



**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.102283 OF 2014 (MV)
C/W
MISCELLANEOUS FIRST APPEAL NO.101691 OF 2014 (MV)

IN MFA NO. 102283/2014 :

BETWEEN:

1. SMT.MAHADEVI NAMDEV KHAVARE,
AGE: 41 YEARS, OCC: HOUSEHOLD WORK,
2. SHRI SATISH NAMDEV KAHAVARE,
AGE: 24 YEARS, OCC: STUDENT,
3. KUMARI KARISHMA NAMDEV KHAVARE,
AGE: 17 YEARS 09 MONTHS, OCC: STUDENT,
4. KUMARI KAJAL NAMDEV KHAVARE,
AGE: 16 YEARS, OCC: STUDENT,
SINCE APPELLANTS NO.3 AND 4 ARE MINORS,
R/BY THEIR NATURAL MOTHER,
MINOR GUARDIAN, APPELLANT NO.1.

ALL ARE R/O: KODNI,
TQ: CHIKODI, DIST: BELGAUM.

...APPELLANTS

(BY SRI HARISH S. MAIGUR, ADVOCATE)

AND:

1. SHRI NANDKUMAR RAMCHANDRA BANNER,
AGE: MAJOR, OCC: BUSINESS,
R/O: MHASOBA MAL, RUI,
TQ: HATKANANGALE, DIST: KOLHAPUR.



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C/W MFA No. 101691 of 2014

2. THE DIVISIONAL MANAGER,
NATIONAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, RAMDEV GALLI, BELGAUM.

...RESPONDENTS

(BY SRI RAVINDRA R. MANE, ADVOCATE FOR R2;
NOTICE TO R1 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST JUDGMENT AND AWARD DATED 15.04.2014, PASSED
IN MVC.NO.669/2012 ON THE FILE OF THE I ADDITIONAL
DISTRICT JUDGE AND MACT-II, BELGAUM, PARTLY ALLOWING
THE CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION & ETC.

IN MFA NO.101691/2014 :

BETWEEN:

NATIONAL INSURANCE CO. LTD.,
THROUGH ITS DIVISIONAL MANAGER,
RAMDEV GALLI, BELGAUM.
HEREIN REPRESENTED BY
NATIONAL INSURANCE CO. LTD.,
REGIONAL OFFICE, 2ND FLOOR,
ARIHANT PLAZA, KUSUGAL ROAD,
KESHWAPUR, HUBLI-580 023.
R/BY ITS DEPUTY MANAGER.

...APPELLANT

(BY SRI RR MANE, ADVOCATE)

AND:

1. SMT.MAHADEVI NAMDEV KHAVARE,
AGE: 41 YEARS, OCC: HOUSEHOLD,
R/O: KODNI, TQ: CHIKODI, DIST: BELGAUM.
2. SHRI SATISH NAMDEV KHAVARE,
AGE: 24 YEARS, OCC: STUDENT,
R/O: KODNI, TQ: CHIKODI, DIST: BELGAUM.



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3. KUMARI KARISHMA NAMDEV KHAVARE,
AGE: 18 YEARS, OCC: STUDENT,
R/O: KODNI, TQ: CHIKODI, DIST: BELGAUM.
4. KUMARI KAJAL NAMDEV KHAVARE,
AGE: 16 YEARS, OCC: STUDENT,
R/O: KODNI, TQ: CHIKODI, DIST: BELGAUM.

(RESPONDENT NO.4 BEING MINOR,
R/BY HER MOTHER, NATURAL GUARDIAN
RESPONDENT NO.1)

5. SHRI NANDKUMAR RAMCHANDRA BANNER,
AGE: MAJOR, OCC: BUSINESS,
R/O: MHASOBA MAL, RUI, TQ: HATKANANGALE,
DIST: KOLHAPUR, MAHARASHTRA STATE.
(OWNER OF MOTOR CYCLE NO.MH-09/BT-6002)

...RESPONDENTS

(NOTICE TO RESPONDENTS No.1, 2, 3, 5 : SERVED;
R4-MINOR R/BY R1)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV
ACT 1988, AGAINST JUDGMENT AND AWARD DATED
15.04.2014, PASSED IN MVC.NO.669/2012 ON THE FILE OF
THE I ADDL. DISTRICT JUDGE AND MACT-II, BELGAUM,
AWARDING THE COMPENSATION OF RS.3,24,500/- WITH
THE INTEREST AT THE RATE OF 6% P.A. FROM THE DATE
OF PETITION TILL THE DATE OF REALIZATION & ETC.

