

(2007) 09 KAR CK 0022

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 5326 of 2002

United India Insurance Co. Ltd.

APPELLANT

Vs

Doddahallappa and S.R. Srinivas

RESPONDENT

Date of Decision : 03-09-2007

Acts Referred:

Motor Vehicles Act, 1988 — Section 147

Citation : (2008) ACJ 2476 : (2008) ILR (Kar) 3599 : (2008) 5 KCCR 630 SN

Hon'ble Judges : L. Narayanaswamy, J; K. Sreedhar Rao, J

Bench : Division Bench

Advocate : B.C. Seetharama Rao, for the Appellant; Ravi G. Sabhahit, for R1, for the Respondent

Final Decision : Dismissed

Judgement

K. Sreedhar Rao, J.—The deceased one Raju Doddahalappa was employed as Cleaner in Truck bearing No. CAK 7171. The said truck broke down. The deceased for the purpose of getting it repaired boarded tarry bearing No. KA-37/2528 to bring the mechanic. On the way the lorry bearing No. MH-10/A-2286 coming from opposite direction dashed against lorry No. KA.-37/2528 resulting in death of Raju Doddahalappa. The appellant is the insurer of toe lorry bearing No. CAK 7171.

2. In the context of the above facts, whether the insurer of the lorry bearing No. CAK 7171 is liable to pay compensation?

3. The proviso to Section 147 reads thus:

Provided that a policy shall not be required-

(i) to cover liability in respect of the dentil arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an employee arising out of and in the course of his employment other than a liability arising under the Workmen's Compensation

Act, 1923 (8 of 1923) in respect of the death of, or bodily injury to, any such employee-

(a) engaged in driving the vehicle, or

(b) if it is a public service vehicle engaged as a conductor of the vehicle or in examining tickets on the vehicle or

(c) if it is a goods carriage, being carried in the vehicle, or

(ii) to cover any contractual liability.

4. It is not in dispute that the deceased was employed as Cleaner in CAK 7171. The said lorry broke down. The deceased boarded the lorry bearing No. KA-37/2528 to bring the mechanic to get the vehicle repaired. On the way another lorry bearing No. MH-10/A-7286 hit against this lorry No. KA-37/2528.

5. The facts clearly show that the deceased was employed in connection with the motor vehicle insured by the appellant. His journey of the deceased in the lorry bearing No. KA-37/2528 is deemed to be in the course of employment under R1. The deceased may be the gratuitous passenger in KA-37/2528. The claimants may have right and scope to sue the owner and insurer of the lorry MH-10/A 2286. But the deceased being the employee and in the course of employment met with the accident, therefore, R1 is liable to pay compensation. The appellant having issued a policy co-wring the risk under W.C. Act is very much liable to pay compensation. When the deceased was to-welling is the lorry MH-10A 2286, there will be notional extension of employment and such a journey would be in the course of employment and within the meaning of proviso to Section 147 of Motor Vehicles Act. The appeal is dismissed. The amount in deposit shall be transferred to W.C. Commissioner for disbursement.