

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL
COURT OF SMALL CAUSES AT BANGALORE
(SCCH:15)**

DATED: THIS THE 13th DAY OF NOVEMBER, 2014

**PRESENT : Smt.K.Katyayini, B.Com., LL.B.,
XIII Addl.Small Cause Judge
& Member, MACT, Bangalore.**

MVC No.7962/2012

Petitioner/s

Ramesh,
Aged 40 years,
S/o Late Govindgowda,
R/o Kiranagere Village,
Raste Jakkasandra Post,
Maralawadi Hobli,
Kanakapura Taluk,
Ramanagara District.
(By Pleader – Sri.Girimallaiah.)

V/s

Respondent/s

1.Shriram General Insurance
Co. Ltd.,
No.5, II Floor, Monarch
Chambers, Infantry Road,
Bengaluru – 560 001.
(Insurer of Lorry
KA-04 AA-7569)
(By Pleader - Sri.K.Prakash.)

2. Devaraju, K.G.
Major,
S/o K.S. Guruvegowda,
R/at No.1, Kalikere Village,
Ambadahalli Post,

Virupakshapura Hobli,
Channapatna Taluk,
Ramanagara District.
(RC owner of Lorry
KA-04 AA-7569)
(By Pleader – Exparte.)

ORDERS ON ADDL.ISSUE/PRELIMINARY ISSUE

Petitioner has filed the present petition under Section 166 of IMV Act seeking compensation on account of injuries he has sustained in the road traffic accident.

2. Initially, the present claim petition was assigned to the Hon'ble SCCH-10. Subsequently, as per Notification No.ADM I/419/2014 dated 06.05.2014, it is reassigned to this Tribunal for disposal in accordance with law.

3. The brief case of petitioner is that on 21.12.2012 at about 7.30 p.m., he was travelling in Maruti Omni bearing registration No.CKP-7478 on NH-209 near Chamundeshwari temple, Harohalli Town Kanakapura Taluk. At that time, the lorry bearing registration No. KA-04 AA-7569 came from Kanakapura side in rash and negligent manner. Dashed against the Maruthi Omni.

b) Due to the impact, he has suffered severe injuries. Accident took place solely due to the rash and negligent driving of the lorry. Therefore, respondent 2nd respondent being the RC owner and 1st respondent being the insurer of the lorry are jointly and severally liable to pay the compensation. Accordingly, prayed to allow the petition as sought for.

4. In response to due of service of notice, 2nd respondent remained exparte. 1st respondent put its appearance through its counsel and filed its statement of objections denying the petition averments. It has contended that petitioner has twisted the story and implicated the lorry. Accident took place on the negligent driving of Maruti Omni.

b) However, it has admitted the policy and its force. But has contended that its liability if any is subject to the terms and conditions of the policy. The lorry driver did not possess valid and effective driving license drive the class of lorry. Therefore, there is breach of policy conditions. Hence, it is not liable to pay the compensation. Accordingly, prayed to dismiss the petition against it with costs.

5. On the above said pleadings of the parties, my learned predecessor in office i.e. the then presiding officer of SCCH-10 was pleased to frame the following issues.

1. Whether petitioner proves that he has sustained injuries in the motor vehicle accident that occurred on 21.12.2012 at about 7.30 p.m. near Chamundeshwari temple on NH-209 road, Harohalli Town, within the jurisdiction of Harohalli Police Station on account of rash and negligent driving of the lorry bearing registration No.KA-04 AA-7569 by its driver as alleged in the petition?

2. Whether petitioner is entitled for compensation? If so, what is the quantum and from whom?

3. What order?

6. When the case is posted for petitioner's evidence on merits, then it is found that petitioner and 2nd respondent RC owner of the lorry are residents out of the territorial jurisdiction of this Tribunal and the place of accident also situates out of the territorial jurisdiction of this Tribunal. Hence, the following additional issue is framed and ordered to be treated as preliminary issue.

Whether this Court/Tribunal has no territorial jurisdiction to entertain the present petition?

7. Heard both the sides on the additional issue/preliminary issue. The counsel for petitioner has also filed memo seeking permission to withdraw the petition with liberty to present the same before the jurisdictional Tribunal i.e. the Hon'ble Senior Civil Judge and Additional MACT, Kanakapura. Perused the record.

8. Now the findings of this Tribunal on the additional issue is answered in negative for the following

REASONS

9. Admittedly it is in the cause title that petitioner is are resident of Kiranagere Village, Raste Jakksandra Post, Maralawadi Hobli, Kanakapura Taluk, Ramanagara District and it is also stated in the petition that 2nd respondent/the RC owner of the lorry is resident of Kalikere Village, Ambadahalli Post, Virupakshapura Hobli, Channapatna Taluk, Ramanagara District.

10. As per the petition averments and the police papers on record, the place of accident situates near

Chamundeshwari temple, Harohalli Town, Kanakaura Taluk, Ramanagara District. So, both the residence of petitioner and 2nd respondent as well as the place of accident are admittedly out of the territorial jurisdiction of this Tribunal.

11. Of course Bangalore address of 1st respondent/insurance company shown in the cause title. But, admittedly if this Tribunal comes to the conclusion that 2nd respondent is liable to pay the compensation, then only the liability of 1st respondent to indemnify the liability if any of the RC owner/2nd respondent/the insured will arise.

12. Moreover, admittedly Bangalore address of 1st respondent shown in the petition cause-title is of its business place address. Under Section 166(2) of IMV Act, the claim petition can be filed before the Tribunal in whose territorial jurisdiction, either the place of residence of claimants or respondents or place of carrying on business of petitioners or place of accident situate.

13. Therefore, in view of provisions of Section 166(2) of IMV Act as well as the decision of the Hon'ble High Court of Karnataka reported in ILR 2013 KAR 102, this Tribunal has no

territorial jurisdiction to entertain the present petition. Hence, additional issue is answered in negative and proceeds to pass the following order.

ORDER

Acting under Order VII Rule 10 of CPC, it is decided to return the petition to the petitioners to present it before the competent Tribunal having jurisdiction to entertain the present petition.

(Dictated to the stenographer, transcribed by her, corrected and then pronounced in the open Court by me on this the 13th day of November, 2014.)

(K.KATYAYINI),
XIII Addl. Judge & Member MACT
Court of Small Causes,
Bangalore.