



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. 103470 OF 2016 (MV-D)

BETWEEN:

1. AYYAPPA SAJJAN S/O. BASAPPA SAJJAN,
AGE: 53 YEARS, OCC: SDC IN RTO OFFICE, KOPPAL,
R/O: KUSHTAGI,
NOW AT HIRE JANTAKAL,
GANGAVATHI, DIST: KOPPAL-583227.
2. SMT. NEELAMMA W/O. AYYAPPA SAJJAN,
AGE: 48 YEARS, OCC: NIL,
R/O: KUSHTAGI, NOW AT HIRE JANTAKAL,
GANGAVATHI, DIST: KOPPAL-587227.

...APPELLANTS

(BY SRI. DEEPAK MAGANUR, ADVOCATE)

AND:

1. JEEVANKUMAR S/O. CHANDRASHEKHAR
AGE: 26 YEARS, OCC: OWNER OF MOTOR CYCLE
UP 70/DB-0187,
R/O: 508, ABW FORT, ALLAHABAD,
U P STATE-211002.
2. THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
BRANCH OFFICE: SANMAN TOURIST HOTEL
COMPLEX,



CBS CIRCLE, ISLAMPUR, GANGAVATHI,
DIST: KOPPAL, KARNATAKA STATE-583227.

...RESPONDENTS

(BY SRI S.S. KOLIWAD, ADVOCATE FOR R2;
NOTICE TO R1 DISPENSED WITH)

THIS MFA IS FILED U/S.173(1) OF MOTOR VEHICLES ACT,
PRAYING TO CALL FOR RECORDS AND MODIFY THE JUDGMENT
& AWARD DATED:27.07.2016, PASSED IN MVC.NO.143/2013 ON
THE FILE OF THE SENIOR CIVIL JUDGE AND MEMBER MOTOR
ACCIDENT CLAIMS TRIBUNAL AT GANGAVATHI, BY AWARDING
THE COMPENSATION AS CLAIMED IN TH CLAIM PETITION IN
THE INTEREST OF JUSTICE AND EQUITY.

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 appellant has filed this appeal under Section
173(1) of the Motor Vehicle Act, 1988 (for short 'MV Act')
being aggrieved by the dismissal of claim petition in MVC
No.143/2013 dated 27.07.2016 on the file of Senior Civil
Judge and MACT, Gangavathi (for short 'Tribunal').

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



3. The claimants have filed claim petition under Section 163-A of M.V. Act 1988, praying for compensation in respect of death of one Praveen, son of Ayyappa Sajjan due to the accident occurred on 20.01.2013 involving Motorcycle bearing Regn.No.UP-70/BD-0187 on Sivayoga Mandira-Banashankari road at Badami. The claimants are the parents of the deceased and contended that deceased died while taking treatment. He was hale & healthy, was studying at B.E.; doing part time job and getting income of Rs.3,300/- per month and due to the accident, claimants have lost their earning member of the family. Hence, they claim compensation.

4. On service of notice, respondent No.1 has not appeared and he was placed *exparte* before the Tribunal.

5. Respondent No.2 appeared through its counsel and filed its objection statement wherein it contended that the petition is not maintainable as the deceased himself was



tort-feaser and it denied its liability and hence prayed for dismissal of petition.

6. On behalf of claimants, claimant No.1 was examined as P.W.1, examined a witness as P.W.2 apart from marking Ex.P.1 to P.11 and closed their side before the Tribunal. On behalf of respondent No.2, R.W.1 was examined apart from marking Exhibits R.1 to R.10 and closed its side before the Tribunal.

7. After recording evidence of both sides and hearing arguments of both sides, the Tribunal dismissed the claim petition on the ground that the deceased was rider of the motorcycle, by borrowing the same from its owner and hence he stepped into the shoes of the owner and hence, he being deemed owner is not entitled for compensation.

