



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 6085 OF 2014 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 5313 OF 2014 (MV-D)

IN MFA No. 6085/2014:

BETWEEN:

1. GOWRAMMA @ MANGALA GOWRAMMA
W/O LATE RAJANNA @ FAKEERA,
AGED ABOUT 32 YEARS,.
2. VENKATESH
S/O LATE RAJANNA @ FAKEERA,
AGED ABOUT 19 YEARS,
3. LAVANYA @ CHAYA LAKSHMI
D/O LATE RAJANNA @ FAKEERA,
AGED ABOUT 16 YEARS,
PETITIONER 2 AND 3 ARE MINORS
REPT. BY THEIR MOTHER AND
NATURAL GUARDIAN GOWRAMMA
@ MANGALA GOWRAMMA
W/O LATE RAJANNA @ FAKEERA,

ALL ARE NATIVE OF NO.31,
KAKARAMANAHALLI-VG,
BIDADI-HO, RAMANAGAR TALUK
AND DISTRICT-571 511

PRESENTLY R/AT:
C/O VIJAYAKUMAR, NO. 189,
3RD MAIN , 7TH CROSS,





K M LAYOUT, 2ND STAGE,
BANGALORE-560 078.

...APPELLANTS

(BY SRI. P SURESH., ADVOCATE)

AND:

1. CHOLAMANADALAM MS GENERAL INS. CO. LTD.,
NO.9/2, 2ND FLOOR, ULSOOR ROAD,
(NEAR BEGAUM HALL BUS STOP),
BANGALORE-560 042.
PRESENT ADDRESS:
CHOLAMANDALAM MS GENERAL INS.CO.LTD.
UNIT NO.4, 9TH FLOOR (LEVEL-6),
GOLDEN HEIGHTS COMPLEX,
59TH "C" CROSS, INDUSTRIAL SUBURB,
RAJAJINAGAR 4TH "M" BLOCK,
BANGALORE-560 010.
REPT. BY ITS INCHARGE MANAGER.

2. B.M. SHIVANNA S/O MADAIHAH,
MAJOR IN AGE,
R/AT NO. 52, JANATHA COLONY,
KENCHAKUPPE,
BIDADI POST AND HOBLI,
RAMANAGARA TALUK AND DISTRICT-571 511.

...RESPONDENTS

(BY SRI. Y P VENKATAPATHI., ADVOCATE FOR R1,
R-2 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 4.3.2014 PASSED IN MVC
NO.4633/2012 ON THE FILE OF THE XXII ACMM & XXIV ASCJ,
BANGALORE, PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.



IN MFA NO. 5313/2014:

BETWEEN:

M/S CHOLAMANDALAM MS GEN. INS. CO. LTD.,
UNIT NO.4, 9TH FLOOR (LEVEL-6)
"GOLDEN HEIGHTS" COMPLEX,
59TH 'C' CROSS, INDUSTRIAL SUBURB,
RAJAJINAGAR 4TH M BLOCK,
BENGALURU-560 010
(ABOVE IS THE PRESENT ADDRESS)

FORMERLY AT NO.9/1, 2ND FLOOR
ULSOOR ROAD
(NEAR BEGAUM HALL BUS STOP)
BENGALURU-560 042.

...APPELLANT

(BY SRI. Y P VENKATAPATHI., ADVOCATE)

AND:

1. SMT GOWRAMMA @
MANGALA GOWRAMMA
NOW AGED ABOUT 32 YEARS,
W/O LATE RAJANNA @ FAKEERA
2. SRI. VENKATESH
NOW AGED ABOUT 19 YEARS,
S/O LATE RAJANNA @ FAKEERA
3. KUM. LAVANYA @ CHAYALAXMI
NOW AGED ABOUT 16 YEARS,
D/O LATE RAJANNA @ FAKEERA
(SINCE MINOR REPRESENTED BY
HER MOTHER AND NATURAL GUARDIAN
THE 1ST RESPONDENT HEREIN)

ALL ARE RESIDING AT
KAKAMARANAHALLI VILLAGE,
NO.31, BIDADI HOBLI,
RAMANAGAR TALUK AND DISTRICT



AND PRESENTLY
R/A C/O VIJAYA KUMAR
NO.189, 3RD MAIN, 7TH CROSS,
K.M.LAYOUT, 2ND STAGE,
BENGALURU-560 078.

4. SRI.B.M.SHIVANNA
S/O MADIAH, MAJOR,
RESIDING AT NO.52,
JANATHA COLONY, KENCHANKUPPE,
BIDADI POST AND HOBLI,
RAMANAGAR TALUK
AND DISTRICT-571 511.

...RESPONDENTS

(BY SRI. P. SURESH, ADVOCATE FOR R1,
R-2 AND R-4 ARE SERVED AND UNREPRESENTED,
R-3 IS MINOR REPRESENTED BY R-1)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 4.3.2014 PASSED IN MVC
NO.4633/2012 ON THE FILE OF THE XXII ACMM & XXIV ASCJ,
BANGALORE AWARDED COMPENSATION OF RS.4,77,000/- TO
THE PETITIONERS WITH INTERES AT THE RATE OF 6% P.A.
FROM THE DATE OF PETITION TILL DEPOSIT OF ENTIRE
AMOUNT.

