

IN THE HIGH COURT OF KARNATAKA

CIRCUIT BENCH AT DHARWAD

DATED THIS THE 11TH DAY OF SEPTEMBER, 2008

BEFORE

THE HON'BLE MR.JUSTICE K RAMANNA

MFA NOs. 212/2006 C/w 202/2006, 204/2006, 208/2006,
210/2006 and MFA Cross Objections Nos.54/2006, 55/2006,
53/2006, 52/2006 & 51/2006 (WC)

MFA NO.212/2006

BETWEEN:

M/S.UNITED INDIA INSURANCE CO.LTD
HUBLI
BY ITS BANGALORE REGIONAL OFFICE
UNITED INDIA INSURANCE CO.LTD
SHANKARANARAYANA BUILDING
M.G.ROAD,
BANGALORE-560 001
REP BY ITS DEPUTY MANAGER

... APPELLANT

(BY SRI. S SRISHAILA, ADV)

AND:

1 NAGARAJ @ NAGAPPA
S/O SHIVAPPA SUNKADA
27 YRS, R/A KESHWAPURA
HUBLI

2 B DHARMAPPA
KANTHYAPPA
DODDAJOGIHALI



CHIKKAHALLI POST
SHIKARIPURA TALUK
SHIMOGA DISTRICT

... RESPONDENTS

(BY SRI. LAXMAN T MANTAGANI, ADV FOR R-1;
SRI S.V.DESAI, ADV FOR R-2)

THIS APPEAL IS FILED U/S 30 OF W.C.ACT AGAINST THE
JUDGMENT AND ORDER DATED 19-9-2005 PASSED IN
WCA/F/46/2003 ON THE FILE OF THE LABOUR OFFICER AND
COMMISSIONER FOR WORKMEN COMPENSATION, SUB-DIVISION-I,
HUBLI AWARDED COMPENSATION OF RS.1,56,956/- WITH
INTEREST AT 12% P.A. FROM 16-1-2003 TILL DEPOSIT AND
DIRECTING THE APPELLANT AND RESPONDENT NO.2 HEREIN TO
DEPOSIT THE SAME.

CROSS OBJECTIONS NO. 54/2006
IN MFA NO.212/2006

BETWEEN:

NAGARAJ @ NAGAPPA
S/O SHIVAPPA SUNKAD
28 YRS, R/O KESHWAPURA
TQ:HUBLI, DIST: DHARWAD

....CROSS OBJECTOR

(BY SRI LAXMAN T MANTAGANI, ADV)

AND:

1 DIVISIONAL MANAGER
UNITED INDIA INSURANCE CO.LTD
HUBLI

2 B DHARMAPPA
S/O KANTEPPA
DODDAJOGIHALLI
POST: CHIKKAPAJJIHALLI
DIST: SHIMOGA

... RESPONDENTS



THIS CROSS OBJECTIONS IS FILED IN MFA NO.212/2006
FILED UNDER ORDER 41 RULE 22 CPC AGAINST THE JUDGMENT
AND ORDER DATED 19-9-2005 PASSED IN WCA/F/46/2003 ON THE
FILE OF THE LABOUR OFFICER AND COMMISSIONER FOR
WORKMEN'S COMPENSATION, HUBLI SUB-DIVISION-1, HUBLI
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

MFA NO.202/2006

BETWEEN:

M/S.UNITED INDIA INSURANCE CO.LTD
HUBLI
BY ITS BANGALORE REGIONAL OFFICE
UNITED INDIA INSURANCE CO.LTD
SHANKARANARAYANA BUILDING
M.G.ROAD,
BANGALORE-550 001
REP BY ITS DEPUTY MANAGER

... APPELLANT

(BY SRI. S SRISHAILA, ADV)

AND:

- 1 BASAVVA
W/O SHEKHARA GOWDA GURANAGOWDA
40 YRS
- 2 KUMARI KALAVATHI
D/O SHEKHARA GOWDA GURANAGOWDA
16 YRS.
- 3 SHIVANAGOUDA
S/O SHEKHARA GOWDA GURANAGOWDA
14 YRS.
- 4 SRIKANTH GOWDA
S/O SHEKHARA GOWDA GURANAGOWDA
12 YRS.