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

Challenging judgment and award dated 15.04.2014 passed by I Additional District Judge & MACT-II, Belagavi ('**Tribunal**' for short) in MVC no.669/2012, these appeals are filed.

2. While MFA no.102283/2014 was filed by claimants for enhancement of compensation, MFA no.101691/2014 was by insurer challenging finding of Tribunal on liability.

3. Sri RR Mane, learned counsel for appellant-insurer submitted, as per claimant at 04:45 p.m., on 16.10.2011, Namdev Appa Khavare was riding motorcycle no.MH.09/BT.6002 on NH-4 near limits of Nippani town, when driver of a silver coloured Tata Safari, drove it in rash and negligent manner and dashed against motorcycle from behind causing accident. In accident, Namdev died on spot due to accidental injuries. His wife and children filed claim petition under Section 163-A of Motor Vehicles Act, 1988 ('**MV Act**' for short) against owner and insurer of motorcycle.

4. It was submitted, claim petition was opposed on ground that accident had occurred due to sole negligence of



driver of Tata Safari and insurer was not liable to pay compensation.

5. Based on pleadings, Tribunal framed issues and recorded evidence. Claimant no.1 deposed as PW1 and got marked Exs.P1 to P8. Respondent - insurer examined two witnesses as RWs.1 and 2 and got marked insurance policy as Ex.R1.

6. On consideration, Tribunal held accident occurred due to involvement of insured motorcycle in question and claimants were entitled for compensation of Rs.3,24,500/- with interest at rate of 6% per annum from owner/insurer. Aggrieved, insurer was in appeal.

7. It was submitted claim petition was filed under Section 163-A of MV Act. When, accident occurred due to rash and negligent driving of Tata Safari vehicle by its driver and absence of negligence on part of rider of motorcycle, claim petition against owner/insurer of motorcycle would not be tenable. In any case, additional premium paid for coverage of risk of owner/rider was limited to Rs.1,00,000/-. Therefore finding of Tribunal holding insurer liable to pay entire



compensation was contrary to law and sought for allowing appeal.

8. On other hand, Sri Harish S.Maigur, learned counsel for respondent-claimant opposed insurer's appeal and submitted that claimants also in appeal for enhancement of compensation. Insofar as finding of Tribunal on liability, it was submitted Section 163-A(2) of MV Act read as follows:

"163A. Special provisions as to payment of compensation on structured formula basis.— (1) *Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.*

Explanation.—For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any



wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.”

9. On quantum it was submitted, this Court in its decision in case of **Smt.Shambhai Kalloli and Ors. v. Shri Raju Kallole and Ors.**,¹ ('Shambai') referring to decision in case of **Ram Murti and Ors. Vs. Punjab State Electricity Board and Ors.**² ('Ram Murti' for short) had held Motor Vehicles Amendment Act, 2019 had introduced Section 164 by substitution, providing for fixed compensation of Rs.5,00,000/- in case of death, without proof of negligence and without income limit as in unamended Section 163-A of MV Act.

10. It was submitted said benefit of amendment was granted to claim petition filed in respect of accident prior to amendment. Even Division Bench of this Court in case of **Smt.Pratima Naiker and Ors., v. Mr.Thalkin Ahamed and Ors.**³ (Smt.Pratima), extended benefit of amended Section 164 of MV Act to pre-amendment claim. On said grounds submitted that claimants would be entitled for compensation of Rs.5,00,000/- with escalation as provided.

¹ MFA 101930/2016 C/w MFA 101931/2016, disposed of on 27.02.2026

² 2023 ACJ 631

³ MFA 101145/2021, disposed of on 25.06.2024



11. Decision of Hon'ble Supreme Court in case of **New India Assurance Company Limited v. Usha Devi and Ors.**⁴ ('Usha Devi') was relied for proposition that in a claim petition under Section 163A, proof of negligence would not be necessary. It was submitted, decision in **Usha Devi** was followed by this Court in case of **Divisional Manager, New India Assurance Co. V. Gurushiddappa Payannavar**⁵ and referring to decision of Apex Court in case of **Ramkhiladi and Anr. V. United India Insurance Co. and Anr.**⁶, this Court had held insurer would be liable to pay compensation in a claim petition under Section 163A of MV Act.

