

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 14TH 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.103484 OF 2016

BETWEEN

1. SMT. PREMAVVA @ PREMA
W/O. YAMANAPPA VADDAR @ KALLAVADDAR,
AGE: 41 YEARS, OCC: HOUSEHOLD WORK,
2. BASAVARAJ
S/O. YAMANAPPA VADDAR @ KALLAVADDAR,
AGE: 21 YEARS, OCC: STUDENT,
3. HULIGEVVA @ HULIGEMMA
D/O. YAMANAPPA VADDAR @ KALLAVADDAR,
AGE: 17 YEARS, OCC: STUDENT,
BEING A MINOR, IS REPRESENTED
BY NEXT FRIEND/MOTHER,
THE APPELLANT NO.1.

ALL ARE R/O: RAMANAGAR, DHARWAD.

...APPELLANTS

(BY SRI. PRASHANTH KADADEVAR, ADVOCATE)

AND

1. HANUMANTAPPA S/O. MUDAKAPPA RITTI,
AGE: MAJOR, OCC: AGRICULTURIST,

R/O: GULAGUNDI,
TQ: RON, DIST: GADAG.

- 2 . RAMAREDDI S/O. HANUMAREDDI KURAHATTI,
R/O: IBRAHIMPUR,
TQ: NAVALGUND, DIST: DHARWAD.

....RESPONDENTS

(BY SRI. ARAVIND D. KULKARNI, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT WAS DELIVERED THEREIN AS UNDER: AND AWARD DATED 31.12.2015 PASSED BY THE I ADDL. SENIOR CIVIL JUDGE AND ADDL. MACT., DHARWAD IN MVC NO.607/2013 AND MODIFY THE SAME BY AWARDING THE COMPENSATION IN THIS APPEAL AS CLAIMED IN CLAIM PETITION AND PASS SUCH OTHER ORDER/ORDERS AS DEEMS FIT BY THIS COURT IN INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON 06.11.2025 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 appellants-claimants are before this Court in this appeal filed under Section 173(1) of Motor Vehicles Act, 1988 (For short 'MV Act') aggrieved by the dismissal of their claim petition in MVC No.607/2013 dated 31.12.2015 passed by I Addl. Senior Civil Judge and Addl. MACT., Dharwad (for short 'Tribunal').

2. For sake of convenience, parties will be referred as per their ranks before the Trial Court.

3. The case of the claimants before the trial Court in nutshell is that:- Claimants are wife and children of deceased Yamanappa Vaddar @ Kallavaddar, who sustained injuries in the motor vehicle accident that had taken place on 13.09.2012 at about 09.30 p.m. when respondent No.1 who came in his motorcycle bearing No.KA-25/EE-2544 from Menasagi side towards Shirol side in a rash and negligent manner dashed against the husband of petitioner No.1 and caused the accident. On account of the accident, Yamanappa Vaddar sustained grievous injuries. On

14.09.2012, he was admitted to KIMS Hospital, Hubballi and he died on 05.11.2012 during the course of treatment. Claimants by making the above allegations have prayed for total compensation of Rs.15,35,000/- under different heads.

4. On issuance of notice, respondent Nos.1 and 2 appeared through their counsel and filed their objection statement wherein they denied the accident, date, time, and place etc. They further contended that false complaint was lodged against respondent No.1 through one Fakirappa Nagannavar Annegiri Taluk, Navalgund on 16.09.2012 in respect of the alleged accident that had taken place on 13.09.2012 and that is after lapse of 3 days. They further contended that charge sheet is filed against respondent No.1 which is registered in CC No.23/2013 which was challenged by respondent No.1. Petitioners have manipulated false and concocted case to make unlawful gain. The deceased has consumed alcohol and sustained injuries due to fall on road at Annigere on 13.09.2012. There was no accident as alleged in the petition. Thus there

is no negligence that could be attributed towards respondent No.1 and liability in turn to respondent Nos.1 and 2. They denied all other averments made in the above petition and prayed for dismissal of petition with costs.

5. In support of the claim petition, three witnesses are examined as PW.1 to PW.3 apart from marking Exs.P.1 to P.14 and on behalf of respondents, two witnesses are examined as RWs.1 and 2 apart from marking Exs.R.1 to R.3.

6. The Tribunal on scrutiny of the material on record has dismissed the claim petition with compensatory costs of Rs.1,000/- on the ground that the false claim is made by the claimants against respondents and no accident as alleged in the petition had taken place.

