

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 9th DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

MISCELLANEOUS FIRST APPEAL NO. 100190 OF 2015

BETWEEN:

- 1 . SMT. SHANTABAI W/O RAMAPPA HAGARI,
AGE: 54 YEARS, OCC: HOUSEHOLD WIFE,
R/O: YADGUD, TQ: HUKKERI,
DIST: BELAGAVI.
2. SHRI CHANNABASAPPA S/O RAMAPPA HAGARI,
AGE:38 YEARS, OCC:COOLIE,
R/O: YADGUD, TQ: HUKKERI,
DIST: BELAGAVI.
3. SHRI MALLIKARJUN S/O RAMAPPA HAGARI,
AGE: 34 YEARS, OCC: COOLIE,
R/O: YADGUD, TQ: HUKKERI,
DIST: BELAGAVI.
4. SMT. SUSHILA W/O SHRIKANT PATIL,
AGE:37 YEARS, OCC: HOUSEHOLD,
R/O: SULTANPUR, TQ: HUKKERI,
DIST: BELAGAVI.
5. SMT. SUMITRA W/O BASAVANT MAGADUM,
AGE:35 YEARS, OCC: HOUSEHOLD,
R/O: GOUNDAWAD, TQ: HUKKERI,
DIST: BELAGAVI.

...APPELLANTS

(BY SRI HANAMANT R. LATUR, ADVOCATE)

AND:

1. SHRI PRASAD S/O SHRIKANT KULKARNI,
AGE:50 YEARS, OCC: BUSINESS,
R/O: LIG-75, MAHANTESH NAGAR,

BELGAUM.
TQ AND DIST: BELAGAVI.

2 . THE DIVISIONAL MANAGER,
UNITED INDIA INSURANCE CO., LTD.,
HAVING ITS OFFICE AT,
MARUTI GALLI, BELAGAVI.

...RESPONDENTS

(BY SMT. GEETA K.M. @ PAWAR, ADVOCATE FOR R1;
SRI. R.R. MANE, ADVOCATE FOR R2)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173 (1) OF THE MOTOR VEHICLES ACT, PRAYING TO MODIFYING THE JUDGMENT AND AWARD PASSED BY COURT OF I ADDITIONAL DISTRICT AND MACT-II, BELGAUM, IN MVC NO.2480/2011 DATED 30.09.2014, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL IS COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 16.03.2026, THIS DAY, DELIVERED THE FOLLOWING:

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

This is an appeal filed by the claimants in MVC No.2480/2011 being aggrieved by the dismissal of their claim petition filed under Section 166 of the Motor Vehicles Act.

2. The case of the claimant is that on 25.06.2011 at about 9.45 a.m., when deceased Ramappa Bhimappa Hagari was proceeding by walk near Maruti Temple Cross Road in Mahantesh Nagar, he met with an accident due to actionable negligence on the part of the rider of the motorcycle bearing No. KA-22-S-9847. Due to the said impact, the deceased

sustained fatal injuries and later on, he succumbed to such injuries while undergoing treatment. In the said circumstances, the claimants maintained the petition in MVC No.2480/2011 under Section 166 of the Motor Vehicles Act seeking compensation for the death of Sri Ramappa Bhimappa Hagari.

3. On service of the notice, the owner and insurer of motorcycle bearing No.KA-22-S-9847 appeared before the Tribunal and contested the petition. Afterwards, the Tribunal decided the claim petition on merits of the case. The Tribunal, based on the materials available on record, proceeded to hold that the claimants have failed to prove the accident in question involving the motorcycle in question and accordingly dismissed the claim petition. Being aggrieved by the said judgment and award, the claimants have preferred this appeal.

4. Sri Hanumant R. Latur, learned Counsel for Claimants vehemently submitted that the Tribunal has failed to consider relevant police papers and other materials placed on record in support of their contention and proceeded to dismiss the claim petition mainly on the ground that there was delay of six days in lodging the complaint. He submitted that the documents produced before the Tribunal such as copies of the complaint, FIR, charge-sheet, P.M. Report and the oral

evidence adduced in the case, prove the accident in question as well as entitlement of the claimants to seek compensation from the owner and insurer of the offending vehicle.

