



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE ASHOK S. KINAGI

WRIT PETITION NO.102535 OF 2025 (GM-RES)

BETWEEN:

FARIDA D/O. HATELSAB PEERASABANAVAR,
(AFTER MARRIAGE FAREEDA MABUSUBANI
KAMBARGANAVI)
AGE. 28 YEARS, OCC. HOUSEHOLD,
R/O. C/O. MABUSUBANI KAMBARGANAVI,
HOUSE NO.348/2, NEAR GYNAN JYOTI SCHOOL,
TIMMAPUR, PO. MAREWAD,
TQ. AND DIST. DHARWAD-581201.

...PETITIONER

(BY SRI. MAQBOOLAHAMED M.PATIL, ADVOCATE)

AND:

1. SOMALINGAPPA
S/O. BHIMAPPA JALAGAR,
AGE. 59 YEARS, OCC. AGRICULTURE,
R/O. TIMMAPUR, PO. MAREWAD,
TQ. AND DIST. DHARWAD-581201.
2. FATIMA
W/O. HATELASAB PEERASABANAVAR,
AGE. 58 YEARS, OCC. COOLI,
R/O. TIMMAPUR, PO. MAREWAD,
TQ. AND DIST. DHARWAD-581201.



3. JAINABI
D/O. HATELASAB PEERASABANAVAR,
AGE. 36 YEARS, OCC. NIL,
R/O. TIMMAPUR, PO. MAREWAD,
TQ. AND DIST. DHARWAD-581201.
4. ASHADA
S/O. HATELASAB PEERASABANAVAR,
AGE. 28 YEARS, OCC. NIL,
R/O. TIMMAPUR, PO. MAREWAD,
TQ. AND DIST. DHARWAD-581201.

...RESPONDENTS

(NOTICE TO R1 TO R4 ARE SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING THE ORDER PASSED IN EXECUTION PETITION BEARING NO. EX NO.265/2019 DATED 14/12/2024 PENDING ON THE FILE OF HON'BLE I ADDL. SENIOR CIVIL JUDGE AND CJM, DHARWAD (ANNEXURE-E). B) RESTORE THE EXECUTION PETITION BEARING NO. EX. NO.265/2019 ON THE FILE OF I ADDL. SENIOR CIVIL JUDGE AND CJM, DHARWAD. C) ANY OTHER RELIEFS THIS HON'BLE COURT DEEMS FIT MAY PLEASE BE GRANTED IN FAVOUR OF THE PRESENT PETITION. D) ALL THE COST OF THIS PETITION.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



ORAL ORDER

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

1. The petitioner has filed this writ petition challenging the order passed in Execution Petition bearing Ex No.265/2019 dated 10.12.2024 on the file of the Learned I Additional Senior Civil Judge and CJM, Dharwad, and seeks to restore Execution Petition No.265/2019 on the file of the learned I Additional Senior Civil Judge and CJM, Dharwad.

2. Brief facts, leading rise to the filing of this writ petition are as follows:

3. The petitioner and respondents Nos. 2 to 4 filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the MV Act'), seeking compensation on account of the death of Mahaboob Sab in MVC No.329/2017 on the file of the Learned I Additional Senior Civil Judge and CJM, Dharwad.



4. The Tribunal, after recording evidence, allowed the claim petition in part on 23.08.2019 and awarded compensation of Rs.12,22,400/-, directing the owner of the offending vehicle to pay the compensation amount.

5. The owner of the offending vehicle preferred an appeal in MFA No.100300/2020, while the petitioner and respondents Nos.2 to 4 filed a cross-objection in MFA No.100055/2022.

6. This Court, vide judgment dated 27.01.2023, allowed the appeal and cross-objection in part, enhancing the total compensation to Rs.15,43,700/- with interest at 6% per annum from the date of the claim petition until the date of deposit, and directed the owner of the vehicle to pay the same.