7. Aggrieved by the said judgment and award, the claimants-appellants are before this Court.

8. Heard learned counsel Sri Prashant Kadadevar for appellants, Sri Aravind D. Kulkarni for respondent Nos.1 and 2.

9. Learned counsel for the appellants Sri Prashanth Kadadevar would submit that Tribunal has grossly erred in dismissing the claim petition without properly appreciating the oral and documentary evidence even though the eyewitness was examined as PW.2. The Tribunal has not considered the complaint, FIR and charge sheet which are the relevant documents to decide whether accident had taken place or not. Once the factum of accident is proved, the Court need not look into the judgment of criminal case. But based on the judgment of criminal case, the Tribunal has dismissed the claim petition, which is erroneous. Hence prays for allowing the appeal.

10. Per contra, learned counsel for respondent Nos. 1 and 2 Sri Arvind D. Kulkarni would submit that there is no accident at all as alleged in the claim petition which is clearly established by respondents. They have relied upon

the wound certificate, IMV report in support of their contention. Hence, prayed for dismissal of the appeal.

11. Having heard the learned counsel for parties and on perusal of the appeal papers along with original records of the tribunal, the following points would arise for our consideration in this appeal:-

1) Whether the claimants-appellants prove that the accident happened on 13.09.2012 due to rash and negligent riding of rider of motorcycle bearing No.KA-25/EE-2544?

2) Whether the claimants prove that the death of deceased was due to the aforesaid accident?

3) Whether claimants would be entitled for compensation?

12. Our answers to the point Nos.1 to 3 are in the **Negative** for the following reasons:

13. According to the averments made in the claim petition and oral evidence of PWs.1 and 2, on 13.09.2012 at about 09.30 p.m., the deceased was going by walk on left side of Shirol-Menasagi village. At that time respondent No.1 being rider of motorcycle bearing Regn.No.KA-25/EE-2544 came from Menasagi side towards Shirol side in a rash and negligent manner and dashed against the deceased and thereby caused the accident. According to claimants because of the aforesaid accident, the deceased sustained grievous injuries and he succumbed to those injuries on 05.11.2012.

14. The alleged accident had taken place on 13.09.2012, whereas the deceased died on 05.11.2012. Thus there is a gap of about 53 days in between the alleged date of accident and the death of the deceased. The treatment details are not furnished by the claimants. They have only produced inquest panchnama to show the death of the deceased. The death of the deceased on 05.11.2012

is not in dispute. However whether he died due to accidental injuries or not is to be examined.

15. Respondents have produced two admission register and OPD slip as per Exs.R.1 and R.2. They reveal that on 14.09.2012, the deceased was admitted to KIMS Hospital and discharged from the said hospital on 10.10.2012. He was brought to the hospital by his friend Fakirappa(PW.2) alleging the history of alcohol consumption on 13.09.2012 at 09.30 p.m., at his shop and later self-fall on the road near his residence at Basaveshwara Nagara, Annigere, Dharwad district.

16. In both Exs.R.1 and R.2, it is clearly stated that the friend of deceased, PW.2 has taken the deceased to the hospital with the history of self-fall and before that there was consumption of alcohol. PW.2 being friend of the deceased by suppressing these facts has lodged false complaint belatedly three days after the incident and has given his evidence in the claim petition that there was Road traffic accident. According to his evidence, immediately

after the incident, deceased was admitted to the Government Hospital, Shirol. But no document of said hospital is produced. He admitted that he himself had taken the deceased to KIMS Hospital as per Exs.R1 and R2.

17. PW.3 is the doctor at KIMS Hospital who conducted Postmortem on the dead body. He has deposed in his cross-examination that as per the history mentioned in Ex.R.1-case sheet, it was the history of consumption of alcohol and later self-fall near his residence. According to him, the deceased was admitted to their hospital on 14.09.2012 and discharged on 10.10.2012 and then readmitted on 04.11.2012 and died on 05.11.2012. At the time of discharge from the hospital on 10.10.2012, the deceased was fully recovered and he was fit for discharge. Hence he was discharged from the hospital. Thus at no stretch of imagination, it can be said that the death was due to accidental injuries sustained by the deceased.

18. PW.1 is the wife of deceased and she has not seen the incident. Hence, not competent to depose how the

incident had taken place. On the other hand, it is PW.2, who has admitted the deceased to the hospital with the history of self-fall after consumption of alcohol which categorically established that the accident had not taken place as alleged. Further, IMV report established that no damage to the vehicle. There is three days delay in lodging the complaint which is also not properly explained. All the above facts clearly and categorically establish that the death of the deceased was not due to road traffic accident as alleged in the claim petition.

19. Considering all the above facts in proper perspective, the Tribunal has rightly dismissed the petition. Hence, we find no reason for interference.

20. Accordingly the appeal stands dismissed.

**Sd/-
(S G PANDIT)
JUDGE**

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

HMB CT-CMU,