- ALL ARE R/O KESHWAPURA , HUBLI
(SINCE THE RESPONDENTS-2 TO 4 ARE MINORS
THEY ARE REPRESENTED BY GUARDIAN - NATURAL
MOTHER - RESPONDENT-1)

5 B DHARMAPPA
KANTHYAPPA
DODDAJOGIHALLI
CHIKKAHALLI POST
SHIKARIPURA TALUK
SHIMOGA DISTRICT

RESPONDENTS

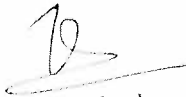
(BY SRI LAXMAN T MANTAGANI, ADV FOR R-1;
SRI S V DESAI, ADV FOR R-5)

THIS APPEAL IS FILED U/S 30 OF W.C.ACT AGAINST THE
JUDGMENT AND ORDER DATED 19-9-2005 PASSED IN
WCA/F/10/2003 ON THE FILE OF THE LABOUR OFFICER AND
COMMISSIONER FOR WORKMEN COMPENSATION, SUB-DIVISION-I,
HUBLI AWARDED COMPENSATION OF RS.1,91,997/- WITH
INTEREST AT 12% P.A. FROM 16-1-2003 TILL DEPOSIT AND
DIRECTING THE APPELLANT AND RESPONDENT NO.5 HEREIN TO
DEPOSIT THE SAME.

CROSS OBJECTIONS NO.55/2006
IN MFA NO.202/2006

BETWEEN:

- 1 BASAVVA
W/O SHEKHARAGOWDA GURANAGOUDAR
40 YRS
- 2 KUMARI KALAVATHI
D/O SHEKHARAGOWDA GURANAGOUDAR
16 YRS.
- 3 SHIVANAGOUDA
S/O SHEKHARAGOWDA GURANAGOUDAR
14 YRS.



- 4 SRIKANTH
S/O SHEKHARAGOWDA GURANAGOUDAR
12 YRS. ...CROSS OBJECTORS
- ALL ARE R/O KESHWAPURA , HUBLI
(SINCE THE CROSS OBJECTORS-2 TO 4 ARE MINORS
THEY ARE REPRESENTED BY GUARDIAN - NATURAL
MOTHER - CROSS OBJECTOR-1)

AND:

- 1 DIVISIONAL MANAGER
UNITED INDIA INSURANCE CO.LTD
HUBLI
- 2 B DHARMAPPA
S/O KANTYAPPA
DODDAJOGIHALLI
POST: CHIKKAPAJJIHALLI
DIST: SHIMOGA ... RESPONDENTS

THIS CROSS OBJECTIONS IS FILED IN MFA NO.202/2006
FILED UNDER ORDER 41 RULE 22 CPC AGAINST THE JUDGMENT
AND ORDER DATED 19-9-2005 PASSED IN WCA/F/10/2003 ON THE
FILE OF THE LABOUR OFFICER AND COMMISSIONER FOR
WORKMEN'S COMPENSATION, HUBLI SUB-DIVISION-1, HUBLI
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

MFA No.204/2006

BETWEEN:

M/S.UNITED INDIA INSURANCE CO.LTD
HUBLI
BY ITS BANGALORE REGIONAL OFFICE
UNITED INDIA INSURANCE CO.LTD
SHANKARANARAYANA BUILDING
M.G.ROAD, BANGALORE-560 001
REP BY ITS DEPUTY MANAGER

... APPELLANT

(BY SRI. S SRISHAILA, ADV)

10

AND:

- 1 NIRMALA
W/O BASALINGAPPA KOPPADA
40 YRS.
- 2 SANGAPPA
W/O SHIVAPPA KOPPADA
67 YRS.
- BOTH ARE R/O DASTHIKOPPA
KALAGHATTA TALUK
DHARWAD DISTRICT. &
- 3 B DHARMAPPA
S/O KANTHYAPPA
DODDAJOGIHALI
CHIKKAHALI POST
SHIKARIPURA TALUK
SHIMOGA DISTRICT.

