



**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**

**DATED THIS THE 21<sup>ST</sup> DAY OF NOVEMBER, 2025**

**BEFORE**

**THE HON'BLE MRS JUSTICE GEETHA K.B.**

**MISCELLANEOUS FIRST APPEAL NO. 101151 OF 2021 (MV-I)**

**BETWEEN:**

THE MANAGER  
SHRIRAM GENERAL INSURANCE COM. LTD.,  
LEGAL DEPARTMENT MONARK,  
5<sup>TH</sup> FLOOR, INFANTARY ROAD, BENGALURU,  
REPRESENTED BY ITS AUTHORIZED SIGNATORY.

...APPELLANT

( BY SRI NAGARAJ C. KALLOORI, ADVOCATE)

**AND:**

1. VIJAYAKUMAR S/O. SHARANAPPA TIMMAPUR  
AGE. 30 YEARS, OCC. EDUCATION,  
R/O. BINNAL VILLAGE,  
TQ. YELBURGA, DIST. KOPPAL-583236.

2. SHIVAPPA S/O. BHEEMAPPA KAMMAR  
AGE. 44 YEARS, OCC. OWNER,  
R/O. PRASHANT NAGAR,  
R/O. YELBURGA, DIST. KOPPAL-583236.

...RESPONDENTS

(NOTICE SERVED TO R1 AND R2

THIS MFA FILED U/S.173(1) OF MOTOR VEHICLES ACT,  
PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED  
07.04.2021 PASSED IN MVC NO.155/2015 ON THE FILE OF THE  
SENIOR CIVIL JUDGE AND MOTOR ACCIDENT CLAIMS  
TRIBUNAL, YELBURGA AND ETC.,.



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.)

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 (for short 'MV Act'), challenging the liability of insurer in respect of motor vehicle accident that had taken place on 20.12.2013, when the claimant was traveling in Tempo Trax bearing number KA-48/M-3079 at 1.00 p.m., on Yelburga to Kukanoor road near Sanaganal village in respect of compensation awarded in MVC No.155/2015 dated 07.04.2021 on the file of Senior Civil Judge and M.A.C.T. Yelburga (for short 'Tribunal').

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

3. Claimant has filed the claim petition under Section 166 of M.V Act claiming compensation in respect of the injuries sustained by him in the road traffic accident



that had taken place on 20.12.2013 at 01.00 p.m. when the Tempo Trax bearing registration No.KA-48/M-3079 met with an accident at Yelburga-Kukanur road near Sanganal village near the lands of one Shankrappa Baligar and he was inmate of the said Tempo Trax.

4. After service of notice, the owner of the vehicle has not contested the petition and thus he was placed ex-parte before the Tribunal. Respondent No.2 Insurer appeared through its counsel and filed its written statement wherein it denied the entire averments made in petition except admitting that the vehicle i.e., Tempo Trax bearing registration No.KA-48/M-3079 was validly insured with respondent No.2. But, its liability is subject to conditions, exceptions and limitations therein. It further took contention that the liability of respondent No.2 depends only upon validity of owner to produce and to prove the relevant documents. It also took contention that driver of the vehicle was not having valid and effective driving license as on the date of accident. Respondent No.2 has taken



further contention that the vehicle involved in the accident is private Trax own use vehicle. But respondent No.1 used it for hire and reward and thus violated the terms of policy and thus it is not entitled to pay the compensation.

5. On behalf of claimant, claimant was examined as P.W.1 apart from marking exhibits P.1 to P.13 before the Tribunal. On behalf of respondent No.2, RW.1 was examined apart from marking exhibits R.1 and R.2.

6. After recording evidence of both sides and hearing arguments of both sides, the Tribunal has allowed the claim petition in part directing the respondent No.2-insurer to pay the compensation of Rs.31,050/- with interest at 6% per annum to the claimant by holding that there was valid and effective insurance policy as on the date of accident.

7. Aggrieved by the same, the appellant/respondent No.2 insurer filed this appeal.



8. After filing this appeal, notice is issued to both claimant and owner of the vehicle in question. Even after service of notice, both have not appeared and they remained absent.

9. Heard arguments of learned counsel for appellant Sri.Nagaraj C. Kollori.

10. Learned counsel for appellant would submit that the vehicle in question is insured with respondent No.2 for own use. But respondent No.1-owner has violated the terms of the policy and used it for hire and reward. In this regard there is specific averment in the complaint and also the claimant in his cross-examination specifically deposed that he had paid Rs.20-00 as charge to go to Kukanuru in the said Tempo Trax vehicle along with him several other passengers were in the said Tempo Trax. In this regard, he relied on the judgment of Co-ordinate Branch of this Court in **MFA No.22717/2011 (MV)** dated 29.09.2023 and



prayed for allowing the appeal and to exonerate the appellant- insurer to pay the compensation.

