



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 24TH 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. 103486 OF 2017 (MV-D)

BETWEEN:

1. SHRI SHIVARAIGOUDA S/O. BASAVANTGOUDA PATIL
AGE: 74 YEARS, OCC: NIL,
R/O: #705, HIREBAGEWADI,
TAL AND DIST: BELAGAVI-591109.
2. SMT. GANGAWWA W/O. SHIVARAIGOUDA PATIL
AGE: 67 YEARS, OCC: HOUSEHOLD WORK,
R/O: #705, HIREBAGEWADI,
TAL AND DIST: BELAGAVI-591109.
3. SMT. SWETARANI W/O. LATE DODAGOUDA PATIL
AGE: 26 YEARS, OCC: HOUSEHOLD WORK(NIL)
R/O: #705, HIREBAGEWADI,
TAL AND DIST: BELAGAVI-591109.

...APPELLANTS

(BY SMT. CHETANA S. BIRAJ, ADVOCATE)

AND:

1. SHRI P. KALAI SALVAN PANRAJ
AGE: MAJOR, OCC: BUSINESS,
R/O: SHOP NO.3, GROUND FLOOR,
PLO-63, SECTION 19-C, VASHI
DIST: THANE (NAVI MUMBAI),



MAHARASHTRA STATE-400703.
(OWNER OF TRUCK NO. MH-6/AQ-8558)

2. THE DIVISIONAL MANAGER
UNITED INSURANCE COMPANY LTD,
MARUTI GALLI, BELAGAVI-590001.
(INSURER OF TRUCK NO.MH-6/AQ-8558)

...RESPONDENTS

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

THIS MFA IS FILED U/S.173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 03.06.2017 PASSED IN MVC NO.2241/2015 ON THE FILE OF THE IX-ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MEMBER, ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BELAGAVI, BY ALLOWING THIS APPEAL AND THEREBY AWARDING THE COMPENSATION PF RS.70,00,000/-WITH INTEREST AT 18% PER ANNUM FROM THE DATE OF PETITION TILL REALIZATION, TO THE APPELLANTS HEREIN, BY HOLDING THE LIABILITY TO PAY THE SAID AWARD TO COMPENSATION UPON THE RESPONDENTS NO.1 AND 2 HEREIN AS JOINTLY AND SEVERALLY LIABLE, IN THE INTEREST OF JUSTICE AND EQUITY.

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

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.)

The unsuccessful claimants have filed this appeal under Section 173(1) of the Motor Vehicles Act, 1988 praying for setting aside the judgment of dismissal and award passed in MVC No.2241/2015 dated 03.06.2017 on the file of IX Additional District and Sessions Judge and Additional MACT, Belagavi (for short, 'the Tribunal').

2. The parties would be referred with their ranks, as they were before the Tribunal for convenience and clarity.

3. The appellants/claimants have filed the claim petition under Section 166 of Motor Vehicles Act in respect of death of one Doddagouda, the son of claimants No.1 and 2 and husband of claimant No.3, who has succumbed to injuries in the accident that occurred on 30.11.2014 at about 22.15 hours involving motor cycle bearing Reg.No.KA-22/EP-5077 and a truck bearing Reg.No.MH-06/AQ-8558. It is contented that the deceased was aged



about 32 years at the time of accident, was working as 'medical representative' & doing agriculture and was earning ₹.40,000/- per month. It is further contended that they have lost the only bread earner of the family and hence filed the claim petition seeking compensation under different heads.

4. On service of notice, respondent No.1 did not appear. However, respondent No.2-insurer appeared through its counsel and filed objection statement denying the petition averments and took contention that claim of petitioners is exorbitant and no such accident as alleged in the claim petition has taken place. It took further contention that there was no collision between motor cycle and truck and the truck is falsely involved in the case. It has taken all other defences available to the owner and insurer and further took contention that there was no valid and effective driving licence to the person who was riding the motorcycle and also the truck and thereby prayed for dismissal of the petition.



5. On behalf of claimants, claimant No.3 was examined as P.W.1 apart from examining the eyewitness as P.W.2, got marked Exs.P.1 to P.19 and closed their side before the Tribunal. On behalf of respondent No.2, its official is examined as R.W.1 apart from marking Exs.R.1 & R.2 and closed its side.

6. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that the claimants failed to prove the involvement of truck bearing Reg.No.MH-06/AQ-8558 in causing the accident in the present case and thereby dismissed the claim petition.

7. Aggrieved by the said dismissal, the claimants/appellants are before this Court.

8. Heard arguments of both sides.

9. Learned counsel for the appellants Smt.Chetana S Biraj would submit that the claimants have produced all



available materials before the Tribunal to show that the offending vehicle-truck is involved in the present case. She would submit that as on the date of accident, the owner of the Dhaba, in front of which the accident had taken place, has lodged the complaint stating that the name of offending vehicle is not known. However, on the next day itself, the eyewitness i.e., P.W.2 has given his statement before the police officer in respect of involvement of the offending vehicle and also stated the name of driver of the vehicle. However, the Tribunal has not appreciated the oral and documentary evidence in proper perspective.

10. Learned counsel has relied upon the judgment of Hon'ble Apex Court in 2025 INSC 452 dated 07.04.2025 (***Kuncham Lavanya and Others vs. Bajaj Allianz General Insurance Company Limited and Another***) in support of her contention. Hence, prayed for allowing the appeal.



