KADW310002592023

IN THE COURT OF SENIOR CIVIL JUDGE AND JMFC AND M.A.C.T. KALAGHATAGI

PRESENT

SHRI. RAVINDRA L. HONOLE. B.A., LL.B (Spl)
SENIOR CIVIL JUDGE & JMFC KALAGHATAGI

DATED THIS 02ND DAY OF DECEMBER 2025
M.V.C. No.603/2023

CLAIMANTS:

1. Mahadevi W/o Veerupaxi Mudigoudra,
Age: 53 years, Occ: Household work,
R/o: Devikoppa, Tq: Kalaghatagi,
Dist: Dharwad.

2. Ravi S/o Veerupaxi Mudigoudra,
Age: 32 years, Occ: Coolie,
R/o: Devikoppa, Tq: Kalaghatagi,
Dist: Dharwad.

3. Prakash S/o Veerupaxi Mudigoudra,
Age: 28 years, Occ: Coolie,
R/o: Devikoppa, Tq: Kalaghatagi,
Dist: Dharwad

(Sri. S.B.Kalashatti, Adv)

Vs

RESPONDENTS:

1. Ravi R. Kosti, Age: major, occ: vehicle owner
No.KA-25/MC-6660, R/o: Anugraha,
Arun colony, Gokul road, Hubballi,
Tq: Hubballi, Dist: Dharwad.

2. The Manager, National Insurance
   Company Ltd.,
   Policy No.61600731221000798
   Policy period: 18.11.2022 to 17.11.2023

3. Owner, Bellad Hundia (Hundie division),
   P.B. road, Bharidevarkoppa, Hubballi-25
   R/o: Hubballi, Dist: Dharwad.

(R-1- Sri. V.B. Shivanagoudar, Adv)
(R-2-Sri.Chetan Kulkarni, Adv)
(R-3-Sri. M.M.Kori, Adv)

J U D G M E N T

The claimants have filed this claim petition u/sec 166 of Motor Vehicles Act, 1988 for claiming compensation of death of Irappa S/o Virupaxi Mudigoudra.

2. The facts of the case of claimants is that:

On 24.05.2023 at about 8.00 p.m. on Hubballi-Karwar main road, near Sagar Dhaba at Kalaghatagi, deceased Irappa was proceeding in Maruti-800 car bearing No.KA-25/MC-6660 from Kadlasakar petrol pump to Kalaghatagi at that time the driver of the car drove the vehicle in rash and negligent manner and dashed to the divider and pole wherein vehice was turned turtle and inmates of the vehicle have sustained injuries. In the said accident Irappa has sustained grievous injuries on head, face and other part of the body and he was shifted to KIMS hospital, Hubballi wherein during course of treatment succumbed at about 11.00 p.m. It is submitted that accident was caused due to rash and negligent driving of driver of the car.

3. It is submitted that prior to accident deceased Irappa was aged about 33 years hale and healthy, working at petrol pump and getting salary of Rs.30,000/- per month. The deceased was the bed earning member of the family. Claimant No.1 is the mother, claimant No.2 and 3 are the brothers of Irappa. The claimants depends upon income of the deceased. Due to untimely death the claimants have suffered loss and they have also lost their care taker and facing financial hardship and mental agony.

4. It is contended that accident was caused due to rash and negligent act of driver of offending vehicle No.KA-25/MC-6660. The said vehicle is insured with respondent No.2. Therefore, Respondents are jointly

and severally liable to pay the compensation to the claimants. Hence, prays for awarding compensation of Rs.30,00,000/- with interest at the rate of 18% per annum from the date of accident till its realization.

5. In pursuance of notice, the respondents appeared through their counsel. Respondent No.1 has filed objections denied the contents of claim petition. It is submitted that he sold the vehicle bearing Reg. No.KA-25/MC-6660 on 13.04.2017 to the Bellad and company in exhange mela and got Rs.10,000/- bonus offer. On the same day the Bellad and company have issued Purchase Inward Note about purchase of car. It is submitted that he purchased New Eon sports car under temporary registraion No.KA-25/T-000170/ 2017-18 dated 16.05.2017 and obtained delivery note and the vehicle No.KA-63/M/0608. It is contended that the claimants having knowledge of facts have impleaded him as unnecessary party to harass him. The petition is not maintainable. Therefore, prays for dismissal of application.

6. Respondent No.2 filed objections denying the contents of claim petition. It is contended accident was not informed. The policy issued is private car liability only policy. The occupants of the vehicle are not covered under the policy. Therefore, claimants are not entitled for any compensation from respondent No.2. They have also taken statutory defence available under law. The age, occupation and income of deceased have been denied. It is contended that, The claim is imaginary, false, baseless and exorbitant. Therefore, prays for dismissal of petition.

