	APPELLANT
Vs	
Sri Mallikethi Basappa and Others	RESPONDENT

Date of Decision : 22-03-2012

Acts Referred:

Citation : (2013) 137 FLR 1098 : (2012) ILR (Kar) 2572 : (2013) 3 KarLJ 59 : (2013) 3 LLN 240 : (2013) LLR 832

Hon'ble Judges : K.L. Manjunath, J;K. Govindarajulu, J

Bench : Division Bench

Advocate : B C Seetharama Rao, for the Appellant;

Final Decision : Dismissed

Judgement

Manjunath J.

1. The appellant - Insurance Company is questioning the liability saddled on it by the Commissioner for Workmen's Compensation, Bellary Division, Davanagere, in case No.CWC.BLR/CR-17/2006 dt.5.2.2007. The facts leading to this case are as hereunder:

The respondents-1 to 7 are the legal heirs of one Shivarudrappa who died in a road traffic accident occurred on 3.1.2005. According to the claimants, he was working under 8th respondent who is the owner of the Tractor-Trailer bearing No. KA. 35/T-1025-26. According to them, the deceased while discharging his duties and during the course of his employment under the 8th respondent died in a road traffic accident. On 3.1.2005 the deceased was travelling in the Trailer as a loader, which vehicle met with an accident due to rash and negligent driving of the driver near Kademaramma temple, he sustained grievous injuries and succumbed to the injuries while shifting to VIMS Hospital, Bellary.

2. The appellant - Insurance company contended that the policy issued does not cover the risk of an employee and it is a package policy issued by it and covers the risk of only the Driver and therefore the appellant requested the

Commissioner to dismiss the case against the appellant, The Commissioner after considering the evidence let in by the parties awarded a sum of Rs.3,37,830/- as compensation and fixed the liability on the appellant -Insurance Company, Challenging the legality and correctness of the same, the present appeal is filed.

3. Mr. B.C.Seetharama Rao, Learned Counsel for the appellant relying upon the policy issued by the appellant contends that the appellant did not cover the risk of an employee, but it had covered the risk of only the driver of the tractor and therefore the award passed by the Commissioner has to be set aside.

4. Having heard Mr.Seetharama Rao, we are of the view that no substantial question of law arises in this appeal because Ex. R2-1, the policy issued by the appellant says that it covers the risk of the following person:

Legal liability Employee/Driver and it has collected Rs.25/- premium to cover the risk of such persons.

5. The interpretation by Mr.Seetharama Rao, is that it only covers the risk of the Driver but not any Employee. The word used, "Employee" shall be considered as a driver only. According to him, the seating capacity of the vehicle is only one. Therefore, it has to be held that the word used "Employee/Driver" was considered to be a Driver and not any other Employee.

6. We would have appreciated the arguments of Mr. Seetharama Rao, provided the policy issued by the Company was only in respect of the engine of the Tractor but not the Trailer. The seating capacity of an engine is only one and only Driver can sit and drive the vehicle. The policy issued is not only for the Tractor, but also for the Trailer. It is known to the whole world that the loaders as employees of the owner can always sit in the Trailer either for loading purpose or unloading purpose. On considering the policy, we are of the opinion the appellant has undertaken to cover the risk of one Employee or a Driver. In the instant case, the deceased was an employee who died in the accident during the course of his employment.

7. In the circumstances, we are of the view that no substantial question of law arises in this appeal. Accordingly, the appeal is dismissed. The amount in deposit is ordered to be transmitted to the Commissioner.