8. Aggrieved by the same, the appellants/claimants have filed the present appeal.



9. Learned counsel for appellants Sri Deepak Maganur would submit that when the Tribunal comes to the conclusion that deceased is a tort-feasor and stepped into the shoes of owner, as there was coverage of personal accident under the insurance policy, the Tribunal ought to have awarded compensation under Section 163-A of the M.V Act. In this regard, he places reliance on the judgment of Hon'ble Apex Court in the case of ***Ramkhiladi and another v. United India Insurance Company and another***¹. Hence, prayed for allowing the appeal.

10. Learned counsel for respondent No.2 Sri S.S. Koliwad would submit that the Tribunal has passed the reasoned order and it needs no interference.

11. Having heard the arguments of both sides and verifying the appeal papers, the only point that would arise for consideration is:

¹ 2020(2) SCC 550



"Whether appellants-claimants are entitled for compensation?"

12. The finding of the Tribunal on the above point is in 'affirmative' for the following reasons:-

The admitted facts of the case are that the deceased Praveen was riding the motorcycle bearing registration No. UP-70/BD-0187 on Sivayoga Mandira-Banashankari road at Badami on 21.02.2013 at 04.30 p.m. At that time, because of the tire burst, he sustained accident and inspite of taking treatment at S.N.Medical College Hospital, Bagalakot, he succumbed to injuries.

13. The oral and documentary evidence produced before the Tribunal clearly establish that the deceased has borrowed the motorcycle from respondent No.1-owner of the vehicle and while riding it, the aforesaid vehicle accident had taken place and because of it he died. Thus he himself is the tort-feasor. Hence, generally he is not entitled for compensation. However, under Section 163-A of the MV



Act, the rashness and negligence of the rider of the motor bike need not be proved. The only fact to be proved is whether the accident occurred out of the use of motor vehicle. In the instant case, it is undisputed fact that at the time of use of motor vehicle, the accident happened and its rider died.

14. In the instant case, the deceased had taken the motor cycle from its owner and while riding it, he sustained the accident. Hence, the deceased stepped into the shoes of owner for a limited purpose. In this regard in the citation relied upon by the learned counsel for appellant ***Ramkhilladi and another*** stated supra, at paragraph 9.8 it is held as under:

"9.8. However, at the same time, even as per the contract of insurance, in case of personal accident the owner-driver is entitled to a sum of Rs.1 lakh. Therefore, the deceased, as observed hereinabove, who would be in the shoes of the owner shall be entitled to a sum of Rs.1 lakh, even as per the contract of insurance. However, it is the case on behalf of the original claimants that there is an amendment to the 2nd Schedule and a fixed amount of Rs.5 lakh has been specified in case of death and therefore the claimants shall be entitled to Rs.5 lakh. The same cannot be accepted. In the present case, the accident took place in the year 2006 and even the judgment and award was passed by the learned Tribunal in the year 2009, and the impugned



judgment and order has been passed by the High Court in 10-5-2018 i.e. much prior to the amendment in the 2nd Schedule. In the facts and circumstance of the present case, the claimants shall not be entitled to the benefit of the amendment to the 2nd Schedule. At the same time, as observed hereinabove, the claimants shall be entitled to Rs.1 lakh as per the terms of the contract of insurance, the driver being in the shoes of the owner of the vehicle."

15. In the instant case also, there was valid and effective insurance policy as on the date of accident. It covers the personal accident to the owner/driver at Rs. 1,00,000/-. Under these circumstances, the claimants are definitely entitled for compensation of Rs.1,00,000/- under the aforesaid head.

16. Hence, this Court proceeds to pass the following:-

ORDER

1) Appeal filed under Section 173(1) of M.V. Act is partly allowed.

2) Appellants are entitled for compensation of Rs. 1,00,000/- with interest at 6% per annum from the date of petition till realization.



3) The respondent-insurance Company is hereby directed to deposit the compensation amount within 8 weeks from the date of receipt of certified copy of this order.

4) The compensation amount shall be equally shared between both the claimants.

5) On deposit, the Tribunal is directed to disburse the entire amount to claimants on proper identification as the compensation amount is meager.

Sd/-
(GEETHA K.B.)
JUDGE