
(1996) 09 KAR CK 0051
In the Karnataka High Court
Case No : C.R.P. No's. 2848 and 2849 of 1993

United India Insurance Co. Ltd.

APPELLANT

Vs

Maqbool Ahmed and Others

RESPONDENT

Date of Decision : 20-09-1996

Acts Referred:

Citation : (1997) ACJ 984 : (1997) 2 KarLJ 149

Hon'ble Judges : M.F. Saldanha, J

Bench : Single Bench

Advocate : Chinnappa K. Kambeyanda, for the Appellant; H.N. Nanjundaiah, for the Respondent

Final Decision : Dismissed

Judgement

M.F. Saldanha, J.—These two civil revision petitions have been directed by the insurance company against the claims that have been awarded by the Tribunal in connection with an accident that took place on 13.6.1990. The compensation amounts that have been awarded are relatively modest in so far as they are Rs. 8,750/- in one case and Rs. 5,000/- in the second case. The insurance company has pointed out to this Court that there were no details given of the driving licence possessed by the truck driver who had caused the accident and that the insurance company had undertaken an investigation into the matter. This investigation, took some time and it has now been disclosed, after the lower court disposed of the proceeding, that the driver in question only had a L.M.V. licence that too, a learner's licence and that therefore, effectively, he is reduced to the position of a person who did not possess a valid driving licence for purposes of operating the heavy motor vehicle, namely, the truck. The learned Counsel who represents the insurance company points out that this would make a substantial difference in so far as the claim would have to be set aside vis-a-vis the insurance company and the liability, if any, would get transferred to the owner or driver as the case may be. The submission is that the court should permit this additional evidence to be taken on record and should remand the

matter to the lower court. The additional ground on which this application is made is that the lower court is in any case, dealing with the third matter which is yet to be disposed of and that, therefore, all the three applications could be heard together.

2. There are certain overriding considerations which apply to judicial proceedings and one of them is the rule of finality. It is true that exceptions are made with regard to serious cases where important evidence is permitted to be introduced at a later point of time, but one of the considerations which the court has to take into account is the status of the parties and the repercussions to the opposite parties if this procedure were to be permitted. It may be that there was no particular fault on the part of the insurance company and that they were handicapped because of the fact that the police authorities who should have taken note of the driving licence and the type of licence which the driver possessed, did not do this, but the fact still remains that the proceeding has finally concluded and it would be extremely harsh to the poor claimants to whom some small amount has been awarded because of the damage to their vehicles and the minor injuries, at this late point of time if the litigation were to be reopened. The court is required to take cognizance of these factors particularly where an application for reopening a finally concluded proceeding is made and more so, where an application for remand involving long term litigation is made. It is principally for this reason that I am not inclined to permit the introduction of any further evidence at this stage or to remand the matters. Under these circumstances, the orders of the Tribunal are confirmed in these two cases.

3. There are certain other crucial aspects of the matter which require to be looked into, the first of them being that the insurance company should not be in any way handicapped before the Tribunal in the third case which is required to be independently heard and disposed of. It is, therefore, clarified and this order is confined to these two proceedings and that the insurance company will not be precluded from producing whatever evidence it wants in the matter that is still pending decision.

4. In the course of his submissions, respondent's learned advocate drew my attention to a recent decision of this Court in *United India Insurance Co. Ltd. Vs. Smt. Lakshamma and Others*, . Dealing with the question of validity of a licence, a learned single Judge of this Court has taken the view that as long as the driver possesses some licence, that would be sufficient and that in effect, a licence to drive one type of vehicle would hold good as far as some other type of vehicle is concerned. In my considered view, this decision does require further consideration or re-consideration because, the repercussion would be disastrous. Quite apart from the aspect of liabilities, it is a decision of the High Court which is binding on the subordinate forums and therefore, the law must be clarified by the Division Bench. Personally, I am not in agreement with this decision for the simple reason that the special skills and responsibilities that are required, not to mention the capacity, to operate a transport vehicle or a heavy motor vehicle are

entirely different from the skills and capacities that a person may possess as far as a light vehicle is concerned. There are categories of light motor vehicles such as three-wheelers which are undoubtedly used exclusively for transport, but this cannot equate them with heavy transport vehicles. It is very necessary and it is for this reason that the law itself has prescribed separate tests for the issuance of heavy vehicle licences and particularly as far as transport vehicles are concerned and to my mind, therefore, it would be necessary for the Division Bench of this Court to reconsider the law and to clarify the correct position. The Registrar shall accordingly transmit the proceedings in this case as also in M.F.A. No. 331 of 1995 decided on 14.2.1996 to the Chief Justice for purposes of referring the matter either to the Division Bench or to a Full Bench of this Court for purposes of settling the law on the point.

5. The C.R.P. accordingly stands disposed of. No order as to costs.