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C.A.No. 831 OF 1997
ITEM No.109

Court No. 8

SECTION IVA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 831 of 1997

M.V.Subramanya

Appellant (s)

VERSUS

M/s. New India Assurance Co. & Ors.
(With office report)

Respondent (s)

WITH

Civil Appeal No. 5194 of 1997

Date : 03/09/2003 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N.VARIAVA
HON'BLE MR. JUSTICE H.K.SEMA

For Appellant (s) Ms. Kiran Suri, Adv.
In CA 831/1997

In CA 5194/1997Ms. Kirti Renu Mishra, Adv.

For Respondent (s)Mr. Sudhir Kumar Gupta, Adv.
Mr. Anurag Pandey, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel for the parties for about half an hour.

The appeals are dismissed in terms of the signed orders.

Anita

(Radha R.Bhatia)
Court Master

(Two separate signed orders are placed on the file.)
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 831 OF 1997

M.V. Subramanya

... Appellant (s)

Versus

M/s. New India Assurance Co. & Ors.

... Respondent (s)

O R D E R

This appeal is against an order passed by the High Court of Karnataka dismissing the review petition.

Briefly stated the facts are:-

On 6th November, 1986 an accident took place. The claimants filed a claim before the Motor Accident Claims Tribunal. The Insurance Company disputed the claim, inter alia, on the ground that the vehicle was not insured and the driver has no valid licence. During evidence, a copy of the Insurance Policy was marked as Ex.R.1 by consent of the parties. The appellant (herein) also consented to that copy being so marked. The Tribunal, therefore, held that the vehicle was insured and passed an award against the Insurance Company. The Insurance Company filed an appeal, inter alia, on the ground that as per the terms of the Policy, the liability is limited to Rs. 50,000/-. The High Court has allowed that appeal on the basis of the policy marked as Ex-R.1. The Special Leave Petition, filed against the order of the High Court, was dismissed by this Court.

Thereafter, the appellant filed a review before the High Court. They produced some other policy which did not contain the clause restricting liability. The High Court has correctly dismissed the review petition. The High Court has correctly held that there was no fraud because the policy which was before the Court at all stages was the one which had been marked as Ex.R.1. The High Court has also held that the liability was limited on the basis of the premium which had been paid. Hence this appeal.

We see absolutely no substance in this appeal. If a party has in its custody or possession a document which is relevant, it is the duty of that party to produce the document at the very first stage. The appellant could not deny that the policy was always with him. There was nothing which prevented him from producing it before the Tribunal. Had he produced a policy which was different from the one produced by the Insurance Company, the Tribunal could have ascertained on evidence which was the correct policy. The appellant consented to the copy being produced by the Insurance Company being marked as an Exhibit. Further there is absolutely no explanation why, when the Insurance Company sought to limit its liability in the appeal, this policy was not produced. Producing this policy for the first time in the review petition cannot be ground to review the earlier order. In our view, the High Court rightly refused to look into this policy.

In our view, the High Court has correctly rejected the review petition. This appeal stands dismissed with costs of Rs. 5,000/- to be paid to the Insurance Company.

.....J.

(S.N.Variava)

.....J.

(H.K.Sema)

New Delhi,
September 03, 2003.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5194 OF 1997

Malladevaru & Ors.

... Appellant (s)

Versus

M/s. New India Assurance Co. & Anr.

... Respondent (s)

O R D E R

This appeal is filed by the claimants against an order passed on a review petition filed by the owner of the vehicle. We have today, by a separate order, dismissed Civil Appeal No. 831 of 1997 filed by the owner against the very order. The claimants have admittedly received the entire claim amount. We fail to understand how they are aggrieved by the order passed in review petition. Even otherwise, as set out in the other order in Civil Appeal No. 831 of 1997 there is no ground for interference with the impugned order.

The appeal stands dismissed with no order as to costs.

.....J.

(S.N.Variava)

.....J.

(H.K.Sema)

New Delhi,
September 03, 2003.