



IN THE HIGH COURT OF KARNATAKA,AT DHARWAD

DATED THIS THE 27TH 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. 103609 OF 2016 (MV-D)

BETWEEN:

1. SMT. JAITUNBEE W/O. UMARFARUAQUE
@ FARUQUE ZENDE,
AGE: 38 YEARS, OCC: HOUSEHOLD
- 2.. SARFRAZ S/O. UMARFARUQUE
@ FARUQUE ZENDE,
AGE: 25 YEARS, OCC: STUDENT,
3. MIZ. HAZARTMA D/O. UMARFARUQUE
@ FARUQUE ZENDE,
AGE: 23 YEARS, OCC: STUDENT,
4. MOHAMMAD ILIAZ S/O. UMARFARUQUE
@ FARUQUE ZENDE,
AGE: 25 YEARS, OCC: STUDENT,
5. ASIFALI S/O. UMARFARUQUE
@ FARUQUE ZENDE,
AGE: 22 YEARS, OCC: STUDENT,
6. SMT. NAZMUNBEE W/O. NOORSAB ZENDE
AGE: 64 YEARS, OCC: NIL,



7. SMT. RIZWANA D/O. NOORSAB ZENDE
AGE: 29 YEARS, OCC: HOUSEHOLD,
ALL ARE R/O GLBC-IB, JAMKHANDI-587301,
TQ: JAMKHANDI, DIST: BAGALKOT.

...APPELLANTS

(BY SRI HARISH S. MAIGUR, ADVOCATE)

AND:

1. SIDDAVEERAPPA S/O. RAMAPPA JONGANAVAR
AGE: 59 YEARS, OCC: OWNER OF VEHICLE AND
AGRICULTURIST,
R/O: MATHURKHANDI,
TQ: JAMKHANDI-587119.

2. THE DIVISIONAL MANAGER
UNITED INDIA INSURANCE CO. LTD.,
NEAR SIDDESHWAR TEMPLE,
VIJAYAPURA-586101.

...RESPONDENTS

(BY SRI VISHWANATH S. BICHAGATH, ADVOCATE FOR R1;
SMT. PREETI SHASHANK, ADVOCATE)

THIS MFA IS FILED U/S.173(1) OF MOTOR VEHICLES ACT,
PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED
15.04.2016 PASSED IN MVC NO.445/2012 ON THE FILE OF THE
I-ADDITIONAL DISTRICT AND SESSIONS JUDGE, BAGALKOT TO
SIT AT JAMAKHANDI AND MEMBER, MOTOR ACCIDENT CLAIMS
TRIBUNAL NO.XI, JAMAKHANDI, BY ALLOWING THIS APPEAL
WITH COST, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, THE
COURT DELIVERED THE FOLLOWING:

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



ORAL JUDGMENT

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

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 by the unsuccessful claimants in MVC No.445/2012 questioning the judgment and award passed in MVC No.445/2012 dated 15.04.2016 by the I Addl. District and Sessions Judge, Bagalkot and AMACT-XI, Jamakhandi (for short 'Tribunal')

2. The parties would be referred with their ranks before the trial Court for the sake of convenience and clarity.

3. The case of claimants in a nutshell is that on 07.12.2011 at about 10.20 am., when the husband of the claimant No.1-Umarfaruque @ Faruque S/o Noorsab Zende was standing beside the road, near Basaveswara Circle, Jamakhandi, the Mahindra Tractor bearing No.KA-48/T-7491 dashed against him and caused the accident which resulted in his death instantly.



4. Claimants further contended that deceased was hale and healthy and was earning and was working as AEE, GLBC, Irrigation Department, Jamkhandi and he was the sole bread earner of the family. Claimants being his wife, children and mother have filed the claim petition claiming compensation.

5. The Respondent No.1, the owner of the Mahindra Tractor No. KA-48/T-7491 has filed his objection statement, wherein he denied the mode of accident, age, occupation and income of the deceased but admitted that he is the owner of the vehicle in question and denied the accident was caused due to his vehicle. However his vehicle is duly insured by respondent No.2.

