

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 05TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

MISCELLANEOUS FIRST APPEAL NO.101975 OF 2015

BETWEEN:

1. SMT. RENUKA,
W/O ASHOK BAJANTRI,
AGE: 34 YEARS,
OCC: HOUSEHOLD WORK,
R/O: NANDAGHAD,
TQ: KHANAPUR,
DIST: BELAGAVI,
THE APPELLANT HEREIN
REPRESENTED THROUGH
NEXT FRIEND BY
SMT. KAMALAWWA SIDDAPPA BAJANTRI,
AGED: ABOUT 57 YEARS,
OCC: HOUSEHOLD WORK,
R/O: NANDAGAD, TQ: KHANAPUR, DIST:
BELAGAVI.
2. KUMARI SAVITA,
D/O ASHOK BAJANTRI,
AGE: 11 YEARS,
OCC: STUDENT,
R/O: NANDAGHAD, TQ: KHANAPUR,
DIST: BELAGAVI.
(THE APPELLANT NO.2 HEREIN IS
MINOR AND AS SUCH
REPRESENTED THROUGH
NEXT FRIEND BY
SMT. KAMALAWWA SIDDAPPA BAJANTRI,
WHO IS REPRESENTING THE APPELLANT NO.1)

...APPELLANTS

(BY SRI SANJAY S. KATAGERI, ADVOCATE)

AND:

1. SHRI MOHAMMED SADIQ
MOHAMMAD GOUSE,
AGE: MAJOR, OCC: BUSINESS,
R/O: H.NO.1032,
KAZI STREET, NANDAGHAD,
TQ: KHANAPUR,
DIST: BELAGAVI.
(OWNER OF THE TRUCK
BEARING NO.KA-25/B-9400)
2. THE MANAGER,
RELIANCE GENERAL INSURANCE
CO. LTD.,
MAHADEV PLAZA, CTS NO.10719,
NEAR KOLHAPUR CIRCLE,
NEHRU NAGAR, BELAGAVI.

...RESPONDENTS

(BY SRI H.M. DHARIGOND, ADVOCATE FOR R1
SRI S.S. GUNDI, ADVOCATE FOR R2)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173 (1) OF THE MOTOR VEHICLES ACT 1988, PRAYING THAT, THE JUDGMENT AND AWARD PASSED BY THE DATED:27.02.2015, IN MVC.NO.1809/2011 ON THE FILE OF THE I ADDITIONAL DISTRICT JUDGE AND MEMBER ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL-II, BELGAUM, IN DISMISSING THE CLAIM PETITION WITH COST BE SET ASIDE, BY ALLOWING THIS APPEAL AND AWARDED THE COMPENSATION OF RS.10,00,000/-WITH INTEREST AT 18% PER ANNUM FROM THE DATE OF PETITION TILL PAYMENT AND BY FASTENING THE LIABILITY TO PAY COMPENSATION ON RESPONDENTS NO.1 AND 2 HEREIN JOINTLY AND SEVERALLY CANNOT BE FASTENED ON THE RESPONDENT NO.2 HEREIN, THEN THE SAME MAY KINDLY BE FASTENED ON THE RESPONDENT NO.1 HEREIN, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL COMING ON FOR HEARING, HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 18.03.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

Feeling aggrieved by dismissal of the claim petition, the claimants in MVC No.1809/2011 on the file of learned I Additional District Judge and Motor Accident Claims Tribunal-II, Belagavi have preferred this appeal.

2. The claimants in MVC No.1809/2011 are the wife and daughter of Sri Ashok Yallappa Bajantri. They maintained this petition under Section 166 of Motor Vehicles Act against the owner and insurer of truck bearing No.KA-25-B-9400, seeking compensation of Rs.10,00,000/- for the death of Sri Ashok Yallappa Bajantri in an accident occurred on 09.05.2011 at about 8.00 p.m., allegedly caused by the driver of the said truck.

3. The notice of the claim petition was served on the owner and the insurer of the truck. In spite of the same, the owner remained absent before the Tribunal. As such, he was placed ex-parte. The insurer appeared before the Tribunal through its counsel and contested the petition by filing the objection. They denied the accident as well as involvement of truck in question in the alleged incident. They further

contended that even otherwise the truck was said to be parked on a private plot of one Sri Herekar, and it was not a public place. Hence, they submitted that the Tribunal has no jurisdiction to entertain the claim petition.

4. Based on the pleadings and the materials on record, the Tribunal framed relevant issues, recorded evidence of the parties, heard their arguments and disposed of the claim petition on merits of the case vide impugned judgment. The Tribunal dismissed the claim petition on the ground that the evidence on record does not establish involvement of the truck and actionable negligence on the part of its driver.

5. Sri Sanjay S. Katageri, learned Counsel for the Claimants vehemently submitted that the Tribunal was not justified in dismissing the claim petition as the claimants proved the involvement of the offending vehicle in the accident based on the charge sheet, which came to be filed after due investigation. He submitted that the Tribunal committed an error in appreciating the evidence of PW-2 and the contents of the documents produced at Exs.P1, P2 and P7. He further submitted that the Tribunal committed an error in holding that the place of accident was not a public place. He contended that the Tribunal ought to have drawn an adverse inference against

the owner of the truck, who failed to appear and examine any person to dispute the accident though a complaint was lodged against the driver of his vehicle and later a charge sheet was filed against the said person. In the above circumstances, he prayed to allow the appeal and to award suitable compensation to the claimants.