THESE APPEALS HAVING BEEN HEARD AND RESERVED
ON 04.02.2026 COMING ON FOR PRONOUNCEMENT OF
JUDGMENT THIS DAY, **P SREE SUDHA J.**, DELIVERED THE
FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA



CAV JUDGMENT

These appeals arise out of the judgment and award dated 04.03.2014 passed by the XXIV Addl. Small Causes Judge, Bengaluru in MVC No.4633 of 2012.

2. M.F.A.No.6085/2014 is filed by the claimants seeking enhancement of the compensation. M.F.A. No.5313/2014 is filed by the insurance company against the judgment and award passed in MVC No.4633/2012. Deceased Rajanna @ Fakeera was going along with vegetable goods in Tata Ace bearing registration No.KA-42-8085 on the left side of the vehicle. At that time, unknown vehicle touched the Tata Ace. As a result, Rajanna fell down and sustained head injuries and later succumbed to the injuries. His wife and children filed claim petition claiming compensation of Rs.15,00,000/-. The Tribunal considering the entire evidence on record awarded total compensation of Rs.4,77,000/- with interest at the rate of 6% per annum from the date of petition till deposit.



3. Aggrieved by the said order claimants preferred appeal and mainly contended that Rajanna @ Fakira, aged 35 years working as a vegetable vendor was earning Rs.3,300/- per month. But the Tribunal has taken only Rs.3,000/- per month and thus requested for enhancement of the compensation.

4. Against the same award Insurance company also preferred appeal stating that if at all Rajanna was travelling in the alleged goods auto, he was a gratuitous passenger in the goods vehicle meant for carrying goods only and the risk of passengers was not covered under the insurance policy. Driver of the goods auto was not having valid and effective driving licence and the vehicle has no permit for carrying the passengers. Hence there is breach of terms and conditions of the policy, and they have no obligation to indemnify the owner of the vehicle. It is further stated that it has seating capacity of only two and it is a closed type of vehicle. It is further stated as there were 13 passengers, there was no space left for carrying



the goods or vegetables. In the FIR, mahazar and sketch, there is no mention of vegetables. Ex.P1 and P2 are the complaint and FIR in which it is stated that 13 persons were travelling along with the vegetables excluding the driver. The said goods auto is light goods transport motor vehicle with unladen weight of 820 kgs and closed type of vehicle and it is used only for carrying passengers and not for transporting vegetable by the insured owner. The owner has not acted and discharged his obligations as per Section 134C of the MV Act. They have simply stated this story that unknown vehicle dashed them and as they will not get compensation under Section 166 of MV Act. Ex.R7 is the ration card in which his age is shown as 40 years as on 06.01.2010 and the date of accident is 01.12.2011 and thus he was aged 41 years 11 months. But the trial Court wrongly took 35 years based on the post-mortem report and the multiplier of 17 is taken instead of 14. Therefore he requested to set aside the judgment and order of the Tribunal.



5. The manner of accident as per the petition is, one Rajanna @ Fakira was going along with vegetable goods in Tata Ace bearing registration No.KA-42-8085, on the left side of the road, at that time one unknown vehicle touched the Tata Ace. As a result, he fell down and sustained grievous injuries.

6. Respondent No.1 is the Insurance company of Tata Ace bearing No.KA-42-8085 and respondent No.2 is the owner of the said vehicle. Respondent No.1 in his written statement contented that the policy was in force as on the date of accident. The driver of the goods auto was not having valid and effective driving licence and he has not reported about the accident to them immediately after the accident and it amounts to breach of terms and conditions of the policy. They also denied that Rajanna was travelling in the vehicle along with vegetables and requested the Court to dismiss the petition filed under Section 163A of the MV Act.



7. Respondent No.2/owner of the Tata Ace has not filed any written statement. Ex.P1 is the copy of the complaint given by one Umesh at 10.30 a.m. and the accident occurred at about 08.30 a.m. on the same day. So the complaint is given within two hours after the accident. FIR/Ex.P2 is registered in Crime No.201/2011 for offences punishable under Sections 279, 337 of IPC read with 187 of the IMV Act. Ex.P8 is the report submitted by the police after death of Rajanna and Section 304A of IPC is included. Ex.P3 is the spot Panchanama along with the sketch. Ex.P4/the IMV report of Tata Ace bearing registration No.KA-42-8085 shows that the vehicle damaged on the left side and Ex.P5 is the Inquest Panchanama and no copy of the charge sheet is produced. In Ex.P8/report police have not stated the number of the unknown vehicle against whom charge sheet was filed by them after the investigation. This clearly shows that no charge sheet is filed against any one.



8. Umesh/complainant stated that he along with Rajanna was going in auto along with vegetables. In Ex.P7/copy of the ration card, the name of the deceased was shown as Rajanna and his wife's name is shown as Gowramma and thus there is no dispute regarding LR's of Rajanna. In Ex.P7/ration card the age of Rajanna was shown as 40 years. But the Tribunal erred in taking the age as 35 years and wrongly applied the multiplier of 17.

