(2005) 07 KAR CK 0016

In the Karnataka High Court

United India Insurance Co. Ltd. APPELLANT

Vs

V. Gangappa and Others RESPONDENT

Date of Decision : 04-07-2005

Acts Referred:

Motor Vehicles Act, 1988 — Section 147 (1)
Motor Vehicles Rules, 1989 — Rule 2B

Citation : (2007) 1 ACC 860 : (2006) 3 RCR(Civil) 401

Hon'ble Judges : K. Sreedhar Rao, J

Bench : Single Bench

Judgement

K. Sreedhar Rao, J.—One Venkatesh is deceased in M.V.C. No. 44 of 1996. The petitioners are the parents. Claims Tribunal awarded compensation to the petitioners and directed the insurer of the tractor-trailer to pay compensation. The insurer is in appeal seeking avoidance of liability on the ground that the deceased is an unauthorised passenger in tractor-trailer.

2. The tractor-trailer was loaded with sugarcane. According to the petitioners, the deceased was travelling as a loader and he had to unload the sugarcane at the factory. The owner of the tractor-trailer in the evidence states that the deceased is his nephew and not employed as a loader for the tractor-trailer.

3. The inquest report prepared by the Investigating Officer some time immediately after the accident discloses that the deceased was travelling as a loader in the tractor-trailer. The Tribunal rejected the evidence of the owner and upheld the contention of the petitioner that deceased was a loader in the tractor-trailer.

4. The conduct of RW 1 appears to be strange. In the normal course of things, it is unnatural to expect the owner of the tractor-trailer to invite liability upon himself, when in law, conveniently the insurer could be made liable. The explanation given by the petitioners that on account of family brawls, to deny the benefit of compensation, RW 1 has taken such a strange and unnatural stand appears to be a tenable contention. The finding of the Tribunal in this regard is

sound and proper.

5. Rule 2(b) of Central Motor Vehicles Rules, 1989, defines agricultural tractor as non-transport vehicle. In other words, if a tractor-trailer is specifically registered as an agricultural tractor to be exclusively used only for agricultural operation, it would be a non-transport vehicle. Otherwise, it would be very much a goods vehicle and the provisions of Section 147(1) of Motor Vehicles Act would attract. The insurer is legally bound to issue a policy in terms of the Workmen''s Compensation Act if a tractor-trailer is a goods vehicle, as held by the Supreme Court reported in the case of National Insurance Co. Ltd. Vs. V. Chinnamma and Others, , at para 15 as follows:

A tractor fitted with a trailer may or may not answer the definition of ''goods carriage'' contained in Section 2(14) of the Motor Vehicles Act. The tractor was meant to be used for agricultural purposes. The trailer attached to the tractor, thus, necessarily is required to be used for agricultural purposes, unless registered otherwise. It may be, as has" been contended by Mrs. K. Sharda Devi, that carriage of vegetables being agricultural produce would lead to an inference that the tractor was being used for agricultural purposes but the same by itself would not be construed to mean that the tractor and trailer can be used for carriage of goods by another person for his business activities. The deceased was a. businessman. He used to deal in vegetables. After he purchased the vegetables, he was to transport the same to market for the purpose of sale thereof and not for any agricultural purpose. Tractor and trailer, therefore, were not being used for agricultural purposes. However, even if it be assumed that the trailer would answer the description of the goods carriage'' as contained in Section 2(14) of Motor Vehicles Act, the case would be covered by the decisions of this Court in New India Assurance Co. Ltd. Vs. Asha Rani and Others, and other decisions following the same, as the accident had taken place on 24.11.1991, i.e., much prior to coming into force of 1994 amendment.

(Emphasis added)

6. The insurer has not placed any evidence before the Court to show that it is an agricultural tractor-trailer and there is no coverage in respect of workman employed in connection with the tractor-trailer. In that view of the matter, the deceased being a loader travelling in the tractor-trailer at the time of accident, the claimants are entitled to compensation as per the terms of the Workmen''s Compensation Act.

7. The reckonable income is to be taken at Rs. 1,000 and if it is multiplied by the relevant factor, i.e., 221.37, it works out to Rs. 2,21,370. Therefore, compensation awarded at Rs. 2,22,000 with 6 per cent interest is to be confirmed. The amount in deposit is ordered to be transmitted to the Tribunal for disbursement.

Accordingly, the appeal is disposed of.

