



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 24TH DAY OF NOVEMBER, 2025

PRESENT

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

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO.200417 OF 2022 (MV-D)

BETWEEN:

1. SMT.KAMALAVVA
W/O NINGAPPA BIRADAR,
AGED ABOUT 45 YEARS,
OCC: HOUSEHOLD WORK,
2. SRI NINGAPPA
S/O GURUBASAPPA BIRADAR,
AGED ABOUT 48 YEARS,
OCC: AGRICULTURE,
3. SRI MAHESH
S/O NINGAPPA BIRADAR,
AGED ABOUT 29 YEARS,
OCC: STUDENT,
ALL ARE R/O: C/O: R.M BIRADAR,
NEAR MALLIKARJUN ASHRAM
BLDEA ROAD, VIJAYPUR – 586 101.

Digitally signed by
BASALINGAPPA
SHIVARAJ
DHUTTARGAON
Location: HIGH
COURT OF
KARNATAKA

...APPELLANTS

(BY SRI S.S.MAMADAPUR, ADVOCATE)



AND:

1. SRI SURENDRAPAL SINGH
S/O CHARANSINGH,
AGED ABOUT 55 YEARS,
OCC: BUSINESS,
R/O: ARDHAPUR, DIST: NANDED
MAHARASHTRA - 431 601.
2. THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO. LTD,
S.S. FRONT ROAD,
VIJAYAPURA - 586 101.

...RESPONDENTS

(BY SRI MOHD.ABDUL QUAYAM, ADVOCATE FOR
SRI.J.AUGUSTIN, ADVOCATE FOR R2;
NOTICE TO R1 DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE
MOTOR VEHICLES ACT, PRAYING TO SET ASIDE THE
JUDGMENT AND AWARD DATED 02.07.2021 PASSED BY THE
HON'BLE PRINCIPAL SENIOR CIVIL JUDGE AND MACT-V,
VIJAYAPURA IN MVC NO.1221/2011, IN THE INTEREST OF
JUSTICE AND EQUITY.

THIS MFA, COMING ON FOR ADMISSION, 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 JUDGMENT

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

1. This appeal under Section 173(1) of Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act') has been filed by the claimants challenging the judgment dated 02.07.2021 passed by the Principal Senior Civil Judge and MACT-V, Vijayapur, in MVC No.1221/2011.

2. Facts giving rise to the filing of the appeal briefly stated are that on 25.02.2011 at about 9:00 PM, when the deceased Mallikarjun was proceeding on a motorcycle bearing Reg.No.KA-28/TRB-2882, as a pillion rider on motorcycle along with his friend Basavaraj, when they came near Mugalkhod Math on Solapur road, Vijayapur, at that time, a lorry bearing registration No.MH-26/H-5835 came from back side, being driven by its driver in high speed and in rash and negligent manner, dashed against the motorcycle of the deceased and caused the accident. As a result of the aforesaid accident, both rider and pillion



rider-Mallikarjun sustained grievous injuries and succumbed to the injuries.

3. The claimants filed a petition under Section 166 of the Act seeking compensation for the death of the deceased along with interest.

4. Upon service of notice, respondent No.2 has appeared through counsel and filed written statement denying the averments made in the claim petition. Respondent No.1, despite service of notice, did not appear before the Tribunal and was placed ex-parte.

5. On the basis of the pleadings of the parties, the Claims Tribunal framed the issues and thereafter, recorded the evidence. The Tribunal, by the impugned judgment and award has dismissed the claim petition with costs.

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

a. Firstly, the claimants contended that deceased died in the road traffic accident involving the offending vehicle



and they have also mentioned the specific registration number of the offending vehicle and they have lodged the complaint against the driver of the offending vehicle. They have also produced the documents issued by the RTO Office Nanded to show that the said vehicle was registered with the RTO office Nanded. In spite of that, the appellants have not traced the vehicle and filed the 'C' report. Filing of 'C' report will not be fatal to the case of the claimants. If the claimants have established that injury or death caused due to the involvement of the offending vehicle, the Tribunal has to decide the same on the evidence of the parties and material available on record however, the Tribunal dismissed the petition only on the basis of filing of 'C' report.

b. He further contended that on an earlier occasion, similar judgment has been passed by the Tribunal by judgment dated 25.06.2014 and the same has been set aside by this Court. In spite of that, similar order has been passed by the Tribunal.



7. Learned counsel for the insurance company has contended that the registration number of the offending vehicle mentioned by the claimants was not traceable. The police have filed the 'C' report that has not been challenged by the claimants and they have not adduced any additional evidence as per the directions of this Court. Therefore, the Tribunal has rightly dismissed the claim petition.

