

Karnataka High Court United India Insurance Co Ltd ... vs Smt Gangamma
on 5 July, 2013 Author: S.Abdul Nazeer 1

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT GULBARGA

DATED THIS THE 5TH DAY OF JULY 2013

BEFORE

THE HON'BLE MR. JUSTICE S. ABDUL NAZEER

MISCELLANEOUS FIRST APPEAL No.1931/2006 (WC)
And M.F.A. Cr.Ob. No.196/2006

IN M.F.A. No.1931/2006

BETWEEN:

United India Insurance Co. Ltd. Raichur D.O. Through its regional office at
No.25, Shankaranarayana Building M.G. Road, Bangalore 560 001 Rep. by its
Deputy Commissioner Sri. Gopinath Rao APPELLANT

(By Sri. Manvendra Reddy, Adv.)

AND:

1. Smt. Gangamma W/o. Shanmukappa Aged about 35 years R/o. Pa-
gadadinni Camp Sindhanur Taluk Raichur Dist.
2. Sri. Dasari Venkatarao S/o. Sathyanarayana Dead by his L.Rs.
 - a) Smt. Veerabhadramma

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W/o. D. Venkat Rao
Age: 48 years
Occ: Household

- b) Sri. D. Srinivas
D/o. D. Venkat Rao
Age: 32 years
Occ: Agriculture
- c) Sri. D. Suresh Kumar
S/o. D. Venkat Rao
Age: 30 years
Occ: Private Service

All are R/a. Pagadadimi Camp Sindhanur Taluk Raichur Dist.
...RESPONDENTS

(By Sri. P.S. Mali Patil, Adv. for R-1 Sri. Basavaraj R. Math, Adv. for R-2(a)1, R-2(b) and R-2(c)

This appeal is filed under Section 30(1) of the

Workmen's Compensation Act praying to set aside the order dated 20.12.2005 passed in CWC: WCA:CR:228/2003 by the Workmen's Compensation Commissioners Court, Raichur District, etc.

IN M.F.A.Cr-Ob. No.196/2006

BETWEEN:

Smt. Gangamma W/o. Shanmukappa Aged about 35 years R/o. Pagadadinni Camp Sindhanur Taluk Raichur Dist. ... CROSS OBJECTOR

(By Sri. P.S. Mali Patil, Adv., Adv.) 3

AND:

1. United India Insurance Co. Ltd. Raichur D.O. Through its regional office at No.25, Shankaranarayana Building M.G. Road, Bangalore 560 001 Rep. by its Deputy Commissioner Sri. Gopinath Rao
2. Sri. Dasari Venkatarao S/o. Sathyanarayana Dead by his L.Rs.
 - a) Smt. Veerabhadramma W/o. D. Venkat Rao Age: 48 years Occ: Household
 - b) Sri. D. Srinivas D/o. D. Venkat Rao Age: 32 years Occ: Agriculture
 - c) Sri. D. Suresh Kumar S/o. D. Venkat Rao Age: 30 years Occ: Private Service

All are R/a. Pagadadimi Camp Sindhanur Taluk Raichur Dist. RESPONDENTS

(By Sri. Manvendra Reddy, Adv. for R-1 Sri. Sri. Basavaraj R. Math, Adv. for R-2(a)1, R-2(b) and R- 2(c) —

This Cross Objection is filed under Order 41 Rule 22

of the CPC r/w. Section 30 of the Workmen's Compensation Act praying to modify the order dated 20.12.2005 passed in CWC: WCA:CR:228/2003 by the Workmen's Compensation Commissioners Court, Raichur District 4

This appeal and the Cross Objection coming on for

Further Orders this day, the Court delivered the following:

JUDGMENT

The above appeal and the Cross Objection are directed against the judgment and award dated 20.12.2005 in case No.CWC: WCA:CR:228/2003 passed by the Labour Officer and Commissioner for Workmen's Compensation, Raichur District. 2. The 1st respondent-claimant claims compensation alleging that she suffered employment injury while being carried in the trailer attached to the tractor bearing registration No.KA 36/5368 belonging to the 2nd respondent Dasari Venkatarao. According to the claimant, the tractor and the trailer attached to the tractor are covered by a policy at Ex.R.1. The Commissioner allowed the application and awarded compensation in a sum of Rs.41,430/-. The insurer has challenged the said order by filing the above appeal contending that the trailer has not been insured. The cross objections are filed by the claimant seeking enhancement of compensation. 3. I have heard the learned Counsel for the parties. 4. Learned Counsel for the appellant insurance company contends that the trailer has not been insured. Therefore, foisting liability on the insurance company is not permissible in law. Learned Counsel for the claimant argues that the compensation awarded by the Commissioner is not adequate. On the other hand, learned Counsel for the owner of the tractor and trailer submits that insurance policy at Ex.R.1 covers both tractor and the trailer. An additional premium has been paid under the insurance policy so as to include the trailer. 5. In the light of the above contentions, the first question arises for consideration is as to whether the trailer has been insured ? Ex.R.1 is the policy of insurance. It is evident from the said policy that both tractor and the trailer have been insured. The insurance policy contains clause IMT No.19. IMT 19 provides for legal liability to the persons employed in connection with the operation of Motor Vehicle (for Taxi/Auto Richshaw, Tractor and other miscellaneous vehicles. Thus, it is clear from the policy of insurance at Ex.R.1 that premium has been paid not only in respect of the tractor but also the trailer. There is no merit in the contention that the trailer has not been insured. 6. That brings me to the next question as to whether the compensation awarded by the Commissioner to the claimant requires enhancement ? The Commissioner on appreciation of the materials on record has assessed the compensation payable to the claimant. This is purely a question of fact. The cross objections do not involve any substantial question of law. 7. The appeal and the cross objection fail and are accordingly dismissed. The amount in deposit shall be transferred to the Commissioner for Workmen's Compensation, Raichur, forthwith. No costs. Sd/- JUDGE. Cs/-