IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 27TH DAY OF February, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.101930 OF 2016 C/W
MISCELLANEOUS FIRST APPEAL NO.101931 OF 2016 (MVC)

IN MFA NO.101930/2016:

BETWEEN:

1. SMT.SHAMBAI W/O. RAMZAN HAXAN KALLOLI, (KALLOLE), AGE: 47 YEARS, OCC: HOUSEHOLD WORK.

2. KUMARI. TAJMAHAL D/O. RAMZAN HASN KALLOLE, AGE: 25 YEARS, OCC: HOUSEHOLD WORK.

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Location: High Court of Karnataka, Dharwad Bench

3. KUMARI MAHASABI D/O. RAMZAN HASN KALLOLI (KALLOLE), AGE: 21 YEARS, OCC: HOUSEHOLD WORK.

ALL ARE R/O: KAKATI, TQ: BELAGAVI, DIST: BELAGAVI.

... APPELLANTS

(BY SRI. B.M. PATIL, ADVOCATE)

AND:

1. SHRI. RAJU S/O. RAMZAN KALLOLE, AGE: MAJOR, OCC: BUSINESS, R/O: SHIRAGAON, TQ: CHIKKODI, DIST: BELAGAVI-590001. (OWNER OF MOTORCYCLE BEARING REG NO.KA-23/EF-9665)

2. THE NATIONAL INSURANCE CO. LTD., THROUGH ITS DIVISIONAL OFFICE, RAMDEV GALLI, BELAGAVI-590001. (INSURER OF THE MOTOR CYCLE

BEARING NO.KA-23/EF-9665,
POLICY NO.3901023113620256 7493,
VALID FROM 22-10-2013 TO
21-10-2014)

... RESPONDENTS

(BY SMT. CHITRA M. GOUDALKAR, ADVOCATE FOR R1;
SRI. VADIRAJ P. VADAVI, ADVOCATE FOR R2)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD IN M.V.C NO.1821/2014 DATED 05.04.2016 PASSED BY THE COURT OF V ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MACT VI, BELAGAVI BY ALLOWING THIS APPEAL IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA NO.101931/2016:

BETWEEN:

1. SHRI. CHANDRASHEKAR @ MAHADEV
S/O. SHETTEPPA MAGADUM,
AGE: 60 YEARS, OCC: NIL,
R/O: KAKATI, TQ & DIST: BELAGAVI.

2. SMT. VIMAL CHANRASHEKHAR
@ MAHADEV MAGADUM,
AGE: 57 YEARS,
OCC: HOUSEHOLD WORK,
R/O: KAKATI, TQ & DIST: BELAGAVI.

3. SMT. SARIKA
W/O. RAVI MAGADUM (CARRYING),
AGE: 23 YEARS, OCC: HOUSEHOLD WORK,
R/O: KAKATI,
TQ & DIST: BELAGAVI.

... APPELLANTS

(BY SRI. B.M. PATIL, ADVOCATE)

AND:

1. SHRI. RAJU S/O. RAMZAN KALLOLE,
   AGE: MAJOR,
   OCC: BUSINESS,
   R/O: SHIRAGAON, TQ: CHIKKODI,
   DIST: BELAGAVI.
   (OWNER OF MOTORCYCLE BEARING
   REG. NO.KA-23/EF-9665)

2. THE NATIONAL INSURANCE CO. LTD.,
   THROUGH ITS DIVISIONAL OFFICE,
   RAMDEV GALLI, BELAGAVI.

   (INSURER OF THE MOTOR CYCLE
   BEARING NO.KA-23/EF-9665,
   POLICY NO.39010231136202567493,
   VALID FROM 22-10-2013 TO 21-10-2014)

… RESPONDENTS

(BY SMT. CHITRA M. GOUDALKAR, ADVOCATE FOR R1;
SRI. VADIRAJ P. VADAVI, ADVOCATE FOR R2)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT 1988, PRAYING TO ENHANCE THE COMPENSATION BY MODIFYING THE JUDGMENT AND AWARD IN M.V.C.NO.1822/2014 DATED 05.04.2016 PASSED BY THE COURT OF THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MACT VI, BELAGAVI AND ALSO SADDLE THE LIABILITY ON RESPONDENT NO.2 INSURANCE COMPANY IN THE INTEREST OF JUSTICE AND EQUITY.

THESE MISCELLANEOUS FIRST APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 19.02.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

1. MFA No.101930/2016 and MFA No.101931/2016 arise out of the common judgment and award dated 28.12.2015 passed by the Addl. Senior Civil Judge and MACT, Athani, in MVC No.1821/2014 and MVC No.1822/2014. Since both the claim petitions arise out of the same road traffic accident dated 17.08.2014, they are disposed of by this common judgment.

2. Parties are referred to as per their ranking before the Tribunal.

3. The facts leading to the filing of these appeals are that, on 17.08.2014 deceased Ramzan Hasan Kallole and deceased Ravi Mahadev Magadum were proceeding on Motorcycle bearing No.KA-23-EF-9665 from Chikkodi towards Chinchani. Ravi was riding the motorcycle and Ramzan was his pillion. When a herd of buffaloes suddenly came across the road, the rider attempted to avoid collision by swerving the vehicle towards the roadside, but dashed against a stone, resulting in the accident. Ramzan sustained

fatal injuries and died on the spot. Ravi sustained grievous injuries and later succumbed during treatment at KLE Hospital, Belagavi. The motorcycle was owned by respondent No.1 and insured with National Insurance Company Limited under a valid policy covering the date of accident.

