

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 28TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.102326 OF 2022

C/W

MFA CROB. NO.100158 OF 2022

IN MFA NO.102326/2022
BETWEEN

THE DIVISIONAL MANAGER,
NATIONAL INSURANCE COMPANY LIMITED,
HAVING ITS DIVISIONAL
OFFICE AT 1ST FLOOR,
RAMADEV GALLI, BELAGAVI-590001
REPRESENTED BY AUTHORIZED SIGNATORY.

...APPELLANT

(BY SRI G.N. RAICHUR, ADVOCATE)

AND

- 1 . SMT. NINGAVVA W/O. YALLAPPA BHANGI
AGE. 55 YEARS, OCC. HOUSEWIFE,
R/O. HATTARGI, TQ. HUKKERI,
DIST. BELAGAVI-590010.
- 2 . SHRI KEMPANNA S/O. YALLAPPA BHANGI
AGE. 39 YEARS, OCC. COOLIE,
R/O. HATTARGI, TQ. HUKKERI,

DIST. BELAGAVI-590010.

- 3 . SHRI MARUTI S/O. YALLAPPA BHANGI
AGE. 37 YEARS, OCC. COOLIE,
R/O. HATTARGI, TQ. HUKKERI,
DIST. BELAGAVI-590010.
- 4 . SMT SAVITA W/O. SURESH GHASTI
AGE. 34 YEARS, OCC. HOUSEWIFE,
R/O. HATTARGI, TQ. HUKKERI,
DIST. BELAGAVI-590010.
- 5 . SHRI SIDDAPPA S/O. SATYAPAP MUDAPAKI
AGE. MAJOR, OCC. BUSINESS,
R/O. A/P. ULLAGADDI, KHANAPUR,
TQ. HUKKERI, DIST. BELAGAVI.
(OWNER OF HERO HONDA SPLENDOR
PLUS MOTOR CYCLE NO. KA-23/W-7411)

...RESPONDENTS

(BY SRI ASHOK A. NAIK, ADVOCATE FOR R1 TO R4;
NOTICE SERVED TO R5)

THIS MFA FILED U/S.173(1) OF MOTOR VEHICLES ACT,
PRAYING TP MODIFY THE JUDGMENT AND AWARD DATED
07.05.2022 PASSED IN MVC NO.1505/2015 ON THE FILE OF THE
V ADDITIONAL DISTRICT JUDGE AND ADDITIONAL MOTOR
ACCIDENT CLAIMS TRIBUNAL-VI, BELAGAVI, BY EXONERATING
THE APPELLANT INSURANCE COMPANY FROM THE LIABILITY
AND BY REDUCING THE COMPENSATION AWARDED BY THE
TRIBUNAL BY ALLOWING THIS APPEAL WITH COST IN THE ENDS
OF JUSTICE AND EQUITY.

IN MFA CROB.NO.100158/2022
BETWEEN

- 1 . SMT. NINGAVVA W/O. YALLAPPA BHANGI
AGE. 55 YEARS, OCC. HOUSEWIFE,
R/O. HATTARGI, TQ. HUKKERI,
DIST. BELAGAVI-591309.
- 2 . SHRI KEMPANNA S/O. YALLAPPA BHANGI
AGE. 39 YEARS, OCC. COOLIE
R/O. HATTARGI, TQ. HUKKERI,
DIST. BELAGAVI-591309.
- 3 . SHRI MARUTI S/O. YALLAPPA BHANGI
AGE. 37 YEARS, OCC. COOLIE,
R/O. HATTARGI TQ. HUKKERI,
DIST. BELAGAVI-591309.
- 4 . SMT. SAVITA W/O. SURESH GHASTI
AGE. 34 YEARS, OCC. COOLIE
R/O. HATTARGI TQ. HUKKERI,
DIST. BELAGAVI-591309.

...CROSS OBJECTORS

(BY SRI ASHOK A. NAIK, ADVOCATE)

AND

- 1 . SHRI SIDDAPPA S/O. SATYAPPA MUDAPAKI
AGE. MAJOR, OCC. BUSINESS,
R/O. A/P. ULLAGADDI KHANAPUR,
TQ. HUKKERI DIST. BELAGAVI-591309.
- 2 . THE DIVISIONAL MANAGER
NATIONAL INSURANCE COMPANY LIMITED,

HAVING ITS DIVISIONAL OFFICE AT 1ST FLOOR,
RAMADEV GALLI, BELAGAVI-590001.

