



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 21ST DAY OF NOVEMBER, 2025
BEFORE
THE HON'BLE MRS JUSTICE GEETHA K.B.
MISCELLANEOUS FIRST APPEAL NO. 101786 OF 2014
(MV-I)

BETWEEN:

MEHBOOBLI NADAF S/O. PEERSAB NADAF
AGE: 42 YEARS, OCC: REGISTERED
MEDICAL PRACTITIONER,
R/O: KUNDUR, TQ: SHIGGAON,
DIST: HAVERI.
PRESENTLY AT ASAR ONI,
OLD HUBLI, HUBLI-24, DIST: DHARWAD

...APPELLANT

(BY SMT. ANITA A. ANVEKAR, ADVOCATE FOR
SRI GOURISHANKAR H. MOT, ADVOCATE)

AND:

1. SHAMSHUDDIN KUPPELUR,
AGE: MAJOR, OCC: BUSINESS,
R/O: ARVIND NAGAR ROAD,
GANJIPETH, OLD HUBLI,
HUBLI, DIST: DHARWAR (KAR).
OWNER OF THE VEHICLE.
2. IFFCO-TOKIO GENERAL INSURANCE CO. LTD.,
SBU-HUBLI OFFICE, SUDEV PLAZA,
3RD FLOOR, DAJIBANPETH,
OPP. LAXMI TEMPEL, HUBLI-580 029,
DIST: DHARWAD (KAR).
3. HAYATKHAN URF SHAKKEL
S/O. ABDUL KASIM KHAN SOOR,
AGE: MAJOR, OCC: NOT KNOWN,



R/AT: H.NO.317, 8TH CROSS,
ARVIND NAGAR, OLD HUBLI,
HUBLI, DIST: DHARWAD.

...RESPONDENTS

(BY SRI S.K. KAYAKAMATH, ADVOCATE FOR R2;
NOTICE SERVED TO R1;
NOTICE TO R3 IS DISPENSED WITH.)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO CALL FOR THE RECORDS OF THE CASE IN MVC NO.781/2010, ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL, DHARWAD, SITTING AT HUBLI AND FURTHER BE PLEASED TO SET ASIDE THE JUDGMENT AND AWARD DATED 25.11.2013 PASSED THEREIN AND GRANT SUCH OTHER AND FURTHER RELIEFS AS ARE JUST.

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

ORAL JUDGMENT

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

The unsuccessful claimant is before this Court under Section 173(1) of the Motor Vehicles Act, 1988, (for short, 'M.V.Act'), praying for setting aside the judgment of dismissal passed in MVC No.781/2010 dated 25.11.2013 on the file of I Additional District and Sessions Judge and Additional MACT, Dharwad, sitting at Hubballi (for short, 'the Tribunal').



2. Parties would be referred with their ranks, as they were before the Tribunal, for sake of convenience and clarity.

3. The claimant has filed the claim petition under Section 166 of M.V.Act, praying for compensation in respect of the injuries sustained by him in a road traffic accident that had taken place on 23.06.2010, involving motorcycle bearing No.KA-25/EE-0740.

4. The case of claimant in nutshell is that, on 23.06.2010 around 16.30 hours, he was walking on the left side of the road through Indi Pump towards New English School; respondent No.3 who was the rider of Motorcycle bearing registration No.KA-25/EE-0740, (in short, the offending vehicle), came in rash and negligent manner and dashed against the petitioner and thereby caused the accident. Due to said accident, claimant has sustained fracture injuries and took treatment at Shreyas Orthopaedic and Trauma Centre, Hubballi, as inpatient. Hence, he



claimed compensation under several heads. On receipt of notice, respondent No.1 has not appeared and thus, placed *exparte*; respondents No. 3 appeared through his counsel, but not filed his objection statement.

5. It is only respondent No.2-the insurer of the offending vehicle has filed objection statement, wherein it denied the entire averments of the claim petition regarding the date, time and manner of accident and also the injuries sustained by the claimant and held that a false and concocted case is lodged against the rider of the motorcycle by the claimant. It has also taken all the necessary statutory defences available to the insurer cum owner. Hence, prayed for dismissal of the petition.

6. On behalf of claimant, claimant was examined as PW.1, apart from examining the doctor as PW.2 and marking Exhibits P1 to P50 before the Tribunal. On behalf of respondent No.2, the doctor who has given treatment at the initial stage to the claimant was examined as RW.1, apart



from marking insurance policy as Exhibit R1 and closed its side before the Tribunal.

