



**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. 102212 OF 2014 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 102211 OF 2014 (MV-I)

IN MFA NO. 102212/2014
BETWEEN:

THE DIVISIONAL MANAGER,
NATIONAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, RAMDEV GALLI, BELGAUM.
REPRESENTED THROUGH ITS REGIONAL OFFICE,
ARIHANT PLAZA, 2ND FLOOR,
KUSUGAL ROAD, HUBLI.
BY ITS DEPUTY MANAGER.

...APPELLANT

(BY SRI NR KUPPELUR, ADVOCATE)

AND:

1. SRI NASIR S/O MUSTAFA CHILLIMUTTUR,
AGE: 24 YEARS, OCC: CENTERING WORKS,
R/O: DARGA GALLI, RAIBAG, DIST: BELGAUM.
2. SRI BAHUBALI S/O PASAGOUDA PATIL,
AGE: MAJOR, OCC: AGRICULTURE,
R/O: BEDAKIHAL, TQ: CHIKKODI, DIST: BELGAUM.
(OWNER MINI GOODS TRUCK
BEARING NO.KA-23/7200)

...RESPONDENTS

(BY SRI K. ANANDKUMAR, ADVOCATE FOR R1;
NOTICE TO R2 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
1988, PRAYING TO CALL FOR RECORDS CONNECTED WITH



NC: 2026:KHC-D:4715
MFA No. 102212 of 2014
C/W MFA No. 102211 of 2014

AWARD AND JUDGMENT MADE IN MVC NO.791/2013 ON THE FILE OF THE SENIOR CIVIL JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL, RAIBAG EXAMINE THE SAME AND SET ASIDE THE AWARD DATED 05.04.2014 IN THE INTEREST OF JUSTICE.

IN MFA NO. 102211/2014
BETWEEN:

THE DIVISIONAL MANAGER,
NATIONAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, RAMDEV GALLI, BELGAUM.
REPRESENTED THROUGH ITS REGIONAL OFFICE,
ARIHANT PLAZA, 2ND FLOOR, KUSUGAL ROAD, HUBLI.
BY ITS DEPUTY MANAGER.

...APPELLANT

(BY SRI NR KUPPELUR, ADVOCATE)

AND:

1. SRI MUSTKIM S/O DAWOOD MULLA,
AGE: 24 YEARS, OCC: CENTERING WORKS,(NOW NIL),
R/O: DARGA GALLI, RAIBAG, DIST: BELGAUM.
2. SRI BAHUBALI S/O PASAGOUDA PATIL,
AGE: MAJOR, OCC: AGRICULTURE,
R/O: BEDAKIHAL, TQ: CHIKKODI, DIST: BELGAUM.
(OWNER MINI GOODS TRUCK
BEARING NO.KA-23/7200)

...RESPONDENTS

(BY SRI K. ANANDKUMAR, ADVOCATE FOR R1;
NOTICE TO R2 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT 1988, PRAYING TO CALL FOR RECORDS CONNECTED WITH AWARD AND JUDGMENT MADE IN MVC NO.790/2013 ON THE FILE OF THE SENIOR CIVIL JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL, RAIBAG EXAMINE THE SAME AND SET ASIDE THE AWARD DATED 05.04.2014 IN THE INTEREST OF JUSTICE.



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

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

ORAL JUDGMENT

2. Challenging common judgment and award dated 05.04.2014 passed by Senior Civil Judge and MACT, Raibag¹ in MVC nos.790 and 791 of 2013, these appeals are filed.

3. Sri NR Kuppelur, learned counsel for appellant submitted that appeals were by insurer challenging finding of Tribunal on liability only. It was submitted that as per claimants on 21.09.2012 at 07.15 p.m., when claimants were proceeding on motorcycle no.KA-23/E-9656 near Raibag railway station, driver of Mini Lorry no.KA-23/7200 attached a Power Tiller to it and driving it in rash and negligent manner and took a sudden turn due to which Power Tiller attached to Mini Lorry dashed against motorcycle causing accident. In accident, claimants sustained grievous injuries and despite treatment sustained loss of earning capacity leading to filing of claim petitions under Section 166 of Motor Vehicles Act, 1988, against owner and insurer of Mini Lorry.

¹ For short, 'Tribunal'



4. Respondent-Insurer opposed claim petitions. Tribunal framed issues and recorded evidence, wherein, claimants deposed along with Dr.SR Angadi as PW1 to PW3 and got marked documents at Exs.P1 to P63. Insurer examined its official as RW1 and got marked documents at Exs.R1 and R2. While arriving at its finding, though Tribunal noticed that attachment of Power Tiller to vehicle would amount to violation of terms and conditions of policy nevertheless proceeded to hold insurer liable to pay compensation. Aggrieved, appeals are filed.

5. Trial Court records are not yet called for. Copy of objections filed by insurer before Tribunal was sought from learned counsel for appellant to verify whether specific contention about violation of terms and conditions of policy was taken. Learned counsel fairly submitted that specific contention was not taken, but a general contention about violation of terms and conditions of policy was urged and RW1 in his deposition had deposed about violation. On said grounds, impugned award would call for modification.



6. On other hand, Sri K. Anandkumar, counsel for respondents/claimants opposed appeal.

7. It was submitted Tribunal rightly held insurer liable on appreciation of material on record and no interference was warranted.

8. Heard learned counsel for parties, perused impugned judgment and award.

9. Appeal is on sole ground challenging finding of Tribunal on liability, point that would arise for consideration is:

"Whether Tribunal was justified in holding insurer liable to pay compensation?"

10. Same is answered in affirmative for following reasons:

10.1. At outset as noted above, specific ground of violation of terms and conditions of policy by insured due to attachment of Power Tiller to Mini Lorry was not taken by insurer before Tribunal.

10.2. It is settled legal principle that no amount of evidence without specific pleading would be acceptable. In view



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of above on no other ground than contention of insurer not being supported by pleading, appeals require to be dismissed.

11. Consequently, following:

ORDER

- (i) Appeals are ***dismissed***.
- (ii) Amounts in deposit are ordered to be transmitted to Tribunal for payment.

Sd/-
(RAVI V.HOSMANI)
JUDGE