

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 23RD DAY OF JANUARY, 2026
BEFORE
THE HON'BLE DR. JUSTICE K.MANMADHA RAO
MISCELLANEOUS FIRST APPEAL NO.20103 OF 2013 (MV)

BETWEEN:

THE RELIANCE GEN. INS. CO. LTD.,
1ST FLOOR SLV TOWER,
PARVATHI NAGAR, BELLARY.
REPRESENTED BY ITS
DEPUTY MANAGER LEGAL CLAIMS.
CTS, 472-474, V A KALBURGI SQUARE,
DESAI CIRCLE, DESHAPANDE NAGAR, HUBLI.

...APPELLANT

(BY SRI. NAGARAJ C. KOLLOORI, ADVOCATE)

AND:

1. SMT. HUSAINBEE
W/O GADDESAB,
AGE: 33 YEARS,
OCC: HOUSEHOLD WORK,
2. MOULASAB
S/O GADDESAB,
AGE: 15 YEARS.
3. MOHMAD
S/O GADDESAB,
AGE: 12 YEARS,
(RESPONDENT NO.2 & 3 BEING MINORS
REPRESENTED BY THEIR MOTHER
NATURAL GUARDIAN RESPONDENT NO.1)

MOHANKUMAR
B SHELAR

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MOHANKUMAR B SHELAR
Location: High Court of
Karnataka, Dharwad Bench
Date: 2026.01.27 16:48:10
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4. SMT. MABAMMA W/O KHADARSAB,
AGE: 57 YEARS, OCC: AGRICULTURE,

RESPONDENTS NO. 1 TO 4 ARE
R/O: KARATAGI, TQ: GANGAVATHI, DIST. KOPPAL.

5. SRI. CHANDRASHEKAR
S/O BASAVANTHAPPA SAJJAN,
AGE: 42 YEARS, OCC: BUSINESS,
R/O: 1ST WARD, R/O: KARATAGI,
TQ: GANGAVATHI, DIST. KOPPAL.

...RESPONDENTS

(BY SRI. DEEPAK C. NAGANUR, ADVOCATE FOR
SRI. CHANDRASHEKHAR P. PATIL, ADVOCATE FOR R1 TO R4;
SRI. B. SHARANABASAWA, ADVOCATE FOR R5)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE
MOTOR VEHICLES ACT, PRAYING TO SET ASIDE THE JUDGMENT
AND AWARD 9TH NOVEMBER 2012 PASSED BY THE ADDITIONAL
MACT AND FAST TRACK COURT, KOPPAL SITTING AT
GANGAVATHI IN MVC NO.237/2011 ON THE FOLLOWING FACTS
AND AMONG OTHER GROUNDS AND TO PASS SUCH OTHER
ORDER OR ORDERS AS THIS HON'BLE COURT DEEMS FIT UNDER
THE FACTS AND CIRCUMSTANCES OF THE CASE INCLUDING THE
COSTS IN THE INTEREST OF JUSTICE AND EQUITY.

THIS MFA HAVING BEEN HEARD AND RESERVED FOR
JUDGMENT ON 07.01.2026 AND COMING ON FOR
PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED
THEREIN AS UNDER:

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

CAV JUDGMENT

1. This appeal is filed by the Insurance Company under Section 173(1) of the Motor Vehicles Act, 1988, calling in question the judgment and award dated 09.11.2012 passed by the Additional MACT & Fast Track Court, Koppal, sitting at Gangavathi, in MVC No.237/2011. By the said award, the Tribunal granted compensation of ₹4,68,503/- with interest at the rate of 6% per annum and fastened liability on both the owner and the insurer.

2. The brief facts of the case are as follows: On 14.01.2011, the deceased Gaddesab himself was riding the Hero Honda Shine motorcycle bearing registration No. KA-37/R-1452. He lost control over the motorcycle and met with an accident. No other vehicle was involved in the accident. The police records, namely the FIR, spot mahazar, and charge-sheet, clearly disclose that the accident occurred solely due to the negligence of the deceased himself. The legal representatives of the deceased filed a claim petition under Section 163-A of the Motor Vehicles Act. The Tribunal took the view that negligence is not relevant under Section 163-A and, by applying the structured formula, awarded compensation holding that the insurance policy

was valid. Aggrieved by the said judgment and award, the Insurance Company has preferred the present appeal.

