

HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU

C.M.A.No.837 of 2008

JUDGMENT:

This Civil Miscellaneous Appeal is filed by the National Insurance Company Limited, which is dissatisfied with the order dated 12.11.2007 in W.C.No.9 of 2006 passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Tirupati.

The case of the applicants before the Commissioner is that they are the father and mother of one Shaik Chand Basha, who was working as a cleaner on the vehicle bearing No.AP03-U-3576 belonging to the first opposite party (OP-1). The vehicle was insured with appellant/second opposite party (OP-2). On 03.06.2004 the vehicle met with an accident wherein the cleaner sustained fatal injuries and later he died. Therefore, the parents of the deceased filed the WC case claiming compensation.

For the applicants, AW.1 was examined and Exs.A.1 to 5 were marked. For OP-2, an Administrative Officer of the Insurance Company was examined as RW.1 and a copy of the insurance policy was marked as Ex.B.1. After considering the pleadings and evidence, the Commissioner came to a conclusion that the applicants are entitled to compensation and directed payment of the same. It is this order that is now challenged in this appeal.

This Court has heard Sri Naresh Byrapaneni, learned counsel for the appellant/insurance company and Sri K.

Suresh Kumar Reddy, learned counsel for the respondents/ applicants.

The fact that is not in dispute is that the insurance policy is actually in force as on the date of the accident. The only point that is strongly urged by the learned counsel for the appellant is that the deceased was working as a cleaner, who is not covered under the policy and that no premium was paid at all to cover the cleaner. Therefore, it is strongly urged that the order of the Commissioner is erroneous.

In reply, the learned counsel for the respondents/ applicants argued that the policy in question is issued to a goods carrying (other than 3-wheeler) public carriers, as can be seen from the heading of Ex.B.1-policy itself. Therefore, he argues that the deceased is statutorily covered to the extent of the compensation payable under the Workmen's Compensation Act. The learned counsel for the respondents relies upon Section 147 of the Motor Vehicles Act, 1988 and also the decision of a learned single Judge of this Court reported in **Senior Divisional Manager, New India Insurance Co., Ltd. v. K. Kiran**¹. He argues on the basis of this case law and section that the order of the Commissioner is correct.

In the judgment cited by the learned counsel for the respondents to which nothing contrary has been pointed out, the learned single Judge of this Court after review of the case law on the subject including the judgment of the Hon'ble

¹ 2006 (6) ALT 1

Supreme Court of India in ***National Insurance Co. Ltd. v. Prembai Patel***² held that the insurer is liable to pay compensation to the extent indicated under Section 4 of the Workmen's Compensation Act alone. Even in the absence of payment of any extra premium for covering the cleaner, this statutory coverage is extended to an employee being carried in a goods vehicle under Section 147 of M.V. Act.

In view of the authoritative pronouncement of the Hon'ble Supreme Court of India, which is considered by a learned single Judge of this Court in the judgment cited, this Court is of the opinion that the Commissioner rightly passed the impugned order after considering the evidence and facts including the judgments which are now cited in this Court. The impugned order of the Commissioner is a reasoned order and does not call for any interference by this Court.

Accordingly, the Civil Miscellaneous Appeal is dismissed. The order dated 12.11.2007 in W.C.No.9 of 2006 passed by the Commissioner for Workmen's Compensation and Assistant Commissioner of Labour, Tirupati is confirmed. In the circumstances of the case, there shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in this appeal shall stand closed.

D.V.S.S. SOMAYAJULU, J

Date: 11.06.2018
Isn

² 2005 (3) SCJ 537