



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.6494 OF 2017(MV-D)

BETWEEN:

THE MANAGER,
M/S. THE ORIENTAL INSURANCE COMPANY LIMITED,
SUBHASH SQUARE, NANJAPPA COMPLEX,HASSAN,
THROUGH ITS REGIONAL OFFICE,
NO.44/45, LEO SHOPPING COMPLEX,
RESIDENCY ROAD, BANGALORE - 560 025.
REPRESENTED BY ITS REGIONAL MANAGER.

...APPELLANT

(BY SRI. B S UMESH., ADVOCATE)

AND:

1. DEVARAJEGOWDA,
S/O. LATE KENCHEGOWDA,
AGED ABOUT 62 YEARS,
2. SAVITHRAMMA,
W/O. LATE DEVARAJEGOWDA,
AGED ABOUT 57 YEARS,
3. JYOTHI. B. R.,
W/O. LATE PRAMOD,
AGED ABOUT 32 YEARS,
4. CHIRANTH,
S/O. LATE PRAMOD,
AGED ABOUT 17 YEARS,





(SINCE R4 IS MINOR HE IS REPRESENTED BY HIS MOTHER AND NATURAL GUARDIAN RESPONDENT NO.3, AND ALL THE RESPONDENTS 1 TO 4 ARE RESIDING AT G. THIMMANAHALLI VILLAGE, KASABA HOBLI, ALUR TALUK AND HASSAN DISTRICT - 573 201.

5. MALLIKARJUNA,
S/O. RATHNAMMA,
AGE MAJOR EXACT NOT
KNOWN TO APPELLANT,
RESIDING AT:
KANATTUR VILLAGE,
KASABA HOBLI,
ALUR TALUK AND
HASSAN DISTRICT - 573 213.

...RESPONDENTS

(BY SRI. B.K. CHANDRASHEKARA, ADVOCATE &
SRI. B. KEMPEGOWDA, ADVOCATE FOR R1 AND R3,
R4 MINOR REPRESENTED BY R3,
SRI. KUSHAL GOWDA, ADVOCATE FOR R2,
R5 SERVED AND UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:09.05.2017 PASSED IN MVC NO.1824/2015 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE, & MACT, HASSAN, AWARDDING COMPENSATION OF Rs.10,05,060/- WITH INTEREST @ 8% P.A. FROM THE DATE OF PETITION TILL REALIZATION.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE T.M.NADAF



ORAL JUDGMENT

The insurer is in appeal calling in question the judgment and award dated 09.05.2017 in MVC.No.1824/2015 passed by II Additional Senior Civil Judge and MACT, Hassan ('Tribunal' for short).

2. The parties are referred to as per their rankings before the Tribunal.

3. Heard Sri.B.S.Umesh, learned counsel appearing for the appellant; Sri.Kushal Gowda, learned counsel appearing for respondent No.2; Sri.B.K.Chandrashekar and Sri.B.Kempegowda, learned counsel appearing for respondent Nos.1 and 3; respondent Nos.4 and 5 though served remained unrepresented.

4. The main contention on which this appeal is argued by Sri.B.S.Umesh, is that, there is no involvement of vehicle. The claimant has not produced any medical register of the hospital wherein he was immediately shifted/ taken after the accident. There is a delay of one



day in filing the complaint. The Tribunal has not considered the evidence led by the insurer in order to substantiate its claim that the vehicle is planted for the purpose of compensation. With this he sought to allow the appeal. To buttress his arguments he has relied on two judgments:

- (i) ***Arathy and Another Vs. S.M.Umesha and Another*** in ***MFA No.7025/2015.***
- (ii) ***Veerappa and Another Vs.Siddappa and Another*** reported in ***ILR 2009 KAR 3562.***

5. In the judgment of Division Bench of this Court, considering the principle that "*FRAUS ET JUS MUNQUAM COHABITANT*"- Fraud and Justice Never Dwell Together, dismissed the petition against the insurer and made the respondent-owner liable to pay the compensation.