7. Thereafter, the petitioner and respondents Nos.2 to 4 filed an Execution Petition No.265/2019. During the pendency of the execution, respondents Nos.1 to 4 appeared before the Lok-Adalath, on 10.12.2024, and filed a joint memo agreeing to deposit the settled amount, and



prayed for dismissal of the execution petition. The Execution Petition was accordingly closed.

8. The petitioner contended before the Executing Court that he was not a party to the compromise recorded before the Lok-Adalath, and that the said compromise is not binding on him. The Executing Court passed an order stating that the petitioner is at liberty to challenge the Lok-Adalath order by a remedy known to law, and disposed of the application. The petitioner, aggrieved by the same, filed this writ petition.

9. Heard the arguments of the learned counsel for the petitioner.

10. Learned counsel for the petitioner submits that the Lok-Adalath erred in closing the entire execution petition, as the petitioner was not a party to the compromise/Joint memo filed. he further submits that the Execution Petition regarding of the petitioner could and should have continued. Accordingly, prays to allow the petition.



11. Perused the records and considered the submission of the learned counsel for the petitioner.

12. It is undisputed fact that the petitioner and respondents Nos.2 to 4 filed a claim petition in MVC No.329/2017 under Section 166 of the MV Act. The Tribunal allowed the claim in part, which was subsequently modified by this Court on 27.01.2023 in miscellaneous First Appeal and cross objection.

13. The petitioner and respondents Nos.2 to 4 filed Execution Petition No.265/2019. During the pendency, respondents Nos.1 to 4 filed a joint memo before the Lok-Adalath on 10.12.2024.

14. Admittedly, the petitioner was not a party to the joint memo. The Executing Court, without considering this fact, closed the execution petition entirely.

15. The Executing Court did not take into consideration that the petitioner was not a party to the joint memo. The Executing Court could have permitted the



petitioner to continue with the execution petition, on the contrary it has closed the petition.

16. Consider the matter, it is necessary to examine Order XXIII, Rule 3 of the Code of Civil Procedure, which reads as follows:

"3. Compromise of suit.-[(1)] Where it is proved to the satisfaction of the Court that a suit has been adjusted wholly or in part by any lawful agreement or compromise "[in writing and signed by the parties] or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject-matter of the suit, the Court shall order such agreement, compromise or satisfaction to be recorded, and shall pass a decree in accordance therewith [so far as it relates to the parties to the suit, whether or not the subject-matter of the agreement, compromise or satisfaction is the same as the subject-matter of the suit]:

[Provided that where it is alleged by one party and denied by the other that an adjustment or satisfaction has been arrived at, the Court shall decide the question, but no adjournment shall be granted for the purpose of deciding the question, unless the Court, for reasons to be recorded, thinks fit to grant such adjournment.]

[Explanation. An agreement or compromise which is void or voidable under the Indian Contract Act, 1872,



shall not be deemed to be lawful within the meaning of this rule.]”

17. Order XXIII Rule 3(1) of the Code of Civil Procedure provides that Any party to the proceedings in respect of the whole or any part of the subject matter of the suit may compromise, and the Court shall record such agreement, compromise, or satisfaction and pass a decree in accordance therewith, so far as it relates to the parties to the compromise, whether or not the subject matter of the agreement, compromise, or satisfaction covers the entire subject matter of the suit.

18. Admittedly, the petitioner was not a party to the joint memo/agreement, and further, the Executing Court did not record any satisfaction regarding the joint memo.

19. The Executing Court could have closed the execution petition insofar as it related to respondents Nos. 2 to 4, but it could not have closed the petition in respect of the petitioner.



20. Hence, the Executing Court committed an error in passing the order dated 05.02.2025 in so far as petitioner's claim is concerned.

21. In view of the above, the following:

ORDER

- i. The writ petition is allowed.
- ii. Execution Petition No.265/2019 shall continue in so far as the petitioner is concerned and the Executing Court is directed to proceed with the matter and pass appropriate orders in accordance with law.
- iii. Pending applications if any shall stand disposed of.

**Sd/-
(ASHOK S. KINAGI)
JUDGE**