



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 9TH DAY OF JANUARY 2026

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 100310 OF 2016 (MV-I)

BETWEEN:

THE DIVISIONAL MANAGER,
UNITED INDIA INSURANCE COMPANY LIMITED,
MARUTI GALLI, BELAGAVI,
REPRESENTED BY ITS
UNITED INDIA INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, SANGAM BUILDING,
S.S. FRONT ROAD,
OPPOSITE: SIDDARAMESHWAR TEMPLE,
PB NO-60, VIJAYAPURA-586101,
BY ITS DIVISIONAL MANAGER.

...APPELLANT

(BY SRI. NAGANAGOUDA R. KUPPELUR, ADVOCATE)

AND:

1. NINGAPPA
S/O. GURULINGAPPA BARAGAL,
AGE: 64 YEARS,
OCC: AGRICULTURE AND COOLIE (NOW NIL),
R/O: CHIMMAD, TQ: JAMAKHANDI,
DIST: BAGALKOT.
2. MAHADEV S/O. GANGAPPA ATHANI,
AGE: 44 YEARS, OCC: AGRICULTURE,

BHARATHI
H M



Digitally signed by
BHARATHI H M
Location: HIGHCOURT
OF KARNATAKA
DHARWAD BENCH
DHARWAD



R/O: HOSUR VILLAGE,
TQ: JAMKHANDI, DIST: BAGALKOT.
(OWNER OF THE MOTOR CYCLE
NO. KA-48/H-4882)

...RESPONDENTS

(BY SRI. N.L. BATAKURKI, ADVOCATE FOR R1;

SRI. VIJAYKUMAR B. HORATTI, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT 1988, PRAYING TO CALL FOR THE RECORDS CONNECTED WITH MVC.NO.451/2012 PASSED BY THE ADDITIONAL SENIOR CIVIL JUDGE AND JMFC AND MOTOR ACCIDENTS CLAIMS TRIBUNAL-NO.VI JAMAKHANDI, EXAMINE THE SAME AND SET ASIDE THE AWARD DATED 20-10-2015 AS AGAINST THE APPELLANT IN THE INTEREST OF JUSTICE.

THIS APPEAL, COMING ON FOR FINAL HEARING, 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, 'M.V. Act') challenging the judgment and award dated 20.10.2015 passed in MVC No.451/2012 on the file of Additional Senior Civil Judge and JMFC and MACT-VI, Jamkhandi (for short, 'Tribunal') by the appellant/insurer.



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

3. The claimant has filed the claim petition under Section 166 of M.V. Act praying for compensation in respect of the accident that has taken place on 27.04.2012 at 11.00 a.m. on Chimmad-Mahalingpur Road involving motorbike bearing Reg.No.KA-48/H-4882.

4. The contention of the claimant is that on 27.04.2012, he was proceeded towards Mahalingpur Road near Chimmad Bus-stand and at the time, the rider of motorbike bearing No.KA-48/H-4882 ride the motorbike in rash and negligent manner and dashed against the claimant and thereby claimant sustained grievous injury i.e., fracture of right femur bone and he has taken treatment at Dr.Sanadi Hospital, Jamkhandi and thus sustained injuries and hence prayed for compensation under different heads.



5. After service of notice, respondent No.1 appeared through his counsel and filed his objection statement, wherein he denied the averments made in the claim petition and further contended that the vehicle in question was insured with respondent No.2 and rider was having valid driving licence and hence prayed for dismissal of the claim petition.

6. Respondent No.2-insurer filed its objection statement, wherein it denied the averments made in claim petition in *toto* and further contended that the claimant was not the earning member of the family and at the time of alleged accident, the rider of the motorbike was not having valid and effective driving licence and thus there is breach of conditions of the policy and respondent No.2 is not liable to make payment of compensation.

7. On behalf of claimant, claimant was examined as P.W.1 apart from marking Exs.P.1 to P.12 before the



Tribunal and on behalf of respondent No.2, R.W.1 was examined and insurance policy is marked as Ex.R.1.

