

12/6/23
IN THE COURT OF THE SENIOR CIVIL JUDGE AND MACT-X, HUNAGUND

AT-HUNAGUND

M.V.C NO- 51/2023

1. Ganesh Tavarappa Lamani@ChavanPetitioner

V/s

1. S.P.R Transport

And another

.....Respondents

WRITTEN STATEMENT UNDER ORDER VIII RULE 1 OF C.P.C SUBMITTED BY
RESPONDENT NO-2

Here in the respondent No- 2 New India Assurance Co Ltd above named submits their written statement to the main petition as under-

1. That the petition filed by the petitioner is false frivolous and vexatious all the averments made out in the petition are here by denied by this respondent in toto expect those that are expressly admitted here in below.

2. That the petition filed by the petitioner for grant of compensation on account of the injuries sustained in a RTA on 02/06/2022 involving the vehicle Lorry bearing No-KA-29/B-5461 is not maintainable either in law or fact of the cases and same is liable to be dismiss.

3. The petition is bay by limitation under amended MV Act 2019 since claim petition is not filed within 6 months from cause of alleged accident.

Hence, petition be dismiss with cost.

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For The New India Assurance Co
विधिवत माहृत प्राथकता/Duty Co

4. The petitioner is driving TATA vehicle bearing NO KA 29/A3763 from kamatagi towards Bagalkot APMC without holding a DL in a rash and negligent manner and dashed to respondent NO 1 vehicle to its back side which is parked on side of road .Hence, there is more negligent act on part of petitioner side accordingly Bagalkot Rural I.O filed the charge sheet against the petitioner as accused NO 1 .And there is no any rash and negligent act on part of driver of respondent NO 1 .Therefore , Hon;ble court be please to dismiss the claim petition against this respondent .

5. The driver of respondent No-1 vehicle Lorry bearing No-KA-29/B-5461 is not holding a valid and effective driving license at the time of alleged date of accident and further was not qualified for holding or obtaining such driving license and further has not satisfied the requirement of the Rule No-3 of the central motor vehicle Rules 1989 Therefore, respondent No-1 has contravened the provision of the M.V Act and rules framed there under and have committed the breach of the terms and conditions of the policy .

6. As on the alleged date of accident vehicle Lorry bearing No-KA-29/B-5461 insurance with this respondent No-2 at present unable to admit whether insured at the material time unless further and better particular regarding the insurance are disclosed by the petitioner. The petitioner may causes the owner of the vehicle to be directed to produce and prove the policy of the insurance failing with it shall be presumed that the respondent No-2 is not the insurer in the instant case and the name of this respondent No-2 should to delete from the case with compensatory cost.

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For The New India Assurance Company



The averments made out in coloum No-1 to 15 and 17 to 22 of the claim petition are not within the knowledge of this respondent and the same are here by denied specifically and the petitioners are put to strict proof of those averments.

8. This respondent submits that the police authorities have not complied the provision of section 158(6) of M.V Act which is mandatory on the part of authorities to comply the same within 30 days from the date of the information.

9. Without prejudice to the stand taken above this respondent submits that the respondent No-1 the alleged owner of vehicle Lorry has not immediately reported the occurrence of the accident to this respondent No-2 and has not immediately submits the claim form and others vehicle documents likes R.C,D.L etc for verification which it is mandatory duty under section 134(a) of M.V Act Hence, this respondent is not liable to indemnify the respondent No-1.

10. This respondent denied that the vehicle Lorry bearing No-KA-29/B-5461 was having valid fitness certificate and permit at the time of date of alleged date of accident .This respondent cannot be held liable for payment of any compensation unless and until it is proved that the registration certificate, fitness certificate, permit and driving license were valid at the time and date of alleged accident further the liability if any this respondent will be subjected to the provisions of M V Act 1988 and the rules framed there under and the terms and conditions exceptions and the limitation of the policy of the insurance issued if any to the owner of vehicle bearing No- and compliance of section 64(VB) of the insurance Act 1938.

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कृते दि न्यू इन्डिया एश्योरन्स कंपनी
For The New India Assurance Company
विधिवत मानित प्राधिकर्ता/Duly Constituted

11. Without prejudice to the foresaid contention, this respondent denied and put the petitioner to the strict proof of those averments.

A). The petitioner was driving TATA ACE vehicle bearing NO KA29/A3763 from Kamatagi towards Bagalkot APMC as on date of accident .

B). That the petitioner was taken treated by the doctor as stated in the coloum No-12 and sustained grievous injuries and permanent disability.

