



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**  
**DATED THIS THE 23<sup>RD</sup> DAY OF MARCH, 2026**  
**BEFORE**  
**THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**  
**MISCELLANEOUS FIRST APPEAL NO.4034/2018 (MV-D)**

**BETWEEN:**

THE DIVISIONAL MANAGER  
UNITED INDIA INSURANCE CO LTD,  
NO.64/3, AKKAMAHADEVI ROAD  
B.J. EXTENSION, DAVANAGERE 577 002

...APPELLANT

Digitally signed  
by ARSHIFA  
BAHAR KHANAM  
Location: HIGH  
COURT OF  
KARNATAKA

(BY SRI. K.S. LAKSHMINARASAPPA, ADV., FOR  
SRI. A.M. VENKATESH, ADV.,)

**AND:**

1. KUSHALAMMA  
W/O NAGARAJA  
AGED ABOUT 42 YEARS.
2. H.N. RAKESH  
S/O H.K. NAGARAJA  
AGED ABOUT 22 YEARS.
3. H.N. SAHANA  
D/O H.K. NAGARAJA  
AGED ABOUT 20 YEARS.
4. CHANNABASAMMA  
W/O LATE BASAPPA  
AGED ABOUT 72 YEARS.

ALL ARE R/AT ALAGHATTA VILLAGE  
CHITRADURGA TALUK AND DISTRICT.



**NC: 2026:KHC:16309**  
**M.F.A. No.4034/2018**

5. K.M. GANGADHARAPPA  
S/O KENCHAPPA, MAJOR  
R/AT KUDINEERUKATTE VILLAGE  
HOLALKERE TALUK  
CHITRADURGA DISTRICT.

...RESPONDENTS

(BY SRI. PRAJWAL M.M. ADV., FOR  
SRI. R. SHASHIDHARA, ADV., FOR R5  
R1 TO R4 SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:20.01.2018 PASSED IN MVC NO.1374/2016 ON THE FILE OF THE 2ND ADDITIONAL SENIOR CIVIL JUDGE & ADDITIONAL MACT-5, CHITRADURGA, AWARDED COMPENSATION OF RS.10,17,000/- WITH INTEREST AT 9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT.

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

**CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**

**ORAL JUDGMENT**

This appeal is filed by the Insurance Company challenging the judgment and award dated 20.01.2018 passed in MVC.No.1374/2016 by the II Additional Senior Civil Judge and Additional MACT, Chitradurga, (for short 'the Tribunal').



2. Though this appeal is listed for admission, with the consent of the learned counsel for the parties, it is taken up for final disposal.

3. Sri.K.S.Lakshminarasappa, learned counsel for Sri.A.M.Venkatesh, learned counsel appearing for the appellant/Insurance Company submits that the Tribunal has committed a grave error in recording the finding that the driver of the tractor was solely responsible for the accident and in fastening the entire liability on the appellant/Insurance Company by ignoring the fact that the claimants failed to establish factum of negligence on the part of the driver of the tractor by adducing cogent evidence. It is submitted that nothing has prevented the claimants to examine one Sri.Muniswamy, who was claiming to be the rider of the motorcycle. The Tribunal also failed to consider Ex.R5, sketch which indicates that the width of the road was 14 feet and that the driver of the tractor, drove the tractor on the left side leaving 4 feet of road towards his right, and the rider of the motorcycle



came in the opposite direction, dashed against the tractor, which resulted in accident; in effect the accident has occurred in the middle of the road. Hence, 50% of the liability is required to be saddled on the rider of the motorcycle. It is further submitted that the police neither seized nor conducted inspection of the said tractor and the IMV report at Ex.P7 is only of the two-wheeler. All these facts clearly demonstrate that the claimants failed to establish negligence on the part of the driver of the tractor, which has not been appreciated by the Tribunal in its proper perspective, therefore, he seeks to record the finding that the rider of the motorcycle has also contributed to the accident to the extent of 50% by modifying the judgment. It is also submitted that the Tribunal has erred in awarding exorbitant interest at the rate of 9% per annum without assigning any special reasons. Hence, he seeks to allow the appeal.

4. Per contra, Sri.Prajwal M.M., learned counsel for Sri.R.Shashidhara, learned counsel for respondent No.5



supports the impugned judgment and award of the Tribunal and submits that after investigation, the jurisdictional police have filed a charge sheet against the driver of the tractor and based on such evidence, the Tribunal has rightly recorded its finding on negligence and liability, which does not call for any interference. Hence, he seeks to dismiss the appeal.

5. I have heard the arguments on both the sides and meticulously perused the material available on record including the Tribunal record.

6. The material on record indicates that the accident in question occurred on 07.03.2015. The claimants are the wife, children and mother of the deceased, who was a pillion rider on the motorcycle. It is not in dispute that the accident was reported to the jurisdictional police, who after investigation filed a charge sheet against the driver of the tractor involved in the accident. In order to substantiate the aspect of negligence,



claimant No.1 examined herself as PW1 and got marked Ex.P1-FIR, Ex.P2-Complaint, Ex.P3-Inquest report, Ex.P4-Statement of claimant No.2, Ex.P5-Post mortem report, Ex.P6-Charge sheet, Ex.P7-IMV report, Ex.P8 to P112-104 medical bills, Ex.P113 to 135-Prescriptions and Ex.P136-IP charge details. On the other hand, the respondent did not adduce any oral evidence but, with consent, got marked Ex.R1 to Ex.R5.

7. Ex.R5 is the sketch produced on record. A perusal of the sketch indicates that the accident occurred in the middle of the road, the width of the road is shown as 14 feet. In my considered view, based on the Ex.R5, it would be difficult to record any finding with regard to the aspect of negligence. Admittedly, the initial burden of proving the negligence and liability lies on the claimants. In the present case, claimant No.1, examined as PW1, has deposed before the Tribunal that one Sri.Muniswamy was riding the motorcycle and that the accident occurred due to the negligence of the driver of the tractor. In order to



prove the said assertion, the charge sheet material was placed before the Tribunal which clearly demonstrates that the jurisdictional police have filed a charge sheet against the driver of the tractor. Significantly, no evidence was adduced by the appellant/Insurance Company to disprove the factual assertion of claimant No.1 and charge sheet material. In the absence of any contrary evidence before the Tribunal and this Court, I am of the considered view that the Tribunal taking note of the charge sheet material, Ex.R5 and other evidence on record has rightly held that the driver of the tractor was negligent and caused the accident in question. I do not find any error in the said finding calling for interference in this appeal.

8. Insofar as the award of interest by the Tribunal is concerned, the Tribunal, without assigning any specific reasons, has awarded interest at the rate of 9% per annum from the date of petition till the date of deposit on the total compensation amount. Taking into consideration that the accident is of the year 2015 and having regard to



the prevailing rate of interest offered by nationalized banks on term deposits, I am of the considered view that the interest and justice would be met if the rate of interest is awarded at the rate of 6% per annum from the date of petition till realization of the amount. Accordingly, the appeal is ***allowed-in-part*** to the aforesaid extent. In all other respects, the judgment and award passed by the Tribunal is upheld. The Registry is directed to transmit the records to the Tribunal forthwith and draw modified decree accordingly.

**Sd/-  
(VIJAYKUMAR A. PATIL)  
JUDGE**

ABK  
List No.: 1 Sl No.: 22