



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

MISCELLANEOUS FIRST APPEAL NO.103075 OF 2019 (MV-D)

BETWEEN:

THE DIVISIONAL MANAGER,
THE ORIENTAL INSURANCE COMPANY LIMITED,
KIRLOSAB ROAD, BELAGAVI-590020.
(INSURER OF TRUCK NO.KA-51/B-9066,
POLICY: NO.423000/31/2017/1730
VALID FROM: 07/06/2016 TO 06/06/2017)
REPRESENTED BY ITS AUTHORIZED SIGNATORY.

...APPELLANT

(BY SRI GN RAICHUR, ADVOCATE (VC))

AND:

1. KHADIRSAB NABISAB BAGAWAN
AGE. 72 YEARS, OCC. NIL,
R/O GOKAK, TQ. GOKAK,
DIST. BELAGAVI-591307.

SINCE DECEASED BY HIS LRS
RESPONDENT NO.2 & 3
ALREADY ON RECORD

2. SMT.AMMAJKAN
W/O KHADIRSAB BAGAWAN,
AGE 67 YEARS, OCC. NIL,
R/O GOKAK, TQ. GOKAK,
DIST. GOKAK, DIST. BELAGAVI-591307.



3. DILSHAD
D/O KHADIRSAB BAGAWAN,
AGE. 35 YEARS, OCC. HOUSEHOLD,
R/O GOKAK, TQ. GOKAK,
DIST. BELAGAVI-591307.
4. RAVI M
S/O MUNISWAMY,
AGE. MAJOR, OCC. BUSINESS,
R/O 903, 13TH MAIN, 7TH CROSS,
SRINIVAS NAGAR, SBM COLONY BSK
1ST STAGE, BANGALORE-560050.
(OWNER OF TRUCK NO.KA-51/B-9066
POLICY NO.4230003/31/2017/1730
VALID FROM 07/06/2016 TO 06/06/2017)

...RESPONDENTS

(BY SRI HARISH S. MAIGUR, ADVOCATE FOR R2 AND R3;
R4-SERVED; R2 AND R3 LR'S OF DECEASED R1)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, AGAINST THE JUDGMENT AND AWARD DATED 11.02.2019 PASSED IN MVC NO.505/2017 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL, GOKAK, AWARDED COMPENSATION OF RS.13,92,000/- WITH INTEREST AT 9% P.A. FROM THE DATE OF PETITION TILL ITS DEPOSIT & ETC.

THIS MFA COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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



ORAL JUDGMENT

Challenging judgment and award dated 11.02.2019 passed in MVC.no.505/2017 by Prl. Senior Civil Judge and MACT, Gokak, (**'Tribunal'**, for short), this appeal is filed.

2. Sri GN Raichur, learned counsel for appellant submitted, appeal was by insurer challenging finding of Tribunal on liability, negligence as well as on quantum. It was submitted, as per claimants at about 7:50 pm on 22.11.2016, when Shikandar was riding bicycle near Koli Khoot, Gokak, driver of Truck no.KA-51/B-9066 drove it in rash and negligent manner, lost control and dashed against bicycle. In accident, Shikandar sustained grievous injuries and died during treatment on 25.11.2016. Alleging loss of dependency on account of his sudden death, his parents and unmarried sister filed claim petition against owner and insurer of truck under Section 166 of Motor Vehicles Act, 1988 (**'MV Act'**, for short).

3. Despite service of notice, owner did not appear and was placed *ex-parte*. Only insurer opposed claim petition on all grounds.



4. Based on pleadings, Tribunal framed issues and recorded evidence, wherein claimant no.3 and an eyewitness deposed as PWs-1 and 2 and got marked Exs.P1 to P17, while, Insurer examined its official as RW-1 and got marked Exs.R1 to R4.

5. On consideration, Tribunal held accident occurred due to rash and negligent driving of insured truck by its driver and therefore, insurer was liable to pay compensation assessed by it at Rs.13,92,000/- with interest at 9% per annum from date of petition. Aggrieved, present appeal was filed.

6. Firstly, insofar as liability, it was submitted, Ex.P9 – Charge sheet would indicate driver of truck was prosecuted for driving unregistered vehicle i.e. under Section 39 of MV Act apart from Sections 279 and 304A of Indian Penal Code, 1860 (**'IPC'**, for short). Same would establish that as on date of accident, truck was unregistered. As driving an unregistered vehicle was a fundamental breach of terms and conditions of policy, insurer could not be held liable.



7. Insofar as negligence, it was submitted, accident spot was at a distance of 6 feet from southern edge of a 25 feet wide road running east to west, indicating that accident occurred in middle of road. Since deceased was riding bicycle in middle of road, negligence ought to have been apportioned on him.

8. On quantum, it was submitted, deceased was a bachelor. Though, in complaint, it was mentioned that wife of deceased had divorced him about 14 years prior to accident and went away to her maternal home with son, in cross-examination of RW-1, a suggestion was made by claimants that deceased was unmarried on date of accident. On said ground, it was submitted, deduction of 1/3rd towards personal expenses would not be tune with ratio laid down by Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi**, reported in **(2017) 16 SCC 680**. On said ground sought for allowing appeal.

9. On other hand, Sri Harish S. Maigur, learned counsel for respondents no.2 and 3 - claimants opposed appeal. It was submitted, this Court in MFA.no.31239/2009, disposed of on 28.07.2014, had held non-registration of vehicle cannot caused



accident. Therefore, Tribunal would be justified in deducting 50% towards same and submitted insurer would be liable to pay 50% of compensation. It was alternatively submitted, a direction to pay compensation to deceased and thereafter recover it from insured be passed.