⊗ R₂ is deleted and
R₁ in his legal repre-
sentative.
(U.C.O. dt. 11.11.2010)

A. S. S. S.
JUDGE

.. RESPONDENTS

(BY SRI LAXMAN T MANTAGANI, ADV FOR R-1 & 2; R-3 SERVED)

THIS APPEAL IS FILED U/S 30 OF W.C.ACT AGAINST THE
JUDGMENT AND ORDER DATED 19-9-2005 PASSED IN
WCA/F/11/2003 ON THE FILE OF THE LABOUR OFFICER AND
COMMISSIONER FOR WORKMEN COMPENSATION, SUB-DIVISION-I,
HUBLI AWARDED COMPENSATION OF RS.1,38,706/- WITH
INTEREST AT 12% P.A. FROM 16-1-2003 TILL DEPOSIT AND
DIRECTING THE APPELLANT AND RESPONDENT NO.3 HEREIN TO
DEPOSIT THE SAME.

CROSS OBJECTIONS NO.53/2006
IN MFA NO.204/2006

BETWEEN:

- 1 NIRMALA
W/O BASALINGAPPA KOPPADA, 40 YRS.

12

- 2 SANGAPPA
W/O SHIVAPPA KOPPADA
57 YRS.
- BOTH ARE R/O DASTHIKOPPA
KALAGHATAGI TALUK
DHARWAD DISTRICT.

... CROSS OBJECTORS

(BY SRI LAXMAN T MANTAGANI, ADV)

AND:

- 1 DIVISIONAL MANAGER
UNITED INDIA INSURANCE CO.LTD
HUBLI
- 2 B DHARMAPPA
S/O KANTYAPPA
DODDAJOGIHALI
POST: CHIKKAPAJJIHALI
DIST: SHIMOGA

... RESPONDENTS

THIS CROSS OBJECTIONS IS FILED IN MFA NO.204/2006
FILED UNDER ORDER 41 RULE 22 CPC AGAINST THE JUDGMENT
AND ORDER DATED 19-9-2005 PASSED IN WCA/F/11/2003 ON THE
FILE OF THE LABOUR OFFICER AND COMMISSIONER FOR
WORKMEN'S COMPENSATION, HUBLI SUB-DIVISION-1, HUBLI
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

MFA No.208/2006BETWEEN:

M/S UNITED INDIA INSURANCE CO.LTD
HUBLI
BY ITS BANGALORE REGIONAL OFFICE
UNITED INDIA INSURANCE CO.LTD
SHANKARANARAYANA BUILDING
M.G.ROAD, BANGALORE-560 001
REP BY ITS DEPUTY MANAGER

... APPELLANT



(BY SRI. S SRISHAILA, ADV)

AND:

- 1 VEERABHADRAPPA
S/O ERAPPA HULIKATTI
52 YRS. (4)
- 2 CHANNAVVA
W/O VEERABHADRAPPA HULIKATTI
47 YRS.
- BOTH ARE R/O DASTHIKOPPA
KALAGHATTA TALUK
DHARWAD DISTRICT.
- 3 B DHARMAPPA
S/O KANTHYAPPA
DODDAJOGIHALLI
CHIKKAHALLI POST
SHIKARIPURA TALUK
SHIMOGA DISTRICT.

& R₁ is deleted and
his L.E. is:

R₁(a). Travva,
D/o. Veerabhadrap
28 years,
oc: coolie,
R/o. Dyanaikoppa,
Tq: kalagutage.
(V.C.O. dt. 11.11.07)

[Signature]
JUDGE.

