



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 14TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 24550 OF 2013 (MV-D)

BETWEEN:

THE DIVISIONAL MANAGER
NATIONAL INSURANCE CO. LTD.,
MAHAVEER CHAMBERS ASHOK NAGAR
NIPPANI, REPRESENTED THROUGH ITS
REGIONAL OFFICE, ARIHANTA COMPLEX,
KUSUGAL ROAD, HUBLI,
R/BY ITS ASSISTANT MANAGER.

...APPELLANT

(BY SRI. NAGANGOUDA R KUPPELUR, ADVOCATE)

AND:

1. SHOBHA W/O. MADHUKAR RASALE
AGE: 36 YEARS, OCC: HOUSE WIFE,
2. ARATI D/O. MADHUKAR RASALE
AGE: 20 YEARS, OCC: STUDENT,
3. SONALI D/O. MADHUKAR RASALE
AGE: 15 YEARS, OCC: STUDENT,
4. KIRAN S/O. MADHUKAR RASALE
AGE: 10 YEARS, OCC: STUDENT,



5. SAMABAI W/O. RAJARAM RASALE
AGE: 71 YEARS, OCC: HOUSE WIFE,

RESPONDENTS NO.3 AND 4 ARE MINORS
REPRESENTED BY THEIR NATURAL MOTHER
GUARDIAN RESPONDENT NO.1

RESPONDENT NOS.1 T 5
R/O. MANJARIWADI,
TQ: CHIKODI, DIST: BELGAUM.

6. MAHESH S/O. LAXMAN DABHOLE
AGE: 36 YEARS, OCC: AGRICULTURE,
R/O: MANJARI, TQ: CHIKODI,
DIST: BELGAUM,
(OWNER MOTOR CYCLE NO.KA-23/U-605)

...RESPONDENTS

(BY SRI. SANTOSH S. HATTIKATAGI, ADVOCATE FOR R1
TO R5;
NOTICE SERVED TO R6)

THIS MFA FILED U/S.173(1) OF MV ACT, 1988,
PRAYING TO CALL FOR RECORDS CONNECTED WITH M.V.C
NO.1186/2012 ON THE FILE OF PRESIDING OFFICER, FAST
TRACK COURT-I, CHIKODI, EXAMINE THE SAME AND SET
ASIDE THE AWARD DATED 04.05.2013.

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



ORAL JUDGMENT

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

This is the appeal filed by the insurer-appellant under Section 173(1) of the Motor Vehicles Act, 1988 (in short 'MV Act') challenging the judgment and award passed in MVC No.1186/2012 dated 04.05.2013 on the file of Fast Track Court-I, MACT, Chikodi (in short, 'Tribunal').

2. The parties would be referred to as per their ranks before the Tribunal, for the sake of convenience and clarity.

3. The claimants have filed a claim petition before the Tribunal under Section 166 of MV Act claiming compensation for the accidental death of one Madhukar Rajaram Rasale, who was pillion rider of motor cycle bearing No.KA-23/U-605 on 28.06.2011 at 08.15 a.m. and the rider of the said motor cycle rode it rashly and negligently and dashed against the stone and thereby the pillion rider fell down and sustained injuries to his head and



other parts of the body; immediately after the accident, Madhukar Rasale was shifted to Dr.Satyajit Shankar Patil Hospital, Sangli for treatment and he was inpatient in the said hospital up to 05.07.2011, on which day he succumbed to the injury sustained in the accident.

4. Petitioners claim to be the wife, children and mother of deceased. They contended that deceased was hale and healthy and earning ₹.10,000/- per month from agriculture and milk vending and thus claimed compensation under several heads.

5. On issuance of notice, respondent No.1 appeared through his counsel and filed his objection statement, wherein he denied the petition averments in toto and contended that his vehicle is validly insured with respondent No.2 on the date of accident and hence prayed for dismissal of petition.

