



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

REGULAR FIRST APPEAL NO. 71 OF 2018 (MON)

BETWEEN:

THE MANAGER,
THE ORIENTAL INSURANCE CO LTD.,
JALAHALLI CROSS BRANCH,
NO.20, FIRST FLOOR,100FT ROAD
JALAHALLI CROSS,
CHOKKASANDRA, BENGALURU,
THROUGH ITS BANGALORE REGIONAL OFFICE
NO.44/45, RESIDENCY ROAD,BANGALORE-25
REPRESENTED BY ITS DEPUTY MANAGER

...APPELLANT

(BY SRI S V HEGDE MULKHAND.,ADVOCATE)

AND:

M/S. GEMINI DYING AND PRINTING MILLS PVT. LTD.,
NO.16/B PEENYA INDUSTRIAL AREA,
FIRST PHASE, BENGALURU-560 080,
REPRESENTED BY ITS MANAGER.

...RESPONDENT

(BY SRI ABHISHEK H, ADVOCATE FOR
SRI B T PRASANNA KUMAR, ADVOCATE)

THIS RFA IS FILED UNDER SEC.96 OF THE CPC.,
AGAINST THE JUDGMENT AND DECREE DATED 12.01.2017
PASSED IN OS NO.4566/2013 ON THE FILE OF THE XXX
ADDL.CITY CIVIL AND SESSIONS JUDGE, BANGALOE CITY
PARTLY DECREERING THE SUIT FOR RECOVERY AND MONEY.

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





CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL JUDGMENT

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent.

2. This appeal is against the judgment and decree dated 12.01.2017 in O.S. No.4566/2013 on the file of the XXX Additional City Civil Judge, Bengaluru.

3. In terms of the aforementioned judgment and decree, the Insurance Company - defendant in the said suit is directed to pay ₹94,000/- along with interest at 8% per annum from the date of the suit, till realization. The defendant/Insurance Company is before this Court.

4. Learned counsel appearing for the defendant/appellant would submit that the suit is filed against Insurance Company by the owner of the vehicle which was involved in an accident. It appears that a claim petition has been filed under the provisions of the Motor Vehicles Act, 1988 (for short 'Act, 1988') claiming compensation in respect of an alleged accident involving the vehicle belonging to the plaintiff/respondent.



5. The claim petition was allowed directing the owner of the vehicle to pay compensation of ₹94,000/-. The Insurance Company was not made a party in the said proceedings though it was statutorily required to be made a party.

6. The owner did not pay the amount as per the award passed by the Tribunal. The claimant before the Tribunal had filed execution petition to recover the amount. In the said execution proceedings, the claim was settled before the Lok Adalat. Even in the execution proceeding the present appellant was not made a party.

7. Thereafter, the owner filed a suit against the Insurance Company to recover ₹1,82,000/- along with 9% interest per annum.

8. Learned counsel appearing for the defendant/appellant would urge that had the Insurance Company been made a party to the proceedings before the Tribunal, the Insurance Company would have taken all the permissible defence under Section 142 of the Act, 1988.

9. It is urged that unless there is a valid driving license



and a valid permit to ply the vehicle, the insurer is not liable to pay any compensation.

10. It is urged that the Trial Court could not have decreed the suit without examining whether the driver at the time of the accident, possessed a valid driving licence and whether the vehicle had a permit as on the date of the accident.

11. Learned counsel for the appellant on a pointed question by the Court would fairly admit that the vehicle had insurance at the time of accident. However, the liability is subject to the owner and the driver fulfilling the necessary conditions imposed while issuing the insurance.

12. Learned counsel for the respondent/owner would submit that the vehicle was duly insured under the appellant and it is not the case of the prosecuting agency that the driver did not possess a driving licence and to substantiate the contention.

13. Learned counsel for the respondent would invite the attention of the Court to the application under XVI Rule 27 of the Code of Civil Procedure (for short 'Code'), wherein, the documents relating to criminal case have been placed before the Court.



