



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S. KINAGI

MISCELLANEOUS FIRST APPEAL NO. 100716 OF 2024 (MV-I)

BETWEEN:

1. THE BRANCH MANAGER
UNITED INDIA INSURANCE CO. LTD
2ND FLOOR, LIC BRANCH BUILDING
NEAR HEAD POST OFFICE
LAMINGTON ROAD, HUBBALLI
REPRESENTED THROUGH ITS
DIVISIONAL OFFICE, 1ST FLOOR
ANKOLA ARCADE, OPPOSITE
KALABHAVAN, DHARWAD
REP BY ITS SENIOR DIVISIONAL MANAGER

...APPELLANT

(BY SRI. N.R KUPPELUR, ADV)

AND:

1. SRI. HULLAPPA S/O HANUMANTAPPA CHAVADI
AGE 35 YEARS, OCC BMTC DRIVER
R/IO YAVAGAL, TALUK ROAD
DIST GADAG 580021
2. SRI. SHIVAKUMAR S/O DYAMAPPA ABBIGERI
AGE. MAJOR, OCC. BUSINESS
R/O. A.V. JANAGOUDRA ANNAPURNA NILAYA
HOUSE NO.69, 15TH CROSS, LINGARAJ NAGAR
HUBBALLI, DIST. DHARWAD 580008
(OWNER OF THE MOTOR CYCLE
NO.KA-25/EK-6376)

...RESPONDENTS

(BY SRI. PRASHANT S. KADADEVAR, ADV FOR R1,
NOTICE TO R2 IS HELD SUFFICIENT)



THIS MFA IS FILED U/S.173(1) OF MOTOR VEHICLES ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED 18.11.2023 PASSED IN MVC NO.391/2021 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, NAVALGUND, AWARDED COMPENSATION OF Rs.4,38,500/- WITH INTEREST AT 9 PERCENT P.A. FROM THE DATE OF PETITION TILL THE RECOVERY WITHIN ONE MONTH FROM THE DATE OF AWARD.

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

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE ASHOK S. KINAGI)

1. This appeal is filed by the insurer under Section 173(1) of the Motor Vehicles Act, 1988 (for short the 'Act'), challenging the judgment and award dated 18.11.2023, passed in MVC No. 391/2021 by the Senior Civil Judge and Additional MACT, Navalgund (for short the 'tribunal').

2. Brief facts leading rise to the filing of this appeal are as follows:

On 15.10.2020, the claimant was travelling along with Sri. Shrikantagouda Patil on a motorcycle bearing registration No. KA-25/EK-6376. When they reached near the place of the



accident, a snake suddenly came on the road, due to which the rider lost control over the motorcycle and fell down. As a result, the claimant sustained grievous injuries, and incurred substantial medical expenses.

3. Hence, the claimant filed a claim petition under Section 166 of the Act seeking compensation for the injuries sustained in the road traffic accident, and contended that he lost his employment in the year 2021 due to the accident, and resulting disability. Hence, he prays for allowing the claim petition.

4. A notice was issued to the owner of the motorcycle, who remained absent and was placed ex-parte. The insurance company appeared and filed statement of objections, admitting that the vehicle was insured and the policy was in force as on the date of the accident. However, it is contended that the claimant himself was riding the motorcycle, and that the accident occurred due to his own negligence. Therefore, it is contended that there is a violation of policy conditions and that it was not liable to indemnify the insured. Accordingly, prays to dismiss the claim petition against the insurance company.



5. Based on the rival pleadings of the parties, the Tribunal framed the necessary issues for consideration.

6. To substantiate his case, the claimant examined himself as PW1, and examined the doctor as PW2, and marked 17 documents as Ex.P1 to Ex.P17. On behalf of the insurance company, officer of the insurance company was examined as RW1 and marked two documents as Ex.R1 and Ex.R2.

7. After appreciating the oral and documentary evidence, the Tribunal, partly allowed the claim petition vide judgment dated 18.11.2023 and awarded a compensation of ₹4,38,500/- with costs. It held that the owner of the motorcycle, and the insurance company are jointly and severally liable to pay the compensation, and directed the insurance company to deposit the said amount.

8. Being aggrieved by the impugned judgment and award, the Insurance Company filed this appeal.

9. Heard the arguments of learned counsel for the appellant-insurance company, and learned counsel for respondent No.1/claimant.



10. Learned counsel for the insurance company submits that the claimant himself was riding the offending motorcycle. The accident occurred due to his rash and negligent riding. Therefore, there was a violation of policy conditions and the insurance company is not liable to pay the compensation. He further submits that the claimant, in collusion with the police, managed to file a charge sheet showing him as a pillion rider instead of the rider. Hence, the Tribunal committed an error in fastening liability on the insurer. Therefore, on these grounds he prays to allow the appeal.

11. Per contra, the learned counsel for respondent No.1/claimant submits that the charge sheet was filed against Sri. Shrikantagouda Patil, who was riding the motorcycle at the time of the accident. He further submits that the insurance company neither challenged the charge sheet nor examined any eyewitness to prove that the claimant was riding the motorcycle. Therefore, the Tribunal has rightly relied on the charge sheet and held that respondent No.1/claimant was a pillion rider. Hence, on these grounds he prays to dismiss the appeal.



12. Perused the records and considered the submissions of the learned counsel for parties.

13. The point that would arise for consideration is regarding the liability.

14. It is not in dispute that the claimant sustained injuries in the accident that occurred on 15.10.2020. The claimant, to establish that the accident occurred due to rash and negligent riding of rider of the motorcycle, the claimant produced the charge sheet marked as Ex.P8. The said document clearly discloses that Sri. Shrikantagouda Patil was riding the motorcycle as of the date of the accident.

15. To substantiate their defense, the insurance company contended that the claimant himself was riding the motorcycle. However, except examining its officer as RW1, it has not examined any eyewitness to substantiate its contention. Moreover, the insurance company has not challenged the charge sheet filed against Shrikantagouda Patil.

16. The Tribunal, on consideration of the evidence of PW1, PW2 and the contents of the charge sheet (Ex.P8) has rightly held



that the claimant was a pillion rider and that the accident occurred due to the rash and negligent riding of one Shrikantagouda Patil.

17. In view of the above, I do not find any error in the finding recorded by the Tribunal in regard to fastening the liability jointly and severally on the owner and the insurance company. For the foregoing the point is answered accordingly.

18. The learned counsel for the appellant/Insurance Company submits that the Tribunal has awarded interest at the rate of 9% per annum, which is on the higher side, and accordingly prays for the reduction of the same.

19. As rightly pointed out by the learned counsel for the insurance company, it is found that the interest awarded by the Tribunal is on the higher side. Accordingly, the rate of interest is reduced to 6% per annum from 9% per annum.

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

ORDER

- i) The appeal is allowed in part.



- ii) The judgment and award passed by the Tribunal is modified only to the extent of reduction of interest from 9% per annum to 6% per annum from the date of petition till its realization.
- iii) The compensation amount of ₹4,38,500/- awarded by the Tribunal remains unaltered and the rest of the things remains intact.
- iv) The amount in deposit and TCR shall be transmitted to the Tribunal.
- v) Office to draw award accordingly.
- vi) In view of the disposal of the appeal, pending interlocutory applications, if any, do not survive for consideration and are accordingly disposed of.

Sd/-
(ASHOK S. KINAGI)
JUDGE