(2005) 07 KAR CK 0014

In the Karnataka High Court

United India Insurance Co. Ltd. APPELLANT

Vs

Hanamanthappa and Others RESPONDENT

Date of Decision : 05-07-2005

Acts Referred:
Motor Vehicles Act, 1988 — Section 147
Workmens Compensation Act, 1923 — Section 2 (1) (n)

Citation : (2007) 2 ACC 192

Hon'ble Judges : K. Sreedhar Rao, J

Bench : Single Bench

Judgement

K. Sreedhar Rao, J.—All the appeals arise out of the same accident. Respondent No. 2 is the owner of the tractor-trailer owning

agricultural land. The employees of respondent No. 2 working in the agricultural land were returning in the tractor to the village from the land. In

the course of journey, accident took place resulting in death of two inmates and personal injuries to four persons. The legal representatives of the

deceased have filed M.V.C. Nos. 174 and 175 of 2000. M. V.C. Nos. 176 to 179 of 2000 are filed by the injured seeking compensation for the

personal injuries. The appellant insurer has taken the plea that the inmates are unauthorised passengers in the tractor-trailer and that the insurer

does not incur any legal liability to pay compensation. It is said that the policy is an Act policy.

2. The Tribunal rejected the contention of the insurer and directed the insurer to pay the compensation. Hence the appeals.

3. The facts and evidence disclose that the inmates of the tractor-trailer were the employees of respondent No. 2 but not employed in connection

with the motor vehicle. The provision of Section 147 of the Motor Vehicles Act insists compulsory coverage of insurance for the employees under

the Workmen''s Compensation Act.

4. The relevant provision of Section 2(1)(n) of the Workmen''s Compensation Act defines the workman as follows:

2(1)(n) ''workman'' means any person who is-

(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle.

5. The relevant proviso to Section 147(1) of the Motor Vehicles Act, 1988 reads as follows:

147. Requirements of policies and limits of liability.-

Provided that a policy shall not be required-

(i) to cover liability in respect of the death, 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....

There is no statutory liability on the part of the insurer to cover the risk of all types - of employees of the insured owning a motor vehicle. Only such

of those employees within the meaning of ''workman'' under the Workmen''s Compensation Act have to be compulsorily covered by the insurance.

The employees who are employed in connection with the motor vehicle as defined u/s 2(1)(n) have the benefit of statutory coverage. In the instant

case, the deceased and the injured are not the employees of respondent No. 2 employed in connection with the motor vehicle but they are

employed for agricultural work. The respondent No. 2 may be as an incentive was providing transport facility by his tractor-trailer to his

employees working in his agricultural land. When such employees are travelling in the tractor-trailer, they do not become employees employed in

connection with the tractor-trailer. The user of tractor-trailer for transportation of employees is illegal and prohibited and any person travelling for

the said purpose would be an unauthorised passenger. The Apex Court in National Insurance Co. Ltd. Vs. V. Chinnamma and Others, , has

categorically held that transportation of passengers in a tractor-trailer is totally prohibited and that insurer does not incur any liability to pay compensation. In that view, the award made against the insurer is bad in law. The same is set aside. The appeals are allowed. The compensation

shall, however, be payable by the owner.

