

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 25TH DAY OF JUNE 2007

PRESENT

THE HON'BLE MR.JUSTICE K.SREEDHAR RAO

AND

THE HON'BLE MR.JUSTICE SUBHASH B ADI

MISCELLANEOUS FIRST APPEAL No.450 OF 2001 (WC)
C/W

MISCELLANEOUS FIRST APPEAL No.3244 OF 2000 (WC)
C/W

CROSS OBJECTION No.115/00 in MFA No.3244 OF 2000

MFA No.450/01

BETWEEN

- 1 NATIONAL INSURANCE CO LTD.,
BRANCH OFFICE
GADAG
- 2 NATIONAL INSURANCE CO LTD.,
DIVISIONAL OFFICE, HUBLI
NOW REPRESENTED BY ITS
REGIONAL MANAGER
NATIONAL INSURANCE CO LTD
REGIONAL OFFICE
SUBHARAM COMPLEX
144, M G ROAD
BANGALORE-560 001 ..APPELLANTS

(BY SRI A N KRISHNASWAMY, ADV.)

AND

- 1 SMT UDACHAYVA
W/O FAKIRGONDA
AGED ABOUT 48 YEARS
OCC: COOLIE
R/O KADAMPURA



- 2 SMT PARAVYA
W/O HANUMANTHAPPA SHIRUNDA
AGED ABOUT 28 YEARS
OCC: COOLIE
R/O KADAMPURA
 - 3 SRI VASANTHA
S/O FAKIRGOWDA
AGED ABOUT 28 YEARS
OCC: AGRICULTURE
R/O KADAMPURA
 - 4 SRI SURESH
S/O FAKIRGOWDA
AGED ABOUT 18 YEARS
OCC. AGRICULTURE
R/O KADAMPURA
 - 5 SMT RATHNAVYA
W/O VENKAREDDY JANGAL
AGED ABOUT 46 YEARS
R/O ANNIGERI
 - 6 SRI CHANDRAKANTHA
S/O VENKAREDDY JANGAL
AGED ABOUT 24 YEARS
R/O ANNIGERI
 - 7 SRI PRAVEEN
S/O VENKAREDDY
AGED ABOUT 19 YEARS
R/O ANNIGERI
 - 8 SRI SHANKHAPPA
S/O PARAPPA DESAIGONDAR
AGE: MAJOR,
R/O DESAI ONI
ANNIGERI
- ..RESPONDENTS

(BY SRI H N KASAL FOR R1-4
SRI MAHANTESH S HOSMATH, ADV. FOR R5-7
SRI MAHESH P, ADV. FOR R8

MFA IS FILED U/S 30 (1) OF M.C ACT AGAINST
THE ORDER DT.20.11.2000 PASSED IN WCA.NO.43/98 BY
THE LABOUR OFFICER AND COMMISSIONER FOR WORKMEN'S



COMPENSATION, GADAG ALLOWING THE CLAIM PETITION
FOR COMPENSATION.

MEA NO 3244/00

BETWEEN

- 1 NATIONAL INSURANCE CO LTD
HUBLI BRANCH, HUBLI
COTTON SALE SOCIETY, HUBLI
NOW REPRESENTED BY ITS
REGIONAL MANAGER
NATIONAL INSURANCE CO LTD
REGIONAL OFFICE
SUBHARAM COMPLEX
144, M G ROAD
BANGALORE 560 001
- 2 NATIONAL INSURANCE CO LTD
GADAG BRANCH, GADAG
OPP. THONTADARYA TREE
STATION ROAD, GADAG
NOW REPRESENTED BY ITS
REGIONAL MANAGER
NATIONAL INSURANCE CO LTD
REGIONAL OFFICE
SUBHARAM COMPLEX
144, M G ROAD
BANGALORE 560 001 ..APPELLANTS

(BY SRI A N KRISHNASWAMY, ADV.)

