



IN THE HIGH COURT OF KARNATAKA AT DHARWAD
DATED THIS THE 26TH DAY OF MARCH, 2026
BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

MISCELLANEOUS FIRST APPEAL NO.100466 OF 2015 (MV)

BETWEEN:

SRI RAMESH S/O SHIVALING MUDAVI,
AGE: 33 YEARS, OCC: MILK COLLECTOR AND AGRI.,
R/O: KATRAL, TQ: ATHANI, DIST: BELAGAVI.

...APPELLANT

(BY SRI KH BAGI, ADVOCATE)

AND:

1. SRI PARASURAM S/O GURUPAD MUDAVI,
AGE: 31 YEARS, OCC: AGRIL.,
R/O: WALVA NOW AT KATRAL,
TQ: ATHANI, DIST: BELAGAVI.
2. THE NEW INDIA ASSURANCE CO. LTD.,
H.O. NEW INDIA ASSURANCE BUILDING,
87 M.G. ROAD, FORT, MUMBAI-01,
THROUGH KARAD BRANCH.

...RESPONDENTS

(BY SRI PV SAMBARGI, ADVOCATE FOR R1;
SRI SS KOLIWAD, ADVOCATE FOR R2)



THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT 1988 PRAYING TO SET ASIDE THE JUDGMENT AND AWARD PASSED BY THE LEARNED PRL. SENIOR CIVIL JUDGE AND ADDL. MACT ATHANI IN MVC NO.1569/2009 DATED 05.10.2012 AND GRANT COMPENSATION OF RS.7,00,000/- WITH INTEREST, BY ALLOWING THIS M.F.A. WITH COSTS IN THE INTEREST OF JUSTICE & ETC.

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

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



ORAL JUDGMENT

Challenging judgment and award dated 05.10.2012 passed by Principal Senior Civil Judge and Additional MACT, Athani ('**Tribunal**', for short) in MVC no.1569/2009, this appeal is filed.

2. Sri KH Bagi, learned counsel for claimant submitted that on 10.03.2009 at 11:30 a.m., claimant was walking by side of Ainapur - Athani road, when driver of jeep no.MH-23/B-1203, drove it in rash and negligent manner and dashed against claimant. In accident, claimant sustained injuries and despite treatment, he did not recover fully and sustained loss of earning capacity. Therefore, he filed claim petition against owner and insurer of jeep under Section 166 of Motor Vehicles Act, 1988.

3. On contest wherein claim petition was opposed on all grounds including that insured vehicle was falsely implicated, Tribunal framed issues and recorded evidence. Claimant examined himself and two others as PWs1 to 3 and got marked Exhibits P1 to P92. Insurer did not lead any oral evidence, but got marked copy of insurance policy with consent as Ex.R1.



4. However, Tribunal dismissed claim petition on erroneous finding that claimant had failed to establish occurrence of accident due to rash and negligent driving of insured vehicle. It was submitted, said finding was contrary to material available on record and therefore, sought for allowing appeal.

5. On other hand, Sri SS Koliwad, learned counsel for respondent - insurer opposed appeal. It was submitted that Tribunal had taken note of contents of exhibits by referring to deposition of PW2 and therefore, there was no scope for interference.

6. Heard learned counsels, perused impugned judgment, award and record.

7. This appeal is by claimant challenging dismissal of claim petition. Perusal of impugned award would reveal that claim petition is dismissed on ground that PW2-doctor examined by claimant to substantiate injuries and disability, stated that claimant came to his hospital with his left forearm wrapped in a towel and soaked with blood. History of alleged injury was noted as due to RTA while he was working on Grading Machine and



there was degloving crush injury of forearm proximal to hand etc., In cross-examination, insurer elicited admission that patient was not admitted as a medico legal case.

8. Apart from above, perusal of Ex.P1 – complaint reveals that it was filed on 02.05.2009 in respect of accident that occurred on 10.03.2009 i.e. nearly two months later. Thus, delay in filing complaint, as well as statement of doctor who had treated claimant would substantiate finding of Tribunal that accident did not occur due to rash and negligent driving of insured vehicle, but while claimant was operating a grading machine. When finding of Tribunal is on basis of material on record and assigning reasons, there would be no justification for interfering with same.

9. Hence, appeal is dismissed.

Sd/-
(RAVI V.HOSMANI)
JUDGE

CLK/CKK,
CT:VP
LIST NO.: 1 SL NO.: 13