...RESPONDENTS

(BY SRI G.N. RAICHUR, ADVOCATE FOR R2;
NOTICE SERVED TO R1)

THIS MFA.CROB IN MFA NO.102326/2022 FILED UNDER ORDER 41 RULE 22 OF CPC. 1908, PRAYING THAT, THE JUDGMENT AND AWARD DATED 07.05.2022 PASSED IN MVC NO.1505/2015 ON THE FILE OF THE V ADDITIONAL DISTRICT JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL-VI, BELAGAVI IN AWARDING COMPENSATION OF RS.7,47,738/- WITH 6% INTEREST P.A. BE KINDLY MODIFIED BY ENHANCING TO RS.3,00,000/- WITH INTEREST @ 18% PER ANNUM FROM THE DATE OF PETITION, TILL THE DATE OF PAYMENT, BY HOLDING RESPONDENTS NO.1 AND 2 HEREIN JOINTLY AND SEVERALLY LIABLE TO PAY THE COMPENSATION, BY ALLOWING THIS APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL AND CROSS OBJECTION HAVING BEEN HEARD AND RESERVED ON 19.11.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

CAV JUDGMENT

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

The appeal is filed by the insurer challenging the quantum of compensation and also liability, whereas Cross-objection is filed by claimants claiming enhancement of compensation being not satisfied with the judgment and award dated 07.05.2022 passed in MVC No.1505/2015 on the file of V Addl. District Judge and Addl. MACT-VI, Belagavi (for short 'Tribunal') under Section 173(1) of the Motor Vehicles Act, 1988 (for short 'M.V.Act').

2. The parties would be referred with their ranks as they were before trial court for the sake of convenience and clarity.

3. Claimants have filed the claim petition under Section 166 of MV Act, praying for compensation in respect of the death of one Yallappa son of Bhima Bangi in the road traffic accident involving motorcycle bearing registration No.KA-23/W-7411 that had taken place on 27.05.2014 at 16.45 hours at Anandapur Plot, Hattargi. It is alleged that deceased who was the pillion rider of said vehicle, has fallen

down and due to that he sustained grievous injuries and he succumbed to those injuries on 12.09.2014.

4. On service of notice, respondent No.2-insurer filed its objection statement wherein it has denied the entire averments in the petition and contended that it is a false and concocted story. The claimants have filed the false claim petition and no alleged accident as such had taken place. The accident occurred only because of negligence of the deceased. The claimants colluding with hospital authorities have created the documents and filed the false claim petition. The rider of the motorcycle was not having valid driving license. Hence, prayed for dismissal of the petition.

5. On behalf of the claimants, claimant No.2 and a witness were examined as P.W.1 & P.W.2 apart from marking Ex.P.1 to P.23 before the Tribunal. On behalf of respondents, R.W.1 was examined apart from marking Ex.R.1 and R.2.

6. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that the claimants have established that the accident occurred due to rash and negligent riding of rider of the motor cycle in question and claimants are entitled for total compensation of total Rs.7,47,738/- under following different heads:

1.	Towards simple/grievous injuries, pain and sufferings	Rs.20,000/-
2.	Towards medical expenses	Rs.3,738/-
3.	Towards conveyance, attendant, nourishment and Miscellaneous	Rs.20,000/-
4.	Loss of future income (Rs.8,000x12x11=10,56,000 10,56,000-3,52,000(1/3 rd For personal expenses)	Rs.7,04,000/-
Total		Rs.7,47,738/-

7. Not satisfied with the above compensation, claimants have preferred Cross objection No.1001158/2022 wherein, they contended that the compensation awarded by the tribunal is on the lower side. It has not awarded the compensation in respect of loss towards Estate and funeral expenses. Hence, prays for allowing the cross-objection and to enhance the compensation.

8. The learned counsel for appellant/insurer Sri G.N.Raichur would submit that the Tribunal committed grave error in not properly scrutinizing the records. There is an inordinate delay in filing the complaint. The FIR is lodged only in collusion with police officials. There is no proper evidence placed before the Tribunal. The vehicle in question was not at all involved in the accident. There were no damages to the said vehicle. The deceased was inpatient from 27.05.2014 to 31.05.2014. But he died about 4 months after this incident and there is no material to show that only because of the accidental injuries, the injured died. There was only fracture of right femur as per Ex.P.7-wound certificate, which is not a fatal injury. Hence, prayed for allowing the appeal and to set aside the judgment and award passed by the Tribunal.

9. Having heard the arguments of both sides, verifying the appeal papers and trial Court records, the point that would arise for consideration is "Whether the

claimants prove that the accident happened and due to that husband of claimant No.1 died on 29.02.2014?"

10. Our finding on the above point is in "Negative" for the following reasons:

11. The case of claimants in a nutshell is that the accident occurred on 27.05.2014 at 04.45 p.m. when the husband of claimant No.1 was walking on the side of the road near Hattargi bus stand, the rider of Hero Honda Splendor motorcycle bearing registration No.KA-23/W-7411 came from back side and dashed against husband of claimant No.1 and caused the accident. Due to the accident, husband of first claimant fell down and sustained fracture of right femur bone, has taken treatment as in-patient in the hospital from 27.05.2014 to 31.05.2014 and after discharge from the hospital, he succumbed to the said injury on 12.09.2014.