AND

- 1 SMT SHANKARAVVA
W/O HANUMANTHAPPA DYAVANNAVAR
AGED ABOUT 34 YEARS
R/O KADAMPURA
TALUK MUNDARAGI
- 2 ANANDAPPA
S/O HANUMANTHAPPA DYAVANNAVAR
AGED ABOUT 18 YEARS
R/O KADAMPURA
TALUK MUNDARAGI



- 3 ASHOKAPPA
S/O HANUMANTHAPPA DYAVANNAVAR
AGED ABOUT 14 YEARS
- 4 DEVAPPA
S/O HANUMANTHAPPA DYAVANNAVAR
AGED ABOUT 12 YEARS
- 5 AKKAVVA
D/O HANUMANTHAPPA DYAVANNAVAR
AGED ABOUT 10 YEARS
- 6 BASAVANTHAPPA
S/O HANUMANTHAPPA DYAVANNAVAR
AGED ABOUT 8 YEARS
- 7 SEETHAMMA
D/O HANUMANTHAPPA DYAVANNAVAR
AGED ABOUT 6 YEARS
- 8 SHIVAKKA
D/O HANUMANTHAPPA DYAVANNAVAR
AGED ABOUT 14 YEARS
RESPONDENTS NO.3 TO 8
SINCE MINORS
REPRESENTED BY THEIR
GUARDIAN MOTHER
RESPONDENT NO.1 HEREIN
- 9 GULLAPPA
S/O MALLAPPA DAYANNAVAR
AGED ABOUT 60 YEARS
R/O KADAMPURA
TALUK MUNDARGI
- 10 SMT UDACHAYYA
W/O GULLAPPA DAYANNAVAR
AGED ABOUT 55 YEARS
R/O KADAMPURA
TALUK MUNDARGI
- 11 SMT RATHNAVVA
W/O VENKATAREDDY JANGAL
AGED ABOUT 46 YEARS
R/O ANNIGERI
TALUK NAYALAGUND



12 CHANDRAKANTHA
S/O VENKATAREDDY JANGAL
AGED ABOUT 24 YEARS
R/O ANNIGERI
TALUK NAVALAGUND

13 PRAVEENA
S/O VENKATAREDDY JANGAL
AGED ABOUT 19 YEARS
R/O ANNIGERI
NAVALAGUND

14 SHANKRAPPA
S/O PARAPPA DESAI
MAJOR, R/O DESAI ONI
ANNIGERI
TALUK NAVALAGUND

..RESPONDENTS

(BY SRI MAHANTESH S HOSMATH, ADV FOR R10-13
SRIH N KASAL, ADV FOR R1)

MFA IS FILED U/S 30 (1) OF W.C ACT AGAINST
THE ORDER DT.28.6.2000 PASSED IN WCA.NF.42/98 BY
THE LABOUR OFFICER AND COMMISSIONER FOR WORKMEN'S
COMPENSATION, GADAG ALLOWING THE CLAIM PETITION
FOR COMPENSATION.


CROSS OBJECTION No.115/00 IN MFA NO.3244/00

BETWEEN

1 SMT SHANKARAYYA
W/O HANUMANTHAPPA DYAVANNAVAR
AGED ABOUT 36 YEARS
R/O KADAMPURA
TALUK MUNDARAGI

2 KUMAR ANANDAPPA
S/O HANUMANTHAPPA DYAVANNAVAR
AGED ABOUT 20 YEARS
R/O KADAMPURA
TALUK MUNDARAGI

3 KUMAR ASHOKAPPA
AGED ABOUT 16 YEARS



- 4 KUMAR DEVAPPA
AGED ABOUT 14 YEARS
 - 5 KUMARI AKKAYYA
AGED ABOUT 12 YEARS
 - 6 KUMAR BASAVANTHAPPA
AGED ABOUT 10 YEARS
 - 7 KUMARI SHITAMMA
AGED ABOUT 9 YEARS
 - 8 KUMARI SHIVAKKA
AGED ABOUT 14 YEARS
D/O HANUMANTHAPPA
 - 9 SHRI GULLAPPA
S/O MALLAPPA DYAVANNAYAR
AGED ABOUT 62 YEARS
R/O KADAMPURA
TALUK MUNDARGI
 - 10 SMT UDACHAYYA
W/O GULLAPPA DYAVANNAYAR
AGED ABOUT 57 YEARS
R/O KADAMPURA
TALUK MUNDARGI
- ..CROSS OBJECTORS

[BY SRI H N KASAL, ADV.]

