



IN THE HIGH COURT OF KARNATAKA AT DHARWAD
DATED THIS THE 27TH DAY OF MARCH, 2026
BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI
MISCELLANEOUS FIRST APPEAL NO.102650 OF 2014 (MV)

BETWEEN:

1. SHRI SIDDHAPPA S/O LAXMAN GUDGENATTI,
AGE: 61 YEARS, OCC: AGRICULTURE,
R/O: GODIHAL, TQ: AND DIST: BELGAUM.
2. SMT.MAHADEVI W/O SIDDHAPPA GUDGENATTI,
AGE: 56 YEARS, OCC: HOUSEHOLD,
R/O: GODIHAL, TQ: AND DIST: BELGAUM.
3. KUMAR PREM S/O LAGMA @ SATYAPPA GUDGENATTI,
AGE: 04 YEARS, OCC: NIL,
-REST DO-
(APPELLANT NO.3 IS MINOR REPRESENTED BY
APPELLANT NO.1 & 2 ARE THE
GRANDFATHER AND MOTHER)

...APPELLANTS

(BY SRI BM PATIL, ADVOCATE)

AND:

1. SHRI MOHAN S/O GUNDU TAMBULKAR,
AGE: 27 YEARS, OCC: BUSINESS,
R/O: BAMBARAGE, TQ: AND DIST: BELGUAM.
(OWNER OF MOTOR CYCLE I.E. BAJAJ X-CD 135
BEARING REG.NO.KA-22/EC-6785)
2. IFCO TOKIO GENERAL INSURANCE CO. LTD.,
MATONG BUILDING-MADHAV NAGAR ROAD,
DURGAMATA MANDIR, SANGLI,
STATE:MAHARASHTRA-416416.
(INSURER OF MOTOR CYCLE I.E. BAJAJ X-CD 135
BEARING REG.NO.KA-22/EC-6785
VALID FROM 18/08/2010 TO 17/08/2011)

...RESPONDENTS

(BY SRI GN RAICHUR, ADVOCATE FOR R2 (VC);
NOTICE TO R1 IS SERVED)



NC: 2026:KHC-D:4823
MFA No. 102650 of 2014

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, AGAINST JUDGMENT AND AWARD DATED 09.07.2014, PASSED IN MVC.NO.1056/2013 ON THE FILE OF THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MEMBER MACT-V, BELGAUM, DISMISSING THE CLAIM PETITION FILED UNDER SECTION 166 OF MOTOR VEHICLES 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 09.07.2014 passed by IV Addl. District and Sessions Judge and Member, MACT-V, Belgaum ('**Tribunal**', for short) in MVC no.1056/2013, this appeal is filed.

2. Sri BM Patil, learned counsel for appellant submitted that appeal was by claimants challenging dismissal of claim petition. It was submitted that at 7:30 a.m. on 06.06.2011, claimants received intimation that Lagama alias Satyappa Gudgenatti had met with an accident and died and his body was lying beneath bridge on service road near University on PB road. On visiting spot, it was noticed that Lagama had died with injuries on his head, nose, face, legs and motorbike was lying at a distance from body. Initially police suspected it to be a hit and run case. In view of above, alleging loss of dependency due to



sudden demise, claimants i.e. parents and minor daughter son of deceased Lagama filed claim petition under Section 163A of Motor Vehicles Act, 1988¹, against owner and insurer of motorcycle.

3. Despite service of notice owner did not appear and he was placed ex-parte. Only insurer opposed claim petition denying averments in toto. But, admitting issuance of insurance policy with regard to motorcycle in question and its validity as on date of accident contending that policy was subject to terms and conditions of policy and claimant establishing that deceased had valid driving licence at time of accident.

4. Based on pleadings, Tribunal framed issues and recorded evidence. Claimant no.1 deposed as PW1 and got marked Exs.P1 to P11. On other hand, insurer examined its official as RW1 and got marked Ex.R1 and R2.

5. On consideration, especially police investigation records arraigning deceased himself for causing accident due to rash and negligent riding, it held claim petition under Section

¹ For short, 'MV Act'



163A of MV Act, for own negligence was not tenable. Further taking note of facts and circumstances it opined that there was false implication of insured vehicle for purpose of claim and dismissed claim petition. Aggrieved, claimants were in appeal.

6. It was submitted that claim petition having been filed under Section 163A of MV Act, there was no need for claimants to plead and establish occurrence of accident due to actionable negligence. It would suffice, if they established that accident occurred due to use of a motor vehicle and therefore, Tribunal committed error in dismissing claim petition.