.. RESPONDENTS

(BY SRI LAXMAN T MANTAGANI, ADV FOR R-1 & 2;
S V DESAI, ADV FOR R-3)

THIS APPEAL IS FILED U/S 30 OF W.C.ACT AGAINST THE
JUDGMENT AND ORDER DATED 19-9-2005 PASSED IN
WCA/F/13/2003 ON THE FILE OF THE LABOUR OFFICER AND
COMMISSIONER FOR WORKMEN COMPENSATION, SUB-DIVISION-I,
HUBLI AWARDED COMPENSATION OF RS.1,77,981/- WITH
INTEREST AT 12% P.A. FROM 16-1-2003 TILL DEPOSIT AND
DIRECTING THE APPELLANT AND RESPONDENT NO.3 HEREIN TO
DEPOSIT THE SAME.

CROSS OBJECTIONS NO.52/2006
IN MFA NO.208/2006

BETWEEN:

- 1 VEERABHADRAPPA
S/O ERAPPA HULIKATTI, 52 YRS.

[Signature]

2 CHANNAWWA
W/O VEERABHADRAPPA HULIKATTI
47 YRS CROSS OBJECTORS

- BOTH ARE R/O DASTHIKOPPA
KALAGHATTA TALUK
DHARWAD DISTRICT.

AND:

1 DIVISIONAL MANAGER
UNITED INDIA INSURANCE CO.LTD
HUBLI

2 B DHARMAPPA
S/O KANTYAPPA
DODDAJOGIHALLI
POST: CHIKKAPAJJIHALLI
DIST: SHIMOGA

... RESPONDENTS

THIS CROSS OBJECTIONS IS FILED IN MFA NO.208/2006
FILED UNDER ORDER 41 RULE 22 CPC AGAINST THE JUDGMENT
AND ORDER DATED 19-9-2005 PASSED IN WCA/F/13/2003 ON THE
FILE OF THE LABOUR OFFICER AND COMMISSIONER FOR
WORKMEN'S COMPENSATION, HUBLI SUB-DIVISION-1, HUBLI
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

MFA NO.210/2005

BETWEEN:

M/S.UNITED INDIA INSURANCE CO.LTD
HUBLI
BY ITS BANGALORE REGIONAL OFFICE
UNITED INDIA INSURANCE CO.LTD
SHANKARANARAYANA BUILDING
M.G.ROAD, BANGALORE-560 001
REP BY ITS DEPUTY MANAGER

... APPELLANT

(BY SRI. S SRISHAILA, ADV)

12

AND:

1 SHOBHA
W/O CHANNABASAPPA KOPPADA
24 YRS.

2 BASAVVA
W/O MAHADEVAPPA KOPPADA
57 YRS.

- BOTH ARE RESIDENTS OF
KESHAWAPURA, HUBLI

3 B DHARMAPPA
S/O KANTHYAPPA
DODDAJOCIHALLI
CHIKKAHALLI POST
SHIKARIPURA TALUK
SHIMOGA DISTRICT.

.. RESPONDENTS

(BY SRI LAXMAN T MANTAGANI, ADV FOR R-1 & 2;
R-3 SERVED)

THIS APPEAL IS FILED U/S 30 OF W.C.ACT AGAINST THE
JUDGMENT AND ORDER DATED 19-9-2005 PASSED IN
WCA/F/19/2003 ON THE FILE OF THE LABOUR OFFICER AND
COMMISSIONER FOR WORKMEN COMPENSATION, SUB-DIVISION-I,
HUBLI AWARDED COMPENSATION OF RS.1,65,583/- WITH
INTEREST AT 12% P.A. FROM 16-1-2003 TILL DEPOSIT AND
DIRECTING THE APPELLANT AND RESPONDENT NO.3 HEREIN TO
DEPOSIT THE SAME.

CROSS OBJECTIONS NO.51/2006
IN MFA NO.210/2006

BETWEEN:

1 SHOBHA
W/O CHANNABASAPPA KOPPADA
24 YRS.



- 2 BASAVVA
W/O MAHADEVAPPA KOPPADA
57 YRS.

