



**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 21ST DAY OF AUGUST, 2025
BEFORE
THE HON'BLE MR. JUSTICE ASHOK S. KINAGI
MISCELLANEOUS FIRST APPEAL NO. 100197 OF 2014 (MV-I)**

BETWEEN:

1. L & T FINANCE LTD.,
THROUGH ITS BRANCH MANAGER,
1ST FLOOR, WB PLAZA, OPPOSITE TRAFFIC
POLICE STATION, NEW COTTON MARKET,
HUBLI (POLICY ISSUED THROUGH L & T
GENERAL INSURANCE COMPANY LTD. PUNE)
HEREIN R/BY L & T GENERAL INSURANCE
COMPANY LTD., 6TH FLOOR, CITY 2,
PLOT NO.177, CST ROAD, NEAR
BANDRA KURLA TELEPHONE EXCHANGE,
KALINA, SANTACRUZ (EAST), MUMBAI-400098,
R/BY ITS AUTHORIZED SINGNATORY

...APPELLANT

(BY SRI. R.R. MANE, ADV)

AND:

1. SRI. BHARMAPPA DATTAPPA RAJGOLI
AGE: ABOUT 40 YEARS, OCC: TEACHER,
R/O: INDIRA NAGAR, CHIKODI
TQ: CHIKODI, DIST: BELGAUM.
2. SHRI RIYAZ MOHAMMAD SAYYAD
AGE: MAJOR, OCC: BUSINESS,
R/O: SAROLA, TQ: BHOR, DIST: PUNE

...RESPONDENTS

(BY SRI. VISHWANATH K. BHAT, ADV FOR R1,
NOTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED U/SEC.173(1) OF MV ACT 1988, AGAINST
JUDGMENT AND AWARD DTD:27.06.2013, PASSED IN MVC.
NO.674/2012 ON THE FILE OF THE VII ADDL. DISTRICT & SESSIONS
JUDGE, BELGAUM AT CHIKODI, AWARDING THE COMPENSATION OF
RS.1,85,500/- WITH THE INTEREST AT THE RATE OF 6% P.A. FROM
THE DATE OF PETITION TILL THE DATE OF REALIZATION.

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

CORAM: THE HON'BLE MR. JUSTICE ASHOK S. KINAGI



ORAL JUDGMENT

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

1. This Miscellaneous First Appeal is filed by the Insurance Company challenging the Judgment and award dated 27.06.2013 passed in MVC No.674/2012 by the learned VII Additional District and Sessions Judge, Belgaum at Chikodi (for short 'the Tribunal').

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

On 27.11.2011, at about 2:30 p.m. the petitioner, along with one Kuber, were travelling from Belagavi to chikodi on a Hero Honda CD-Deluxe motorcycle bearing registration No.KA-49/J-6450. The driver of the Truck bearing No.MH-12/DH-7177 drove at high speed in a rash and negligent manner and dashed to the motorcycle near kamatnur cross, Sankeshwar. As a result, the petitioner, and Kuber sustained grievous injuries, and Kuber succumbed to the injuries. The petitioner filed a claim



petition under Section 166 of the M.V.Act, seeking a compensation and the legal representatives of Kuber also filed a claim petition in MVC No.148/2012.

3. A Notice was issued to the owner of the Truck bearing No.MH-12/DH-7177. He remained absent and was placed ex-parte.

4. The Insurance Company filed a statement of objections denying the averments made in the claim petition, and contended that the accident occurred due to the rash and negligent riding of the motorcycle bearing No.KA-49/J-6450 and that there was contributory negligence on the part of its rider. It was further contended that the driver did not possess a valid and effective driving license as of the date of the accident and there was a breach of policy conditions. Hence, prays to dismiss the claim petition against the Insurance Company.