6. Respondent No.2 appeared through its counsel and filed objection statement, wherein it denied the date,



place and nature of accident and also denied all the averments made in the petition. It further took specific contention that petitioners have created the story managed with the owner of motor cycle and after two months only, an afterthought have filed false private complaint against owner of the motor cycle and there is delay of about 2 months in lodging the said private complaint. It admitted about the validity of insurance policy as on the date of accident and denied all other averments made in the petition. Hence, prayed for dismissal of the petition.

7. On behalf of claimants, claimant No.1 was examined as P.W.1, examined a witness as P.W.2, got marked Exs.P.1 to P.12 and closed their side. On behalf of respondents, D.L. and R.C. were marked as Exs.R.1 and R.2, but no evidence was let in.

8. After recording evidence of both sides, hearing arguments of both sides, the Tribunal came to the conclusion that the accident occurred as alleged in the



petition and granted compensation of ₹.8,06,000/- under various heads and thus partly allowed the petition.

9. Aggrieved by the said judgment and award, appellant-insurer has filed the present appeal.

10. Heard arguments of both sides.

11. Learned counsel for the appellant Sri N.R.Kuppelur would submit that the accident itself is doubtful because about 2 months after the alleged date of accident the PCR was filed by one third person who was also not examined before the Tribunal. Furthermore, all records were concocted and created only at the time of filing the PCR. The MLC register extract or the doctor who treated the deceased was not examined to prove the accident. No eyewitness is examined to prove the accident. However, the Tribunal casually considered the PCR which was lodged about two months after the accident; based on which, the FIR was prepared and charge-sheet is filed against the rider of the motorcycle and held that the accident is proved and



casually allowed the claim petition. The delay in filing the complaint is not properly appreciated by the Tribunal. Hence, prayed for interference on the impugned judgment and award.

12. Learned counsel for respondents No.1 to 5 Sri Santosh S Hattikatagi would submit that the accident happened on 28.06.2011 as alleged in the PCR and also in the claim petition. The deceased was the only earning member of the family and immediately after the accident, he was shifted to Satyajit Hospital, Sangli and he succumbed to head injury on 05.07.2011. But because of that shock and losing the bread earner of the family, the claimants could not have lodged complaint immediately after the accident. Afterwards, the eyewitness to the incident has filed PCR before the jurisdictional Court, which was referred to the jurisdictional police station and then criminal law was set into motion. After thorough investigation, the IO has filed charge-sheet, which prima facie establishes the accident. Hence, claimants have



proved the factum of accident. Considering these aspects, rightly, the Tribunal has awarded compensation. Hence, prayed for dismissal of the appeal.

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

"Whether the appellant-insurer proves that the accident as alleged in the claim petition was not at all occurred and thus the compensation awarded by Tribunal is erroneous?"

14. The finding of this Court on the above point is in **'affirmative'** for the following reasons.

15. The claimants have filed the claim petition before Tribunal stating that on 28.06.2011 deceased Madhukar Rajaram Rasale was the pillion rider of the two wheeler bearing No.KA-23/U-605 and he was going to Manjariwadi village from Manjari; at that time near Yadurwadi circle on



Chikodi-Miraj road, the rider of the said motor cycle rode it rashly and negligently and thereby caused the accident, which resulted in grievous injuries to Madhukar Rajaram Rasale and then he succumbed to those injuries on 05.07.2011 at Satyajit Hospital, Sangli.

16. To substantiate these contentions, claimant No.1 was examined as P.W.1. Admittedly, she is not an eyewitness to the incident. Hence, her evidence regarding how the accident happened is of no relevance.

17. P.W.2 is the person who spoke about the milk vending of the deceased. Thus, the eyewitness to the incident or the rider of the motorcycle or any other eyewitness who has the lodged the PCR are not examined on behalf of claimants.

18. Generally, in all the cases claiming compensation, if immediately after the accident the complaint was lodged and criminal law was set into motion and after investigation charge-sheet is filed in regular



practice, then examination of eyewitness to prove the accident is not required. However, in the case of present peculiar nature, it was very much required because the accident happened on 28.06.2011; about 2 months afterwards i.e., on 24.08.2011 the PCR as per Ex.P.2 was registered before the JMFC, Chikkodi which is not before the jurisdictional court in which the accident happened.

