



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

**MISCELLANEOUS FIRST APPEAL NO. 6468 OF 2021 (MV-
D)**

BETWEEN:

LEGAL MANAGER
IFFCO TOKIO GIC LTD
CUSTOMER SERVICE CENTER
SRI SHANTHI TOWERS
5TH FLOOR, NO.141, 3RD MAIN
EAST OF NGEF LAYOUT
KASTURBANAGAR
BANGALORE- 560 043

...APPELLANT

(BY SRI. PRADEEP B., ADVOCATE)

AND:

1. K P ASHRAF
S/O K P IBRAHIM
NOW AGED ABOUT 62 YEARS,

2. ZUBEIDA
W/O K P ASHRAF
NOW AGED ABOUT 46 YEARS,

ALL ARE R/AT NO.7-12/13
SHEEBA MANZIL
7TH BLOCK KRISHNAPURA
SURATHKAL MANGALORE

3. MOHAMMED MUBASHIR
S/O HASANABBA
AGED ABOUT 26 YEARS,



R/AT D NO.1-68 SURINJE POST
MANGALURU-575030

4. C KANAGARASU
S/O CHINNU SAMY
AGED ABOUT 46 YEARS,
R/AT NO.7 R C COMPLEX
206-261 S G MUTT ROAD
CHAMARAJ PET
BENGALURU-560018
5. THE NATIONAL INSURANCE
COMPANY LTD.,
DIVISIONAL OFFICE -I
2ND FLOOR NO.30
BHARATH BUILDING
P M RAO ROAD, MANGALORE

...RESPONDENTS

(BY SRI. MUZAFFAR AHMED., ADVOCATE FOR R1 AND R2;
R3 IS SERVED AND UNREPRESENTED;
V/O DTD 08/11/2024, NOTICE TO R4 IS D/W;
SRI. A.M.VENKATESH, ADVOCATE FOR R5;)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 18.11.2020 PASSED IN MVC
NO.1833/2017 ON THE FILE OF THE MACT-II, I ADDITIONAL
DISTRICT AND SESSIONS JUDGE, D.K. MANGALURU D.K,
AWARDING COMPENSATION OF RS.11,30,720/- WITH
INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION
TILL ITS DEPOSIT IN THE TRIBUNAL.

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



CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

This Appeal is filed by the Insurer/Respondent No.2 against the judgment and award dated 18.11.2020 in MVC.No.1833/2017 passed by the I Additional District Judge and II Additional MACT, Mangaluru D. K.

2. Heard the arguments of learned advocates for appellant as well as respondents No.1 and 5.

3. The only grievance of the insurer of the offending motorcycle is that the accident had occurred due to the contributory negligence of rider of the motorcycle as well as driver of the lorry. However, the Tribunal has erroneously appreciated the evidence and fastened the entire liability on the rider as well as insurer of the offending motorcycle. The said accident occurred either due to contributory negligence of driver of the lorry and rider of motor cycle; or in the alternative due to negligence of driver of the lorry. The said finding is erroneous. Hence, prayed to interfere in the said finding.



4. Learned counsel appearing for respondent No.5/Insurer of the lorry vehemently contends that the Tribunal has properly appreciated the evidence and has rightly held that accident had occurred due to negligence of rider of the motorcycle and driver of the lorry had no role in causing the accident. PW.2 in his cross examination has further stated that the rear right side wheel of the lorry ran over the deceased. There was no reason to hold that the driver of the lorry was responsible for the accident. He had no opportunity to avoid the accident. Had the rider of the motorcycle taken proper care and caution, he could have avoided the same. Considering these facts, the Tribunal has rightly directed the owner and insurer of the motorcycle to pay the compensation.

5. On re-appreciation of the materials available on record, the submission of learned counsel for respondent No.5 is tenable. In the impugned judgment, the Tribunal elaborately discussed this point in Issue No.1 and rightly came to conclusion that the accident had occurred due to negligence of the rider of the motorcycle and not due to negligence of driver of the lorry. The charge sheet and its enclosures as well as evidence of PW.2, who is an eyewitness, clearly reveals that



the driver of the lorry was not at all responsible for the incident and it was beyond his control. Therefore, the grounds of appeal are not tenable and submission of learned counsel for appellant is not acceptable. Therefore, appeal deserves to be dismissed as a devoid of merits.

Accordingly, appeal is ***dismissed.***

Whatever amount deposited by the appellant before this Court shall be transmitted to the Tribunal for disbursement.

Registry is directed to send a copy of the judgment along with the TCR to Tribunal.

Sd/-
(UMESH M ADIGA)
JUDGE

RJ
List No.: 1 SI No.: 24