



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 10TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO. 200215 OF 2024 (MV-D)

BETWEEN:

THE MANAGER,
MAGMA HDI GENERAL INSURANCE CO. LTD.,
R/O. 2ND FLOOR, 36 JC ROAD,
NEAR MINERVA CIRCLE, BANGALORE,
NOW REPRESENTED BY AUTHORISED SIGNATORY,
RESIDENCY ROAD, BANGALORE.

...APPELLANT

(BY SRI. PREETI PATIL MELKUNDI, ADVOCATE)

AND:

1. SHABANA BEGUM W/O MOHD. TAJODDIN,
AGE: 27 YEARS, OCC: HOUSEHOLD,
2. MUNAZZA TASKEEN D/O MOHD. TAJODDIN,
AGE: 06 YEARS, MINOR,
3. TANZILA ANJUM D/O MOHD. TAJODDIN,
AGE: 08 YEARS, MINOR,

RESPONDENT NO. 2 AND 3 HEREIN ARE MINORS
U/G OF THEIR NATURAL MOTHER
RESPONDENT NO.1 IS HEREIN.



4. MOULAM SAB S/O MASTAN SAB,
AGE: 71 YEARS, OCC: NIL,
5. BEGUM BEE W/O MOULAN SAB,
AGE: 61 YEARS, OCC: NIL,

ALL ARE R/O. E-7-990/6B, NEAR BOMBAY
HOTEL NAYA MOHALLA MIJGORI,
KALABURAGI-585 101.

6. MOHAMMED EHTESHAM S/O MOHAMMED
IBRAHIM, AGE: 46 YEARS,
OCC: OWNER OF APPE XTRA LD PICK UP VEHICLE,
R/O H.NO. 7964/1/88 JAWAR E HIND SCHOOL,
G ESUDARAZ COLONY, NEAR HAJRE MASJID,
KALABURAGI-585 101.

...RESPONDENTS

(BY SRI. SANJEEV PATIL, ADVOCATE FOR C/R1 TO C/R5
R6 IS SERVED)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER
SECTION 173 (1) OF THE MOTOR VEHICLES ACT 1988,
PRAYING TO, CALL FOR THE RECORDS AND ALLOW THE ABOVE
APPEAL BY SETTING ASIDE THE IMPUGNED JUDGMENT AND
AWARD DATED 09.10.2023 IN MVC NO.605/2022 PASSED BY
THE IST ADDITIONAL SENIOR CIVIL JUDGE AND MACT AT
KALABURAGI.

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

CORAM: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD
and
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY



ORAL/CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD)

This appeal under Section 173(1) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act', for short) has been filed by the Insurance Company being aggrieved by the judgment dated 09.10.2023 passed by the I Addl. Senior Civil Judge & MACT, Kalaburagi in MVC No.605/2022.

2. Facts giving rise to the filing of the appeal briefly stated are that on 04.04.2022 at about 6.00 PM, when the deceased Mohd. Tajuddin was proceeding in a APE Extra Ld. Pick Up vehicle bearing No.KA-32/B-9739 along with five sheep for sale from Kalaburagi to Kalagi Shandy Bazar and when he was near at New Hebbal village, on Kalagi to Kalaburagi main road the driver of said vehicle started to drive it with high speed and in rash and negligent manner and lost control over it, due to which the said vehicle turned turtled, as a result of the



aforesaid accident, the deceased sustained grievous injuries and succumbed due to the injuries on the spot itself.

3. The claimant filed a petition under Section 166 of the Act seeking compensation. It was pleaded that prior to the accident deceased was hale, healthy and was working as a Sheep merchant by earning Rs.30,000/- per month. Because of the death of the deceased, claimants have lost their only earning member of the family. It was further pleaded that the accident occurred purely on account of the rash and negligent driving of the offending vehicle by its driver.

4. On service of notice, respondent No.1 has remained absent and was placed ex-parte. The respondent No.2 appeared through its counsel and filed written statement in which the averments made in the petition were denied.



5. On the basis of the pleadings of the parties, the Claims Tribunal framed the issues and thereafter recorded the evidence. The claimant herself was examined as PW.1 and got exhibited documents namely Ex.P1 to Ex.P12. On behalf of the respondent No.2 has got examined its official as RW.1 and through him got marked Ex.R1 and R2 documents. The Claims Tribunal, by the impugned judgment, inter alia, held that the accident took place on account of rash and negligent driving of the offending vehicle by its driver, as a result of which, the claimant sustained injuries and succumbed to it. The Tribunal further held that the claimant is entitled to a compensation of Rs.30,17,800/- along with interest at the rate of 6% p.a. and directed the respondent No.2-insurance company to deposit the compensation amount along with interest. Being aggrieved, this appeal has been filed.

