



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.103207 OF 2015 (MV)

BETWEEN:

1. SMT.DANAWWA @ NANNAWWA
W/O NARAYANA @ NANNAPPA
CHAWAN @ LAMANI,
AGE: 39 YEARS,
OCC: HOUSEHOLD,
2. SRI MOTILALAL
S/O NARAYANA @ NANNAPPA
CHAWAN @ LAMANI,
AGE: 23 YEARS,
OCC: COOLIE,
3. SRI BHOJAPPA
S/O NARAYANA @ NANNAPPA
CHAWAN @ LAMANI,
AGE: 22 YEARS,
OCC: COOLIE,
4. SRI SANTOSH
S/O NARAYANA @ NANNAPPA
CHAWAN @ LAMANI,
AGE: 20 YEARS,
OCC: COOLIE,
5. SRI SOMANATH
S/O NARAYANA @ NANNAPPA
CHAWAN @ LAMANI,
AGE: 20 YEARS,
OCC: COOLIE,



NC: 2026:KHC-D:4767
MFA No. 103207 of 2015

ALL ARE R/O: NAGAVI TANKA,
TQ: & DIST: GADAG.

...APPELLANTS

(BY SRI DEEPAK C. MAGANUR, ADVOCATE FOR
SRI CHANDRASHEKAR P. PATIL, ADVOCATE)

AND:

1. KRISHNA
S/O CHANNAPPA CHAWAN,
AGE: MAJOR,
OCC: BUSINESS,
R/O:H.NO.180-E,
NACHINOLA,
BARDEZ GOA,
DIST: GOA, NORTH GOA.
2. THE DIVISIONAL MANAGER,
NATIONAL INSURANCE COMPANY LIMITED,
SUJATHA COMPLEX, P.B.ROAD,
HUBBALLI, DIST: DHARWAD.

...RESPONDENTS

(BY SRI RS ARANI, ADVOCATE FOR R2;
NOTICE TO R1 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED 06.08.2015
PASSED IN MVC NO.223/2012 ON THE FILE OF THE ADDITIONAL
DISTRICT AND SESSIONS JUDGE, AT GADAG, DISMISSING THE
PETITION FILED UNDER SECTION 166 OF MOTOR VEHICLE ACT
& ETC.

THIS MFA 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 06.08.2015 passed by Additional District and Sessions Judge, Gadag ('**Tribunal**', for short) in MVC no.223/2012, this appeal is filed.

2. Sri Deepak C. Maganur, advocate appearing for Sri Chandrashekar P. Patil, learned counsel for appellants submitted that appeal was by claimants challenging dismissal of claim petition. It was submitted at 9:00 p.m. on 01.05.2012, when Narayan alias Nanappa was pillion rider on motorcycle no.GA-03/L-3068 on Dindur - Shingatarayanakeri Tanda road, rider of motorcycle rode it in rash and negligent manner, lost control. Narayan fell down sustained fatal injuries and died during treatment. Alleging loss of dependency, his wife and four children filed claim petition against owner and insurer of motorcycle under Section 166 of Motor Vehicles Act, 1988 ('**MV Act**' for short).

3. Despite notice, owner did not appear and was placed *ex-parte*. Insurer opposed claim petition on all grounds. Based on pleadings, Tribunal framed issues and recorded evidence. Claimant no.1 deposed as PW1 and got marked Exhibits P1 to



P15. Official of insurer deposed as RW1 and got marked Exhibits R1 to R6.

4. On consideration, Tribunal held claimants had failed to establish occurrence of accident due to actionable negligence against a person other than deceased and there was manipulation of records for purposes of claim and dismissed claim petition imposing costs. Aggrieved, present appeal was filed.

5. It was submitted, to substantiate actionable negligence, claimants relied upon police investigation records. It was submitted, Ex.P7 - charge sheet arraigned one Shivappa, rider of motorcycle was prosecuted for offences under Section 279, 337, 338 and 304A of IPC. Same would be sufficient to *prima facie* establish actionable negligence against owner and insurer. Under such circumstances, dismissal of claim petition was not justified.

6. Apart from above, it was submitted, smell of alcohol noted at time of admission was not corroborated in post-mortem examination report. Under such circumstances, even presuming that deceased had consumed alcohol at time of accident and



therefore, negligent in causing accident would be unjustified and warranting interference. On above ground sought for allowing appeal.

7. On other hand, Sri Rajashekhar S. Arani, learned counsel for respondent no.2 - insurer opposed appeal. It was submitted, Tribunal had assessed evidence on record in proper perspective and arrived at right conclusion for dismissing claim petition. Therefore, no interference was warranted.

8. Heard learned counsel, perused impugned judgment and award as well as copy of Ex.R1 made available for my perusal by learned counsel for respondent no.2 - insurer.

9. From above and since claimants are in appeal challenging dismissal of claim petition, point that would arise for consideration is:

“Whether impugned judgment and award dismissing claim petition warrants interference?”

10. Though normally it would be sufficient for claimant in a claim petition under Section 166 of MV Act to rely upon police investigation records to establish actionable negligence against



rider/owner/insurer of offending vehicle and in instant case, police investigation records do arraign one Shankar for causing accident resulting in death of Narayan due to rash and negligent riding of motorcycle. While passing impugned award, Tribunal noted that complaint in instant case was filed 19 days after incident and first record of incident was in Ex.R1 - indoor patient case sheet issued by Karnataka Institute of Medical Sciences, Hubballi, a Government Hospital, recorded in column for history of injuries that injuries were sustained due to RTA on 01.05.2012 at 10:00 p.m. while patient was riding bike and it skidded, would gravely contradict manner of occurrence of accident as in police investigation records. Despite said discrepancy, there was absolutely no explanation for same by claimant. As per manner of occurrence of accident mentioned in Ex.R1, when deceased himself was riding motorcycle when it skidded and he fell down. Therefore, claim petition was not by a third party contract of insurance. Accident had occurred due to own negligence of deceased.

11. Apart from above, Tribunal also noted corroborative material to substantiate its finding about attempt by claimant to



foist a false claim against insured vehicle, especially appreciating fact that complaint was filed 19 days after incident.

12. Under above circumstances, finding of Tribunal by reference to material on record and by assigning reasons, same cannot be held to be perverse or capricious warranting interference. Consequently, following:

ORDER

Appeal is **dismissed**.

**Sd/-
(RAVI V.HOSMANI)
JUDGE**

CLK, CT:VP
LIST NO.: 1 SL NO.: 15