8. After hearing the arguments of both sides, the Tribunal came to the conclusion that the rider of the motorbike was having valid and effective driving licence and also held that the accident occurred due to rash negligent riding of the rider of the motorbike and thus granted global compensation of ₹.75,000/- to the claimant by fastening liability on respondent No.2.

9. Aggrieved by the said judgment and award, the appellant/insurer has filed the present appeal.

10. Heard arguments of both sides.

11. Learned counsel for the appellant-insurer Sri.Naganagouda R. Kuppelur would submit that even though driving license is not produced by both sides, in the charge sheet, the offence under Section 3 r/w Section 181 of M.V.Act is alleged against the rider of motorcycle, which



implies that the rider of the motorcycle is not having valid and effective driving license at the time of alleged accident. Under those circumstances, it was incumbent upon the claimant or the owner of the motorcycle to produce the driving license of rider to show that he was having driving license. However, no such document is produced. Only a Xerox copy of driving license of the rider of motorcycle is produced which only reveals that he was having driving license to drive the vehicle of 'NT' category and it also reveals that license it is given only for driving COV (class of vehicle) LDRXCV i.e., for excavators but not to ride motor cycle. Thus the rider of motorcycle was not having effective and valid driving license to drive motor cycle as on the date of accident and hence insurer is not liable to make compensation.

12. Learned counsel for the appellant would also further submit that the rate of interest awarded by the Tribunal is also on higher side and it ought to be 6% per annum from the date of petition and not 9% per annum.



13. Learned counsel for claimant/respondent No.1 Sri.N.L.Batakurki would submit that the Xerox copy of driving license produced in this case would indicate that the rider of the motorcycle was having effective and valid driving license and considering it, the Tribunal has fastened the liability on respondent No.2-insurer properly and it needs no interference.

14. On behalf of learned counsel for respondent No.2, the owner of motor cycle in question Sri Vijayakumar B. Horatti would submit that the rider of motorcycle was having license and hence saddling liability on insurer is proper and it needs no interference.

15. Having Heard the arguments of both sides and on verifying the appeal papers and TCR, the points that arise for consideration are:-

- 1) Whether the Tribunal is right in holding that the rider of motorcycle was having valid and effective driving license?*
- 2) Whether awarding interest by the Tribunal is exorbitant?*



16. Answer to point No.1 in the **Negative** and point No.2 in the **Affirmative** for the following reasons:-

Claimant has filed the claim petition claiming that he sustained injuries in the accident that occurred on 27.04.2012 at 11 a.m., when he was a pedestrian near bus stand of village Chimmad on Chimmad-Mahalingapura road, the rider of motorcycle bearing No.KA-48/H-4882 came in a rash and negligent manner and dashed against him and caused the accident.

17. To substantiate that the accident was happened, claimant has produced the certified copies of FIR, complaint charge sheet, panchnama, Motor Vehicle accident report and wound certificate as per Exs.P.1 to P.6 respectively.

18. On perusal of these documents, there is sufficient material produced by the claimant to show that he sustained injuries in the accident in a motor vehicle accident when the motorcycle bearing No.KA-48/H-4882 hit him on



the road and he sustained fracture of femur bone and other injuries.

19. The factum of accident and claimant sustained injuries in the said accident are not in dispute. The quantum of compensation awarded by the Tribunal is also not in question in this appeal.

20. It is the contention of insurer that the rider of motorcycle was not having valid and effective driving license as on the date of accident and knowing fully well that he was not having license, owner of the vehicle has handed over the vehicle to rider and thus the insurer is not liable to pay compensation.

21. On perusal of charge sheet, it is clear that the offence under Section 3 read with Section 181 of M.V. Act is alleged against rider of the motorcycle. It implies that the rider of the motorcycle was not having valid and effective driving license, as on the date of accident. If that being so, the insurer cannot produce a negative evidence. But, the



claimant/owner could have produced the positive evidence to show that the rider was having valid and effective driving license as on the date of accident by producing the DL of rider of motor cycle. In this regard only a Xerox copy of driving license is produced which is not marked. However, the Tribunal relied on this document and came to the conclusion that there was valid driving license.

