



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.3065 OF 2020
(ECA)

BETWEEN:

1. SMT. RAMAKKA
AGED ABOUT 48 YEARS
W/O LATE KANNAIAH
@ KANNAYYA
2. SRI. MANJUNATHA
AGED ABOUT 29 YEARS
S/O LATE KANNAIAH
@ KANNAYYA
3. KUM. K SUDHA
AGED ABOUT 27 YEARS
D/O LATE KANNAIAH
@ KANNAYYA

ALL ARE RESIDING AT LAKKASANDRA
VILLAGE, LAKKUR HOBLI, MALUR TALUK,
KOLAR DISTRICT.

...APPELLANTS

(BY SRI. A.K.BHAT.,ADVOCATE)

AND:

1. SRI. V. HARI DAS
MAJOR IN AGE,
S/O VELUSWAMY,
RESIDING AT NO.230,
LINGHI CHETTY STREET,
CHENNAI,TAMILNADU - 600001.
2. THE LEGAL MANAGER



M/S IFFCO TOKIO GEN. INS. CO LTD.,
NO.141, SRI. SHANTHI TOWERS,
4THFLOOR, 3RDMAIN EAST,
NGEF LAYOUT, KASTURINAGAR,
BANGALORE.

...RESPONDENTS

(BY SRI. H.S.LINGARAJ., ADVOCATE FOR R2;
R1 IS SERVED)

THIS MFA IS FILED UNDER SECTION 30(1) OF EMPLOYEE COMPENSATION ACT PRAYING TO DIRECT THE INSURANCE COMPANY TO PAY THE COMPENSATION OF RS.14,50,000/- AS PRAYED IN THE CLAIM PETITION BY THE ORDER OF MACT & SMALL CAUSES JUDGE (SCCH:3), VII ADDL. JUDGE AND ACMM, COURT OF SMALL CAUSES, MEMBER MACT-03, BANGALORE DATED 09.12.2019 PASSED IN ECA NO.75/2017, WITH COST AND INTEREST, IN THE INTEREST OF JUSTICE.

THIS APPEAL COMING ON FOR ADMISSION THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

1. The present appeal has been filed seeking to challenge an award passed under section 22 of the Employees Compensation Act, 1923 dated 09.12.2019 in ECA No.75 passed by the VII Addl. Judge and ACMM, Court of Small Causes, MACT-3, Bengaluru (hereinafter 'Impugned Award'). By the Impugned Award, it was held that the petitioners were held entitled for compensation however, the petition against Respondent



No.2 Insurance Company was dismissed by the learned Trial Court.

2. The brief facts of the case are that the deceased was employed with Respondent No.1 as a driver of lorry bearing No.TN-04-AC-7542. On 18.03.2017 at about 5.30 p.m. while driving the said lorry from Hyderabad towards Bengaluru, near Bagepalli Sales Tax check post, he stopped and parked the lorry and stood on the footpath. At that time one unknown lorry driven in a rash and negligent manner hit the deceased. The deceased sustained severe injuries and succumbed to his injuries on the way to the hospital. This led to the filing of the present claim petition.

3. The matter was contested by Respondent No.2 who is the Insurance Company of the vehicle which caused the accident. However since Respondent No.1 Owner failed to appear, he was proceeded as *ex-parte*.

4. The following issues were framed by the learned Trial Court:

1. Whether the petitioners prove that they are the LR's /dependants of deceased Sri. Kannaiah @ Kannayya?



2. *Whether the petitioners prove that deceased Sri. Kannaiah @ Kannayya was the driver in Lorry bearing reg. No.TN-04-AC-7542 belongs to 1st respondent on the date of accident?*
3. *Whether the petitioners prove that deceased Sri. Kannaiah @ Kannayya? Was died on 18.03.2017 during the course of his employment under 1st respondent?*
4. *Whether the petitioners are entitled for compensation? If so, how much and from whom?*
5. *What Order or Award?"*

5. The learned Trial Court held that the deceased was entitled to compensation. However, on the aspect of liability it gave a finding that since the deceased had got down from the vehicle and was standing on the footpath, the deceased was not performing his duty as a driver of the vehicle and thus exonerated the Insurance Company.