7. During pendency of case respondent No.3 has been impleaded as party to the proceedings. In the objections they have denied the contents of claim petition. It is submitted that respondent No.3 is not the necessary party. The vehicle purchased from respondent No.1 under exchange mela has been sold on the same day to one Nagaraj Gondali. The documents of the vehicle have been handed over and the said Nagaraj Gondali has been directed to transfer the vehicle. As on the date of accident respondent No.3

was not the owner and it is not in their possession in any capacity. The claimants have got impleaded as unnecessary party and petition is not maintainable. Therefore, prays dismissal of application with cost.

8. On the basis of the pleading following issues are framed:

ISSUES

1. Whether the claimants prove that on 24-05-2023 at about 08.00 p.m. on Karwar to Hubballi road, Kalaghatagi town opposite Sagar hotel, the deceased Irappa was proceeding in a Maruti car bearing Reg. No.KA-25/MC-6660, the driver of said car driven the vehicle in high speed with rash and negligent manner endanger to the human life dashed to the divider and vehicle was turned up and caused accident wherein Irappa had sustained grievous injuries and died in the hospital during course of treatment at 11.00 p.m.?
2. Whether the claimants prove the age, occupation and income of the deceased Irappa?
3. Whether the respondent No.1 proves that he sold the Maruti 800 car bearing No.KA-25/MC-6660 to the respondent No.3

under exchange offer and he is not liable to pay the compensation to the claimants?

4. Whether the respondent No.3 proves that at the time of accident they are not the owner and as per exchange offer vehicle belongs to respondent No.1 has been directly transferred to one Nagaraj Gondale who is not made as party to the proceedings and they are not liable to pay the compensation?
5. Whether the claimants are entitled for compensation? If so, how much and from whom?
6. What order or decree?

9. In order to prove the case of the claimants, the claimant No.1 has stepped into witness box and got examined as PW-1 and got marked Ex.P-1 to 9 and closed their side.

10. In order to prove the case of the respondents, the respondent No.2 authorized official by name Vijayakumar Chavan, stepped into witness box and got examined as RW-1 and got marked Ex.R-1 and 2, respondent No.1 stepped into witness box and got examined as RW.2 and got marked Ex.R.3 to 10.

Respondent No.3 Legal Executive Ramachandra stepped into witness box and got examined as RW.3 and got marked Ex.R.11 to 14 and closed their side.

11. Heard the arguments.

12. My findings on the above points are as under:

ISSUE No.1	**:** In the affirmative
ISSUE No.2	**:** Partly in the affirmative
ISSUE No.3	: In the affirmative
ISSUE No.4	: In the negative
ISSUE No.5	**:** Partly in the affirmative
ISSUE No.6	: As per the final order, for the following:

R E A S O N S

13. **ISSUE No.1**: It is case of the claimants that on 24.05.2023 at about 8.00 p.m. deceased Irappa was proceeding in Maruti-800 car bearing No.KA-25/MC-6660 on Hubballi-Karwar road, near Sagar hotel at Kalaghatagi, the driver of car drove the vehicle in his speed with rash and negligent manner and dashed to the divider and caused accident wherein Irappa has sustained grievous injuries and he was shifted to KIMS, Hubballi. During course of treatment Irappa succumbed due to injuries caused in the accident at about 11.00 a.m. on 24.05.2023.

14. In order to prove the case of the claimants, claimant No.1, stepped into witness box and got examined as PW.1. In her examination-in-chief filed in the form of affidavit reiterated the contents of claim petition. In support of their case got marked Ex.P.1 to 9. Ex.P.1 is the certified copy of FIR registered in Kalaghatagi Police Station, in Cr. No.145/2023 dated 24.05.2023 against the driver of car No. KA-25/MC-6660. Ex.P.2 is the copy of complaint. Ex.P.3 is the Post Mortem report. Ex.P.4 is the spot pnchanama. Ex.P.5 is the hand sketch map. Ex.P.6 is the vehicle seizure panchanama. Ex.P.7 is the Inquest panchanama. Ex.P.8 is the charge sheet filed against driver of car for the offences punishable u/sec.279, 337, 304(A) of IPC and Sec.3 r/w. 181 of M.V.Act. The respondent No.1 is arrayed as accused No.2 for the offence punishable u/sec.5 r/w.180 of M.V.Act.