12. In reply, learned counsel for insurer submitted, in **Usha Devi**, claim petition was filed under Section 163A of MV Act was not against insurer of an vehicle, but against insurer of other vehicle involved in accident. Further, Hon'ble Supreme Court in **Ram Murti** had passed an order in facts and circumstances of case without laying down ratio referring to a claim petition under Section 140 of MV Act. It was submitted, Hon'ble Supreme Court in case of **State of Punjab and Ors v.**

⁴ 2025 INSC 836

⁵ NC: 2025:KHC-D:12026

⁶ 2020 ACJ 627



Bhajan Kaur and Ors.⁷ as well as Full Bench of this Court in case of ***Guruanna Vadi and Ors. v. The General Manager, Karnataka State Road Transport Corporation, Bangalore, and Ors.***⁸, had held provisions of amended Section 140 under MV Act would not be retrospective.

13. It was submitted, amendment which is procedural in nature would have retrospective effect and a change in substantive law would not be of retrospective operation without specific stipulation in amendment. It was submitted, decisions rendered in ignorance of larger/higher bench decisions or contrary to statute were required to be held *per-incuriam*.

14. In view of above, it was submitted that retrospective application of Section 164 would not be justified. On said ground sought for allowing insurer's appeal and dismissing claimants' appeal.

15. Heard learned counsel, perused impugned judgment and award.

⁷ (2008) 12 SCC 112

⁸ 2001 (5) KarLJ 322



16. From above and since insurer as well as claimants are in appeal, following points arise for consideration.

1. Whether Tribunal was justified in holding insurer liable to pay compensation to entire extent? and
2. Whether assessment of compensation by Tribunal calls for modification?

17. **Point no.1:** Challenge by insurer on liability is based on fact that accident in question even as per claimant and police investigation records, was due to alleged rash and negligent driving of an unknown Tata Safari vehicle which dashed against motorcycle. Deceased was rider of insured motorcycle in question. Claim petition was filed by wife and children of rider of motorcycle against insurer of motorcycle. In ***Usha Devi's*** case, Hon'ble Supreme Court was considering a claim under Section 163A filed against insurer of other vehicle involved in accident which would be tenable. In instant case, police have not been able to trace other vehicle.

18. Alternatively it is contended, Insurance Company having collected premium covering risk of owner-cum-driver



only, at best insurer would be liable to pay sum of ₹1,00,000/- and remaining amount would require to be claimed from insured. There can be no dispute about proposition of law laid down by Hon'ble Supreme Court that claimant in a claim petition under Section 163A of MV Act, need only to establish that accident occurred due to involvement of motor vehicle, without need to establish actionable negligence. Pleadings as well as police investigation records reveal that accident in question involved insured motorcycle as well as an unknown Tata Safari vehicle. Even if accident were to have occurred, without involvement of unknown vehicle, claim petition under Section 163A would be tenable against insured vehicle. But as rightly pointed out, liability of insurer would be unlimited in case of third party and limited to subscribed value insofar as insured or borrower from insured is concerned, which in present case is ₹1,00,000/-. Therefore, tribunal was not justified in holding insurer liable to pay entire compensation. Point no.1 is therefore answered 'partly in affirmative' as above.



19. **Point no.2:** Insofar as assessment of compensation, in a claim petition under Section 163A, it is held in **Usha Devi's** case that assessment of compensation has to be as per Schedule – II. But claimants by relying on decisions in **Ram Murti, Gurushiddappa, Smt.Pratima** and **Smt.Shambhai** contend that amendment to Motor Vehicles Act of year 2019 introducing amendment to Section 164 would be of retrospective effect. But as per Division Bench decision in **Smt.Pratima** referring to **Ram Murti's** case has held amended Section 164 to be retrospective. Same would bind this Court. Consequently, instead of compensation determined by tribunal at ₹3,24,500/- claimant would be entitled for ₹5,00,000/- with escalation at 5% per annum till date i.e. for 7 years which would be **₹6,75,000/-**. Point no.2 is answered 'partly in affirmative.

20. In view of above finding, following:

ORDER

i. Both appeals are allowed in part.



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- ii. Judgment and award dated 15.04.2014 passed by I Addl. District Judge and MACT-II, Belgaum in MVC no.669/2012 is modified.
- iii. Claimants are held entitled for enhanced compensation of **₹6,75,000/-** as against ₹3,24,500/- awarded by tribunal. Same shall carry interest at 6% per annum from date of petition till deposit.
- iv. However, insurer is held liable to pay ₹1,00,000/- only with interest thereon.
- v. Claimants would be at liberty to recover remaining amount from owner of motorcycle.
- vi. Amount in deposit in insurer's appeal is ordered to be transmitted to Tribunal for payment.
- vii. Insurer is directed to deposit balance amount towards its liability within six weeks.
- viii. On deposit, Tribunal is directed to release entire amount in favour of claimant.

Sd/-
(RAVI V.HOSMANI)
JUDGE

EM/CLK,
CT:VP
LIST NO.: 1 SL NO.: 12