

IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH

DATED THIS THE 6th DAY OF NOVEMBER 2013

BEFORE

THE HON'BLE MR. JUSTICE L. NARAYANA SWAMY

MFA No.22966/2011(WC)

BETWEEN:

BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD.,
HUBLI, BY ITS BRANCH MANAGER,
HEREIN REPRESENTED BY
BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD.,
4TH FLOOR, V.A. KALBURGI MANSION
OPPOSITE MUNICIPAL CORPORATION
LAMINGTON ROAD, HUBLI
REPRESENTED BY ITS AUTHORIZED SIGNATORY.

(BY SRI. RAVINDRA R. MANE, ADVOCATE)

APPELLANT

AND:

1. INAYATHULLA KHAN
S/O HUSSAIN KHAN
AGE 57 YEARS, OCC: DRIVER
R/O BHAGYANAGAR,
TALUK AND DIST. KOPPAL.
2. K. MOHAMMED GHOUSE,
S/O K. MADDARSAB
AGE MAJOR, OCC: OWNER OF VEHLICE
NO. KA-35/74/08-09 CHASSIS NO.23638
AND ENGINE NO.521551
R/O KSRTC QUARTERS, AZAD NAGAR,
RAGAJI NAGAR, 1ST CROSS,
HOSPET 583 201.

... RESPONDENTS

THIS APPEAL IS FILED UNDER SECTION 30(1) (A)(aa) OF WC ACT 1923, AGAINST THE JUDGMENT AND ORDER DATED 20/04/2011 PASSED IN WCA/NF-64/2010 ON THE FILE OF THE LABOUR OFFICER AND WORKMENS COMPENSATION COMMISSIONER KOPPAL DISTRICT KOPPAL AWARDING THE COMPENSATION OF RS.1,71,216/- WITH INTEREST AT THE RATE OF 12% P.A. FROM THE DATE OF PETITION TILL ITS DEPOSIT.

THIS APPEAL COMING ON FOR ORDERS, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

This appeal is posted today for orders regarding furnishing of deficit court fee to issue notice to the respondents.

2. I have heard the learned counsel for the appellant.

3. This appeal is filed by the insurance company challenging the order passed by the Commissioner for Workmen's Compensation, Koppal, in WCA/NF No.64/2010 dated 20/04/2011.

4. The grounds urged by the counsel for the appellant is, non-possession of valid driving licence. He

submits that the driver of the vehicle was not possessing a valid driving licence i.e. he was possessing licence to drive non-transport vehicle whereas he was driving transport vehicle at the time of the accident. Secondly, he submits that there was negligence on the part of the claimant.

5. So far as the first ground is concerned, the same is covered by the judgment of the Hon'ble Supreme Court in the case of S. IYYAPAN vs. UNITED INDIA INSURANCE COMPANY LIMITED reported in 2013 ACJ 1944 wherein it is held that no insurance company may proceed against insured for recovery of amount if there is any violation of conditions of insurance policy. Accordingly, the first ground is rejected.

6. So far as the second ground on negligence is concerned, it is also covered by the Full Bench judgment of this Court in the case of SHIVALINGA SHIVANAGOWDA PATIL AND OTHERS vs. ERAPPA BASAPPA BHAVIHALA AND OTHERS reported in ILR 2004 KAR 193. For convenience, the relevant portion of the judgment is extracted:

"8. The main object with which the Act was passed is that the compensation should ordinarily be given to workmen who sustain personal injuries by accidents arising out of and in the course of their employment. The compensation payable under the Act is not dependant on any negligence on the part of the employer as it is not a remedy for employer's negligence but is rather in the nature of insurance of the workman against risks of accident. The Act is a social welfare legislation made for the interest of the workman. If any particular provision of the Act is capable of two interpretations, that which is more favourable to the person for whose benefit the legislature in its great wisdom has legislated it, has to be adopted. Such liberal construction would accomplish the humane and beneficial purposes of the legislation, the provisions of which are truly responsive to the social and economic needs recognized by our society and the Constitution. It makes an employer liable to pay compensation at a fixed rate. It is not a liability which arises out of tort, but one which springs out of the relationship of master and servant."

7. In the light of the fact that the grounds urged by the learned counsel for the appellant are covered by the judgments referred to supra, there is no occasion for me to re-examine the matter. Hence, the appeal stands dismissed.

Amount in deposit is ordered to be transmitted to the Workmen's Compensation Commissioner, Koppal.

**Sd/-
JUDGE**

kmv