6. Per contra, Sri S.S. Gundi, learned Counsel for the Insurer, strenuously submitted that neither the claimants stepped into the witness box to support their claim nor examined any eye witness to prove the accident. He submitted that even according to the police papers the dead body was found in a private property and not on public road. As such, he contended that the claimants have failed to prove their case and that the Tribunal has rightly dismissed the claim petition.

7. Sri H.M. Dharigond, learned Counsel for the Owner, supported the findings recorded by the Tribunal and submitted that the claimants have not made out any valid ground to interfere with the impugned judgment and award.

8. Having heard the Counsel appearing for both sides and perused the materials available on record, the following points arise for the consideration of this Court:

- (i) Whether the Tribunal is justified in holding that the claimants have failed to prove the involvement of the truck bearing No.KA-25-B-9400 in the alleged incident and actionable negligence on the part of its driver?
- (ii) Whether the claimants have made out valid grounds to interfere with impugned judgment and award?

Point Nos.(i) and (ii):

9. The case of the claimants is that on 09.05.2011 at about 8.00 p.m., while the deceased had gone to the vacant land of one Sri Herekar to attend nature call, which was located by the side of Nandgad College Road, at that time the driver of the truck bearing No.KA-25 B-9400, who had parked the said vehicle therein, suddenly moved the vehicle in a rash and negligent manner, and as a result, the truck ran over the deceased causing fatal injuries and he died on the spot.

10. As already stated, the wife and the minor daughter of the deceased are the claimants. However, they chose to adduce their evidence through a next friend viz., Smt. Kamalavva, the elder sister of the deceased. Admittedly, Smt. Kamalavva was not an eye witness to the alleged incident and she has no personal knowledge about the accident. As such, the testimony of Smt. Kamalavva is of no help to the

claimants in proving their case, particularly the alleged accident and the vehicle involved therein. The claimants mainly rely on the police papers such as the complaint (Ex.P2), FIR (Ex.P1) and the charge sheet (Ex.P7). Ex.P1 and Ex.P2 goes to show that a complaint came to be lodged with the jurisdictional police against unknown vehicle. Further, though the incident is said to have occurred on 09.05.2011 at about 8.00 p.m., the complaint came to be lodged on 10.05.2011 at 2.00 a.m. Thereby, it becomes clear that though there was some delay in lodging the complaint, the defacto complainant had no information about the vehicle involved in the incident and its driver.

11. It is true that on completion of the investigation, the jurisdictional police filed a charge sheet against the driver of truck bearing No.KA-25-B-9400 on the accusation that he caused the accident by driving the said vehicle in rash and negligent manner. It is also true that a presumption can be raised based on such charge sheet. However, it is a rebuttable presumption. It is well settled that such a presumption can be rebutted by adducing direct evidence or by pointing out the discrepancies and contradictions in the evidence adduced by the other side. The Insurer contends that they have

successfully rebutted the presumption with the materials available on record. As such, it requires for this Court to re-appreciate the evidence on record to find out the substance of contention putforth by the Insurer.

12. As per Ex.P2, the complaint was lodged by one Sri Yallappa, who claims to be the relative of the deceased. The contents of the complaint make it clear that the de-facto complainant was not an eye witness to the incident and he had no information about the vehicle involved therein. In view of the same, the complaint came to be lodged against unknown person and without mentioning details of the offending vehicle. The Insurer examined concerned complainant as RW-1. Even during his evidence, RW-1 reiterated that he had not seen the accident and he had no personal knowledge about the accident.

13. Perusal of the charge sheet produced at Ex.P7 indicates the Investigating Officer having cited one Sri Arjun Ramanna Waddar and Sri Narayana Gopal Rajaput as the eye witnesses to the incident. However, the claimants have not chosen to examine them in the case to support their version. Thus, the materials on record indicate that except the charge sheet produced at Ex.P7, the claimants have not adduced any supporting evidence to prove or to probabalise their case.

14. It is to be noted that as per the version of the complaint, on 09.05.2011 at about 8.00 p.m., the complainant had gone in search of the deceased and allegedly found a truck having been parked in the open space of Sri Herekar. However, there is no whisper in the complaint about the complainant having witnessed the accident or the deceased at the place during such time. According to the complainant when he visited the spot for the second time on the same day at about 10.30 p.m., he found the dead body of the deceased at the spot. The contents of the complaint make it clear that the offending vehicle was not at the place during such time. In the above circumstances, this Court holds that the Tribunal was justified in not relying on the police papers to draw a presumption in favour of the claimants and in support of their case. For the foregoing reasons, this Court does not find any valid reason to interfere with the findings recorded by the Tribunal holding that the claimants have failed to establish involvement of truck bearing No.KA-25 B-9400 in the alleged incident and the negligence attributable to its driver. Accordingly, Point Nos.(i) and (ii) are answered in the negative.

15. In the result, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***dismissed***.
- (ii) Consequently, the judgment and award dated 27.02.2015 passed in MVC No.1809/2011 by the learned I Additional District Judge and MACT-II, Belagavi is confirmed.
- (iii) Draw the award accordingly.
- (iv) The Registry is directed to send back the Trial Court record to concerned Tribunal at the earliest.

**Sd/-
(B. MURALIDHARA PAI)
JUDGE**

RKM,YAN, ASN
CT: CMU