19. It is stated in the PCR that the complainant was standing on the Chikodi-Miraj road, Yadurwadi Circle, along with Tanaji Bapu Jadhav and Basappa Annappa Kokane on 28.06.2011 at 08.15 a.m.; at that time, the rider of the motor cycle along with Madhukar Rajaram Rasale were going in the two-wheeler and the rider of the two-wheeler rode it rashly and negligently and dashed against a stone near Yadurwadi Circle and caused the accident and because of that Madhukar Rajaram Rasale and rider have fallen and then Madhukar Rasale was shifted to hospital, etc.



20. He has stated in the complaint that the Chikkodi Police have refused to receive the complaint; thus, without any option, he filed the private complaint before the Court. The said complainant has not taken any steps either to send the complaint through register post to the concerned police station or to the concerned S.P. before lodging such PCR. Only after taking those preliminary steps i.e., if the complaint is not registered by the concerned jurisdictional police, or concerned SP had not taken action, the private complaint is to be lodged before the Court. However, such procedure was not followed at the time of lodging this PCR. Thus at the belated stage of about 2 months after the incident, based on this complaint, the police investigation was done casually.

21. MAV report is produced as per Ex.P.7, which reveals some scratches on the vehicle in question. If there is any damage to the vehicle, the general tendency is to get it repaired immediately; but in the instant case, even 2 months after the accident, some damages are found in the



vehicle in question; it cannot be ruled out that those damages to the vehicle might have been occurred subsequent to the alleged accident. Further, RTO Inspector has not stated the age of those damages. For these reasons, this report is not believable one.

22. Some medical bills are produced in this case as per Ex.P.9. The first two medical bills in this document are dated 19.07.2011.

23. As per the case of claimants, the accident happened on 28.06.2011 and Madhukar Rajaram Rasale died on 05.07.2011. However, the medical bills of 19.07.2011 were furnished by the claimants. Definitely these bills would not be pertaining to the deceased or these bills are concocted subsequently.

24. Immediately after the accident, if a person is admitted to the hospital with the history of RTA, it is the duty of doctor to inform it to the nearest police station immediately. However, in the present case, it appears that no such report is produced to show that MLC was



registered. In PM report, one MLC number is mentioned. However, it does not reveal for which MLC number it is and it does not establish the history given in the hospital at the time of accident. In inquest report, only the head injury was mentioned i.e. back side of the head and there were no injuries shown on other parts of the body. However, in PM report so many other injuries are shown i.e., abrasion injuries on shoulder, buttock, knee and upper back etc. On perusal of all the above records, it appears that these records do not disclose the actual date and place of accident and involvement of this motorcycle bearing No.KA-23/U-605 in the said accident.

25. Under these circumstances, it was incumbent upon claimants to examine at least one of the eye witnesses to the incident because the accident happened not in a remote area but in a circle as alleged in the complaint in a day time. However, none of them was examined to prove the accident. These things established that the claimants failed to establish the accident occurred on 28.06.2011 at



about 08.15 a.m. in near Yadurwadi circle on Chikodi-Miraj road, by involving motorcycle bearing No.KA-23/U-605. However, without examining any of these aspects, only narrating that PCR is filed; then charge-sheet is filed, the Tribunal casually comes to the conclusion that the accident alleged in the claim petition is proved, which is erroneous. Hence, interference on aforesaid finding is very much required.

26. For the above reasons, this Court holds that the claimants-respondents failed to prove the accident and because of that accident, Madhukar Rajaram Rasale died. Under those circumstances, granting compensation to the claimants would not arise at all. Hence, this court proceeds to pass the following:-

ORDER

- a) Appeal filed under Section 173(1) of M.V. Act is allowed by setting aside the judgment and award passed in MVC No.1186/2012 dated 04.05.2013 on the file of Fast Track Court-I, MACT, Chikodi.



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- b) The claim petition filed U/S.166 of MV Act is dismissed.
- c) The amount in deposit be refunded to the insurer.
- d) No order as to costs.

Sd/-
(GEETHA K.B.)
JUDGE

SH,VMB
CT-CMU
LIST NO.: 1 SL NO.: 27