6. In contrast, Sri. Kushal Gowda, learned counsel appearing for respondent No.2 with all vehemence submits that the insurer except examining one of its officer who admittedly was not the eyewitness, not taken any pain to



examine either the Investigation Officer or any other eyewitness or the hospital authorities, on the contention that there is no MLC register produced, not adduced any evidence to substantiate their claim. He further submits that there is MLC register opened in respect of the accident, which he has produced along with a memo. The copy is served on the learned counsel appearing for the applicant.

7. The MLC which is produced bearing receipt No.500, is a extract of Medico Legal Register of Janapriya Hospital which states that on 03.10.2015, a male named Pramod, S/o. Devraj Gowda, admitted to the hospital with history of RTA on 03.10.2015 at 09.00 p.m. near Hosahally Koodige Bikkod road, Alur Taluk, Hassan.

8. Further in the case sheet, it is clearly stated that the accident occurred due to the actionable negligence of a van bearing No.KA 13 M 7116 found in the case sheet, which is denied by the learned counsel for the



appellant. Nevertheless, in the absence of the same, the Tribunal having considered the police records, which are against the driver of the insured, on appreciation of records, the awarded compensation, holding that it is the driver of the van responsible for the accident and saddled the entire liability on the insurer. However, at this stage, learned counsel for the insurer submits that the Tribunal without there being any exceptional evidence awarded 8% interest, which must be reduced to 6%.

9. Heard the rival submissions and perused the entire appeal paper as well as trial Court records.

10. The following points would arise for consideration:

- (i) *Whether the appellant-insurer has made out a case which cause interference in the judgment and award passed by the Tribunal?*
- (ii) *Whether the Tribunal is right in awarding 8% interest in the absence of any exceptional circumstances?*



11. My answer to the above point for consideration are as under:

Point No.1: In the Negative.

Point No.2: Partly in affirmative, for the following:

REASONS

12. A perusal of trial Court record shows that the police have registered the case against the driver of the offending vehicle; neither the driver nor the owner of the vehicle has challenged the same before any forum.

13. A perusal of Trial Court record clearly indicates that the insurer except examining its officer has not taken any pain to examine the Investigating Officer or any other witness to substantiate its contention that the vehicle is falsely involved in the accident.

14. In the absence of cogent evidence to substantiate the contentions now taken before this Court, cannot be countenanced. Though Sri.B.S.Umesh, denied the documents produced with memo dated 27.03.2026,



the records already on record, goes against the contention now raised by the insurer.

15. This Court finds no infirmities in the reasons assigned by the Tribunal while considering the matter both on liability as well as quantum of compensation. Accordingly, the appeal on quantum as well as on liability is dismissed. So far as awarding of interest on the compensation is considered, the judgments relied upon by the learned counsel for appellant are distinguishable on facts and are not helpful to the case of the injured.

16. The Tribunal in the absence of any exceptional circumstances, relying on the judgment of the Hon'ble Supreme Court, awarded interest at the rate of 8%. There is no discussion regarding the facts which are so demanding for award of interest at the rate of 8%. In the absence of such reasoning, the Tribunal has erred in awarding interest at the rate of 8% and the same requires consideration.



17. One more reason is that, this Court as well as the Hon'ble Supreme Court and the High Courts across the country so far as the MVC claims are concerned, constantly maintaining 6% interest on the compensation awarded. In view of the same, the interest is reduced from 8% to 6% p.a.

18. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

- i) Appeal is ***allowed-in-part***.
- ii) Interest is reduced from 8% to 6% p.a.
- iii) The amount in deposit shall be transmitted to the concerned Tribunal for disbursement.
- iv) The insurer shall deposit the balance compensation along with 6% before the Tribunal, within 6 weeks from the date of receipt of copy of this order.



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- v) Upon deposit entire amount shall be released
in favour of the claimant on proper
identification.

Sd/-
(T.M.NADAF)
JUDGE

PK
List No.: 1 Sl No.: 16
ct-vn