6. The learned counsel for the Insurance Company has raised the following contentions:

7. Learned counsel appearing for the insurance company has contented that the offending vehicle bearing registration No.KA-32/B-9739 as per the RC book, it has



only 1 person seating capacity. The deceased was traveling on the body of the offending vehicle. This is contrary to Motor Vehicles Act. Except driver they can't carry any persons. Even the cleaner or even owner of the goods cannot be traveled in the offending vehicle. Since the deceased was traveling in the body of the vehicle, the insurance company is not liable to pay the compensation. The Tribunal has erred in directing the insurance company to pay the compensation amount with liberty to recover from owner of the offending vehicle. Hence, he sought for allowing the appeal.

8. Per contra, learned counsel appearing for claimants has contended that deceased was traveling along with his goods. He is not a unauthorized person. As per the policy, insurance company also collected extra premium. Considering all these aspects, Tribunal has rightly passed a judgment and award. Hence, sought for dismissal of the appeal.



9. Heard the learned counsel for the parties.
Perused judgment and award and original records.

10. The case of the claimant is that on 04.04.2022 at about 6.00 p.m. the deceased Mohd. Tajuddin was proceeding in a APE Xtra Ld Pickup bearing Reg.No.KA-32/B-9739 along with his five sheep for sale from Kalaburagi to Kalagi Shandy Bazar. When the vehicle reached near Hebbal village, on Kalagi to Kalaburagi main road, the driver of the said vehicle drove the same in rash and negligent manner with high speed, lost control over it, due to which said vehicle turned turtled. As a result, deceased sustained grievous injury and succumbed to the injury. Immediately after the accident, the complaint has been lodged as per Ex.P2. It is very clearly stated in the complaint that deceased was traveling along with his sheep. The police has registered an FIR and filed a charge sheet against the driver of the pickup vehicle and specific case of PW1 that deceased was traveling along with the goods. Considering all these aspects, Tribunal is justified



to hold that deceased was not traveling as unauthorized occupant.

11. Even though as per the RC book at Ex.R2 permit extract seating capacity of the offending vehicle is 1 person in the cabin. This Court considering that Rule 100 of Karnataka Motor Vehicles Rules 1989 in **Narasamma and others V/s Magma, HDI General Insurance Co. Ltd. And others** in **2021 ACJ 734**. Relevant para 16 to 23 extracted below:

"16. The contention of the learned counsel for the insurance company that since the vehicle in question was a goods vehicle, no person could have been carried in the said vehicle and if any such person was carried, its liability would not arise, is incorrect. Even according to the package policy, carrying capacity of persons in the vehicle including the driver was stated to be 3.

17. Rule 100 of the Rules provides for carriage of persons in goods vehicle. It reads as follows:

"100. Carriage of persons in goods vehicle. (1) Subject to the provisions of this rule, no person shall be carried in a goods vehicle:

Provided that the owner or the hirer or a bona fide employee of the owner or the hirer of the vehicle carried free of charge or a police officer in uniform travelling on duty may be carried in a goods vehicle, the total number of persons so carried,-



- (i) in light transport goods vehicle having registered laden weight less than 990 kg not more than one;
- (ii) in any other light transport goods vehicle not more than three, and
- (iii) in any goods vehicle not more than seven:

Provided that the provisions of sub-clauses (ii) and (iii) of the above proviso shall not be applicable to the vehicles plying on inter-State routes or the vehicles carrying goods from one city to another city.

(2) Notwithstanding anything contained in sub-rule (i), but subject to the provisions of sub-rules (4) and (5), a Regional Transport Authority may, by an order in writing, permit that a larger number of persons may be carried in the vehicle, on condition that no goods at all are carried free of charge in connection with the work for which the vehicle is used, and that such other conditions as may be specified by the Regional Transport Authority are observed, and where the vehicle is required to covered by a permit, the conditions of the permit.