14. The Court has considered the contentions raised at the Bar and perused the records.

15. The following points arise for consideration:

- (a) *Whether the Trial Court is justified in granting a decree in favour of the owner of the vehicle without examining the question as to whether the driver did possess a valid and effective driving licence as on the date of the accident?*
- (b) *Whether the Trial Court is justified in granting a decree in favour of the plaintiff/respondent without examining the question as to whether the vehicle had a necessary permit as required under the provisions of the Act, 1988.*

16. As can be seen from the records, the Insurance Company was not made a party before the Tribunal. The owner alone was made a party before the Tribunal. The owner has suffered an award and the award amount was not paid and execution petition was filed to recover the said amount. Before the Executing Court, a settlement was entered into between the claimant and the respondent-owner. Later, execution petition is closed as award being satisfied.



17. The above facts would indicate that the vehicle was involved in the accident and the liability is fastened on the owner of the vehicle. However, the question as to whether the Insurance Company is liable to pay compensation is not answered in the said proceeding, as the Insurance Company was not a party before the Tribunal.

18. Before the Tribunal, the Court was required to consider whether the Insurance Company is liable to pay the compensation. Merely because there is an award against the owner of the vehicle, that by itself does not make the Insurance Company liable to pay the compensation. The liability of the Insurance Company is subject to the owner/driver establishing the fact that there was a valid and effective driving licence as on the date of the accident and there was a valid permit to ply the vehicle. This aspect of the matter has not been considered by the Trial Court at all.

19. This Court had directed the respondent counsel to produce the driving licence possessed by the driver as on the date of the accident.

20. Learned counsel for the respondent submits that the driver has left the Company long back and the records are not



readily available. Thus, an application under Order XLI Rule 27 of the Code to produce the records relating to criminal proceedings initiated pursuant to the aforementioned accident.

21. Referring to the aforementioned documents, it is urged that no case is filed against the driver alleging that he did not possess the valid and effective driving licence.

22. The Court is not convinced with the submission. Merely based on inference, the Court cannot assume that there was a valid driving licence in favour of the driver as on the date of the accident.

23. Under these circumstances, the contention that the driver had a licence cannot be accepted without the copy of the licence being produced before the Court.

24. Since, it is submitted that the driver has left the Company long time ago, it appears that the respondent needs some time to produce the records after making necessary search. Since the driving licence is a record maintained by the Department of the State, it is certainly possible for the respondent-Company to secure the copy of the driving licence, provided some reasonable time is granted to the respondent.



25. Under these circumstances, the impugned judgment and decree are set aside. Matter is remitted to the Trial Court to frame the following two issues and to answer the aforementioned issues and thereafter, to deliver the judgment.

26. The Court shall frame the following issues:

- (i) *Whether the plaintiff establishes that the driver had the necessary driving licence as on the date of the accident; and*
- (ii) *Whether the appellant/Insurance Company establishes that the plaintiff was required to possess valid permit to claim indemnity from the insurer.*
- (iii) *If so, whether the plaintiff establishes that it had a valid permit to ply the vehicle as on the date of the accident?*

27. Hence, the following:

ORDER

- (i) Appeal is ***allowed-in-part.***
- (ii) The judgment and decree dated 12.01.2017 in O.S. No.4566/2013 on the file of the XXX Additional City Civil Judge, Bengaluru are set aside.



- (iii) The matter is remitted to the Trial Court to consider the case afresh in the light of the observations made above.
- (iv) The parties shall be given an opportunity to lead evidence on the aforementioned issues.
- (v) It is made clear that this Court has not expressed anything on the merits of the matter.
- (vi) Registry to return the Trial Court Records forthwith.

28. The Insurance Company is entitled to refund of Court Fee. Registry shall refund the Court Fee.

29. The parties shall appear before the Trial Court on **25.03.2026** without awaiting any further notice.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE

CHS
List No.: 1 SI No.: 26