5. The Tribunal clubbed both the claim petitions and framed separate issues. The petitioner in MVC



No.674/2012 was examined as PW-2, Petition No.1 in MVC No.148/2012 was examined as PW-1 and marked sixteen documents as Ex.P1 to P16. The Insurance Company marked two documents as Ex.R1 and R2, with consent and did not lead any oral evidence. The Tribunal, after assessing the verbal and documentary evidence allowed the claim petitions in part vide judgment dated 27.06.2013 and held that the petitioner is entitled to a compensation of Rs.2,65,000/- and the tribunal has reduced 30% of the compensation amount as the rider of the motorcycle had contributed to the cause of accident. It is ordered that the Insurance Company is directed to pay 70% of the compensation amount i.e. Rs.1,85,500/- with interest at 6% p.a. from the date of the petition till its realization.

6. The Insurance Company aggrieved by the quantum of compensation awarded by the Tribunal in MVC No.674/212, filed this Miscellaneous First Appeal.



7. Heard the arguments of the learned counsel for the insurance company, and the petitioner.

8. Learned counsel for the Insurance Company submits that the petitioner is working as a teacher, and he continued to work as a teacher even after the accident. He submits that it is not the case of the petitioner that, after the accident, the petitioner was terminated from service, and no records have been produced. He submits that the Tribunal committed an error in awarding compensation under the head of loss of future income. Hence, on these grounds, he prays to allow the appeal.

9. *Per contra*, learned counsel for the petitioner submits that the petitioner has suffered a permanent disability, and he submits that the Tribunal was justified in granting compensation under the heads of loss of future income. Hence, on there grounds, he prays to dismiss the appeal filed by the Insurance Company.



10. Perused the records, and considered the submissions of learned counsel for the parties. The point that would arise is regarding the quantum of compensation.

Regarding quantum of compensation:

11. There is no dispute that the petitioner and Kuber were proceeding on a motorcycle on 27.11.2011, and they met with an accident, and the petitioner sustained grievous injuries, and Kuber also sustained grievous injuries, and succumbed to the injuries. The petitioner to prove that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle, produced the chargesheet marked as Ex.P6. The Tribunal was justified in recording the finding that the rider of the motorcycle as well as the driver of the offending vehicle caused an accident, and there was a contributory negligence on the part of the rider of the motor cycle and driver of the offending vehicle. The liability has been fastened on both i.e., the rider of the motor cycle and the



driver of the offending vehicle at the ratio of 70% : 30% i.e., 70% on the driver of the truck and 30% on the rider of the motor cycle. The petitioner has not produced any records to show that after the accident, the petitioner has discontinued to work as a teacher. In the absence of any document, the Tribunal committed an error in awarding compensation under the head of loss of future income. As rightly pointed out by the learned counsel for the Insurance Company, the petitioner is continued in service, and the petitioner would not be entitled to a compensation under the head of loss of future earnings. The Tribunal committed an error in granting the compensation under the heads of loss of future earnings. Thus, the compensation awarded by the Tribunal needs to be reduced. Thus, the petitioner is entitled to a compensation of Rs.1,03,000/- as against Rs.2,65,000/-(i.e., 2,65,000-1,62,000-1,03,000/-).

12. In view of the above discussion, I proceed to pass the following:



ORDER

- (i) The Appeal is allowed in part.
- (ii) The Judgment and award dated 27.06.2013 in MVC No.674/2012 passed by the learned VII Additional District and Sessions Judge, Belgaum at Chikodi, is hereby modified.
- (iii) The compensation awarded by the Tribunal needs to be reduced. Thus, the petitioner is entitled to a compensation of Rs.1,03,000/- as against Rs.2,65,000/-.
- (iv) Out of that the petitioner is entitled to a compensation of Rs.72,100/- as there is a contributory negligence on the part of the rider of the motorcycle, i.e., 70% of the compensation amount is to be paid by the Insurance Company and 30% is to be borne by the rider of the motorcycle. The Insurance Company is directed to deposit



the compensation amount of Rs.72,100/-
within a period of eight weeks from the date
of receipt of a copy of this Judgment.

- (v) The appellant/insurance company is entitled
to a refund of the amount after deducting
the compensation amount, with accrued
interest.
- (vi) The amount, if any, and the Trial Court
Records, be transmitted to the Tribunal
forthwith.

SD/-
(ASHOK S. KINAGI)
JUDGE