10. On negligence, it was submitted, accident occurred on 25 feet wide road running east to west and when bicycle moving from east towards west and truck coming from opposite direction and accident spot being at 6 feet from southern edge, would clearly establish truck came on wrong side and dashed against cyclist. Therefore, there was no basis for challenge on negligence.

11. On quantum, it was submitted that in complaint deceased was stated to be married and having a son. Though it was stated that wife divorced and left him, his status as married would not change. Besides, claimant no.3 was unmarried sister and dependent on him. As such, deduction of 1/3rd would be justified. On said grounds, learned counsel submitted that there was error in calculation and sought dismissal of appeal.



12. Heard learned counsel, perused impugned judgment, award and record.

13. From above, points that require for consideration are:

1. Whether finding of tribunal on liability calls for interference?
2. Whether finding of tribunal on negligence calls for interference?
3. Whether assessment of compensation is excessive and calls for reduction?

14. **Point no.1**: While passing impugned judgment, Tribunal noted that registration of vehicle was valid from 02.07.2014 to 01.07.2016. Accident occurred on 22.11.2016, i.e. as on date of accident, vehicle was without valid registration. It referred to Section 39 of MV Act, prohibiting unregistered vehicle from being plied in public place. Besides Hon'ble Supreme Court in case of **Narinder Singh v. New India Assurance Co. Ltd. and Ors.**, reported in **(2014) 9 SCC 324**, while confirming an award passed by National Consumer Dispute Redressal Commission rejecting consumer complaint, claiming



compensation from insurer, in respect of a motor vehicle accident, on ground that temporary registration of vehicle had expired and vehicle was not registered at time of accident. The same has been followed by this Court in **Premanath Mallareddy v. Shekappa Yalappa Kampli** (2026:KHC-D:3547)]. Hence, point no.1 is answered in ***affirmative***.

15. **Point no.2**: On negligence as rightly pointed out by learned counsel for claimants, when accident occurred at a distance of 6 feet from southern edge of 25 feet road running from east to west when truck was moving from west to east and cycle in opposite direction, truck driver can be clearly seen to have crossed midline and dashed against cyclist who was on his proper side. Therefore, finding of Tribunal on negligence cannot be found fault with. Point no.2 is answered in ***negative***.

16. **Point no.3**: On quantum, indeed, it is seen that in complaint filed by brother of deceased, there is reference to Shikandar's wife divorcing him and going back to maternal home along with son. But, there is no reference to any other dependent than claimants. Even in deposition, claimant no.3 did not state about deceased being married and having son. On



other hand, there is specific suggestion by claimants in cross-examination of RW-1 that deceased was unmarried at time of accident. In view of above, sole ground of challenge on quantum would require consideration in light of ratio laid down by Hon'ble Supreme Court in **Pranay Sethi's** case (*supra*) that deduction towards personal expenses in case of deceased being a bachelor would be at 50%. Tribunal has considered income of deceased at Rs.15,000/- per month.

17. As per decision in **Pranay Sethi's** case (*supra*), deceased was self-employed and aged 39 years as per Exs.P11 and 13. Therefore, future prospects at 40% would require to be added. As rightly pointed out, since he was a bachelor, deduction towards personal expenses has to be at 50% and multiplier applicable would be '15'. Thus loss of dependency would be **Rs.15,000/- (+ 40%) (-50%) X 12 X 15 = Rs.18,90,000/-**

18. Apart from above, Rs.40,000/- each is granted to claimants towards loss of consortium and Rs.15,000/- towards loss of estate and funeral expenses respectively i.e. **Rs.1,50,000/-**. And as more than 6 years have lapsed after decision in **Pranay Sethi's** case, 20% (i.e. **Rs.30,000/-**) has to



be added to award under conventional heads. Thus, total compensation would be at **Rs.20,70,000/-**.

19. Hon'ble Supreme Court in case of **Surekha v. Santosh**, reported in **(2021) 16 SCC 467** has held even in an insurer's appeal, claimant would be entitled for enhancement of compensation since provisions of MV Act are beneficial in nature. Since, while considering insurer's challenge on quantum, this Court has reassessed compensation applying principles laid down in **Pranay Sethi's** case (supra) and net sum is far in excess of amount awarded, following ratio in **Surekha's** case (supra), claimants are held entitled for **Rs.20,70,000/-**.

20. In view of above, I pass following:

ORDER

- i. Appeal is **allowed**, judgment and award dated 11.02.2019 passed in MVC.no.505/2017 by Tribunal stand modified. Claim petition is dismissed against insurer only.
- ii. Amount in deposit is ordered to be refunded to appellant.



- iii. Claimants are held entitled for enhanced compensation of **Rs.20,70,000/-** with interest at 9% per annum from date of claim petition till deposit from Respondent no.4 – owner herein.
- iv. Owner, held liable to pay compensation shall deposit same within eight weeks.
- v. On deposit, directions by tribunal in impugned award about apportionment, deposit and release shall apply to enhanced award proportionately.
- vi. In view of above, pending applications, if any, stands ***disposed of***.

Sd/-
(RAVI V.HOSMANI)
JUDGE

GRD, CT:VP
LIST NO.: 1 SL NO.: 4