8. Heard the learned counsel for the parties. Perused the judgment and award of the Tribunal.

9. The case of the claimants is that on 25.02.2011, at about 9:00 PM, when deceased Mallikarjun Biradar was proceeding on a motorcycle bearing Reg.No.KA-28/TRB-2882, ridden by his friend Basavaraj by the left side of the road, when they came near Mugulkhod Math on Solapur Road, Vijayapura, at that time, at about 9:00 PM, a lorry bearing Reg.No.MH-26/H5835 came from the backside and dashed to the motorcycle. Due to impact, Mallikarjun fell down and suffered injuries and succumbed to the injuries.



Immediately after the accident, PW.2-Basavaraj lodged a complaint against the driver of the offending vehicle mentioning the registration number of the vehicle. PW.2 has also given specific evidence stating that driver of the lorry bearing Reg.No.MH-26/H-5835 is negligent in causing the accident. He has also furnished the relevant records from the RTO office at Nanded, stating that the registration number of the vehicle mentioned in the FIR is registered with the RTO, Nanded. The Tribunal only on the basis of 'C' report filed by the police has dismissed the claim petition.

10. On an earlier occasion the judgment and award dated 25.06.2014 passed by the Tribunal has been challenged before this Court in MFA No.201676/2014. This Court vide judgment dated 06.10.2020 has allowed the appeal with the following observation:

"7. As rightly pointed out by the learned counsel for the appellants, the case projected before the Tribunal is that accident resulting in the death of the deceased had taken place at about 9.00 p.m. on



25.02.2011. Perusal of the trial court records show that the rider of the motorcycle who is examined before the Tribunal as PW.2 has lodged the complaint as per Ex.P.1. The FIR shows that it was received in the police station at about 11.45 p.m. on the same day. In the complaint so lodged by PW.2, he has given vivid description of the manner of taking place of the accident and he has specifically mentioned therein that the offending lorry bearing registration No.MH-26/H-5835 came from behind, dashed to his motorcycle and thereafter briefly halted and on seeing people gathering around the injured person had sped away from the scene. The post-mortem report of the deceased also probabalises the fact that the death had taken place on account of injuries suffered in a motor vehicle accident. It is unfortunate that learned Tribunal instead of focusing on this aspect of the evidence as he ought to have instead, placed reliance on the police filing "C" final report. Learned Presiding Officer of the MACT ought to have noticed that "C" final report was filed only on account of the fact that the offending vehicle was not traced and therefore technical part of the investigation regarding obtaining MVI report could not be completed and accordingly the police had taken recourse to filing "C" final report. The evidence of PW.2 on the other hand has not been seriously challenged during the cross-examination except



putting some casual suggestions. Apart from the fact that PW.2 is the complainant in the criminal case which was lodged at the earliest point of time by mentioning the registration number of the offending vehicle, as rider of the motorcycle and eyewitness has examined himself before the Tribunal. This aspect of the matter has not received serious consideration from the Tribunal which, we are of the opinion that cannot be countenanced. Therefore, we are not inclined to agree with the finding of the learned Tribunal that the claim petition should go for failure of the dependents of the deceased to prove the involvement of the offending vehicle in the accident and on the other hand we are satisfied that order of the learned Tribunal is erroneous and therefore it is liable to be set aside and matter remanded to the Tribunal for fresh consideration by giving opportunity to both sides to lead further evidence, if any. Hence, the following:

ORDER

The appeal is allowed. The impugned judgment and award dated 25.06.2014 in MVC No.1221/2011 is set aside. Matter is remanded to the learned MACT for fresh consideration in accordance with law.



Learned Tribunal shall complete the proceedings within three months from the date of receipt of certified copy of this judgment.

In view of the above order, IA-1/19 does not survive for consideration and it is disposed of."

11. In spite of this, the Tribunal again dismissed the claim petition solely on the ground that the police had filed a 'C' final report and were not in a position to trace the offending vehicle or its driver. The owner of the offending vehicle did not appear. Although the Tribunal disputed that his vehicle was involved in the accident, the claimants had produced the registration number of the vehicle as mentioned in the FIR. Even the filing of a 'C' report is not fatal to the filing of a claim petition if the claimant proves that the offending vehicle was involved in the accident. The Tribunal without considering all these aspects has once again dismissed the claim petition. In view of the above, the appeal deserves to be allowed by setting aside



the impugned judgment and award. Hence, we pass the following:

ORDER

- i. The appeal is allowed. The impugned judgment and award dated 02.07.2021 passed by the Principal Senior Civil Judge and Member MACT-V, Vijayapur, in MVC No.1221/2011 is set aside.
- ii. The matter is remitted to the Tribunal for fresh consideration in accordance with the law, after giving opportunity to both the parties to adduce additional evidence or produce additional documents, if any, filed by the parties.
- iii. The parties are directed to appear before the Tribunal on 17.12.2025, without any further notice.
- iv. The Tribunal is directed to dispose of the petition within a period of six months from the date of appearance of the parties.



v. Office is directed to return the records to the
concerned Tribunal.

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

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

VNR
List No.: 1 SI No.: 53