

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 1002 OF 2015 (MV-I)

BETWEEN:

SRI K.P.R. PRAKASH
S/OF LATE K.S. RAJAN THIMMAIAH,
NOW AGED ABOUT 57 YEARS,
R/AT NO.15, 10TH CROSS,
MAGADI ROAD, PIPELINE,
CHOLURPALYA, BANGALORE-560 023.

...APPELLANT

(BY SRI. D. NAGARAJA, ADVOCATE)

AND:

1. THE ORIENTAL INSURANCE CO., LTD.,
REGIONAL OFFICE,
NO.44/45, RESIDENCY CROSS ROAD,
LEO SHOPPING COMPLEX,
BANGALORE-560 001
REP. BY ITS MANAGER.

2. B.H. CHANDRA
AGED MAJOR,
FATHER'S NAME NOT KNOWN,
NO.234, FIRST MAIN, FIRST CROSS,
RANGANATHA COLONY,
OPP. BHEL, MYSORE ROAD,
BANGALORE-560 085.

...RESPONDENTS

(BY SRI. R. GUNASHEKAR, ADVOCATE FOR R1 (ABSENT);
V/O DATED 10.03.2022, NOTICE TO R2
IS HELD SUFFICIENT)

THIS MFA IS FILED U/S 173(1) OF MV ACT, 1988
AGAINST THE JUDGMENT AND AWARD DATED 18.09.2014

PASSED IN MVC NO.6717/2011 ON THE FILE OF THE VIII ADDITIONAL SMALL CAUSE JUDGE AND XXXIII ACMM, MEMBER, MACT, BANGALORE, DISMISSING THE CLAIM PETITION FOR COMPENSATION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 01.12.2025 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

This appeal is by the appellant/claimant praying to set aside the Judgment and Award dated 18.09.2014 in MVC No.6717/2011, passed by the VIII Additional Small Causes Judge and the Motor Accident Claims Tribunal (SCCH-5) at Bengaluru (for short, 'Tribunal').

2. The parties are referred to as per their ranking before the Tribunal for easy reference.

3. The brief facts of the case are that:-

On 14.09.2011 at about 5.45 p.m., the petitioner was riding his motor cycle bearing No.KA-01-ED-2672 on

Pipeline Road, Vijayanagar from East to West, at that time, another scooter bearing No.KA-05-EH-8610 came from northern side towards Pipeline Road in a rash and negligent manner and dashed to the petitioner's vehicle. Due to the said impact, petitioner fell down and sustained injuries. Hence, filed claim petition under Section 166 of M.V. Act, 1989 seeking for compensation of Rs.3,00,000/-.

4. After issuance of notice, the respondent No.1/Insurance Company has appeared through its counsel and filed objections. Respondent No.2/owner of the offending vehicle remained absent and was placed *ex-parte*.

5. In order to substantiate the case of the petitioner, the petitioner got himself examined as PW-1, examined treated Doctor as PW-2 and one more witness as PW-3 and got marked documents at Exs.P1 to P17. On the other hand, Insurance Company got examined one witness as RW-1 and got marked documents at Exs.R.1 to 3.

6. After hearing the parties and on perusal of the documents, the Tribunal has dismissed the claim petition on the ground that the facts contradict with the investigation done by the Investigating Officer.

7. The learned counsel for the appellant has contended that due to the accident, appellant has sustained deep lacerated wound over elbow right, medial malleolus measuring about 6 cm x 2 cm with chip fracture of medial malleolus (compound fracture). He further contends that the Tribunal has failed to appreciate the evidence as well as documents produced by the appellant. He further contends that there is clear explanation in the complaint that the owner of the offending vehicle had promised to settle the matter and requested not to lodge a complaint. Therefore, the claimant had not lodged the complaint and when the owner failed to settle the matter, he lodged complaint belatedly i.e., on 14.09.2011. While lodging the complaint on 09.10.2011, claimant has wrongly mentioned the offending vehicle's number as KA-05-EM-8610 instead of KA-05-EH-8610 and on the very

next day i.e., on 10.10.2011, by giving further statement as per Ex.P.2, the said mistake was corrected. He further contends that as per Ex.P.4 – Sketch, claimant had crossed almost entire road and offending vehicle had caused the accused to the other vehicle and it cannot be said that the accident had caused due to negligence of the claimant. Hence, prays to set aside the judgment of the Tribunal and to award compensation.

8. Learned counsel for the appellant has relied upon the judgment of this Court in the case of ***Royal Sundaram Alliance Insurance Company Ltd., vs. D.C.Vijaya Kumar and another in MFA Nos.860/2015 c/w 2304/2015 dated 23.01.2023.***

9. Heard learned counsel appearing for the appellant and perused the records.

10. The Tribunal has recorded its finding at paragraph No.9 as under:-

"9. On going through all the materials on record, admittedly the records discloses that complaint has been

made as per Ex.P-2 on 09.10.2011 and as such, the learned respondent counsel contends that, as per the complaint, for the delay there is no any explanation given by the petitioner. Therefore, the vehicles are involved in the incident cannot be considered and moreover, as per the spot sketch, the motor cycle was moving from cross road and the so called offending vehicle was moving on the main road and spot sketch discloses that vehicle No.KA-05-EH-8610 has gone to the extreme right and struck the two wheeler of petitioner, but as per the IMV inspection the damage to the vehicle of petitioner is entirely to the right side. Therefore it discloses that the alleged offending vehicle has crossed almost the entire road and then the motor cycle of petitioner has entered the road and struck on the left side and fallen on the right side. Therefore it is the petitioner who has contributed to the negligence, resulting in the incident. Therefore the rider of alleged offending vehicle cannot be held responsible. Moreover on going Ex.R-1 it disclose that offending vehicle is KA-05-EH-8610, but as per Ex.P-15 the vehicle inspected by the IMV Inspector is KA-05-EM-8610 and as per the IMV inspector examined before this court as PW-3, he has deposed that he had inspected the vehicle Nos.KA-01-ED-2672 & KA-05-EM-8610. One is TVS Victor motor cycle and another is Bajaj Chetak Scooter. However as per complaint Ex.P-2, the vehicle complained is KA-05-EM-8610 and the IMV inspector examined before this court has deposed that he inspected the vehicle KA-05-EM-8610 Bajaj Chetak Scooter and the learned respondent counsel brings to the court notice Ex.P-15, which discloses that the requisition has been sent with

regard to the vehicle No.KA-05-EM-8610 and it has been corrected as a scooter. Therefore Ex.P-16 contradicts with Ex.P-15. Ex.P-15 is in consonance with Ex.P-2. In fact Ex.R-1 contradicts with Ex.P-15 and even Ex.P-2. Under these circumstances, the citations relied by learned respondent counsel reported in AIR 2011 SC 1226 in case of Ravi Vs. Badrinarayan & Others and 2008 ACJ 2553 in case of Oriental Insurance Co. Ltd., Vs. K.Balasubramanian & others, seems reasonable. Therefore, the facts contradict with the investigation done by the Investigation Officer. Under these circumstances, I am obliged to answer issue No.1 in the negative.”

11. On hearing the submission of learned counsel for the appellant and on perusing the record, this Court has observed that the Tribunal has properly appreciated the evidence and material on record and rightly dismissed the claim petition of the petitioner and there are no merits to interfere with the impugned judgment of the Tribunal. The judgment relied by the learned counsel for the appellant is not applicable to the case on hand. Hence, the appeal lacks merits and the same has to be dismissed.

12. Accordingly, I proceed to pass the following:-

ORDER

i) Miscellaneous First Appeal is
dismissed.

ii) The Judgment dated 18.09.2014 in MVC
No.6717/2011 on the file of the Court of VIII
Additional Small Causes Judge and the
Motor Accidents Claims Tribunal, (SCCH-5),
Bengaluru, is hereby affirmed.

iii) Registry is directed to send back the
TCR to the Tribunal, forthwith.

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

MH/-