6. Respondent No.2 insurer filed its written statement wherein it denied the petition averments in toto except admitting the validity of policy to tractor bearing No. KA-48/T-7491. It further contended that as per FIR and complaint, the Mahindra Arjun Ultra-1605, DI No.KA-29/M-



1096 with 2 unnumbered green colour trailers was the cause for accident. But, the tractor to which having insurance is falsely implicated in the case, only to get compensation. The respondent No.2 further denied all other averments regarding the age, income and occupation of the deceased and also other facts. Hence, prayed for dismissal of the petition.

7. On behalf of claimants, claimant No.2 was examined as P.W.1 apart from examining a witness as P.W.2 and marking Exs.P.1 to P.16 before the Tribunal. On behalf of respondents, two witnesses are examined as R.W.1 and R.W.2 apart from marking Exs.R.1 to R.19 and closed their side.

8. After recording the evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that involvement of Mahindra tractor bearing No. KA-48/T-7491 in causing the accident is not proved by the claimants and thereby dismissed the claim petition.



9. Aggrieved by the said finding, the claimants are before this Court.

10. Heard arguments of both sides and perused the record.

11. Learned counsel for the appellant Sri.Harish S. Maigur would submit that there is ample evidence produced before the Tribunal to show the involvement of Mahindra tractor bearing No.KA-48/T-7491 whereas the uncle of claimant No.2 by oversight has given the vehicle No.KA-29/M-1096 wrongly at the time of lodging complaint. Charge sheet is filed against the driver of Mahindra Tractor bearing No.KA-48/T-7491 and evidence is also produced before this Court. However, the Tribunal has not properly appreciated the oral and documentary evidence put forth before it. Hence, prayed for allowing the appeal and to grant compensation to the claimants.

12. Learned counsel for the appellant would further submit that the owner of Mahindra tractor bearing No.KA-



48/T-7491 has admitted about involvement of his tractor in causing the accident in the criminal case. He would further submit that the witnesses who were examined before criminal Court have given evidence about drawing up of spot panchanama, conducting post mortem, MV Inspector who has examined the motor vehicle and owner of the tractor bearing No.KA-48/T-7491 and these materials are more than sufficient to hold that the accident occurred due to involvement of tractor bearing No.KA-48/T-7491.

13. Learned counsel for respondent No.2 Smt.Preethi Shashank for insurer would submit that in collusion with the owner of tractor-trailer bearing No.KA-29/M-1096, the case is manipulated and concocted against the Mahindra tractor bearing No.KA-48/T-7491 by claimants. She would further submit that mere filing of charge-sheet cannot be a ground to hold that the Mahindra tractor vehicle bearing No.KA-48/T-7491 is involved in the accident. Learned counsel for appellants would further submit that there are no damages to Mahindra tractor vehicle bearing No.KA-48/T-7491.



Considering these aspects, properly the Tribunal has dismissed the claim petition. Hence, prayed for dismissal of the appeal.

14. Having heard the arguments of both sides, verifying the appeal papers and records of Tribunal, the point that would arise for consideration is:-

"Whether the claimants able to establish that the accident occurred due to rash and negligent driving of driver of tractor bearing No.KA-48/T-7491 and the Tribunal is not justified in dismissing the claim petition?"

15. Our finding on the above point is in 'negative' for the following reasons:-

The contention of claimants is that on 07.12.2011 at about 10.20 p.m., the husband of claimant No.1 was standing beside the road near Basaveshwara circle and at that time, Mahindra Tractor bearing No.KA-48/T-7491 dashed against him, which resulted in the instant death of husband of claimant No.1.



16. Immediately after this incident, the complaint is lodged by the brother-in-law of deceased as per Ex.P.2. According to the recitals of the complaint, on 07.12.2011, the complainant received phone call from his relative one Ismail that Umar Faruque died at the spot due to accident met by him from the tractor. Immediately, he had been to the spot and saw the dead body of Umar Faruque, the husband of claimant No.1. He received the information that the tractor caused the injuries and deceased died at the spot instantly. He had seen the tractor which was lying about 100 feet away from the dead body and he had seen that it is Mahendra Arjun Ultra-1605 DI No.KA-29/M-1096 and it is attached with two trailers with Green in colour without having registration number plates. He immediately enquired the driver of the vehicle, but he was not there and he ran away from the spot.

17. The above averments in the complaint clearly and categorically reveals that the complainant had seen the



offending vehicle at spot only and mentioned the number of the vehicle in the complaint itself.