.. CROSS OBJECTORS

- BOTH ARE RESIDENTS OF
KESHAWAPURA, HUBLI

(BY SRI LAXMAN T MANTAGANI, ADV)

AND:

- 1 DIVISIONAL MANAGER
UNITED INDIA INSURANCE CO.LTD
HUBLI

- 2 B DHARMAPPA
S/O KANTYAPPA
DODDAJOGIHALLI
POST: CHIKKAPAJJIHALLI
DIST: SHIMOGA

... RESPONDENTS

THIS CROSS OBJECTIONS IS FILED IN MFA NO.210/2006
FILED UNDER ORDER 41 RULE 22 CPC AGAINST THE JUDGMENT
AND ORDER DATED 19-9-2005 PASSED IN WCA/F/19/2003 ON THE
FILE OF THE LABOUR OFFICER AND COMMISSIONER FOR
WORKMEN'S COMPENSATION, HUBLI SUB-DIVISION-1, HUBLI
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS & CROSS OBJECTIONS COMING ON FOR
HEARING THIS DAY, THE COURT DELIVERED THE FOLLOWING:

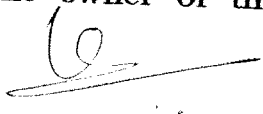
JUDGMENT

All these five appeals are filed by the insurer of the vehicle
challenging the correctness and legality of the liability fastened on
it by the Commissioner for Workmen Compensation, Hubli as per



the common judgment and award dated 19-9-2005 passed in WCA/F/Nos.10, 11, 13 & 19 & 46 of 2003. The respondents-claimants have also filed cross objections seeking enhancement of the compensation. Therefore, all these cases as well as cross objections are taken up together for final disposal in order to avoid repetition of facts.

2. The brief facts of the case are that the claimants in WCA/F/11, 13 & 19 of 2003 are filed by the dependants of the deceased hamalies who were working under the owner of the vehicle in question which met with an accident on 16-12-2002. The claimants in WCA/F/10 of 2003 are the dependants of the deceased who was the driver of the vehicle in question and the claimant in WCA/F/46 of 2003 is the injured hamali who met with an accident. The tractor trailer bearing No.KA-15/J 763 and KA-15/9-2468 is the vehicle involved in the accident and the said vehicle was duly insured with the insurer-appellant and the policy was in force as on the date of accident. The case of the claimants/cross objectors is that on 16-12-2002 at about 9.30 a.m. as per the direction of the owner of the tractor, while



carrying the stones and jelly for construction of water tank and bund in a lease hold land of the owner of the tractor, in order to avoid a buffalo on the bridge of Bedthihall village, the driver of the cross objector lost control over the tractor and dashed against the bridge. Due to the said dash the Tractor along with the trailer fell down in the 'Halla' and as a result of which, the driver of the said vehicle and coolies travelling therein sustained injuries and many of them have succumbed to the injuries. Therefore, the claimants in WCAF Nos.10, 11 , 13 & 19 being dependent of the deceased employees filed a claim petition whereas WCA/F/No.46/2003 has been filed by the injured himself with a prayer to award compensation on various heads.

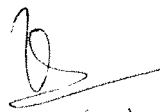
3. In pursuance of the summons issued, respondents appeared through counsel and filed detailed statement of objections. The respondent-1 who is the owner of the vehicle appeared and filed statement of objections admitting that the deceased and the injured were his employees, however disputed the amount of salary paid to each of the workman. Whereas the appellant who was the insurer of the vehicle filed a detailed



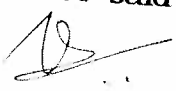
statement of objections contending that tractor and trolley in which stones were carried not for the construction of any farm house or in the land belonging to respondent-1 and that the policy in question issued by it does not cover the risk of coolies in tractor and trolley. The deceased Gururaj who drove the vehicle was not having valid driving licence. After considering the evidence placed on record by all the parties, the claim petitions were partly allowed awarding compensation and the appellant being insurer of the vehicle was directed to pay the compensation. Being aggrieved by the liability fastened, the appellant-insurer has filed the appeals.

4. The claimants have also filed their respective cross objections on the ground that compensation awarded by the Commissioner for Workmen Compensation is too low, the Tribunal has taken the lesser income and therefore they pray for enhancement of compensation awarded to the claimants.

5. It is argued by the learned counsel for the appellant insurer that there was no coverage to the trolley. The policy in question was issued is miscellaneous policy, agricultural policy



and the risk of the coolies are not covered by the policy. Therefore, liability fastened on the appellant is totally incorrect and illegal. It is further argued that driver of the tractor and trolley has not possessed effective driving licence. The owner of the vehicle has not produced any driving licence possessed by the driver of the vehicle i.e., the deceased Shekaragouda.. In the absence of any licence produced, it should be held that deceased Shekargouda was not holding valid licence, it is argued that appellant produced the certificate issued by the RTO, Madurai to show that deceased shankargouda was not holding any driving licence. Though the summons was duly served on the RTO, Madurai he did not appear for the reasons best known to them. The copy of Annexure-R1 produced in this case clearly indicates that it is false and concocted document issued by RTO, Chennai. It is further argued that in case, the Court comes to the conclusion that driver of the vehicle was holding a valid driving licence, but there is no endorsement made by the RTO on Ex.R-1 to drive the vehicle like tractor. In the absence of such endorsement made by RTO, it could be said that the deceased

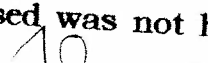


Shekaragouda was not holding any valid licence. Therefore, the question of indemnifying the owner of the vehicle namely insured does not arise. Therefore, it is argued that the judgment and award passed by the Commissioner for workmen Compensation is liable to be set aside. It is further argued that though the owner of the tractor and trolley insured the same and the insurance policy was in force as on the date of accident, but the vehicle in which stones were carried was being taken to the land belonging to the friend of respondent No.1. Therefore, respondent-1 was not the owner of the land and the stones carried in the tractor and trolley for the purpose of construction of a tank in the land of friend of respondent-1 and his friend has not been examined. The tractor in question is used by the respondent-1 for business purpose to transport the stones from quarry to the land where the tank being constructed. Therefore, the liability fixed on the respondent-appellant is totally incorrect and illegal. Further, he has argued that the Commissioner for Workmen Compensation has wrongly taken the income of the deceased as well as injured. In the absence of salary certificates produced by the claimants in



all these 5 claim petitions, it could be held that they were not coolies. In order to avoid payment of compensation, respondent-1 though filed a written statement but not participated in the proceedings. Therefore, the appellant is not liable to indemnify the respondent-1 who has not furnished any information with regard to the accident. It is argued that it is the duty of claimants to prove that the deceased Shekaregowda was holding valid driving licence and that the deceased were working under respondent No.1. Therefore, he prays for setting aside the order of the Commissioner in so far as fastening of liability on it is concerned.

6. On the other hand, learned counsel for the cross objectors, submits that the vehicle in question belongs to the respondent No.1 and the deceased in WCA Nos.10, 11, 13 & 19 as well as injured claimant in 46/2003 were working as driver and coolies respectively who met with an accident and four persons died on account of fatal injuries. The claimant in 46/2003 sustained grievous injuries. It is argued that insurance company has taken the contention of deceased was not holding and valid



licence, it is for them to prove that the driver of the vehicle was not holding valid licence. Mere production of Annexure-R1 said to have been issued by Madurai, RTO is not valid. The contents of Annexure-R1 cannot be believed in the absence of examination of its author. Therefore, the appeals filed by the insurer of the vehicle does not survive for consideration. The Commissioner for Workmen Compensation has rightly considered both documentary and oral evidence placed on record by both the parties in holding that deceased Shekaragowda was holding valid driving licence and was right in fastening the liability on the insurer of the vehicle. However, the amount awarded by the Commissioner is too low, the Commissioner has not properly analysed the evidence placed on record and has not taken to consideration the salary of the deceased employees. Therefore, the cross objection filed by the respondents claimants is to be allowed by enhancing the compensation.