7. After recording evidence of both sides and hearing arguments of both the sides, the Tribunal has dismissed the petition on the ground that the claimant has not proved the accident as there is delay in lodging the complaint and the history given before the initial treated doctor as self fall from the motorcycle.

8. Aggrieved by the said judgment of dismissal, the claimant/appellant is before this Court.

9. Heard arguments of learned counsel Smt.Anita A. Anvekar on behalf of Sri Gourishankar H. Mot, for appellant and learned counsel Sri S.K.Kayakamath, for respondent No.2-insurance Company.

10. Learned counsel for the appellant would submit that the claimant has produced all relevant materials before the Tribunal i.e., the medical documents, X-rays and other



documents and also adduced the evidence of doctor, who treated the claimant to show that claimant has sustained injury in a road traffic accident that had taken place on 23.06.2010 involving the offending vehicle. However, only by relying on the oral evidence of R.W.1, the Tribunal grossly erred in dismissing the claim petition.

11. Learned counsel for appellant would further submit that mere delay in lodging the complaint is not a ground to reject the claim petition. In this regard, learned counsel for appellant would rely on a judgment of Co-ordinate Bench of this Court in the case of ***Shri Vimal K.S. vs. The Branch Manager, M/s Bajaj Allianz General Insurance Co. Ltd., and another, in MFA No.2610/2012 dated 13.04.2022.***

12. Learned counsel for appellant would further submit that charge sheet is already filed against the driver of the offending vehicle and thus, rashness and negligence on the part of the driver of offending vehicle is proved and



she need not examine independent witnesses to prove it and at the same time the eyewitness need not file the complaint and relied on a judgment of ***Hon'ble Apex Court in the case of Ranjeet & Anr. Vs. Abdul Kayam Neb and Anr., in Civil Appeal No.----- of 2025 (arising out of SLP (C) No.10351/2019*** and the judgment of a ***Co-ordinate Bench of this Court dated 26.03.2013 in MFA No.30151/2012***. She would further submit that the insurance company has not challenged the charge-sheet and hence, it is binding on the respondents. Hence, prayed for allowing the claim petition and to award compensation to the claimant under different heads.

13. *Per contra*, learned counsel for respondent No.2- insurance Company would submit that, immediately after the alleged incident, the claimant was examined by RW.1- doctor, who has in categorical terms gave evidence that claimant came to the hospital with the history of self-fall from the motorcycle and thus, he is not entitled for any compensation from the respondents, because the claimant



failed to prove the involvement of offending vehicle in the said incident.

14. Learned counsel for respondent No.2-Insurance company would further submit that the complaint is lodged by son-in-law of the claimant; claimant is an educated person and no explanation is given for inordinate delay of 12 days in lodging the complaint. PW.2 and RW.1 doctors are working under the same institution and admittedly claimant was first examined by RW.1. Considering these aspects, rightly the Tribunal has dismissed the claim petition.

15. Learned counsel for respondent No.2 would submit that filing of charge sheet itself cannot be a ground to hold that the accident occurred due to rash and negligent riding of rider of the offending vehicle and the Tribunal has to assess the facts independently. In this regard, he relied upon a judgment of ***Hon'ble Apex Court in the case of Mathew Alexander vs. Mohammed Shafi and Anr.,***



reported in 2023 LiveLaw (SC) 531. Hence, prayed for dismissal of the appeal.

16. Having heard the arguments of learned counsels appearing for both the sides and verifying the appeal papers and also the Tribunal records, the points that would arise for consideration are:

i) Whether dismissal of claim petition by the Tribunal by holding that there was no involvement of offending vehicle in causing the accident and causing injuries to the claimant is not proper?

ii) Whether the claimant is entitled for any compensation?

17. My findings to the above points are in 'negative' for the following:

REASONS

18. The case of claimant is that on 23.06.2010, claimant was walking on the left side of the road from Indi



Pump towards New English School; respondent No.3 rode the motorcycle in a rash and negligent manner and dashed against the claimant, which caused injuries to the claimant. To substantiate these facts, claimant has stated the above facts in his affidavit evidence and also relied upon the charge sheet and other prosecution papers, which were marked as Exhibits P.1, P.2 and P.34.

19. On perusal of the complaint at Ex.P.2, it reveals that it was lodged on 04.07.2010 at 08.30 a.m. before the jurisdictional police station and then it was registered in Crime No.147/2010. It is an admitted fact that this complaint is lodged by the son-in-law of the claimant. It is stated that the accident has taken place on 23.06.2010, but there is delay of about 12 days in lodging the complaint. The only reason assigned for such delay is that the rider of motorcycle assured that he would bear the medical expenses.