15. Ex.P.1 to 9 produced by the claimants are copies of criminal court record or criminal record showing the completion of investigation by the police and issuance of charge sheet u/sec.279, 337, 304(A) of

IPC and recovery of motor vehicle, inspection report of offending vehicle are sufficient proof to come to a conclusion that the accident was took place due to rash and negligent driving of driver of car involved in the accident.

16. The material oral as well as documentary evidence on record are sufficient to hold that accident was caused due to rash and negligent driving of driver of car. In the said accident Irappa has sustained grievous injuries and during course of treatment he succumbed on 24.05.2023 at about 11.00 a.m.

17. On going through the material evidence placed on record, it is crystal clear that due to rash and negligent driving of the driver of car bearing No.KA-25-MC-6660 accident was occurred. The oral evidence of PW.1 is supported with documentary evidence. Accordingly, I have answered issue No.1 in the affirmative.

18. **ISSUE NO.3:** The respondent No.1 contended that he sold the car bearing No.KA-25-MC-6660 to respondent No.3 under exchange offer and he is not

liable to pay the compensation. In order to prove his contention respondent No.1 stepped into witness box and got examined as RW.1. In his examination-chief filed in the form of affidavit reiterated the contention of objections. In support of his case got marked Ex.R.3 to 10. Ex.R.3 is the Purchase Inward Note of car bearing No.KA-25-MC-6660 issued by respondent NO.3 dated 13.04.2017. Ex.R.4 is the sales outward note issued by respondent No.3 in favour of one Nagaraj Gondali wherein car bearing No.KA-25-MC-6660 was sold for Rs.50,000/-. It is also supported with register maintained by respondent No.3. Ex.R.5 is the copy of objections of respondent No.3. Ex.R.6 is the Form No.21 Sale Certificate issued by respondent No.3 in favour of respondent No.1. Ex.R.7 is the Form KMV19 Temporary Certificate of registration of Eon sports, BS-IV car temporary registration No.KA-25/T-000170/2017-18 dated 19.04.2017. Ex.R.8 is the retail invoice issued by respondent No.3. Ex.R.9 is the cash receipt voucher. Ex.R. 10 is the delivery note.

19. In the cross examination he stated that in the year 2017 got exchanged car and purchased Eon vehicle. It is stated that he came to know that Bellad company sold car to Nagaraj. He denied that respondent No.3 has sold car, they have only exchanged the car. It is denied that respondent No.3 is not concerned to the case. The oral evidence of RW.2 is supported with his case and document issued by respondent No.3. The respondent No.3 after exchange has obtained all the documents of Maruti car bearing No.KA-25/MC-6660 and issued purchase invoice in favour of respondent No.1 which is sufficient to prove that as on the date of accident respondent No.1 was not the owner of offending vehicle car. As on the date of accident respondent No.1 is was the owner of offending vehicle, therefore, handing over the car to the driver who does not holding driving licence does not arise. The Investigating Officer without making proper investigation and verifying the records of documents has filed charge sheet against respondent No.1 for the offence punishable u/sec.5 r/w.180 of M.V. Act.

Therefore, respondent No.1 is exonerated from his liability. Accordingly, I have answered issue No.3 in the affirmative.

20. **ISSUE NO.4:** Respondent No.3 contended that at the time of accident they are not the owner and as per exchange offer vehicle belongs to respondent No.1 has been directly transferred to one Nagaraj Gondale who is not made as party to the proceedings and they are not liable to pay the compensation. In support of the contention authorized legal executive of respondent No.3 company stepped into witness box and got examined as RW.3. In support of their case got marked the documents. Ex.R.11 is the copy of General Power of Attorney. Ex.R.12 is the car stock book register of purchase inward note of car bearing No.KA-25-MC-6660. Ex.R.13 is the car stock book, sales outward note of car bearing No.KA-25-MC-6660, which was sold to one Nagaraj Gondali. Ex.R.14 is the details of purchase and sale. The documents got marked by respondent No.3 establishes that in the exchange Mela respondent No.3 had purchased the

car bearing No.KA-25-MC-6660 from respondent No.1 and sold to one Nagaraj Gondali. The contention of respondent No.3 that under exchange Mela respondent No.1 has directly sold the vehicle to Nagaraj Gondli is not supported with documentary evidence. There is no direct contract in between respondent No.1 and Nagaraj Gondali. Therefore, contention of respondent No.3 that respondent No.1 has directly sold the vehicle to the Nagaraj Gondali is not correct.