22. On perusal of said Xerox copy of driving license, it is noticed that the license is valid till 23.02.2013(NT) and it is valid throughout India. COV (Class of vehicle) LDRXCV dated 24.02.2010 that means the license was issued on 24.02.2010 and thus as on the date of accident this license was valid. However, it was issued in respect of Non-transport LDRXV vehicle and not for two-wheeler. If license is issued for two-wheeler, then generally it would be mentioned that with gear or without gear in the license. But no such mention is found in this Xerox copy of driving license. Furthermore, owner or the claimant has not produced the certified copy of driving license of the rider.



23. All the above facts would indicate that the rider of the motorcycle was not having valid and effective driving license to ride the motorcycle. But, he might have license to drive some other model of the motor vehicle. Hence, the observation of the Tribunal that there was valid and effective driving license to rider is incorrect.

24. The Tribunal has awarded interest at 9% per annum. However, considering the present bank rate of interest and also the bank rate of interest as on the date of claim petition, the interest ought to have been awarded at 6% instead of 9%.

25. When it is established that the rider was not having valid and effective driving license to ride the motorcycle, he has violated the conditions of policy. Under those circumstances, the full Bench of this Court in the case of ***National Insurance Company versus Yellavva***¹ by

¹ 2020(2) KCCR 1405



relying upon the judgment of Hon'ble Apex Court held that the insurer is directed to pay and recover later.

26. Hon'ble Apex Court in the case of ***Shamanna and another Vs. Divisional Manager, Oriental Insurance Company Limited and others***² considered the above view and passed the judgment and its relevant portion is extracted as below:-

"13. Since the reference to the larger Bench in Parvathneni case has been disposed of by keeping the questions of law open to be decided in an appropriate case, presently the decision in Swaran Singh case followed in Laxmi Narain Dhut and other cases hold the field. The award passed by the Tribunal directing the insurance company to pay the compensation amount awarded to the claimants and thereafter, recover the same from the owner of the vehicle in question, is in accordance with the judgment passed by this Court in Swaran Singh and Laxmi Narain Dhut cases. While so, in our view, the High Court ought not to have interfered with the award passed by the Tribunal directing the first respondent to pay and recover from the owner of the vehicle. The impugned judgment of the High Court exonerating the insurance company from its liability and directing the claimants to recover the compensation from the owner of the vehicle is set aside and the award passed by the Tribunal is restored.

14. So far as the recovery of the amount from the owner of the vehicle, the insurance company shall recover as held in the decision in Oriental Insurance Co. Ltd. v. Nanjappan wherein this Court held that: (SCC p. 226, para 8)

² (2018) 9 SCC 650



"8. ... For the purpose of recovering the same from the insured, the insurer shall not be required to file a suit. It may initiate a proceeding before the executing court concerned as if the dispute between the insurer and the owner was the subject-matter of determination before the Tribunal and the issue is decided against the owner and in favour of the insurer."

27. In the instant case also, in terms of the aforesaid decisions, it is for the insurance company to satisfy the claim at the first instance and thereafter it would at liberty to recover the same from the owner of the offending motorcycle i.e., second respondent. Hence, on said aspect, the judgment and award of the Tribunal needs interference. Hence, this Court proceeds to pass the following:

ORDER

- 1) The appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is allowed in part by modifying the judgment and award passed in MVC No.451/2012 dated 20.10.2015 on the file of Addl. Senior Civil Judge, and JMFC., and MACT., No.VI, at Jamkhandi.



- 2) Claimant is entitled for total global compensation of Rs.75,000/- with interest at 6% per annum from the date of petition till realization.
- 3) Respondent-Insurance Company shall pay the compensation at first instance and recover the same from the respondent No.2-owner afterwards.
- 4) The respondent-insurer shall deposit the compensation amount within eight weeks from the date of receipt of a certified copy of this order.
- 5) Amount in deposit, if any, shall be transmitted to the Tribunal.

Sd/-
(GEETHA K.B.)
JUDGE

SH-upto para 8
HMB-9 to end
CT-MCK
LIST NO.: 1 SL NO.: 25