6. Learned counsel for the appellant submits that the challenge in the present appeal is only on this finding of exoneration of the Insurance Company. He submits that the deceased was performing his duty even while he was standing on the footpath at the check post point. Reliance in this behalf is placed on the judgment of the Co-ordinate Bench of this



Court in ***Smt.Premila and Others vs. Shaliwan and another¹***.

7. Learned counsel for Respondent No.2 Insurance Company on the other hand reiterates his contention that since the deceased had stopped and was not in the vehicle at that time, and the accident did not occur while performing his duty.

8. The issue that arises before this Court is whether stopping of vehicle temporarily during the journey performed in the course of employment would be such that the accident would be deemed to be not caused during the use of the motor vehicle.

9. The learned Trial Court has held that since the deceased had got down from the vehicle and was standing on the footpath and there was no use of vehicle belonging to the respondent. Thus it was held that there was no proximity of death concerning use of vehicle of the respondent.

10. A similar issue was dealt with by a Co-ordinate Bench of this Court in ***Smt. Premila*** case, where it was held that where

¹ 2005 SCC OnLine Kar 197



a vehicle is stopped temporarily and the assignment was not completed, the driver was on duty. The relevant extract is below:

*"6. I find no merit in the contention of the insurer. It is a clear case of accident occurring in the use of the motor vehicle and in the course of employment. The facts categorically indicate that the vehicle was stopped temporarily by the driver for a short period for attending to calls of nature. **The assignment of work of transportation from Hyderabad to Bidar was not yet complete. The deceased driver was very much on duty. The presence of the driver at the accident spot is directly attributable to the use of the motor vehicle. Otherwise, there is no occasion for the deceased to be present at the spot. The contention that the driver should be actually driving the vehicle at the time of the accident in order to attract the terms of the policy is untenable.** The policy conditions lays down that the driver should have been engaged for the purpose of driving. In the instant case, temporary stoppage of the vehicle and the driver getting out of the vehicle for a bona fide reason does not result in suspension/cessation of the legal contract of driving the vehicle for which he is engaged until the vehicle reaches the destination. **It would make a difference in law, if the driver completes his assignment of transportation and is off the duty at the time of accident. But, the facts of the case are otherwise. Therefore, for the reasons stated above, it is to be held that the accident occurred in the use of the motor vehicle and in the course of and out of employment to attract the liability of the insurer as per the terms of the statutory policy.**"*

[Emphasis Supplied]



11. This Court is unable to agree with the finding of the learned Trial Court. It is not disputed that during the course of his employment the deceased was required to drive the vehicle from Hyderabad to Bengaluru and that the accident took place during the time he was driving the vehicle. It is also not disputed that the deceased stopped at the Sales Tax check post which would obviously be a mandatory stop for all vehicles for payment of road tax and thus was paying road tax for use of vehicle of the owner. This also would be in the course of the employment. The deceased was clearly not present on the road for any other reason except for the fact that he was driving the vehicle from Hyderabad to Bengaluru on behalf of the respondent No.1 owner and during the course of his employment. The deceased did not have any reason to be present at the Sales Tax check post at except in furtherance of his duty.

11. Accordingly, the Court proceeds to pass the following directions:



ORDER

- (i) The appeal is ***allowed***

- (iii) The impugned Judgment and Award dated 09.12.2019 in ECA No.75 passed by the VII Addl. Judge and ACMM, Court of Small Causes, MACT-3, Bengaluru is modified to the extent that Insurance Company is held to be jointly and severally liable with the Respondent No.1 owner.

- (iv) The remaining portion of the Impugned Award of the Tribunal remains undisturbed.

- (v) The Insurance Company shall make payment of the amended amount within eight weeks from the date of receipt of the judgment.

- (vi) The Registry is also directed to draw the modified Award accordingly.

- (vii) Registry is directed transmit a copy of this judgment to the concerned Tribunal, along with its records.



(viii) No order as to costs.

(TARA VITASTA GANJU)
JUDGE

SNB
List No.: 1 Sl No.: 14