AND

- 1 SRI VENKANNA
S/O THAMMAPPA JANGAL
AGED ABOUT 40 YEARS
OCC: OWNER
DECEASED BY HIS L R
- 1a SMT RATHNAVVA
W/O VENKATAREDDY JANGAL
AGED ABOUT 48 YEARS
R/O ANNIGERI
TALUK NAVALAGUND



- 1b SRI CHANDRAKANTH
S/O VENKATAREDDY JANGAL
AGED ABOUT 26 YEARS
R/O ANNIGERI
TALUK NAVALAGUND
- 1c SRI PRAVEEN
S/O VENKATAREDDY JANGAL
AGED ABOUT 21 YEARS
R/O ANNIGERI
TALUK NAVALAGUND
- 2 SHANKRappa
S/O PARAPPA DESAIGOUNDAR
AGE MAJOR, OCC: AGRICULTURE AND
OWNER OF TRACTOR TRAILER
BEARING NO.CNJ 4076
R/O DESAI ONI
ANNIGERI
TALUK NAVALAGUND
- 3 NATIONAL INSURANCE COMPANY LTD
GADAG BRANCH, GADAG
OPP. THONTADARYA MATH
STATION ROAD, GADAG
POLICY NO.602505/6300522/94
DATED 6.12.1995
- 4 NATIONAL INSURANCE COMPANY LTD
HUBLI BRANCH, HUBLI
COTTON SALE SOCIETY BUILDING
HUBLI, POLICY
NO.602501/31/6310300 ..RESPONDENTS

[BY SRI A N KRISHNASWAMY, ADV. FOR R3-4
SRI MAHANTESK S HOSMATH, ADV FOR R1(a-) & R2

CROSS OBJECTIONS FILED U/O 41 R 22 CPC
AGAINST THE JUDGMENT DT.28.6.2000 PASSED IN CASE
NO.WCAF.42/98 ON THE FILE OF W.C COMMISSIONER,
GADAG ALLOWING THE CLAIM PETITION FOR
COMPENSATION.

THESE APPEALS COMING ON FOR HEARING THIS
DAY, SREEDHAR RAO J. DELIVERED THE FOLLOWING:



JUDGMENT

The substantial question of law involved in these appeals is as follows:

"Whether the tractor and trailer both should be insured in order to fasten the liability on the insurer?"

2. The Division Bench of this Court in the case of THE ORIENTAL INSURANCE CO. LTD., Vs. D.LAXMAN AND OTHERS reported in ILR 2006 KAR 4355 has approved the ratio of the decision of the learned Single Judge of this Court in the case of NATIONAL INSURANCE COMPANY LTD., Vs. THIRAKAPPA RAMAPPA ITAGI AND ANOTHER (ILR 2001 KAR 3037) wherein at Paragraph 25, it is observed as under:

"The Division Bench followed the view of the Full Bench reported in NATIONAL INSURANCE COMPANY LTD., Vs. DUNDAMMA to hold that tractor-trailer is goods vehicle. Considering the tariff separately available for the trailers under Clause 'A(3)', the Division Bench was of the view that both Tractor and Trailer be independently considered as motor vehicle and should be individually insured. The



Insurance cover made available to the Tractor cannot be automatically extended to the trailer and the trailer also should be separately insured within the meaning of Clause A(3) available under Section 64(v) of the Insurance Act. That is how the word 'are' used as against the noun called as 'A tractor and a trailer' attached thereto. By deliberately using the word 'are' means that both the tractor and the trailer must have been insured."

3. In the instant case, the alleged deceased workman was travelling in the trailer attached to a tractor. The tractor is not insured. The trailer is insured. The tractor and trailer put together constitute a goods vehicle. It is laid down in the above ratio that the insurer becomes liable only when both the tractor and the trailer are insured. In the instant case, the tractor is not insured. As such, the order is liable to be set aside.

4. In the result, the appeals are allowed.

5. The amount in deposit is ordered to be refunded to the insurer.



6. In so far as the Cross Appeal is concerned, the compensation assessed by the Commissioner for Workmen's Compensation is sound and proper and does not call for interference.

7. The Cross Appeal No.115/00 in MFA No.9244/00 is dismissed.

Sd/-
Judge

Sd/-
Judge

BSC