

United India Insurance Co. Ltd. Bijapur Branch Through Its Regional Office, Rep. by Its Deputy Manager Smt. K.S. Vaijayanthi Vs. Keludappa, Major S/O Mallappa Sindhur and Prakash, Major S/O Basayya Ganachari

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Court : Karnataka

Decided On : Dec-02-2005

Reported in : 2007ACJ1241

Judge : K. Sreedhar Rao, J.

Acts : Motor Vehicles Act

Appeal No. : W.P.No. 27/04

Appellant : United India Insurance Co. Ltd. Bijapur Branch Through Its Regional Office, Rep. by Its Deputy Manag

Respondent : Keludappa, Major S/O Mallappa Sindhur and Prakash, Major S/O Basayya Ganachari

Advocate for Pet/Ap. : B.C. Seetharama Rao, Adv.

Judgement :

ORDER

K. Sreedhar Rao, J.

1. Notice to R1 (c) in MFA 992/03 by way of paper publication is accepted. Both the cases arise out of the same accident.

2. The writ petition is filed against the order passed by this Court in CRP 545/03, which came to be dismissed on the ground that the revision is not maintainable. Hence, the writ is filed challenging the judgment and award in MVC 1431/97. MFA 992/03 pertains to MVC 1417/97.

3. The petitioners are the inmates of the jeep bearing registration No. MH-10/C-0846, which met with the accident. The Tribunal awarded compensation to the petitioners and directed the owner and insurer to pay the compensation. The insurer is in appeal seeking avoidance of the liability on the ground that there is violation of permit conditions. The Tempo-tax is a private service vehicle. The evidence adduced discloses that the petitioner in MVC 1417/97 was travelling as fare paid passenger.

4. In view of the violation of permit conditions it is argued that the insurer is not liable. The policy of insurance is a comprehensive policy, which covers the risk of the inmates of the vehicle maximum to an extent of Rs. 1 lakh per passenger under P.A. Cover.

5. The fact that the vehicle cannot be used as a taxi may attract punishment for the owner and driver under the Motor Vehicles Act and other allied enactment, but it is not a ground to exonerate the liability of the

insurer to pay the compensation. When the insurer has covered the risk of an inmate of a private vehicle, it makes little difference whether the inmate is the fare paying passenger or gratuitous passenger.

6. The contention that the forum for seeking compensation for the Personal Accidents Benefits Scheme is different is again a technical objection when the insurer is liable to pay under the policy. The insurer being the State within the meaning of Article 12 is expected to maintain standards of fair play and pay the compensation to the victims without resorting to technical objections. The insurer shall pay the compensation as per the terms of the policy.

7. In that view, the award passed against the insurer is confirmed. The insurer to pay the compensation. Accordingly, the writ Petition and the MFA are dismissed. The amount in deposit to be transferred to the Tribunal for payment.

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