HC-KAR

CNR: KAHC030026552018

NC: 2026:KHC-K:5599
MFA No. 200639 of 2018
C/W MFA No. 200638 of 2018

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 22ND DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE K V ARAVIND

MISCL. FIRST APPEAL NO. 200639 OF 2018 (MV-I)

C/W

MISCL. FIRST APPEAL NO. 200638 OF 2018 (MV-I)

IN MFA No. 200639/2018

BETWEEN:

THE M/S UNITED INDIA
INSURANCE CO. LTD,
10 ARIHANT SHIVAJI CIRCLE, MAHESH NAGAR
MALEGAON DIST. NASIK MAHARASHTRA,
THROUGH THE DIVISIONAL MANAGER,
UNITED INDIA INSURANCE CO. LTD,
DR. JAWALI COMPLEX, SUPER MARKET KALABURAGI.

...APPELLANT

(BY SRI. SHIVANAND PATIL, ADVOCATE)

AND:

1. SRIDEVI W/O PRABHUREDDY@PARAMESHWAR
   AGE: 40 YRS, OCC: TAILORING,
   R/O WADDENKERA TQ: HUMNABAD,
   NOW AT H.NO.19-1-298, SHIVANAGAR,
   BIDAR-585412.

2. JALILMIYYA M
   AGE: MAJOR,
   R/O H.NO.157, NADGAON, TQ: HUMNABAD,
   DIST: BIDAR-585412.

3. RAVINDRA VASANT SONAVALE,
AGE: MAJOR,
R/O MAHATMA PUHLE NAGAR, GANUR ROAD,
AT POST: CHANDWAD DIST: NASIK,
MAHARASHTRA-423101.

...RESPONDENTS

(BY SRI JIDAGE KAILASH C., ADVOCATE FOR R2;
SRI S.S. ASPALLI, ADVOCATE FOR R4;
V/O DTD.02.02.2026 NOTICE TO R1 IS HELD SUFFICEINT;
V/O DTD. 12.09.2024 NOTICE TO R3 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, PRAYING TO, CALL FOR RECORDS AND HEAR THE PARTIES AND SET ASIDE THE OR MODIFY THE JUDGMENT AND AWARD DATED 30.12.2017 IN MVC NO.587/2013 ON THE FILE OF THE II ADDL. SENIOR CIVIL JUDGE AND JMFC, BIDAR AS AGAINST THE APPELLANT BY ALLOWING THE APPEAL.

IN MFA NO. 200638/2018

BETWEEN:

THE M/S UNITED INDIA INSURANCE
CO. LTD, 10 ARIHANT SHIVAJI CIRCLE,
MAHESH NAGAR, MALEGAON DIST: NASIK,
MAHARASHTRA,
BY ITS BRANCH MANAGER,
UNITED IND INS.CO. LTD.,
9-2-24/5 1ST FLOOR, MAIN ROAD,
NEAR AMBEDKAR CIRCLE, BIDAR,
NOW REP BY BRANCH MANAGER,
UNITED IND INS. CO.LTD., SUPER MARKET,
KALABURAGI.

...APPELLANT

(BY SRI. SHIVANAND PATIL.,ADVOCATE)

AND:

1. BASAMMA W/O BALWANTRAYA CHAMREDDY,
   AGE: 27 YRS, OCC: TAILORING,
   R/O WADDENKERA, TQ: HUMNABAD,
   NOW AT H.NO.19-1-298, SHIVANAGAR,
   BIDAR-585401.

2. JALILAMIYYA M
   AGE: MAJOR R/O H.NO.157, NADGAON,
   TQ: HUMNABAD, DIST: BIDAR-585412.

3. RAVINDRA VASANT SONAVALE,
   AGE: MAJOR,
   R/O MAHATMA PUHLE NAGAR GANUR ROAD,
   AT POST: CHANDWAD DIST: NASIK,
   MAHARASHTRA-423101.