18. This complaint was received on 8.12.2011 at 01.00 a.m. i.e. within 3 hours of causing the accident. This complaint and FIR reached the Court on the same day at 08.00 a.m. Thus, initially the vehicle number mentioned in the complaint is Tractor-trailer bearing No.KA-29/M-1096 and not the offending vehicle shown in the present claim petition.

19. On the same day, spot panchnama was drawn and spot sketch was prepared. In both these documents, the vehicle number is not mentioned. Inquest and Post mortem report are also conducted, which are not in dispute.

20. It is not in dispute that the husband of claimant No.1 died at the spot mentioned in the claim petition due to the accident caused by the tractor. However, the fact in dispute is that whether the said tractor is bearing Mahindra



tractor bearing No.KA-48/T-7491 OR tractor-trailer bearing No.KA-29/M-1096.

21. The Police have filed charge sheet against the driver of Mahindra tractor bearing No.KA-48/T-7491; in that regard, they have seized this tractor on 08.12.2011 and released to the interim custody of its owner on 14.12.2011. The learned counsel for the appellant would vehemently submit that these documents establish the involvement of Mahindra tractor bearing No.KA-48/T-7491 in this case.

22. Ex.P.15 is the Motor Vehicles Accident Report pertaining to Mahindra tractor bearing No.KA-48/T-7491/trailers T-7492 and T-7493. According to this document, no visible fresh damage is found at the time of its inspection. The inspection was done on 13.12.2011 i.e. immediately after the accident.

23. On coupled reading of MVA report as per Ex.P.15-complainant and FIR as per Ex.P.1, if really the Mahindra tractor bearing No.KA-48/T-7491 was involved in



this case, definitely, there would be some scratches on it. But no damages are visible on it. Furthermore, the person who had first seen the offending vehicle at the spot has mentioned the registration number of the vehicle as tractor-trailer bearing No.KA-29/M-1096 with two unnumbered green colored trailers. However, the trailers examined by the MV Inspector are having registration numbers. Under these circumstances, it is crystal clear that in collusion with police officers and respondent No.1, the claimants have filed false case against the owner and insurer of the Mahindra Tractor bearing No.KA-48/T-7491.

24. The learned counsel for the respondent No.2-insurer relied upon the judgment of Co-ordinate Bench of this Court reported in **2015(1) KCCR 240** between ***the Divisional Manager, United India Insurance Company Limited, Belgaum Vs. Basappa and another***, wherein it is held as follows:

["MOTOR VEHICLES ACT, 1988-Sections 3 and 30(1)-Dispute as to nature of accident and involvement of vehicle insured with the second respondent/Insurance



Company-Police misusing their power and manipulating documents to assist the claimants to foist false cases to get compensation-On facts, held, with the connivance of Police, owner of tractor trailer and all others concerned, the petitioner was decided and compensation is awarded saddling liability to pay the same on Insurance Company, which is totally unaware of all this fraudulent acts resulting in an award being passed against it. In the instant case, indeed there is attempt on the part of Police and others in the proceedings to see that a false and fraudulent claim foisted by the husband of deceased is succeeded by implicating an unrelated vehicle to this accident, the judgment impugned is required to be set-aside.”]

25. In the instant case also as discussed above, there is collusion amongst claimant-respondent No.1 and the police officials and a false criminal case is foisted against the driver of Mahindra Tractor bearing No.KA-48/T-7491 only to get compensation for the accidental death of the husband of claimant No.1. Involvement of Mahindra Tractor bearing No.KA-48/T-7491 in the present case itself is doubtful. The vehicle is implicated in this case is totally different from the vehicle, which has caused the accident. Considering these aspects, rightly, the Tribunal has dismissed the claim petition. Interference on said Judgment is not required.



26. Accordingly, we proceed to pass the following:-

ORDER

1) The appeal filed under Section 173(1) of M.V. Act by the claimants is dismissed by confirming the judgment and award passed in M.V.C. No.445/2012 dated 15.04.2016 by the I Addl. District and Sessions Judge, Bagalkot sitting at Jamakhandi and Member, Motor Accident Claims Tribunal No.XI, Jamakhandi.

2) No order as to costs.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE