HANUMANAGOUDA

v.

UNITED INDIA INSURANCE CO. LTD. & ORS. ETC.

(Civil Appeal No. 5901 of 2008)

JANUARY 28, 2014

[P. SATHASIVAM, CJI, RANJAN GOGOI AND SHIVA KIRTI SINGH, JJ.]

MOTOR VEHICLES ACT, 1988:

Fatal accident—Liability of insurer – Deceased as 'Gumasthe' accompanying the goods in lorry – Held: The relevant clause in the policy, i.e. "persons employed in connection with the operation", is clearly over and above the coverage provided by the policy to "persons employed in connection with loading/unloading of motor vehicle" — The deceased, as Gumasthe, was accompanying the goods in transit for the purpose of delivery of goods and, as such, would be covered by the expression "persons employed in connection with operation of motor vehicle" — Insurance Company will be bound by the award and liable to pay compensation to claimants

In an appeal filed against the order of the Motor Accidents Claim Tribunal holding the owner-cum-driver of the vehicle and the insurer jointly and severally liable, the High Court held that the award made against the insurer in respect of the deceased was bad in law because the deceased working as 'Gumasthe' accompanying the goods, could not be covered by the clause under which premium was paid for covering the risk of the persons employed in connection with the operation of loading and unloading of the goods.

The question for consideration before the Court

A **was: whether clause IMT 17 for which premium was paid to the insurer in respect of the lorry would cover the deceased or not.**

Allowing the appeal, the Court

B **HELD: 1.1. The High Court has clearly fallen in error in holding that the insurer is not liable in respect of death of the deceased. The clause, "persons employed in connection with the operation" is clearly over and above the coverage provided by the policy to "persons** C **employed in connection with loading/unloading of motor vehicle". The deceased, as 'Gumasthe', was accompanying the goods in transit for the purpose of delivery of goods. This has been accepted by the High Court. Obviously, as 'Gumasthe', the deceased would be** D **covered by the expression "persons employed in connection with operation of motor vehicle". The operation of the clause has wrongly been restricted and limited only to persons employed in connection with loading/unloading of the motor vehicle. The respondent-** E **Insurance Company will be bound by the award and liable to pay compensation as per orders of the Tribunal. [para 6-7] [856-C-E-G]**

1.2. The order impugned is set aside and the order F **of the Tribunal restored. The dues of compensation along with interest shall be deposited by the respondent Insurance Company with the Tribunal. [para 7] [856-G]**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5901 of 2008.

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From the Judgment and order dated 11.11.2005 of the High Court of Karnataka at Bangalore in MFA Nos. 2451,2452 and 2454 of 2002.

M. Gireesh Kumar, S.K. Kulkarni, Ankur S. Kulkarni, Vijay

H

Kumar, for the Appellant. A

M.K. Dua for the Respondents.

The Judgment of the Court was delivered by

SHIVA KIRTI SINGH, J. 1. Heard learned counsel for the appellant and learned counsel for the respondent-Insurance Company. B

2. Due to accident involving a goods vehicle, a lorry, two persons died and others received injuries. All the thirteen claim petitions were decided by a common judgment dated 21.01.2002 by the Motor Vehicle Accidents Claim Tribunal (hereinafter referred to as 'The Tribunal') presided by the Principal District Judge at Raichur (Karnataka). This appeal relates only to claim filed by dependents and legal representatives of deceased Hanumanth which included his widow Smt. Mariyamma and three minor children, who are respondents 2 to 4 in this appeal. The Tribunal allowed their claim in MCV No. 616 of 1999 and held them entitled for compensation of Rs.2,55,000/- from the owner-cum-driver of the lorry, the appellant and also from respondent-Insurance Company as they were held responsible jointly and severally. The claim was allowed with 6% interest from the date of claim petition till its realization with costs fixed at Rs.200/-. C D E

3. In appeals preferred by the Insurance Company, the High Court by the order under Appeal dated 17.10.2005 interfered with the Award made against the Insurer in respect of death of Hanumanth and held that the Award was bad in law because the deceased was in a clerical cadre working as a Gumasthe accompanying the goods in transit for the purpose of delivery and as such he could not be covered by the clause under which premium was paid for covering the risk of the persons employed in connection with the operation of loading and unloading of the goods. Against this order passed in MFA No.2451 of 2002, the appellant/owner of the goods vehicle has preferred this appeal. F G

4. The only issue requiring determination is whether the H

A clause IMT 17 for which premium was paid to the insurer in respect of the concerned lorry will cover the deceased Hamumanth or not.

5. For deciding the above issue, one is simply required B to go through the relevant clause IMT 17 of the policy, whose copy has been made available to us. The clause reads thus:

> "Add: for LL to persons employed in connection with the operation and/or loading unloading of motor vehicle IMT 17".

C 6. The High Court has clearly fallen in error in holding that the insurer is not liable in respect of death of Hanumanth. The clause - "persons employed in connection with the operation" is clearly over and above the coverage provided by the policy to "persons employed in connection with loading/unloading of D motor vehicle". As Gumasthe, the deceased was accompanying the goods in transit for the purpose of delivery of goods. This has been accepted by the High Court. Obviously, as Gumasthe the deceased would be covered by the expression "persons employed in connection with operation of E motor vehicle" The operation of the aforesaid clause has wrongly been restricted and limited only to persons employed in connection with loading/unloading of the motor vehicle.

7. In view of the aforesaid error committed by the High Court, the order under appeal is set aside and the order of the F Tribunal is restored. As a result, the respondent-Insurance Company will be bound by the Award made by the Tribunal for paying compensation to the claimants for the death of Hanumath as per orders of the Tribunal. The dues of compensation along with due interest should be deposited by G the respondent Insurance Company within eight weeks with the Tribunal which will permit the claimants to withdraw the amount as per order of the Tribunal.

8. The appeal is allowed to the aforesaid extent. No costs.

H R.P. Appeal allowed.