20. Exhibit P.3 is the wound certificate issued by the treated doctor hospital i.e. Shreyas Orthopaedic and Trauma Centre, Hubballi. It is stated in this wound certificate that claimant aged about 38 years came to the hospital on 23.06.2010 with the history of a road traffic accident on 23.06.2010 and he had sustained a comminuted fracture of shaft femur and cut lacerated wound over scalp measuring 3 cm x 1 cm.

21. The other documents are regarding medical bills and X-rays and other documents to show that the claimant has taken treatment for this fractured injury.

22. P.W.2 is the doctor, who has operated the claimant in Shreyas Orthopaedic and Trauma Centre, Hubballi and stated in his affidavit evidence that he examined the claimant on 05.07.2011 for assessment of permanent physical disability and has given the details of the disability to the claimant. In the cross-examination this doctor has deposed that on the date of accident itself he



has examined the patient and treated him; he volunteered that Ex.P.3 was issued by Dr.Bellad (RW.1) and proper person to speak on it. According to PW.2, immediately after giving treatment to the claimant, they have informed it to the police.

23. In this regard, the respondent-insurer examined R.W.1 Dr.Bellad, who has stated in his evidence that he examined the claimant who admitted to their hospital on 23.06.2010 and found injuries on his body and also found there was fracture on his left thigh and when he enquired the claimant, claimant told that while going on the bike, he fell down and thus, he was injured and thus he has not given MLC intimation to the police.

24. R.W.1 further deposed that there is mention in Ex.P.3-wound certificate, "with the history of RTA", but it is in the printed format. He has deposed that if a person falls from his own fault from the motorcycle, even then they would mention it as RTA.



25. In the cross examination, R.W.1 has categorically admitted that both P.W.2 and RW.1 together are running the said Shreyas Orthopaedic and Trauma Centre and P.W.2 has operated claimant and also gave evidence before the Court. According to him, claimant told that at the time of admission to the hospital, if claimant had told that he met with RTA, the doctors would not have given treatment to him. However, there is no reason for claimant to say so because it is inevitable and compulsory for each and every doctor to treat the patient who came to the hospital with the history of road traffic accident and he cannot deny giving treatment.

26. PW.1 claimant is not an illiterate person, but he is well educated; he himself was a practising doctor. Thus, there was no reason for the claimant to lodge the complaint belatedly. Even though claimant was taking treatment in the hospital, if MLC was sent to the police, it is incumbent upon police officials to come to the hospital and to record the statement of claimant.



27. The inpatient record of the claimant produced as per Ex.P.47 consists of a carbon copy of MLC admission intimation dated 23.06.2010 to South Traffic Police Station. On perusal of this document, it is noticed that, even though this carbon copy is dated 23.06.2010, it was received by the Station House Officer on 02.07.2010. There is no reason that why there is such delay of 10 days in sending MLC intimation to the concerned police station.

28. The say of complainant in the complaint is that the motorcycle rider followed the claimant and complainant to the hospital and told that he would pay the medical expenses and hence, they have not lodged the complaint. If that being so, then the motorcycle number, name of rider of the motorcycle, everything would be known to complainant on 23.06.2010 itself. However name of rider and the offending vehicle number are not mentioned in MLC register or in the wound certificate. Only for the first time in the complaint dated 04.07.2010, the offending vehicle's number and the name of the rider of said vehicle is mentioned.



29. Learned counsel for appellant would submit that mere filing of charge sheet itself is sufficient to prove the negligent act of the driver of the vehicle and independent eyewitness need not be examined to prove it. In this regard the *Hon'ble Apex Court in the case of **Ranjeet & Anr.,** stated supra,* held at paragraph No.4 as under:

"4. It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eyewitnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver."

30. When the name of the driver and registration number of the offending vehicle is known to everyone, then the negligence on his part need not be proved and mere production of charge-sheet is sufficient to prove it. However in the instant case, the involvement of this offending vehicle itself is questioned by the insurance Company. Under these circumstances, the facts and circumstances of present case



and aforesaid citation are entirely different and thus, not applicable to present case.

31. Learned counsel for appellant would further submit that delay in lodging FIR itself cannot be a ground to reject the claim petition and in this regard the Co-ordinate Bench of this Court in **MFA No.2610/2012, states supra, at paragraph No.7**, by relying on the judgment of **Hon'ble Apex Court in the case of Ravi vs. Badrinarayan and others reported in AIR 2011 SC 1226**, held as follows.