...RESPONDENTS

(BY SRI JIDAGE KAILASH C., ADVOCATE FOR R2;
SRI S.S. ASPALLI, ADVOCATE FOR R4;
NOTICE TO R1 AND R3 SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, PRAYING CALL FOR THE RECORDS AND HEAR THR PARTIES AND SET ASIDE OR MODIDY THE JUDGMENT AND AWARD 30.12.2017 IN MVC NO.588/2013 ON THE FILE OF THE IIND ADDL.SENIOR CIVIL JUDGE AND JMFC BIDAR AS AGAINST THE APPELLANT BY ALLOWING THE APPEAL.

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

CORAM: HON'BLE MR. JUSTICE K V ARAVIND

ORAL JUDGMENT

Heard Sri. Shivanand Patil, learned counsel appearing for the appellant-insurer, Sri. Jidage Kailash, learned counsel appearing for respondent No.2-owner, and Sri. S.S. Aspalli, learned counsel appearing for respondent No.4-TATA AIG General Insurance Company.

2. These appeals arise out of the judgment and award dated 30.12.2017 passed in MVC Nos.587/2013 and 588/2013 by the II Addl. Senior Civil Judge and JMFC, Bidar (for short, "the Tribunal").

3. Though these appeals are listed for consideration of the IAs, with the consent of the learned counsel for the parties, they are heard for final disposal. The parties are referred to as they were arrayed before the Tribunal, for the sake of convenience.

4. The claimants filed petitions seeking compensation for the accidental injuries sustained in the accident that occurred on 07.05.2012 involving a Tata Magic vehicle bearing registration No.KA-39/6853 and a Maruti Alto bearing registration No.MH-

15/CM-1608. The owners and insurers of both the vehicles were arrayed as parties before the Tribunal.

4.1 The appellant herein, United India Insurance Company Ltd., admitted the issuance of the policy covering the vehicle bearing registration No.MH-15/CM-1608. However, it disputed the issuance of any policy covering the Tata Magic vehicle bearing registration No.KA-39/6853.

4.2 The Tribunal, without considering the contention so raised, denied the existence of the policy covering the owner of the Tata Magic vehicle and held the appellant liable to pay compensation in respect of both the vehicles.

4.3 Thereafter, the claimants filed MFA No.200679/2018 and MFA No.200680/2018 seeking enhancement of compensation. This Court, by order dated 02.07.2024, allowed both the appeals by enhancing the compensation. As on the date of disposal of the said appeals, the present appeals were pending and ought to have been clubbed and heard together. It is submitted that, due to oversight, such a request was not made to this Court.

5. Sri. Shivanand Patil, learned counsel appearing for the appellant, submits that the primary liability to satisfy the award of compensation is that of the owner. The liability to indemnify the owner arises only when a valid policy of insurance is produced and placed on record.

5.1 It is submitted that the issuance of the policy in respect of the vehicle bearing registration No.MH-15/CM-1608 was admitted. However, the same was disputed in respect of the Tata Magic vehicle bearing registration No.KA-39/6853. However, the Tribunal, without considering the said issue, proceeded to hold that the appellant-United India Insurance Company Limited is liable to indemnify the owners of both the vehicles.

5.2 Learned counsel further submits that Ex.P9, the policy issued by the impleading respondent-Tata AIG General Insurance Company, covering the liability of the Tata Magic vehicle, was produced. The Tribunal, without considering Ex.P9, incorrectly held the appellant liable to indemnify the owner of the Tata Magic vehicle.

6. *Per contra*, Sri. S.S. Aspalli, learned counsel appearing for the impleaded respondent-Tata AIG General Insurance Company, submits that the accident is of the year 2012 and, at this stage, the insurer is unable to verify the issuance of the policy covering the Tata Magic vehicle.

6.1 It is submitted that no such objection was raised in the appeals filed by the claimants seeking enhancement. After the lapse of nearly 14 years, if the policy is now required to be verified, it would be difficult for the insurer to do so, thereby depriving it of a valid defence. It is further submitted that the Tribunal, based on the evidence available on record, has rightly held the appellant liable to indemnify the owners of both the vehicles.

