



HC-KAR

NC: 2026:KHC-D:4645
MFA No. 20052 of 2013

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

MISCELLANEOUS FIRST APPEAL NO.20052 OF 2013 (MV)

BETWEEN:

THE DIVISIONAL MANAGER,
M/S ORIENTAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE VISHNU PRAKASH,
3RD FLOOR COURT ROAD, UDAPI.
REPRESENTED BY IT'S ASST MANAGER, REGIONAL
OFFICE, SUMANGALA COMPLEX,
LAMIGTON ROAD, HUBLI-29.

...APPELLANT

(BY SRI GN RAICHUR, ADVOCATE-(VC))

AND:

1. SHRI KRISHNAPPA S/O SIDAPPA,
AGE: 36 YEARS, OCC: SHAMIYANA CONTRACTOR,
R/O.927 HAGENAHALLI CROSS, SANJEEVINI NAGAR,
VISHWANIDHAMA PEENYA II DIST: BANGALORE.
2. SHRI RIYAZ AHMED MISHRIKOTI
S/O ABDUL GAFFUR MISHRIKOTI,
AGE: 27 YEARS, OCC: BUSINESS MEN
CHETAK AUTO SERVICE STATION
BANKAPUR CHOWK HUBLI.

...RESPONDENTS

(NOTICE TO R1 IS HELD SUFFICIENT;
NOTICE TO R2 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
PRAYING TO SET ASIDE THE JUDGMENT AND AWARD PASSED IN MVC
NO.39/2008 DATED 27.09.2012 PASSED BY THE COURT OF THE
MOTOR ACCIDENT CLAIMS TRIBUNAL HONNAVAR AT HONNAVAR BY
ALLOWING THIS APPEAL WITH COST IN THE ENDS OF
JUSTICE AND EQUITY.

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



CORAM: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 27.09.2012 passed by Motor Accident Claims Tribunal, Honnavar¹ in MVC no.39/2008, this appeal is filed.

2. Sri GN Raichur, learned counsel for appellant submitted appeal was by insurer challenging finding of Tribunal on negligence. It was submitted as per claimant at 9:00 pm on 06.07.2006, when he was riding motorcycle no.KA.47/E-1211 on NH.17 near Kannada School, Kasarakod, driver of Tipper lorry no.KA.25/C-9385 proceeding in front of motorcycle applied brakes suddenly and stopped lorry in middle of road, without giving signal or indicators. As a consequence, motorcycle dashed against hind side of Lorry, due to which, claimant sustained grievous injuries. Despite treatment, he did not recover fully and sustained loss of earning capacity. Therefore, he filed claim petition under Section 166 of MV Act against owner and insurer of Lorry.

¹ For short, 'Tribunal'



3. On appearance, claim petition was opposed on all counts. Based on pleadings, Tribunal framed issues and recorded evidence. Claimant examined himself and two others (including Dr.Udaykumar) as PWs.1 to 3 and got marked Exs.P1 to P43. Respondents did not lead oral evidence but got marked copy of insurance policy as Ex.R1 with consent.

4. On consideration, Tribunal held accident occurred due to rash and negligent driving of lorry by its driver and claimant was entitled for compensation of Rs.1,82,000/- with interest from insurer. Aggrieved, insurer was in appeal.

5. It was submitted, accident occurred when claimant's motorcycle dashed against parked Lorry from behind. During cross-examination, claimant admitted he was not used to riding motorcycle on NH.17 and was unaware of parking of vehicles near Kasarakod School, which would support inference that accident occurred due to negligence of claimant himself. Therefore, insurer could not be held liable to pay compensation and prayed for allowing appeal.

6. Respondents are served unrepresented.



7. Heard learned counsel for Insurer, perused impugned judgment, award and record.

8. Since insurer is in appeal challenging finding on negligence, point that would arise for consideration is,

“Whether Tribunal was justified in holding driver of insured vehicle was solely responsible for accident?”

9. It is seen challenge of finding on negligence is substantially based on fact that police after investigation had filed charge sheet against claimant-motorcycle rider as motorcycle had dashed against hind side of parked Lorry. On other hand, in order to establish actionable negligence against owner/insurer, claimant relied on Ex.P3 - judgment passed in CC no.618/2007 acquitting claimant of charges of rash and negligent riding and causing accident. Claimant also relied on Ex.P4 - Private Complaint no.162/2006 filed by claimant arraigning lorry driver for negligent parking of lorry in middle of road and FIR registered in pursuance of same as Ex.P5.



10. Normally, in motor vehicle accident claims police investigation records would suffice to draw prima-facie inference of negligence. Since, in charge sheet filed against claimant, he is acquitted, Tribunal was required to decide negligence based on evidence led before it. In pleading as well as deposition, claimant stated that driver of lorry proceeding in front of motorcycle applied brakes suddenly and stopped Lorry in middle of road without signal or indicator. Whereas, insurer contends that lorry was parked by side of road to which claimant's motorcycle dashed from behind.

11. Admittedly, accident occurred at 9:00 p.m. on NH.17 which is a highway. Ex.P11-accident spot panchanama records that accident occurred on NH.17 running North to South with 24 feet wide Tar Road, having 6 feet kaccha road. Both vehicles were proceeding from South to North and accident spot was located at distance of 9 feet from Eastern edge of tar road. Motorcycle was found to be stuck between right rear wheels of Lorry. This would clearly imply that lorry had stopped in middle of National Highway. There is no reference to parking signal or indicators having being switched on.



12. Regulation 14 of Rules for Road Regulations, 1989 in force in Karnataka, read:

"14. Parking of the Vehicle: Every driver of a motor vehicle parking on any road shall park in such a way that it does not cause or is not likely to cause danger, obstruction or undue inconvenience to other road users and in the manner or parking is indicated by any signboard or markings on the roadside, he shall park his vehicle in such manner."

13. Thus, burden would be on driver of Lorry to establish that he had parked it by employing above precautions. But there is no material to this effect. While passing impugned award, Tribunal noted acquittal of claimant as well as direction to investigate on private complaint filed against Lorry Driver and said case having been closed due to inability to serve summons on Lorry Driver. Tribunal took note of fact that after accident, claimant was unconscious and therefore unable to give complaint. It also noted that insurer had averred in its objections that Lorry Driver had taken precaution, switched on indicators and parking lights, but failed to substantiate same. Therefore, drawing adverse inference for non-examination of driver, it held negligence solely against Lorry Driver. Thus, finding of Tribunal on negligence is after due appreciation of material on record and



based on reasons, leaving no grounds to interfere. Point for consideration answered in affirmative. Consequently, following:

ORDER

- i. Appeal is **dismissed**.
- ii. Amount in deposit is ordered to be transmitted to Tribunal for payment.
- iii. Balance amount to be deposited within 6 weeks.

**Sd/-
(RAVI V.HOSMANI)
JUDGE**