11. Learned counsel for respondent No.2, Sri S.S.Koliwad would submit that after examining and appreciating the evidence on record, the Tribunal rightly dismissed the claim petition because the registration number of the offending vehicle is not mentioned in the FIR and further in MVI report, there were no damages to the offending vehicle, but the statement of P.W.2 as per Ex.P.19 before the Investigating Officer was otherwise. Hence, considering these aspects, rightly, the Tribunal has dismissed the claim petition. Hence, prayed for dismissal of the appeal.

12. Having heard the arguments of both sides and upon verifying the appeal papers and original records of the Tribunal, the points that would arise for our consideration are:

"1. Whether the Tribunal erred in coming to the conclusion that involvement of offending vehicle bearing Reg.No.MH-06/AQ-8558 is not proved in causing the accident?



2. Whether remand of the matter to the Tribunal is required?"

13. Our finding on point No.1 is in **negative** and point No.2 is in **affirmative** for the following reasons:

14. The case of claimants before the Tribunal in a nutshell is that on 30.11.2014, the son of claimant No.1 & 2 was going from Kittur towards Hirebagewadi on a motor cycle bearing Reg.No.KA-22/EP-5077 and while passing in front of Rajasthan Dhaba, a truck bearing Reg.No.MH-06/AQ-8558 dashed against him and caused the accident, which resulted in his instant death. Claimants later came to know that the driver of truck bearing Reg.No.MH-06/AQ-8558 has dashed against the motor cycle and caused the accident.

15. The person who has lodged the complaint is not an eyewitness. He is the owner of the Dhaba. He has stated in the complaint that when he was in his Dhaba, he heard a sound in front of the Dhaba and immediately he came out of



the Dhaba and saw that the rider of motorcycle had died on the spot and his vehicle was about 100 meters away from him and was also burnt and it was bearing Reg.No.KA-22/EP-5077. Later, he came to know that the driver of an unknown vehicle came from Dharwad side towards Belagavi and dashed against this motorcycle and ran away. Thus, he lodged the complaint against an unknown offending vehicle. According to him, the accident has taken place at about 10.15 p.m. on 30.11.2014.

16. Ex.P.18-the statement of P.W.2 before the police officer was recorded on 01.12.2014. In the said statement, he has stated that, on 30.11.2014 he was going in his motor cycle on NH-4 from Dharwad towards Belagavi and at about 10.25 p.m. he had been to Rajasthan Dhaba and at that time the lorry which was coming from backside, overtook his two-wheeler and dashed against the motor cycle and did not stop the lorry and took the lorry further. Hence, he followed the lorry and saw that its number is MH-06/AQ-8558. Some distance afterwards, the lorry driver



stopped the lorry and was checking the wheels of the lorry and when P.W.2 went near the lorry shouting, the lorry driver again escaped from the said place with the lorry.

17. Based on the above statements of P.W.2 before the police coupled with other materials, the Investigating Officer has filed charge-sheet against driver of the lorry bearing Reg.No.MH-06/AQ-8558.

18. Learned counsel for respondent No.2 vehemently submits that in the further statement of P.W.2 recorded on 09.12.2014, he identified the driver of the lorry before police station and stated that there was some dent on front side bumper of the lorry and its colour became scratched. The name of lorry driver, etc., is also mentioned in said further statement. Against the same person, charge-sheet is filed.

19. It is to be noted here that in MVI report as per Ex.P.6, no fresh damages are found on the offending vehicle. This offending vehicle was examined on 10.12.2014



i.e., about 10 days after the incident. There is every chance that the damage that might have been caused to the offending vehicle could have been repaired within that span of time. Hence, merely because there were no damages found on the offending vehicle, it cannot be said that the said vehicle was not involved in the accident.

20. There is no reason to disbelieve the evidence of P.W.2, who withstood cross-examination and he was also examined in the criminal case.

21. P.W.2 is an independent witness and he has not lodged the complaint because before he could give his statement before the police on next day of the incident, already the owner of Dhaba has lodged the complaint.

22. Under those circumstances, his evidence is admissible one. Thus, on perusal of oral evidence of P.W.2 coupled with his statement as per Ex.P.18 and other documents and considering the fact that charge-sheet is filed against the offending vehicle and the number of vehicle



was given to police only on next day of the incident, it cannot be said that the claimants have failed to prove the involvement of vehicle in question in the accident. In the present case, the claimants have to prove only preponderance of probabilities and not beyond reasonable doubt. This principle is not properly appreciated by the Tribunal. Under those circumstances, the finding of the Tribunal is erroneous. Hence, it requires interference.

23. The Tribunal has dismissed the claim petition and not assessed the quantum of compensation, which needs to be examined by the Tribunal. Hence, we are of the considered opinion that the matter is to be remitted back to Tribunal to decide the quantum of compensation based on the above observation made on the point of proof in respect of accident. Hence, the Tribunal has to decide the quantum of compensation based on the available records. Hence, remanding the matter to the Tribunal for fresh disposal in accordance with law is very much required.



24. For the above reasons, we proceed to pass the following:

ORDER

1. The appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is allowed in part;
2. The judgment and award passed in MVC No.2241/2015 dated 03.06.2017 on the file of IX Additional District and Sessions Judge and Additional MACT, Belagavi is set aside;
3. The matter is remanded back to the Tribunal for fresh disposal in accordance with law with a direction to the Tribunal to give suitable and reasonable opportunity to both sides to lead their evidence, if any, and to decide the quantum of compensation;



4. Both parties are hereby directed to appear before the Tribunal without court notice on 16.12.2025.

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

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