9. The Tribunal relying on the judgments of this Court and the Apex Court, held that as the petition is filed under Section 163A of the MV Act and policy was in force at the time of the accident. Hence respondent No.1/Insurance company is statutorily liable to pay the compensation and held that R1 and R2 are jointly liable to pay the compensation and directed R1 to deposit the amount.

10. Perusal of the crucial documents including the complaint under Ex.P1 shows that accident occurred due to rash and negligent driving of driver of Tata Ace bearing



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No.KA- 42-8085. In Ex.P3, engine number is mentioned as 275IDI06JYY8H9936 and chassis number is mentioned as MAT445056BVJ83796 and the vehicle number is shown as KA-42-8103. Even in the inquest report under Ex.P5, the number of the vehicle is shown as KA-42-8103 only. In Ex.P6/PM report it is mentioned that auto passenger hit by four wheeler at Ramanagar. The cause of the death is shown as head injury caused due to cardio-respiratory arrest. In Ex.P8 also the vehicle number is mentioned only as KA-42-8103.

11. In the copy of the policy, they have given Engine Number as 275IDI06JYYSII9936 and Chassis number as MAT445056BVJ83796. There is variation in engine number. In the claim petition, there is alteration in the number of the vehicle, whitener was applied and 8085 was inserted. Except in IMV report, in all other documents, the vehicle number was given as only KA-42-8103. But the claim petition is filed against Tata Ace No.KA-42-8085.



12. In this case, though complaint is given, Investigating Officer has not investigated the case and filed charge sheet. Even the charge sheet is not filed against the vehicle number KA-42-8085. It was only examined by the motor vehicle inspector and he issued IMV report in which the number of the vehicle is shown as KA-42-8085. Respondent has not raised any objection regarding the variation in the vehicle number and simply stated that it is a goods auto; the deceased was an unauthorised passenger in the said auto; he was not travelling with vegetables, moreover he was travelling along with 13 passengers, as such the question of carrying vegetables does not arise and it is a closed auto and it is meant only for carrying passengers and not goods.

13. The claimants stated that the deceased was carrying vegetables and even PW2 stated that they were travelling in the auto carrying vegetables. Except their oral statement, no other evidence is placed before this Court to prove that he was travelling with goods/vegetables.



Nature of vegetables and quantity of vegetables carried by them is not mentioned. Therefore the contention of the Insurance company that he is gratuitous passenger is accepted and it is in clear violation of terms and conditions of the policy. As such Insurance company is not liable to pay the compensation.

14. In a citation in **(2009) 1 KACJ 500** between **Veerappa and Another Vs. Siddappa and Another** it was held as follows:

" The experience has shown that this branch of law is slowly getting into the hands of unscrupulous people who are making a mockery of judicial process. A disturbing tread of unholy alliance among the police, the doctors, the lawyers and some times even the Insurance Company, to siphorn out the public money, and make an unlawful gain is fast emerging. It is also gaining respectability and persons who indulge in such practices are acclaimed as most successful in their respective profession. This is a dangerous trend, if unchecked would undermine the judicial process. As the existing law is inadequate to check this malady, the Courts not only have to be careful in



adjudicating such claims but also find ways to prevent such abuse. They have to balance the interest of these accident victims and their legal heirs on one side, by giving them just compensation at the earliest, thus giving effect to the mandate of the parliament, and on the other hand, to see that the very process is not abused and exploited by a handful of persons, who have attained specialization in this field, to make personal gains at the cost of the exchequer. An onerous responsibility lies on the Courts. Therefore, it is imperative that a strong message is to be sent to the abusers of the judicial process to discourage them from indulging in such practices as well as the consequences of such abuse may result in foisting the liability exclusively on the insured-owner of the vehicle. (Para 16).

19. It is once again made clear that notwithstanding the vehicle of the 1st respondent was insured with the 2nd respondent, the insurance company is not liable to indemnify the insured as we have recorded a finding that it was not involved in the accident. Therefore, there is no third party liability on the part of the insurance company to pay compensation to the claimants. This amount is awarded in order to see that in future such false defences are not filed before Court, judicial process is not



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abused. Therefore, it is only the 1st respondent/owner who is liable to pay the aforesaid amount. Ordered accordingly.

15. Basing on the above citation though it is a beneficial legislation, it is for the Court to see that there is any abuse of process or implication of vehicle to gain wrongfully. Even otherwise as per the complaint the vehicle involved in accident is KA-42-8103. But the petition itself is filed against KA-42-8085. As such the petition itself is not maintainable and the judgment and order of the Tribunal is liable to be set aside.

16. As a result, MFA No.5313/2014 filed by the Insurance company is allowed and MFA No.6085/2014 filed by the claimants is dismissed.

Sd/-
(P SREE SUDHA)
JUDGE

AKC
CT:NR
List No.: 2 Sl No.: 3