12. The alleged accident had taken place on 27.05.2014; whereas the complaint was lodged on 01.06.2014. Thus, there is delay of five days in lodging the

complaint. The only reason assigned for such delay in lodging the complaint is that the rider of the motorcycle assured to pay medical expenses; but subsequently did not pay it.

13. Based on this complaint, the police officials have registered the case, conducted investigation and filed charge-sheet on 06.11.2014 against the rider of the motorcycle who, after service of summons appeared before trial Court and pleaded guilty of the offences punishable under Sections 279, 338 of IPC and also under Sections 134 and 187 of the MV Act and paid fine of Rs.1,400/-. However, before filing of charge-sheet, on 12.09.2014 itself, father of the claimant No.2 died as per death certificate-Ex.P.8.

14. There is no material produced before the Court to show that there is nexus between the accident and the death of deceased Yallappa. According to the wound certificate as per Ex.P.7, within 15 minutes of the accident, the injured himself had been to Rajiv Gandhi Rural Hospital

and has sustained only fracture of right femur. If at all there is any fracture to the femur bone, then that is not a fatal injury, it only causes fracture to the leg and at any stretch of imagination; there cannot be any nexus for the death of a person; that too, when he died about three and half months after the incident.

15. Furthermore, this death is not informed to the police and police have filed charge sheet after the death of said deceased only for the offences under Ss. 279 and 338 IPC and not for the offence under S.304-A IPC in the charge-sheet. Hence, viewed from any angle, there was only a fracture of right femur to deceased which has not resulted in his death.

16. No document is produced to show that after discharge from the hospital on 31.05.2014, Yallappa was taking continuous treatment in any other hospital for the injury sustained by him. Under these circumstances, without examining these materials, the conclusion of the Tribunal that there is a nexus between death and accident is

erroneous. The Tribunal has noted in the judgment that Ex.P.7 as Postmortem report and granted the compensation for the death of the person in RTA and thus committed grave mistake.

17. Thus, grant of compensation to claimants under the head loss of dependency, conveyance and other charges is completely erroneous.

18. Injury certificate reveals that, within 15 minutes of accident, the injured person himself had been to Rajiv Gandhi Rural Hospital and has given the history that alleged to have been involved in Road Traffic Accident on 27.05.2014 around 05.00 p.m. This reveals that the injured was conscious and he himself had been to the hospital and admitted to the hospital. Thus, there was no difficulty for him to lodge the complaint and hospital authorities are duty bound to intimate to the police.

19. There is no evidence to show that why immediately police intimation is not given by the hospital authorities and why there is such an inordinate delay in

lodging the complaint; further even after death of the injured, hurriedly the rider of the motorcycle pleaded guilty of the offence in criminal case.

20. The PW.1 and PW.2 are not eyewitnesses to the incident. The son of injured has lodged the complaint five days afterwards without any admissible reason. Furthermore, the person who had seen the accident is not examined. Generally, filing of charge-sheet itself is sufficient to prove the negligence of the rider of the motorcycle to file the petition under Section 166 of M.V. Act. However, in the case of present nature, when there is an inordinate delay in lodging the complaint; when there is concoction of records; even though within 15 minutes, the person who sustained injury himself had been to the hospital without any assistance with consciousness, has not lodged the complaint, etc., then the examining independent eye witness is very much required to prove the accident which is not forthcoming in the present case.

21. Furthermore, even the MVA report shows that there are no damages to the motorcycle. If really the motorcycle dashed against the husband of claimant No.1 and caused the accident, there is every possibility of at least scratches on the motorcycle which are not forthcoming in the present case.

22. If all the above facts are read together, the only inference that can be drawn is that the claimants failed to prove that deceased sustained injury in the road traffic accident place on 27.05.2014 near Anandpur Plot, Hattargi, with the involvement of motorcycle bearing registration number KA-23/W-7411 and died due to the injury sustained in the said accident. Hence, we are of the considered opinion that the claimants are not entitled for any compensation.

23. Without examining these material particulars, granting compensation by the Tribunal is erroneous. Hence, we proceed to pass the following:

ORDER

1) The **appeal** filed under Section 173(1) of the M.V. Act by the insurance Company is **allowed** by setting aside the Judgment and Award passed in MVC No.1505/2015 dated 07.05.2022 by the V Addl. District Judge and Addl. MACT VI, Belagavi.

2) The **Cross-objection** filed by claimants under Order 41 Rule 22 of CPC, 1908 is **dismissed** as accident itself is not proved.

3) Claim petition filed in MVC No.1505/2015 dated 07.05.2022 is dismissed.

4) The amount if any, in deposit is refunded to the insurer.

5) No order as to cost.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

HMB
CT-CMU
LIST NO.: 1 SL NO.: 28