7. Sri. Jidage Kailash, learned counsel appearing for the claimants, submits that the finding recorded by the Tribunal is based on the evidence available on record. Unless any contrary evidence is produced, no interference is called for.

8. Considered the submissions made by the learned counsel for the parties and perused the certified copies of the documents produced by Sri. Shivanand Patil, learned counsel

appearing for the appellant. The same have been examined and are referred to in this order.

9. The occurrence of the accident, the involvement of the vehicles, and the quantum of compensation are not in dispute. The quantum of compensation has attained finality in the appeals preferred at the instance of the claimants in MFA No.200679/2018 and MFA No.200680/2018, decided on 02.07.2024. The appellant has accepted and has not disputed its liability to indemnify the entire compensation, including the enhanced compensation, insofar as the vehicle bearing registration No.MH-15/CM-1608 is concerned.

10. The dispute is only with regard to the direction to indemnify the owner of the vehicle bearing registration No.KA-39/6853. The primary liability to pay compensation is that of the owner of the vehicle. It is only when a valid and enforceable policy is produced before the Court that the insurer becomes liable to indemnify the owner. In the statement of objections filed before the Tribunal, the appellant has categorically denied having issued any policy covering the Tata Magic vehicle. Once such an issue is raised, it is for the

claimants or the owner of the offending vehicle to establish the existence of a valid and enforceable policy. Such burden has not been discharged.

11. Ex.P9 is the policy stated to have been issued by respondent No.4 covering the liability of the Tata Magic vehicle bearing registration No.KA-39/6853. The correctness of the said document is seriously disputed by Sri. S.S. Aspalli, learned counsel appearing for respondent No.4. The evidence on record clearly establishes that the direction issued by the Tribunal to the appellant-insurer to indemnify the owner of the Tata Magic vehicle bearing registration No.KA-39/6853 is without any basis. In the absence of a valid and enforceable policy issued by the appellant covering the liability of the said offending vehicle, no direction could have been issued against it to indemnify the owner.

12. For the said purpose, this Court is inclined to remit the matter for fresh consideration. The finding regarding the liability imposed on the appellant-insurer to the extent of 50% in respect of the vehicle bearing registration No.KA-39/6853 is hereby set aside. However, the liability fastened on the

appellant to the extent of 50% insofar as the vehicle bearing registration No.MH-15/CM-1608 is concerned is retained. The Tribunal, on remand, shall consider the issue relating to the existence of a valid and enforceable policy covering the Tata Magic vehicle bearing registration No.KA-39/6853.

13. In the light of the above, the following:

ORDER

I. Both the appeals are ***allowed-in-part***.

II. The judgment and award dated 30.12.2017 passed in MVC Nos.587/2013 and 588/2013 by the II Addl. Senior Civil Judge and JMFC, Bidar, are hereby ***set aside*** to the extent of fastening liability on the appellant insofar as the Tata Magic vehicle bearing registration No.KA-39/6853 is concerned, and to that extent, the matter is ***remitted*** to the Tribunal for fresh consideration.

III. The claimants are at liberty to implead the respondent No.4 herein, i.e., Tata AIG General Insurance Company, as a party respondent in the claim petitions. If such impleadment is permitted, the Tribunal shall afford an opportunity to Tata AIG General Insurance Company to file its statement of objections and to adduce further evidence in accordance with law. All contentions available to the parties are kept open.

IV. The amount in deposit shall be transmitted to the Tribunal forthwith.

V. The pendency of the remand proceedings shall not relieve the appellant herein of its obligation to deposit the compensation to the extent of its liability insofar as the vehicle bearing registration No.MH-15/CM-1608 is concerned.

VI. No order as to costs.

Sd/-
(K V ARAVIND)
JUDGE

MSR
List No.: 1 Sl No.: 22
CT:PK