



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 10TH DAY OF NOVEMBER, 2025
BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.100639 OF 2014 (MV-I)

BETWEEN:

DHANAJI S/O SANTU PAWAR
AGE: 41 YEARS, OCC: AGRICULTURE,
R/O: KAVALAGI, TQ. & DIST. BIJAPUR.

...APPELLANT

(BY SRI. SANTOSH B. MANE, ADVOCATE)

AND:

1. SMT. MANJULA W/O SHIVAJI CHANDUKAR
AGE: 27 YEARS,
2. KUMARI KAVERI D/O SHIVAJI CHANDUKAR
AGE: 08 YEARS,
3. KUMARI DEEPA D/O SHIVAJI CHANDUKAR
AGE: 06 YEARS,
4. KUMARI CHANDRAKALA D/O SHIVAJI CHANDUKAR
AGE: 04 YEARS,
5. KUMARI PREETI D/O SHIVAJI CHANDUKAR
AGE. 2 1/2 YEARS,
(THE RESPONDENTS NO.2 TO 5 ARE THE MINORS
R/BY NATURAL MOTHER RESPONDENT NO.1 AND
ALL ARE R/O. BANAHATTI, IN JAMAKHANDI TALUK,
BAGALKOT DISTRICT.
6. UNITED INDIA INSURANCE CO. LTD.,
SANGAM BUILDING, S.S FRONT ROAD,
BIJAPUR, BY ITS BRANCH MANAGER.

...RESPONDENTS

(BY SRI. S.S. KOLIWAD, ADVOCATE FOR R6;
NOTICE TO R1 IS SERVED & UNREPRESENTED;
R2 TO R5 ARE MINORS R/BY R1)



THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT., PRAYING TO ALLOW THE APPEAL AND SET ASIDE THE JUDGMENT AND AWARD DATED 30.11.2013 PASSED IN MVC NO.36/2013 BY THE LEARNED ADDITIONAL SENIOR CIVIL JUDGE AND MACT-VI JAMKHANDI, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: THE HON'BLE MRS JUSTICE GEETHA K.B.

ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

Heard the arguments of Sri Santosh B Mane, learned counsel for the appellant and Sri S.S.Koliwad, learned counsel for respondent No.6.

2. This appeal is filed under Section 173(1) of the Motor Vehicles Act, 1988 by the owner of the vehicle challenging the validity of the judgment and award passed in MVC No.36/2013 dated 30.11.2013 on the file of Additional Senior Civil Judge and MACT-VI, Jamkhandi (for short, 'Tribunal'), which was filed under Section 166 of the Motor Vehicles Act.



3. The parties would be referred to as per their rankings before the Tribunal, for the sake of convenience and clarity.

4. Brief facts of the case are that the claimants have filed petition before the Tribunal praying for compensation in respect of accidental death of one Shivaji Chandukar which has taken place on 25.05.2012 at 8.30 p.m. near Vaibhav Talkies, Banahatti when the driver of the tractor-trailer bearing Reg.No.KA-28/TA-6679/6680, which was loaded with tin sheets drove the same by applying the break rashly and negligently, the deceased has fall down from the tractor-trailer and sustained injuries and succumbed to those injuries on 21.06.2012.

5. After service of notice, the respondent appeared and filed objections to the petition.

6. In support of the case of the claimants, claimant No.1 was examined as PW.1 apart from marking Exs.P.1 to P.8. The respondent has not let in any evidence.



7. On appreciation of evidence and hearing arguments of both sides, the Tribunal awarded compensation of Rs.6,42,500/- to the claimants.

8. Challenging the same, the respondent-owner is before this Court on the ground that the Tribunal has saddled liability on the owner of the tractor-trailer as there was no insurance to the vehicle and insurance Company was also not added as party to the petition. Hence, prays for allowing the appeal.

9. In this appeal, the appellant impleaded the insurer of the vehicle as respondent No.6 and has produced the insurance policy along with I.A.No.1/2014 under Order XLI Rule 27 of CPC.

10. Having heard the arguments of learned counsels for appellant and respondent No.6 and on verifying the appeal papers and also the I.A.No.1/2014, the following points would arise for consideration:



1. Whether interference on the impugned judgment and award passed in MVC No.36/2013 dated 30.11.2013 is required?
2. Whether the appellant be permitted to adduce additional evidence?
3. Whether remand of the matter to the Tribunal is required?

11. Finding to the above points would be in the "***affirmative***" for the following reasons:

12. After filing this appeal, the appellant has produced the insurance policy along with I.A.No.1/2014 under Order XLI Rule 27 of CPC. This document is very much required to decide the case on hand to say whether the vehicle in question was covered with insurance or not as on the alleged date of accident. Hence, it is a relevant document. Hence, the appellant is to be permitted to produce this document by allowing I.A.No.1/2014.

13. The claimants have filed the claim petition before the Tribunal claiming compensation on the ground that the



deceased who was inmate of the tractor-trailer has fell down when driver of tractor-trailer applied brake and because of that he sustained injuries and subsequently he succumbed to those injuries.

14. These facts are to be established by producing cogent evidence before the Tribunal. The date of accident is 25.05.2012; the date of death is 21.06.2012; thus, there is gap of about 26 days in between the date of accident and date of death. However, on perusal of the records, it is noticed that except the copies of complaint, FIR, inquest panchanama, spot panchanama, hand sketch, MVA report, PM report and charge sheet, no medical evidence is produced to show that immediately after the accident, the deceased was taken to hospital and provided proper treatment and he succumbed to injuries only occurred at the time of accident.

15. Furthermore, learned counsel for respondent No.6 would submit that he was not made as party in the



original proceedings and thus he does not know anything about the case and he has to take his own defence. Hence, both learned counsel for appellant and respondent No.6 would submit that remand of the matter to the Tribunal is very much required.

16. Even after service of notice of this appeal, respondents No.1 to 5/claimants have not appeared and not contested this appeal.

17. The appellant has not taken any defence before the Tribunal even though notice was served upon him and appeared through his counsel.

18. As discussed above, some important facts are to be established and it needs recording of further evidence and the appellant and respondent No.6 be permitted to put forth their defence; hence, it is very much required to remit the matter to the Tribunal for fresh disposal in accordance with law. Hence, interference of this Court on the impugned judgment and award is very much required.



19. For the above reasons, I pass the following:

ORDER

- a) I.A.No.1/2014 under Order XLI Rule 27 of CPC by the appellant is allowed; the document produced along with it is taken on record.
- b) Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is allowed by setting aside the judgment and award passed in MVC No.36/2013 dated 30.11.2013 on the file of Additional Senior Civil Judge and MACT-VI, Jamkhandi.
- c) The matter is remanded to the Tribunal to provide reasonable opportunity to present appellant and respondent No.6 to file their objection statement and to provide reasonable opportunity to both sides to lead their evidence.



- d) The parties are hereby directed to co-operate with the Tribunal for early disposal as the matter is of the year 2013, the very old matter.
- e) Registry to refund the amount in deposit, if any, made by the appellant to the appellant on proper identification.
- f) In case of allowing the petition, the insurer is liable to pay interest on the claim amount, if awarded by the Tribunal, shall be from the date of impleadment of insurer in this appeal i.e., from 21.02.2024.
- g) After remand, the claimants are hereby directed to implead the insurer as respondent in the original claim petition.

Sd/-
(GEETHA K.B.)
JUDGE