7. Having heard the arguments of learned counsel for both parties and after perusing the records, the point that arises for consideration is whether the Commissioner is justified in



fastening the liability on the appellant and whether the compensation awarded by the Commissioner for Workmen Compensation is just and proper?

8. It is seen that on the date of accident, deceased Shekaragowda was the driver and the appellant herein being the insurer of the vehicle has not disputed about the death of four persons including the driver and one person sustained grievous injuries. As on the date of incident insurance policy was in force. I have carefully examined the materials placed on record. Of course, the claimants have taken up contention before the Commissioner that the deceased as well as the injured claimants were employed under owner of the vehicle is question, at para 3 of the claim petition it is averred that tractor and trolley in which they were transporting stones and kadi for construction of bund for irrigation, at the respondent-1's friend's land. It is argued that respondent-1 was cultivating the land, on lease basis. Of course, no lease deed or no rent receipts produced by the claimants. The policy - Ex.R-2 in question clearly indicates that the same is a miscellaneous policy and huge amount has been



collected under the various heads to cover the risk of 3rd party tractor as well as trolley driver, damage caused to the third party property and in addition Rs.124/- was collected above TP premium. This fact has not been seriously disputed. To show that deceased was not holding a valid driving licence, the appellant has produced Annexure-R1 issued by the RTO, Madurai. There are some corrections in Ex.R-1. Of course, the appellant has made an attempt to summon the RTO, Madurai. In spite of the summons, RTO, Madurai failed to appear. Therefore the contents of Ex.R-1 cannot be accepted and it should be held that the driving licence issued to the deceased Shekaragowda is genuine and thus it is to be held that the deceased Shekaragowda was holding a valid driving licence as on the date of accident. Of course, the appellant has examined the officer of the insurance company. According to his evidence, policy Ex.R-2 does not cover the risk of loader and unloader. But considering the fact that deceased driver of the vehicle was holding driving licence No.1440/98 to drive LMV and Badge upto 2011 with driving licence No.3535/02 to drive the motor cycle.



In view of the fact that respondent-1 who was the owner of the tractor and trailer admitted that the deceased were hamalies and driver and that they were working under him in his vehicle and the stones being transported in the tractor and trolley with the help of his coolies i.e, four deceased persons as well as injured. Considering the averments of the claim petition, stones being transported to construct bund and irrigation tank in the land in which he was cultivating on lease basis. Therefore, it is to be held that the deceased as well as injured claimant are engaged by respondent-1 as coolies. The tractor in question is used for agricultural purpose to construct bund and irrigation tank in the land. The son of the owner of the vehicle has appeared and filed written statement admitting that the deceased as well as the injured were working under him as driver and coolies. Therefore, as on the date of accident, the insurance policy was in force which covers the risk of employees working under owner of the vehicle who are engaged in agricultural work. Therefore, the liability fixed on the appellant is in accordance with law which does not call for interference.



9. As far as cross objections are concerned, it is contended that the deceased as well as injured persons were getting higher income, the Commissioner has taken meagre amount of income to quantify the compensation. But the claimants who claim that the deceased as well as the injured were getting higher income have not produced only documents to prove the same. Therefore, the Commissioner for Workmen Compensation has taken the monthly income of the deceased as well as the injured claimant as provided under the Minimum Wages Act, which is in accordance with law. The Commissioner after going through the materials placed before him has rightly quantified the compensation payable to the claimants, which do not call for any interference.

10. Accordingly, the appeals as well as the cross objections filed by the appellant and the respective claimants are hereby dismissed.

Sd/-
JUDGE

sp/