21. I have gone through the oral evidence of RW.3. In his cross examination admits that on 13.04.2017 they purchased Maruti-800 car No.KA-25/ MC-6660 in exchange mela. It is admitted that they issued Purchase Note. In further cross examination admits that at the time of exchange they have obtained signature of respondent No.1 on records. It is denied that after obtaining signature and document it is their duty to get transfer vehicle. He admits that they have purchased card for Rs.50,000/- and gave Rs.10,000/- bonous discount. It is admitted that respondent No.1 purchased Eon car and got Rs.10,000/- discount on

purchase of new car. From going through the evidence of RW.3 it is clear that respondent No.1 has sold Maruti-800 car No.KA-25/MC-6660 to respondent No.3 in exchange mela on 13.04.2017 and purchased new car. Respondent No.1 also handed over all the documents to respondent No.3, therefore, contention of respondent No.3 that respondent No.1 has directly sold the vehicle to purchaser is not correct.

22. In further cross examination RW.3 admits in admits that one Nagaraj Gondali purchased car and received relevant document. This portion of evidence is clear that respondent No.3 after purchase of vehicle from respondent No.1 have sold the same to one Nagaraj Gondali and handed over all the relevant documents. Once respondent No.3 received all the documents and obtained signatures of respondent No.1 on documents for transfer and sold the vehicle to Nagaraj Gondali in exchange offer it is his responsibility to get transfer the vehicle and follow up the procedure. Respondent No.3 cannot deny their liability. It is the duty of respondent No.3 to follow up

procedure till transfer of vehicle in the name of purchaser. There was lapse of duty casted upon respondent No.3. The oral evidence of respondent No.3 is not supported with documentary evidence. Therefore, I hold that the respondent No.3 has failed to prove that vehicle directly sold by respondent No.1 in favour Nagaraj Gondali and they are not liable for payment of compensation. Accordingly, I have answered issue No.4 in the negative.

23. **ISSUE No.2** : The claimants have to prove the age, occupation and income of deceased Irappa. It is contended that deceased Irappa was aged about 33 years and working in petrol pump and earning Rs.30,000/- per month. In order to prove the age, occupation and income of decased no documents are produced. Ex.P.3 Post Mortem report shows that deceased was aged about 33 years and same can be considered as proof of age.

24. To prove the occupation and income no documents are produced. The material documents placed on record and evidence establishes that

deceased was working in the petrol pump. Considering the present cost of living, essential foods in the market, nature of work, the age and occupation of deceased, the notional income is assessed at Rs.16,000/- per month. Accordingly, issue No.2 is answered in the partly affirmative.

25. **ISSUE NO.5:** The claimant No.1 is the mother, claimant No.2 and 3 are the brothers of deceased Irappa. The claimant No.1 is the dependent upon the income of deceased. The claimant No.2 and 3 are not the dependents. Deceased was unmarried. The deceased was aged about 33 years at the time of accident and getting income of Rs.16,000/- as discussed above. The claimant No.1 is the only dependent upon the income of deceased who died unmarried. Therefore, ½ of income of deceased is to be deducted towards personal expenses which comes to Rs.8,000/-. (16,000-1/2). The total income comes to Rs.8,000/-. As per decision of Hon'ble Supreme Court of India in Pranay Sethi case future prospectus at 40% is to be paid on monthly income in case where the

deceased has self employement and below the age of 40 years. which comes to Rs.3,200/- (8,000x40%). The monthly income of deceased comes to Rs.11,200/- (8,000 + 3,200). The annual income of deceased comes to Rs.11,200x12=1,34,200/-. Relevant multiplier applicable is 16 between the age group of 31 to 35. Therefore, the loss of dependency would be calculated at Rs.21,50,400/- (1,34,000x16).

26. Apart from this the claimants are also entitled for Rs.30,000/- towards conventional heads for loss of estate and funeral expenses as per decision of Hon'ble Supreme Court of India. The claimants are the mother and brothers of deceased are entitled for Rs.1,20,000/- (40,000 x 3) for consortium. Therefore, the claimants are entitled for total compensation of Rs.23,00,400/- for loss of dependency. The claimants are also entitled for interest at 6% per annum from the date of claim petition till deposit.

Liability of Payment of Compensation: The respondent No.1 is not the owner of offending vehicle as on the date of accident. Respondent No.1 has sold the vehicle to the respondent No.3 under exchange Mela, therefore, the liability of respondent No.1 is exonerated.