(3) Notwithstanding anything contained in sub-rules (1) and (2), but subject to the provisions of sub-rules (4) and (5),-

(a) for the purpose of celebrations in connection with the Republic Day or Independence Day or any other public congregation, the Regional Transport Officer;

(b) for the purpose of enabling of co-operative society or class of a operative societies owning or hiring a goods vehicle to carry its members under its authority in such goods vehicle when used for the purpose of carrying goods of the society in the ordinary course of its business, the Secretary of the Regional Transport Authority;



(c) where it considers expedient in public interest in respect of vehicles owned or hired by it, and in respect of other vehicles on such inescapable grounds of urgent nature to be specified in the order, the State Government may, by general or special order, permit goods vehicle to be used for the carriage of persons for the purposes aforesaid, and subject to such conditions, as may be specified in the order.

(4) No person shall be carried in any goods vehicle,-

(a) unless an area of not less than 0.40 square metre of the floor of the vehicle is kept open for each person; and

(b) in such manner-

(i) that such person when carried on goods is otherwise in danger of falling from the vehicle;

(ii) that any part of his body, when he is in a sitting position, is at a height exceeding three metres from the surface upon which the vehicle rests.

(5) The provisions of this rule shall not apply to motor vehicles registered under section 60.

(6) No person other than an attendant or attendants required by rule 26 shall be carried on a trailer which is a goods vehicle."

18. As could be seen from rule 100 of the Rules, as a general rule, no person is allowed to be carried in a goods vehicle. However, a proviso has been appended to the said rule, which states that the owner or the hirer or bona fide employee of the owner or the hirer of the vehicle could be carried free of charge in the goods vehicle and the total number of persons so carried would be not more than one (in light transport goods vehicle having registered laden weight less than 990 kg), not more than three (in goods vehicle). It is, therefore, clear that in respect of goods vehicle also, by virtue of the proviso, a bona fide employee of the



owner or the hirer of the vehicle can be carried free of charge, so long as number of people does not exceed the limits specified in sub-clauses (i) to (iii) of sub-rule (1) of rule 100.

19. The manner in which the persons can be carried in goods vehicle is however, not indicated in sub-rule (1). However, sub-rule (2) starts with a non obstante clause which states that notwithstanding what is stated in Sub-rule (1) the Regional Transport Authority may, by an order in writing, permit larger number of persons to be carried in the Vehicle, of course, on which the vehicle is used. Sub-rule (2), therefore, indicates that if no goods are being carried, the number of persons in excess of one specified in sub-rule (1) can be carried subject to special permission from the Regional Transport Officer.

20. Sub-rule (3) further goes on to say that for the purpose of celebrations in connection with the Republic Day or Independence Day or any other public congregation, the Regional Transport Officer may, by general or special order, permit goods vehicle to be used for carriage of persons for the purposes mentioned in sub-clauses (a) to (c) of sub-rule (3).

21. Sub-rule (4) thereafter specifies the limitations in respect of carriage of persons. It states that no person shall be carried in any goods vehicle, unless an area of not less than 0.40 square metre of the floor of the vehicle is kept open for each person and there is no danger of falling down from the vehicle.

22. A complete reading of rule 100 of the Rules indicates that notwithstanding the general dictum of not allowing carriage of persons in a goods vehicle, the law does permit a number of people to be carried in a goods vehicle. Sub-rules (2) to (4) indicate that the persons so carried can actually be carried in the goods vehicle. A goods vehicle by its very definition does not have permit of carrying passengers. This would obviously mean that the persons to be carried would be in the area where the goods are to be stored. In other words, the rule itself provides for carriage of passengers in the area reserved for carrying goods,



under special conditions, depending on the weight of the vehicle and as a matter of right, the owner or the hirer or the bona fide employee of the owner or the hirer can travel in a goods vehicle. It, therefore, follows that if an employee of the owner of the vehicle is being carried in a goods vehicle, it cannot be illegal and such a person cannot be construed as a gratuitous passenger.

23. Since the rule itself permits carriage of persons in the vehicle, it is not material whether the person travels within the cabin or outside the cabin. So long as number of people travelling in the goods vehicle is specified under rule 100 of the Rules, the goods vehicle is permitted to carry passengers.

12. In view of the above, in the case in hand also, the offending vehicle was covered with valid insurance policy. They have collected extra premium. Considering all these aspects, Tribunal is justified in passing the judgment and award. There is no error or illegalities order passed by the Tribunal. Accordingly, the appeal is dismissed.

Sd/-
(H.T.NARENDRA PRASAD)
JUDGE

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE