
(1998) 09 KAR CK 0014
In the Karnataka High Court
Case No : M.F.A. No's. 347 and 358 of 1990

United India Insurance Co. Ltd.

APPELLANT

Vs

Peeramma and Others

RESPONDENT

Date of Decision : 22-09-1998

Acts Referred:

Motor Vehicles Act, 1939 — Section 95 (1) (b) (i), 95 (2) (c)

Citation : (1999) ACJ 1590

Hon'ble Judges : Mohamed Anwar, J

Bench : Single Bench

Advocate : S.K.V. Chalapathy and K.N. Srinivasa, for the Appellant; D.S. Hosmath and P.H. Gotkhindi, for the Respondent

Final Decision : Dismissed

Judgement

Mohamed Anwar, J.—Heard.

2. These two appeals are filed by the insurer of the offending tractor-cum-two trailers bearing the registration Nos. MEI 7855, MEI 7856 and MEI 7899 challenging the common judgment and separate awards dated 6.9.1989 of Motor Accidents Claims Tribunal at Bijapur passed in MVC Nos. 443 and 437 of 1986 respectively, awarding compensation to the claimants/ dependants of the respective deceased victims of the motor accident, on the ground that the Tribunal erred in fixing liability on the appellant to pay the compensation to the respective claimants.

3. It is not in dispute and the same stands satisfactorily proved from the evidence on record, as has been rightly held by the Tribunal, that the two deceased persons, namely, Khadri Saab and Mohammad Saab, together with Ramzan Saab, PW 3, were travelling in the said unit of vehicles comprising the tractor and two trailers, transporting their bundle of carpets when the vehicles met with accident on 15.5.1986 within the limits of Bijapur District as a result of negligent driving by their driver, and that, both the deceased succumbed to their

injuries caused to them in the accident. Therefore, on consideration of the further material evidence on record, the Tribunal assessed and awarded certain amounts of compensation to the respective claimants in the said two cases, viz., MVC Nos. 443 and 437 of 1986 and the awards are passed against the owner, driver and appellant insurer of the said vehicles.

4. The claim petitions of the claimants before the Tribunal were resisted by the appellant on the ground that it was not liable to indemnify the owner of the vehicles under its relevant Exh. R-1 insurance policy as against the claimants claim against it because the deceased were travelling in the said tractor-cum-trailers as passengers when the vehicle was not meant for transporting the passengers under the Motor Vehicles Act, 1939 ("the Act of 1939" for short) and by terms of Exh. R-1.

5. Learned counsel for the appellant reiterating the said ground maintained that appellant insurer cannot be fastened with the liability to pay any compensation to the claimants because the risk caused to the deceased passengers travelling in the said vehicles was not covered by Exh. R-1.

6. I find little legal substance in the said contention of Mr. K.N. Srinivasa. This court, in its Division Bench decision in Oriental Insurance Co. Ltd. Vs. Hanumantappa and others, , interpreting the definition of a motor vehicle contained in Section 2 (18) of the Motor Vehicles Act, 1939 held:

Firstly, a tractor is a motor vehicle as defined in Section 2 (18). Secondly, tractor is a motor vehicle which itself is not constructed to carry any load, but is meant to be used for the purpose of propulsion of a trailer. Thirdly, the trailer is defined as a vehicle other than a sidecar drawn or intended to be drawn by a motor vehicle...There can be no doubt that a trailer is constructed for the purpose of carriage of the goods and when it is pulled by a tractor, both together constitute a transport vehicle, i.e., a goods vehicle...Tractor-trailer squarely falls within the definition of the words "goods vehicle".

7. Therefore, in view of the aforesaid pronouncement of this Court the said tractor-cum-trailers together were "goods vehicle". Admittedly, they were also duly insured with its Exh. R-1 Act policy as at the material time. In that view of the matter, as regards the statutory liability of the appellant insurer it falls squarely within the ambit of Section 95 (1) (b) (i) read with Clause (c) of Section 95 (2) of the Act of 1939; which provisions read:

95. Requirements of policies and limits of liability. -- (1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which --

(a) xxx xxx xxx

(b) insures the person or classes of persons specified in the policy to the extent specified in Sub-section (2) --

(1) against any liability which may be incurred by him in respect of the death of

or bodily injury to any person or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;

(ii) xxx xxx xxx

(2) Subject to the proviso to Sub-section (1), a policy of insurance shall cover any liability incurred in respect of any one accident up to the following limits, namely --

xxx xxx xxx

(c) save as provided in Clause (d), where the vehicle is a vehicle of any other class, the amount of liability incurred;

The tractor-cum-trailer does not fall within the categories of the vehicles stated in Clauses (a) and (b) of Section 95 (2). Nor do they attract the circumstances envisaged by proviso to Clause (d) of Section 95 (2) dealing with the limit of liability in respect of damage caused to any property of a third party. In the present cases, it was not the case of the deceased victims that they were merely travelling as passengers in the said tractor-cum-trailers. But, it is a proved case that they were transporting their goods therein which was a goods vehicle. Therefore, the policy of appellant insurer with respect thereto being an Act policy, the insurer cannot escape its liability in respect of the third party risk giving rise to the claims of the respective claimants in M.V.C. Nos. 443 and 437 of 1986 arising out of the said accident.

8. Hence, there is no merit in these appeals.

9. Therefore, the appeals are dismissed.