7. It was further submitted, during pendency of appeal, provisions of MV Act including Section 163A of MV Act were amended. Provisions of Section 163A of MV Act were modified and amended by substitution with Section 164 of MV Act providing for payment of lumpsum amount of Rs.5,00,000/- on no fault basis in lieu of Section 163A of MV Act. It was submitted Hon'ble Supreme Court in case of ***Ram Murti and Ors. v. Punjab State Electricity Board***² and Division Bench of this Court in case of ***Smt. Pratima W/o. Madivalappa Naikar and***

² 2023 ACJ 631



Ors. v. Thalkin Ahamed and Ors.³, held that provisions of amended Section 164 of MV Act were retrospective and benefit could be availed even to a pre-amendment claim petition. Relying upon same, learned counsel submitted that there was no dispute about involvement of insured motor vehicle in question. Consequently, without a need for establishment of actionable negligence, claimants would be entitled for compensation as per amended Section 164 of MV Act. On said grounds, sought for allowing appeal.

8. On other hand, Sri GN Raichur, learned counsel for respondent-insurer opposed appeal. It was submitted, admittedly claim petition was under Section 163A of MV Act. Though, there would be no need for establishment of negligence, while passing impugned order Tribunal took note of facts and circumstances and arrived at conclusion that involvement of insured vehicle was doubtful and dismissed claim petition and same did not call for interference.

9. It was alternatively submitted, even in case, insurer were to be held liable, same would be subject to terms and

³ 2024:KHC-D:18639-DB (MFA no.101145 of 2021)



conditions of policy. It was submitted, owner of vehicle paid a premium of only Rs.50/- towards limited coverage of risk of owner/driver. Admittedly, deceased herein was not owner and at best could be borrower of vehicle, who would step into shoes of owner and liability of insurer *qua* owner/rider was limited to sum assured i.e., Rs.1,00,000/-. Therefore, regardless of quantum of compensation, liability of insurer could not exceed Rs.1,00,000/-.

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

11. Since, this appeal is by claimant against dismissal of claim petition, points that would arise for consideration are:

- 1) Whether Tribunal was justified in dismissing claim petition?*
- 2) If not, what is compensation claimants would be entitled to and from whom?*

Point no.1:

12. There is no dispute that claim petition was filed under Section 163A of MV Act. There is also no dispute about legal position from various decisions of Hon'ble Supreme Court that in claim petition under Section 163A of MV Act, claimants would not



be required to establish actionable negligence and it would suffice if they establish that injuries sustained or death caused was due to involvement of a motor vehicle. In instant case police after investigation have filed abated charge sheet against deceased for causing accident due to rash and negligent riding of motorcycle. Same would establish occurrence of accident due to involvement of vehicle. Therefore, observation of Tribunal to contrary would not be in consonance with material on record. Point no.1 is answered in negative.

Point no.2:

13. Insofar as quantum and liability, there is no dispute about fact that provisions of 163A of MV Act have since been amended by Amending Act no.32 of 2019 with Section 164 providing for lumpsum compensation of Rs.5,00,000/- in case of death and Notification no.S.O. 2022(E) dated 22.05.2018 providing for escalation of 5% per annum from 01.01.2019.

14. Further, Division Bench of this Court in case of **Smt. Pratima** (supra) referring to decision of Hon'ble Supreme Court in case of Hon'ble **Ram Murti** (supra) amendment of Section



164 of MV Act by substitution was retrospective and even claims filed prior to amendment would be entitled for benefit of same.

15. In view of above, and since seven years have lapsed after effective date, claimants would be entitled for total compensation of Rs.5,00,000/- with escalation of 5% every year i.e. 35% totaling to Rs.6,75,000/-. But, claimant in instant case was rider/borrower of vehicle and therefore, liability of insurer would be limited to amount of own damage subscription i.e. Rs.1,00,000/- only. Hence, insurer would require to satisfy award to extent of Rs.1,00,000/- and remaining amount would be payable by owner of vehicle. Therefore, point no.2 is answered partly in affirmative as above.

16. Consequently, following:

ORDER

- (i) Appeal is ***allowed in part.*** Judgment and award dated 09.07.2014 passed by IV Addl. District and Sessions Judge and Member, MACT-V, Belgaum in MVC no.1056/2013 dismissing claim petition is set aside.



- (ii) Claim petition is ***allowed in part.***
- (iii) Claimants are held entitled for total compensation of Rs.6,75,000/- with interest at 6% per annum from date of claim petition till deposit.
- (iv) Out of said amount, liability of insurer is limited to Rs.1,00,000/- with proportionate interest which it is directed to deposit before Tribunal within a period of six (6) weeks.
- (v) Claimants would be at liberty to recover remaining amount from owner.
- (vi) On deposit, claimant no.1 is held entitled for 10%, claimant no.2 for 20% and remaining amount apportioned in favour of claimant no.3-minor son of deceased.
- (vii) Tribunal is directed to release amount apportioned in favour of claimants no.1 and 2.



(viii) Entire amount apportioned in favour of
claimant no.3 shall be kept in deposit in any
nationalized Bank initially for a period of five
years.

Sd/-
(RAVI V.HOSMANI)
JUDGE

CLK-upto para 2
SMM-para 3 to till end
CT:VP / LIST NO.: 1 SL NO.: 4