



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 4TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

MISCL. FIRST APPEAL NO. 200145 OF 2018 (MV-D)

C/W

MISCL. FIRST APPEAL NO. 200410 OF 2018 (MV-D)

IN MFA No. 200145/2018:

BETWEEN:

1. RAMACHANDRA S/O APPA PANDRE,
AGE: 46 YEARS, OCC: COOLIE.
2. SUNITA D/O RAMACHANDRA PANDRE,
AGE: 19 YEARS, OCC: STUDENT,
BOTH ARE R/O BAMANI, TQ. SANGOLA,
DIST. SOLAPUR,
NOW R/AT TIKOTA,
TQ. & DIST. VIJAYAPURA-586 101.

...APPELLANTS

(BY SRI. SANGANABASAVA B. PATIL, ADVOCATE)

AND:

1. AVDHUT CHANDRAKANT KUMTHEKAR,
AGE: 46 YEARS, OCC: BUSINESS,
AT/POST KOSTHI GALLI, SANGOLA,
DIST. SOLAPUR-436 011,
(OWNER OF TATA ACE GOODS VEHICLE BEARING
REG NO.MH-45/T3774).





2. THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO. LIMITED,
S.S. FRONT ROAD, VIJAYAPUR-586 101

...RESPONDENTS

(BY SRI MANVENDRA REDDY, ADVOCATE FOR R2;
R1 SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO MODIFY THE JUDGMENT AND AWARD PASSED BY THE COURT OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL NO.III, VIJAYAPUR AT VIJAYAPUR IN MVC NO.804/2016 DATED 15.12.2017 AND BE PLEASED TO ALLOW THE CLAIM PETITION BY GRANTING THE RELIEF AS PRAYED FAR BY THE APPELLANTS HEREIN.

IN MFA NO. 200410/2018:

BETWEEN:

THE BRANCH MANAGER,
UNITED INDIA INSURANCE COMPANY LIMITED,
SANGAM BUILDING, P.B.NO.60, S.S.FRONT ROAD,
VIJAYAPURA-586 101

...APPELLANT

(BY SRI MANVENDRA REDDY, ADVOCATE)

AND:

1. RAMACHANDRA S/O APPA PANDRE,
AGE: 47 YEARS, OCC: COOLIE.
2. SUNITA D/O RAMACHANDRA PANDRE,
AGE: 20 YEARS, OCC: STUDENT,
BOTH ARE R/O BAMANI, TQ. SANGOLA, DIST.
SOLAPUR,NOW R/ AT TIKOTA,
TQ. & DIST. VIJAYAPURA-586 101.



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3. AVDHUT S/O CHANDRAKANT KUMTHEKAR,
AGE: 47 YEARS, OCC: BUSINESS,
AT/POST:KOSTHI GALLI, SANGOLA,
DIST. SOLAPUR -413 001,
(OWNER OF TATA ACE GOODS VEHICLE BEARING
REG.NO.MH-45/T-3774)

...RESPONDENTS

(BY SRI SANGANABASAVA B. PATIL, ADVOCATE
FOR R1 AND R2;
V/O DTD. 29.11.2024 NOTICE R3 IS HELD SUFFICIENT)

THIS MFA IS FILED UNDER SECTION 173(1) OF
MOTOR VEHICLES ACT, PRAYING TO SET ASIDE THE
JUDGMENT AND AWARD DATED 15.12.2017 PASSED BY
THE II ADDITIONAL DISTRICT JUDGE MEMBER MACT
NO.III VIJAYAPUR IN MVC NO.804/2016 BY ALLOWING THE
APPEAL AS PRAYED FOR.

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

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL JUDGMENT

1. These appeals are arising out of the Judgment
and award dated 15.12.2017 passed in MVC No.804/2016 on
the file of the Motor Accidents Claims Tribunal No.3,
Vijayapur, (for short 'the Tribunal') awarding compensation
to the claimants.

2. For the sake of convenience, the parties will be
referred to as per their ranking before the Tribunal.



3. The facts in nutshell for the purpose of adjudication of these appeals are that, on 30.10.2015 the deceased Jivan S/o. Ramachandra Pandre was driving the auto rickshaw bearing registration No.MH-23/X-3550 towards Bamani village and when he reached near Gavade Petrol Pump, on Sangola-Pandharpur road, a TATA Ace Goods vehicle bearing registration No.MH-45/T-3774 came in a rash and negligent manner and dashed to the auto rickshaw and on account of the said impact, the deceased Jivan suffered grievous injuries and was taken to the nearest hospital, however, he succumbed to injuries. Hence, the claimants filed claim petition in MVC No.804/2016 before the Tribunal seeking compensation. On service of notice, though respondent No.1 was served, he remained absent and accordingly placed ex-parte.

4. The respondent No.2-Insurance company has filed detailed objections and taken specific plea that as to the involvement of the vehicle and the alleged accident. Accordingly, the Insurance company has sought for dismissal of the claim petition.