C). That the petitioner was age about 35 and earning Rs.25,000/- per month from business work .

12. This respondent denied the averments made out in the para No-22 of the claim petition that on the fatal day of accident 02/06/2022 petitioner was driving his TAT ACE vehicle bearing NO KA29/A 3763 from Kamatagi towards Bagalkot APMC market at morning hour along with Bismilla for purchasing vegetables .When petitioner running his TATA vehicle on Shirur- Sangam cross near Basavanna temple at that time respondent NO 1 vehicle parked the vehicle on road side without any signal nor mark in a dangerous manner which its causes harmful for other moving vehicle on road so due to parking of respondent NO 1 vehicle on road it made petitioner to dash to respondent NO 1 vehicle on its back side and causes the accident at about 04:15 hrs . It is denied that above said accident is occurred due to negligent act on part of driver of respondent No-1 who park vehicle on dangerous manner without any signal . Further it is denied that due to this accident petitioner sustained several grievous injure over to his body and immediately admitted at Katti hospital Bagalkot through 108 Ambulance . In the said hospital petitioner took treatment to his injured parts leg , teeth, and other parts right foot and ankle with amputation of multiple bone fracture sit

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कृते दि न्यू इन्डिया एश्योरन्स कंपनी लि
For The New India Assurance Company Ltd
विधिवत गठित प्राधिकर्ता / Duly Constituted Assur



06/2022 with follow up treatment. The petitioner
above said hospital for the period of 15 days and incurred
expenses of Rs.2,00,000/- and needed Rs 1,50,000 for future medical
expenses and till today petitioner is taking treatment as an outpatient in the
above said hospital.

Further it is denied that prior to the accident petitioner
was age about 35 yrs hale and healthy person and working has a driver work
and earning Rs 25,000 per month and petitioner is only bread winner of
his family and all family members are depended upon the earning of this
petitioner with no fault of the petitioner sustained injured. The petitioner
now due to injures he is suffering from physically, mentally and financial
loss and leading very miserable life with full of pain and sorrow. Further
petitioner now due to injuries as shown in wound certificate he is not able
to do any work as he was working prior to accident and to do regular
routing work .. This respondent denied the averments of para third.

13. The respondent carves leave of the Hon'bel Tribunal to defend the
case on all grounds that are available to the owner of vehicle U/section 170
of M.V Act 1988, in case the owner fails to defend the case properly or
does not cooperate with this respondent or remain exparte or collide with
claimants/petitioners.

14. A sum of Rs.34,50,000/- compensation claimed is highly exorbitant
,arbitraory The petitioner is trying to make a windfall out of an
unfortunate accident. In case the Hon'ble Tribunal comes to conclusion
that the petitioner is entitled for any interest the Hon'ble tribunal may be
pleased to allow the interest at rate of 6%P.A.

Corrections

12/16/23

कृते दि न्यू इन्डिया एश्योरन्स कंपनी लिमिटेड
For The New India Assurance Company Limited

निश्चित मानित प्राधिकार/ Duly Constituted Attorney(S)



15. The respondent does not admit and denied that the Bagalkot Rural police station registered a case in Crime No-64/2022 ,U/section 283,279,337,338 of IPC against the respondent No-1 its driver of Lorry bearing No-KA-29/B-5461 hence, the petitioner is put to stick proof of the same with documentary evidence.

16. This respondent craves leaves of the Hon'ble Tribunal to put in additional written statement in future in case of availability of fresh information.

Under, these circumstances and for the reasons stated above it is most humbly prayed that the Hon'ble Tribunal may be pleased to dismiss the petition with cost.

कृते दि न्यू इन्डिया एश्योरन्स कंपनी लिमिटेड
For The New India Assurance Company Limited
विधिवत शक्ति प्राधिकर्ता/Duly Constituted Attorney(S)

Hunagund .

Date- 12/6/2023

Respondent No-2

Here in ,I Rush Babu Age 54 Occ- RM
New India Assurance Co Ltd, Hubli R/o Hubli respondent No-2 duly authorized person to sign do there by state on solemn affirmation that the contents of the a foreside Para No-1 to 16 are correct to the best of my knowledge belief and information .

कृते दि न्यू इन्डिया एश्योरन्स कंपनी लिमिटेड
For The New India Assurance Company Limited
विधिवत शक्ति प्राधिकर्ता/Duly Constituted Attorney(S)

Hunagund .

Date- 12/6/2023

Respondent No-2

Filed in the court on - 12/6/2023

Advocate for Respondent No-2.

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