11. Having heard the arguments of the learned counsel for appellant and verifying the records, the only point that would arise for consideration is:

“Whether the appellant/insurer be exonerated from its liability due to violation of policy condition?”

12. Finding on this point is in ‘affirmative’ for the following reasons:-

The date, place and time of accident or the nature of injuries sustained by the claimant are not in dispute. The only point that raised by the insurer is that the respondent No.1 owner has violated the terms of the policy and thus it is not liable to make payment.

13. On careful perusal of the certified copy of deposition of PW.1 and complaint marked as Ex.P.2 before the Tribunal and the copy of insurance, it is noticed that



the insurance policy was taken by respondent No.1 in respect of the vehicle bearing registration No.KA-48/M-3079 i.e. the offending vehicle for owner-driver. It is for own use and premium is also paid in that regard. It is also an admitted fact as per the complaint averments and the oral evidence of claimant before the Tribunal that on that day he was going to Kukannuru by paying Rs.20/- as hire charges. Relevant portion of evidence of claimant reads as follows. "ಆ

ದಿನ ನಾನು ಕುಕನೂರಿಗೆ ಹೋಗಲು ರೂ.20 ಗಳನ್ನು ಚಾರ್ಜ್ ಕೊಟ್ಟಿರುತ್ತೇನೆ."

14. In Ex.P.2 there is a specific averment that on the date of accident, the claimant who is the complainant before police has stated that on that day he was sitting in Trax bearing No. KA-48/M-3079 and other passengers were also in that Trax and while going, it was met with an accident. Thus the coupled reading of this complaint and cross-examination of PW.1, it is crystal clear that the owner has used the Tempo Trax for hire and reward but he has got its registration only for the purpose of own use and not for



hire and reward and it was not with Yellow board but it was a White board vehicle. Under those circumstances, definitely the owner has violated the terms and conditions of the registration and also the insurance policy.

15. In this regard in the judgment of Co-ordinate Bench of this Court at paragraph No.6 it is held as follows:

*"6. It is the contention of the appellant/Insurance Company that the claimant has traveled in the Tempo Trax No.KA-23-M-3404 as a fare-paid passenger. The claimant is examined as PW.1 and during the course of examination, he has admitted that he has paid Rs.10/- fare to the driver of the Tempo Trax traveling to Harugeri and also he admitted that the other 78 persons have traveled and they have also paid fare to the driver of the Tempo Trax. Therefore, it is proved that the claimant has traveled in the said Tempo Trax as a fare-paid passenger, but the Insurance Policy has issued private car policy. Therefore, the Tempo Trax No.KA-23-M-3404 is used for hire and reward purpose. Therefore, there is violation of conditions of insurance policy. Hence, the Insurance Company being insurer of owner of Tempo Trax No.KA-23-M-3404, is not liable to indemnify the owner and pay compensation. Accordingly, he is exonerated from payment of compensation. Hence, the owner of Tempo Trax No.KA-23-M-3404 is held liable to pay compensation."*



16. By making aforesaid observation, the insurer was exonerated from its liability to indemnify the owner in the aforesaid judgment.

17. Even in the instant case also, as discussed above, there is a clear violation of terms and conditions of the registration of the vehicle as well as terms and conditions of the insurance policy by using the own use vehicle for hire and reward. Hence, the appellant/insurer is not liable to indemnify the owner.

18. Even though such a specific contention was taken up by the appellant before the Tribunal, the Tribunal has not verified this point and casually observed that the vehicle in question is covered with insurance policy and thereby saddled liability on the insurance company which is erroneous.

19. Hence, it is to be held that the insurance company is not liable to indemnify the owner.



20. Accordingly, I proceed to pass the following:

**ORDER**

1) The appeal filed under Section 173(1) of the M.V. Act is allowed.

2) The judgment and award passed in MVC No.155/2015 dated 07.04.2021 on the file of Senior Civil Judge and MACT, Yelburga is modified holding that the owner of Tempo Trax bearing No.KA-48/M-3079 is liable to pay compensation to the claimant and Insurance company-respondent No.2 is exonerated from paying compensation.

3) No order has to costs.

4) The amount in deposit, if any, be refunded to the appellant-insurer on proper identification.

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

HMB  
Ct-cmu  
LIST NO.: 1 SL NO.: 29