27. The respondent No.2 was the insurer of the vehicle. The vehicle is covered with Act policy. Learned counsel for respondent No.2 relied upon the decision of Hon'ble High Court of Karnataka, Dharwad Bench in MFA No.24854/2010 (MV). The Hon'ble High Court held that, occupants of vehicle who are travelling as passengers are not treated as third parties and such an insurance do not cover risk of such persons. Another decision of Hon'ble High Court of Madras reported in 2022 Latest Case Law 8320 MAD wherein the Hon'ble High Court held that liability policy does not cover the occupant of car and there is no policy coverage, therefore, insurance company is exonerated from its liability to pay compensation. Another decision of Hon'ble High Court of Sikkim and Hon'ble Supreme Court of India reported in 2008 Law Suit (SC) 954, 2022 (1) TAC 588 (Rajastan), 2022(3) TAC 349 (Madras), CMA No.2163 of 2017 of Hon'ble High Court

of Madras. The sum and substance of the above decisions is that, the Act policy does not cover the occupant of the private car cannot be considered as third party of the vehicle and the insurance company is not liable to pay compensation under 'Liability only policy' and the policy does not cover the risk of occupants of car.

28. However, as on the date of accident, policy of insurance of the offending vehicle No.KA-25/ME-6660 vehicle is in force. Respondent No.2 under taken policy without ascertaining ownership of vehicle. Respondent No.2 could have ascertained documents of ownership and produced the documents to show that who has paid the premium amount of insurance policy. Due care about ownership of vehicle has not been considered and without going through the documents issued insurance policy. The details mentioned in the insurance policy are not pertaining to respondent No.1. Only on the basis of old RC standing in the name of respondent No.1 policy has been issued in the name of respondent No.1 and thereby committed mistake.

Therefore, respondent No.2 the insurer of the vehicle and respondent No.3 who has sold the vehicle in exchange Mela are jointly and severally liable to pay the compensation amount to claimants and recover the same from the driver and present owner of the vehicle Nagaraj Gondali Accordingly, I have answered issue No.5 partly in the affirmative.

29. **ISSUE NO.6:** In view of above discussion, Tribunal proceed to pass the following...

O R D E R

The claim petition filed by the claimants u/sec.166 of M.V. Act is hereby partly allowed.

The claimants are entitled for compensation of Rs.23,00,400/- with interest at the rate of 6% per annum from the date of petition till deposit.

The respondent No.2 and 3 are hereby directed to deposit the compensation amount within two months from the date of award before the Tribunal and recover the same from driver and present owner of the vehicle.

The compensation amount is apportioned in between claimants at the ratio of 80:10:10.

Out of total compensation awarded to claimant No.1, 70% is to be released and 30% is to be invested in FD for three years in nationalized bank.

The compensation awarded to claimant No.2 and 3 is ordered to be released soon after deposit.

Draw award accordingly.

(Dictated to stenographer directly on computer, computerized by him, corrected, printed and then pronounced by me in open court on this **02nd day of December, 2025**).

(R.L.HONOLE)
SR. CIVIL JUDGE & M.A.C.T.
KALAGHATAGI

ANNEXURE

WITNESSES EXAMINED FOR CLAIMANTS:

PW-1 : Smt. Mahadevi W/o Veerupaxi Mudigoudra

DOCUMENTS EXHIBITTED FOR CLAIMANTS:

Ex.P-1	: Certified copy of FIR
Ex.P-2	: Certified copy of complaint
Ex.P-3	: Report of P.M.
Ex.P-4	: Spot panchanama
Ex.P-5	: Hand sketch map
Ex.P-6	: Motor vehicle seizure panchanama
Ex.P-7	: Inquest panchanama
Ex.P-8	: Charge sheet
Ex.P-9	: MVI report

WITNESSES EXAMINED FOR RESPONDANTS:

RW.1:	Vijayakumar H. Chavan
RW.2:	Ravi S/o Ramesh Kosti
RW.3:	Ramachandra S/o Ashok Mutalikdesai

DOCUMENTS EXHIBITTED FOR RESPONDENTS:

Ex.R.1 : Authorization letter
Ex.R.2 : Insurance policy
Ex.R.3 : Copy of Purchase invoice
Ex.R.4 : Copy of sale register
Ex.R.5 : Copy of objection submitted by 3rd respondent.
Ex.R.6 : Copy of Sale certificate
Ex.R.7 : Copy of temporary register certificate
Ex.R.8 : Invoice bill
Ex.R.9 : Receipt
Ex.R.10 : Delivery note
Ex.R.11 : Copy of Power of attorney
Ex.R.12 & 13: Copy of Car stock books
Ex.R.14 : Register of vehicle sale

(R.L.HONOLE)
SR. CIVIL JUDGE & M.A.C.T.
KALAGHATAGI