
(1968) 12 MAD CK 0025
In the Madras High Court
Case No : A.A.O. No. 182 of 1966

The Vanguard Insurance Co. Ltd., Madras APPELLANT
Vs
Chinnammal and Others RESPONDENT

Date of Decision : 06-12-1968

Acts Referred:

Motor Vehicles Act, 1939 — Section 95

Citation : AIR 1970 Mad 236 : (1970) 83 LW 47 : (1970) 1 MLJ 542

Hon'ble Judges : Alagiriswami, J

Bench : Single Bench

Advocate : N. Venkatarama Iyer, for the Appellant; P. Ananthakrishna Nair, for the Respondent

Final Decision : Dismissed

Judgement

Alagiriswami, J.—This appeal is against the judgment of the Motor Accidents Claims Tribunal, Tiruehirapalli, awarding compensation to the dependants of the deceased Murugan. He was travelling in a lorry belonging to the insured and insured by the appellant insurer. The Tribunal has found that Murugan died as a result of the rash and negligent driving of the insured vehicle by the employee of the insured. On behalf of the insurer which was added as a party to the proceedings before the Tribunal, two objections were taken. One was that the insurance policy did not cover a case of this kind, that it was intended to cover any accident or injury caused to an employee of the insured and not to the employee of any other person, that as in this case the deceased Murugan was the employee not of the insured, but of the person whose goods were carried in the insured vehicle, the policy does not cover the liability for an accident caused to Murugan. The second contention was that the insured vehicle was being

driven contrary to the conditions of the permit relating to that vehicle and therefore the insurer was not liable . As regards the second objection, the

Tribunal has pointed out that there is nothing on evidence to show that the insured vehicle was being used contrary to the conditions of the permit

relating to the insured vehicle. The mere fact that the insured had issued a notice to the owner of the vehicle to produce the permit and that it was

not so produced cannot be held to establish that the permit, if produced, would show that the vehicle was not to be used in places like the one

where the accident occurred. In addition the Tribunal has also pointed out that the form prescribed for a public carrier permit found at page 172 of

the Madras Road Traffic Code, 1940, Volume II, mentions that a public carrier permit can be given either for specified routes or specified areas

and the driver of the vehicle says that the entire State of Madras is the area for which public carrier permit has been granted to the vehicle.

Therefore, the Tribunal Was undoubtedly right in holding that there is no substance in the second contention of the insurance company.

2. As regards the first contention. 1 must refer to a decision of a Full Bench of the Punjab High Court in Oriental Fire and General Insurance Co.

Ltd. Vs. Smt. Gurdev Kaur and Others, . The Bench referring to the decision in Izzard v. Universal Insurance Co. Ltd., 1937 AC 773 has pointed

out that the contention that the contract of employment should be construed in the Act as subject to the implied limitation that it should be with the

person insured by the policy cannot be accepted and that such a departure from the clear language used cannot be justified; that the Act is dealing

with persons who are on the insured vehicle for sufficient practical or business reasons and has taken a contract of employment in pursuance of

which they are on the vehicle as the adequate criterion of such reasons; and there is no sufficient ground for holding that this criterion should be

limited to employees of the insured person. The Bench also referred to similar decisions of a Bench of the same Court in Parkash Vati v. Delhi

Dayal Bagh Dairy Ltd., 1967 ACJ 82, as well as of the Madhya Pradesh High Court in page 65 of the same volume (1967 ACJ) and in K.N.P.

Patel v. K.L. Kasar, 1966 ACJ 284 (Bom),

Thus, though on a superficial view of the section, it might appear that the words ""contract of employment"" found in Section 95 of the Motor

Vehicles Act would cover only a contract of employment with the owner of the insured vehicle, there is a preponderance of authority in favour of

the other view that it would cover not only such persons but also persons who are on the vehicle in pursuance of a contract of employment with the

owner of the goods carried in it. What is necessary is that for sufficient practical or business reasons, the person must be on the vehicle in

pursuance of a contract of employment. If he is such a person, any injury caused to him would also be covered by the section.

3. The appeal is, therefore, dismissed as without substance. The appellant will pay the costs of the respondents.