5. Per contra, Smt. Geeta K. M., @ Pawar, learned Counsel for Respondent No.1 and Sri R.R. Mane, learned Counsel for Respondent No.2 supported the findings recorded by the Tribunal and submitted that the Tribunal was justified in dismissing the claim petition as the claimants have failed to prove the deceased having met with a road traffic accident involving the motorcycle bearing No.KA-22-S-9847.

6. In light of the submissions advanced by both parties before this Court, the crucial point that falls for determination is whether the claimants have established that the deceased met with a fatal road traffic accident, involving motorcycle bearing No.KA-22-S-9847 and succumbed to the injuries sustained therein.

7. The case papers indicate that the claimants have examined only Claimant No.3, to corroborate their claim regarding the accident and the vehicle involved therein. Claimant No.3 - Sri Mallikarjun, in his deposition as PW-1, reaffirmed the averments in the claim petition, asserting that

the deceased suffered the accident due to the actionable negligence of the rider of motorcycle No.KA-22-S-9847. However, his cross-examination unequivocally reveals that he was in the village at the material time, who said to have received the information of the incident telephonically from his brother-in-law. Consequently, PW-1 lacks any personal knowledge of the accident in question.

8. The other materials available on record are police papers marked at Ex.P1 to Ex.P6. Ex.P2 is the complaint lodged by Claimant No.3 on 01.07.2011 at 5.00 p.m., after six days from the date of alleged accident and that to, after the death of the injured/deceased. First of all, in the complaint it is stated that on 25.6.2011 at about 1.00 p.m., the brother-in-law called Claimant No.3 and informed that on that day at about 10.00 a.m., the deceased was hurriedly crossing the road, tripped on stone and sustained injuries by fall and that the deceased has been admitted at Lakeview Hospital. It is further stated that pursuant to such information, Claimant No.3 went to concerned hospital, met the deceased and on inquiry, deceased had narrated same version as stated by the brother-in-law and that one Sri Anand Kulakarni of Mateshnagar, Belagavi had brought the deceased to the hospital for treatment. Thus, if we go by

the version of the complaint, it is to be held that neither the claimants nor other relatives of the deceased had any information about the alleged incident till 30.6.2011.

9. In the complaint, it is stated that as the condition of the deceased went on worsening day-by-day, in the morning of 1.7.2011, on suspicion, when Claimant No.3 once again questioned the deceased as to what had happened, the deceased revealed about the accident caused by Sri Anand Kulakarni with motorcycle bearing No.KA-22-S-9847 and that the said Sri Anand had requested the deceased not to reveal the things to anyone by promising to bear all the expenses. It was not the case of the claimants that concerned person was taking care of the deceased during those previous five days. Added to the above, Claimant No.3 has not assigned any reason in the complaint for further delay in lodging the complaint.

10. It is trite law that the claimants are required to establish their case on the touch stone of preponderance of probability. However, it does not dispense with the burden on the claimants of discharging the initial burden of proving their case. The delay in lodging the complaint and lack of justifiable ground for such delay coupled with non-examination of any

person having personal knowledge about the accident undermines the credibility of the case put forth by the claimants. The Tribunal, after having taken note of all these relevant factors and on appreciating the materials placed on record, came to the conclusion that the case of the claimants is not believable. This Court does not find any justification to interfere with well reasoned finding recorded by the Tribunal that the claimants have failed to prove deceased having met with an accident, involving motorcycle bearing No.KA-22-S-9847 or in dismissing the claim petition. Hence, the point for consideration is answered in the negative.

11. In the result, this Court proceeds to pass the following:

ORDER

- (i) The appeal is **dismissed**.
- (ii) Consequently, the judgment and award dated 30.09.2014 passed in MVC No.2480/2011 by the learned I Additional District Judge and MACT-II, Belagavi is confirmed.
- (iii) Draw an award accordingly.

- (iv) The Registry is directed to send back trial court record to concerned Tribunal, forthwith.

**Sd/-
(B. MURALIDHARA PAI)
JUDGE**

YAN
CT: CMU