"7. The accident had taken place on 29.05.2008 in the evening at about 5.00 pm. No doubt, it is true that the complaint was lodged on 31.05.2008. Hence, there is a delay of two days in lodging the complaint. Just because, there is a delay in lodging the complaint that cannot be made as a ground to dismiss the claim petition. There may be various reasons in lodging the complaint belatedly. The paramount thing is that, soon after the accident, admitting the injured to the hospital for his survival is necessary rather than lodging the complaint before the police. In the present case, soon after the accident, the appellant was shifted to Srinivasa Hospital, Hosakote and then to D.G. Hospital by his friends. Therefore, just because, the complaint was given



*on 31.05.2008 by one Nagaraju, even though, he is not an eye witness that cannot be made as a ground to reject the claim petition. In this regard, I place reliance on the judgment of the Hon'ble Supreme Court in the case of **Ravi Vs. Badrinarayan and Others** reported in **AIR 2011 SC 1226**, wherein at paragraph Nos.20 and 21, it is observed as under:"*

"20. It is well-settled that delay in lodging FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the Police Station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the Police Station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the Police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the contents of the FIR should also be scrutinized more carefully. If court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground.



21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons."

32. Mere delay in filing the FIR itself cannot be a ground to reject the claim petition. However there shall be other circumstances to disbelieve the say of claimant, which are available in the present case.



33. Learned counsel for respondent insurance Company would rely upon the judgment of Hon'ble Apex Court in the case of **Mathew Alexander vs. Mohammed Shafi stated supra**, wherein at paragraph No.8 held as follows:

"8. We find that the High Court, in the impugned order in paragraphs 8 to 13 and 18, has made observations which are in the nature of findings while considering the correctness or otherwise of the final report impugned before the High Court. Further, the observations of the High Court to the effect that the car driven by the Appellant's son, Nixon Abey Mathew, was being driven rashly; that the car had gone astray to the wrong side; that the possibility that the driver of the car had driven the car after consuming alcohol cannot be ruled out; that rashness and negligence on the part of the driver of the car is patent and that this is a clear case in which the principle of res ipsa loquitor applies, are in the nature of findings which were wholly unnecessary to be made while considering the correctness or otherwise of the final report submitted on further investigation of the case.

It is on the basis of the aforesaid observations which are in the nature of findings that the High Court has quashed the report made pursuant to further investigation by opining, "The incident is attributable to the rash and negligent driving of the Alto car". The opinions expressed which are in the nature of



findings while considering the correctness or otherwise of the final report submitted on a further investigation of the case and thereby quashing the same is, in our view, not a correct and proper approach adopted by the High Court. Hence, the impugned order of the High Court is liable to be set aside on this short ground alone."

34. In the aforesaid judgment, the Hon'ble Apex Court has held that the Tribunal has to examine the rashness and negligence and also involvement of the vehicle in question independently of filing of charge-sheet. In the instant case, charge-sheet is filed against respondent No.3 is not in dispute. It is also not in dispute that the claimant has sustained fractured injury and has taken treatment on 23.06.2010. However, the only dispute is, whether the offending vehicle was involved in causing the accident or whether there was self-fall by the claimant from motorcycle is to be examined.

35. As discussed above, coupled with delay in lodging the complaint, there is material evidence of R.W.1 who has issued wound certificate. P.W.2 in his cross-



examination has categorically deposed that R.W.1 is the suitable person to depose about these facts. As per R.W.1, he has not issued MLC intimation to the police. This is more probable, because if really on 23.06.2010 itself MLC intimation was issued, then definitely it would reach the jurisdictional police station within 24 hours. But it reached the police station about 10 days after the incident, which is not at all explained by the claimant.

36. Under these circumstances, dismissal of the claim petition by the Tribunal by assessing all these matters is correct. Hence, interference on the aforesaid judgment is not required. Accordingly, Point No.1 raised for considered, is answered in negative.

37. **Point No.2:** This Court already held that the claimant failed to prove involvement of offending vehicle in causing the accident. Hence, he is not entitled for compensation as claimed in the claim petition. Accordingly, point No.2 does not survive for consideration.



38. Therefore, I proceed to pass the following:

ORDER

The appeal filed under Section 173(1) of the M.V.Act, is dismissed, by confirming the judgment of dismissal and award passed in MVC 781/2010, dated 25.11.2013, on the file of I Additional District and Sessions Judge and MACT, Dharwad, sitting at Hubballi.

**Sd/-
(GEETHA K.B.)
JUDGE**

MRK
CT-CMU
LIST NO.: 1 SL NO.: 5