

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR

&

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

MFA.No. 187 of 2011 ()

AGAINST THE ORDER IN WCC 314/2004 of W.C.C.,THRISSUR DATED
22-03-2011

APPELLANT/2ND OPPOSITE PARTY:

THE NEW INDIA ASSURANCE COMPANY LIMITED,
SOUTH KALAMASSERY NOW REPRESENTED BY ITS MANAGER
REGIONAL OFFICE, M.G.ROAD, KOCHI-11.

BY ADVS.SRI.MATHEWS JACOB (SR.)
SRI.P.JACOB MATHEW

RESPONDENTS/APPLICANTS & 1ST OPPOSITE PARTY:

1. VIJAYAN, S/O.LATE SANKARAN NAIR,
AMBATT HOUSE, PUTHENCHIRA.P.O.
MUKUNDAPURAM TALUK. PIN-680 512.

2. SARASWATHY VIJAYAN, W/O.VIJAYAN,
AMBATT HOUSE, PUTHENCHIRA.P.O.
MUKUNDAPURAM TALUK. PIN-680 512.

3. SOUMYA VIJAYAN, D/O.VIJAYAN,
AMBATT HOUSE, PUTHENCHIRA.P.O.
MUKUNDAPURAM TALUK. PIN-680 512.

4. MANAGING DIRECTOR,
M/S.NORTECH INFONET(P)LTD., DOOR NO.37/2850
COTTON HILL BANK ROAD, KALOOR, KOCHI-682 017.

R4 BY ADV. SRI.HARISANKAR V. MENON

R4 BY ADV. SMT.MEERA V.MENON

R4 BY ADV. SMT.MEERA V.MENON

R4 BY ADV. SRI.MAHESH V.MENON

R1 TO R3 BY ADV. SRI.P.V.BABY

R1 TO R3 BY ADV. SRI.A.N.SANTHOSH

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON
09-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**T.R.RAMACHANDRAN NAIR &
P.V.ASHA, JJ.**

M.FA.No.187 OF 2011

Dated this the 9th day of March, 2015

JUDGMENT

Ramachandran Nair, J.

This appeal is filed by the Insurance Company aggrieved by the order passed in W.C.C.No.314/2004 by the Workmen's Compensation Commissioner.

2. We heard the learned counsel on both sides.

3. It is a case where the application is filed by the respondents 1 to 3 claiming compensation of ₹4,45,420/- consequent to the death of one Ranjith in an accident which occurred on 28/1/2004. He was riding a scooter which met with an accident. He sustained fatal injuries also.

4. The main contention raised by the Insurance Company is that the deceased was not employed as a driver and he was only a Computer Technician. In fact they had admitted the existence of policy also. Thus the employer-employee relationship was disputed before the Commissioner. Exts.A1 to A13 documents were marked on the side of the claimants and AW1 was examined. Exts.M1 to M7 were marked on the side of the respondents.

5. The learned counsel for the claimants relied upon the decision of the Full Bench of this Court reported in **2015 (1) KLT 45 (F.B.) (United India Insurance Company Ltd. v. Surendran)** in support of the plea that the contention raised by the Insurance Company cannot have any legal existence.

6. The Full Bench after noticing various aspects held in paragraph 9 that for the purpose of coverage under Clause (a) to proviso to Section 147 of the Act, the employee need only be engaged in driving the vehicle, irrespective of whether he was employed as driver or not.

Therefore the order passed by the Commissioner for Workmen's Compensation cannot be faulted for the reasons shown by the Insurance Company. Therefore the appeal is dismissed affirming the order passed by the Commissioner. The parties will bear their costs in the appeal.

T.R.RAMACHANDRAN NAIR, JUDGE

P.V.ASHA, JUDGE

SV.