2. MVC No.1821/2014 filed under Section 163-A of the Motor Vehicles Act for the death of Ramzan, the Tribunal dismissed the petition on the ground that the income of the deceased exceeded Rs.40,000/- per annum and therefore the petition was not maintainable under Section 163-A.

3. MVC No.1822/2014 filed under Section 166 for the death of Ravi, the Tribunal awarded compensation of Rs.5,05,000/- with interest at 9% per annum but fastened the liability solely on the owner holding that the rider did not possess a valid and effective driving licence and that there was breach of policy condition.

4. Aggrieved by dismissal of MVC No.1821/2014 and by fastening of liability on the owner in MVC No.1822/2014, the claimants have preferred these appeals.

5. Learned counsel for the appellants contended that in view of the Motor Vehicles (Amendment) Act, 2019, Section 164 has been substituted providing for fixed compensation of Rs.5,00,000/- in case of death without proof of negligence and without any income restriction. Reliance is placed upon the judgment of the Hon'ble Supreme Court in ***RAM MURTI AND OTHERS VS. PUNJAB STATE ELECTRICITY BOARD AND ANOTHER, CIVIL APPEAL NO.7143/2022***, wherein it is held that Section 140 stood omitted and Section 164 provides for payment of compensation of Rs.5,00,000/- in case of death on no-fault basis. It is therefore contended that dismissal of the petition on the ground of income exceeding Rs.40,000/- is unsustainable.

6. It is further contended that the Tribunal erred in fastening liability solely on the owner. The insurance company has not examined any official from the RTO nor

produced cogent evidence to establish that the rider did not possess a valid driving licence. Mere issuance of notice to the owner is not sufficient to discharge the burden of proving breach of policy condition. Hence, the insurer is liable to indemnify the owner and satisfy the award. Hence, he prays to allow the appeals.

7. Per contra, the insurance company contends that the accident occurred in the year 2014 and the amendment of 2019 cannot be applied retrospectively. It is further contended that despite notice the owner failed to produce the driving licence and therefore adverse inference must be drawn. According to the insurer, there is violation of policy condition and it is not liable. Hence, he prays to dismiss the appeals.

8. Heard the learned counsel for the parties and perused the material on record.

9. It is not in dispute that the accident occurred on 17.08.2014 and that both deceased persons died due to injuries sustained in the said accident involving the insured motorcycle. The finding of the Tribunal regarding

involvement of the vehicle and death due to accident has attained finality.

10. Insofar as MVC No.1821/2014 is concerned, the Tribunal dismissed the petition solely on the ground that the income of the deceased exceeded Rs.40,000/- per annum and therefore the petition under Section 163-A was not maintainable. It is to be noted that by Act 32 of 2019, Section 140 has been omitted and Section 164 has been substituted providing for fixed compensation of Rs.5,00,000/- in case of death and Rs.2,50,000/- in case of grievous hurt on no-fault basis. The Hon'ble Supreme Court in ***RAM MURTI'S*** *case (supra)* has observed that Section 164 provides for statutory compensation without requirement of proving negligence. The provision being beneficial in nature is intended to provide social security to victims of motor accidents. In light of the law declared by the Apex Court, the technical dismissal of the claim petition on the ground of income ceiling cannot be sustained. The claimants in MVC No.1821/2014 are therefore entitled to compensation of Rs.5,00,000/- under Section 164 of the Act.

11. Insofar as MVC No.1822/2014 is concerned, the Tribunal has awarded compensation of Rs.5,05,000/-, which ought to have been Rs.5,00,000/- as per ***RAM MURTI'S*** *case (supra)*. The question is with regard to liability. The burden to prove breach of policy condition lies on the insurer. Except producing copies of notices issued to the owner and RTO, the insurer has not examined any official from the RTO nor produced any certified extract to show that the rider did not possess a valid driving licence on the date of accident. In the absence of cogent and satisfactory evidence, the insurer cannot avoid its statutory liability. Therefore, the finding of the Tribunal fastening liability solely on the owner is liable to be set aside and the insurer is required to indemnify the insured and satisfy the award.

12. Accordingly, this Court proceeds to pass the following:

ORDER

i) M.F.A. No.101930/2016 is ***allowed***.

ii) The claimants are entitled for total compensation of Rs.5,00,000/- with interest at 9% per annum from the date of petition till realization.

iii) M.F.A. No.101931/2016 is ***partly allowed***.

iv) The compensation of Rs.5,00,000/- awarded by the Tribunal with interest at 9% per annum is ***modified***.

v) However, the liability to pay the said compensation is fastened on respondent No.2 – Insurance Company.

vi) The insurer shall deposit the compensation amount with accrued interest within six weeks from the date of receipt of a certified copy of this judgment.

vii) The apportionment and deposit directions issued by the Tribunal shall remain unaltered.

viii) The TCR shall be transmitted to the Tribunal forthwith.

Ordered accordingly.

Sd/-
(DR. K.MANMADHA RAO)
JUDGE

KGK/CT:ASC