5. In order to establish their case, the claimants have examined two witnesses i.e. P.W.1 and P.W.2 and got marked 36 documents and the same were marked as Ex.P.1 to Ex.P.36. On the other hand, the Insurance company has adduced evidence of its Law Officer as R.W.1 and got marked one document i.e. Insurance policy. The Tribunal after considering the material on record by its Judgment and order dated 15.12.2017, awarded compensation of Rs.5,70,000/- along with interest at the rate of 9% per annum from the date of petition till the date of realization. Feeling aggrieved by the same, the Insurance company has preferred MFA No.200410/2018 challenging the liability and MFA No.200145/2018 is filed by the claimants seeking enhancement of compensation.

6. Heard the learned counsels for the parties.

7. Sri. Manvendra Reddy, learned counsel appearing for the Insurance company argued as to the involvement of the vehicle in question and he further submitted that, the vehicle in question has been falsely implicated to get unjust



gain from the Insurance company and therefore, it is contended by the learned counsel appearing for the Insurance company that the finding recorded by the Tribunal requires to be interfered with in this appeal.

8. It is also argued by the learned counsel appearing for the Insurance company that, the accident had taken place on 30.10.2015 and the deceased died on 05.11.2015 and after a lapse of nearly two months, the complaint was lodged on 21.12.2015 which would makes it clear that, the vehicle in question has been falsely implicated and the said aspect has not been considered by looking into the material on record by the Tribunal and accordingly sought for interference by this Court.

9. Per contra, Sri. Sanganabasava B. Patil, learned counsel appearing for the claimants/appellants in MFA No.200145/2018 by inviting attention of the Court to Ex.P.8, submitted that the medico-legal case was registered as soon as the accident has occurred, in Medicare I.C.U., Bhakti Marg, Pandharapur, wherein the injured has been given



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medical aid and the said aspect makes it clear that, the finding recorded by the Tribunal as to the involvement of the vehicle in question, is just and proper and accordingly sought for dismissal of the appeal preferred by the Insurance company. It is also argued by the learned counsel appearing for the appellants/claimants seeking enhancement of the compensation.

10. Having heard the learned counsels for the parties, the core question is to be answered in these appeals, as to the involvement of the vehicle in question and the claim petition preferred by the claimants seeking compensation on account of the death of Jivan in the alleged accident occurred on 30.10.2015.

11. In the light of the submission made by the learned counsel for the parties, on careful consideration of Ex.P.8, wherein, it is stated that, 'RTA on 30.10.2015'. It is also to be noted from the records that FIR was registered pursuant to the complaint on 21.12.2015. It is also to be noted from the records that, the eyewitness to the incident



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was examined as P.W.2. If at all the said accident had occurred as per the averments made in the claim petition, there was no impediment for the eyewitness or the claimants to register the complaint as soon as the occurrence of the alleged incident on 30.10.2015. It is also forthcoming from the material record particularly as to the narration of the alleged accident is concerned, a doubt has been created in the mind of the Court as to the occurrence of the accident in which the deceased was alleged to have been driving the auto rickshaw as stated by the claimant. It is also noted from paragraph No.6 of the deposition of P.W.1 that, as soon as the occurrence of the accident, the P.W.1 visited the accident spot and also at that time, the police had come to the accident spot for investigation. If such being the case, there would not have been impediment for the police authorities to register the case immediately, as deposed by P.W.1. The said aspect would create a doubt as to the occurrence of the accident and the involvement of the vehicle in question. It is also to be noted that, P.W.2 has deposed in the cross-examination dated 16.03.2017, that the police have not



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enquired him as to the accident. Though the P.W.2, deposed to be an eyewitness to the said accident, however, has not deposed as to the presence of the Police, either in the examination-in-chief nor in the cross-examination. The said ocular evidence of P.W.2 makes it clear that, the vehicle in question has been falsely implicated so as to put the machinery into action as to claim compensation. In this regard, it is necessary to follow the declaration of law made by the Division Bench of this Court in the case of ***Veerappa and another Vs. Siddappa and another***, reported in ***ILR 2009 Kar. 3562***, wherein this Court after considering the material on record as to the involvement of the vehicle in question, has held that, each case has to be decided on the facts on record so as to award compensation under the Motor Vehicles Act. In that view of the matter, the factual aspects on record would makes it clear that, the FIR has been registered nearly after two months and in the meanwhile as it is deposed by P.W.1 that the Police have already visited the spot of the accident and such oral evidentiary value has to be weighed along with the relevant material on record. As



to the date of registration of the FIR makes it clear that on both counts of oral and documentary evidence, the claimant has not approached the Tribunal with clean hands. In that view of the matter, I find force in the submission made by the learned counsel appearing for the Insurance company, so as to interfere with the Judgment and award dated 15.12.2017.

12. In the result, the points for consideration referred to above is answered in favour of the Insurance company so as to decline to accept the claim petition preferred by the claimants.

13. In the result, the following:

ORDER

(i) MFA No.200145/2018 filed by the claimants is dismissed;

(ii) MFA No.200410/2018 filed by the Insurance company is allowed;

(iii) The Judgment and award dated 15.12.2017 in MVC No.804/2016 passed by Motor Accidents Claims Tribunal No.3, Vijaypur, is hereby



set aside; the claim petition is accordingly dismissed;

(iv) The amount in deposit be refunded to the appellant-Insurance company in MFA No.200410/2018.

**Sd/-
(E.S.INDIRESH)
JUDGE**