

SUPREME COURT OF INDIA

Harijan Mangri Siddakka

Vs.

Oriental Insurance Co. Ltd.

C.A.No. of 2008

(Dr. Arijit Pasayat and H.S. Bedi JJ.)

16.07.2008

JUDGMENT

Dr.Arijit Pasayat, J.

1. Leave granted.
2. Challenge in this appeal is to the order passed by a learned Single Judge of the Karnataka High Court disposing of an appeal filed under Section 30(1) of *Workmen's Compensation Act, 1928* (in short the `Act'). The appellants lodged claim petition claiming compensation in respect of certain persons who had lost their lives. According to the appellants the deceased persons were employed as workmen/labourers in a tractor and trailer combination which was the subject matter of insurance. When the trailer was being loaded with mud from the quarry, huge quantity of mud had collapsed from the quarry smothering the workmen to death. The Commissioner for Workmen's Compensation (in short the `Commissioner') held that the accident had taken place during and in the course of the employment and since the vehicle has been used for purposes of loading, the Oriental Insurance Company Ltd. were liable to indemnify the award made. The Insurer challenged the correctness of the award taking the stand that the liability of the insurer arises on account of death on a bodily injury arising out of the use of the vehicle and in the present case the admitted circumstances indicate that there was no proximate connection between the use of the vehicle and the actual cause of death which was overlooked by the Commissioner. Stand of the appellants was that the insurer is not correct in submitting that there was no use of the vehicle at the time of accident. It was pointed out that though the death occurred at a place away from the vehicle or the fact that the mud which was being loaded on to the trailer from the quarry had killed the workmen, is immaterial since the policy of the Insurance is intended to cover the risk of workmen employed in the vehicle. The High Court found that there was no actual use of the vehicle and therefore there was no casual connection between the cause of death and the use of the vehicle.
3. Learned counsel for the appellant submitted that no reason has been indicated by the High Court to hold that there was no casual connection between the death and the use of the

vehicle. Reference is made to certain judgments of the High Court where the view expressed by learned Single Judge was not accepted.

4. We find that there is practically no discussion on the factual scenario as to whether there was any connection between the death and the use of the vehicle. It would depend upon the factual scenario in each case and there cannot be any strait jacket formula to be applied.

5. The expression "use" in the Statute is with reference to "use of the motor vehicle". Whether there was a use of the motor vehicle has to be factually analysed. Since in this case the factual position has not been examined in detail, it would be appropriate for the High Court to deal the matter afresh. Accordingly, we set aside the impugned judgment and remit the matter to the High Court.

6. We make it clear that we have not expressed any opinion on the merits of the case. Appeal is allowed to the aforesaid extent. No costs.