3. Learned counsel for the appellant–Insurance Company contended that the judgment and award passed by the Tribunal are illegal and contrary to settled principles of law. It was argued that since the deceased himself was the rider of the motorcycle and was responsible for the accident, his legal representatives could not have maintained a claim under Section 163-A against the insurer. It was further contended that the deceased was not a “third party” and, therefore, the insurer could not have been made liable.

4. In support of his submissions, learned counsel for the appellant placed reliance on the judgment of the Hon’ble Supreme Court in ***Ramkhiladi vs. United India Insurance Company Limited***, reported in ***(2020) 2 SCC 550***. Relying upon the said judgment, it was submitted that, in the present case, the compensation payable is required to be restricted to ₹1,00,000/- in terms of the conditions of the insurance policy.

5. *Per contra*, learned counsel appearing for the claimants supported the impugned judgment and award and

submitted that Section 163-A of the Motor Vehicles Act provides for payment of compensation on a no-fault basis and that the Tribunal was justified in awarding compensation.

6. This Court has carefully considered the rival submissions and perused the records.

7. On a careful consideration of the pleadings, evidence on record, and the rival submissions, it is not in dispute that the claim petition was filed under Section 163-A of the Motor Vehicles Act in respect of the death of the deceased, who himself was riding the motorcycle at the time of the accident. The Tribunal, while partly allowing the claim petition, fastened liability on the insurer and awarded compensation of ₹4,68,503/- with interest at the rate of 6% per annum. The appellant-Insurance Company has specifically contended that the deceased was not a third party, that he had borrowed the motorcycle and thereby stepped into the shoes of the owner, and that a claim under Section 163-A against the insurer of the said vehicle was not maintainable. According to the appellant, the Tribunal failed to appreciate these aspects.

8. The relevant legal provisions, as laid down by the Hon'ble Supreme Court in ***Ramkhiladi & Another v. United India Insurance Co. Ltd. & Another (2020) 2 SCC 550***, are extracted hereunder:

"It is true that, in a claim under Section 163-A of the Act, there is no need for the claimants to plead or establish negligence or that the death in respect of which the claim petition is sought to be established was due to wrongful act, neglect or default of the owner of the vehicle concerned. It is also true that the claim petition under Section 163-A of the Act is based on the principle of no-fault liability. However, at the same time, the deceased has to be a third party and cannot maintain a claim under Section 163-A of the Act against the owner/insurer of the vehicle which is borrowed by him as he will be in the shoes of the owner and he cannot maintain a claim under Section 163-A of the Act against the owner and insurer of the vehicle..."

"...there cannot be any dispute that the liability of the insurance company would be as per the terms and conditions of the contract of insurance. As held by this Court in Dhanraj v. New India Assurance Co. Ltd., Section 147 does

not require an insurance company to assume risk for death or bodily injury to the owner of the vehicle. The interest on compensation under Section 163-A is to be paid at 7.5% per annum as provided in Section 163-A(2) read with the judgment in this case."

9. Relying on the above authoritative propositions, the following principles emerge: Section 163-A is no-fault in nature, but the deceased must be a "third party" vis-à-vis the insured vehicle. A person who borrows and uses a vehicle steps into the shoes of its owner and cannot claim under Section 163-A against the owner/insurer of that vehicle. Under Section 147 of the Act, an insurer's liability does not extend to cover death or injury to the owner/borrower of the vehicle, except to the extent of any personal accident insurance cover specifically available under the policy. Interest on any compensation due is to be paid at the rate of 7.5% per annum.

10. Applying these principles to the facts of the present case, the deceased, while riding the motorcycle, cannot be treated as a third party vis-à-vis the insured vehicle. Consequently, the claim under Section 163-A, insofar as it seeks compensation beyond the contractual personal accident cover, is

not maintainable. The Tribunal's award of ₹4,68,503/- against the insurer cannot, therefore, be sustained in full. The claimants are, however, entitled to receive compensation under the personal accident cover provided by the insurance policy, which, in the absence of any enhanced coverage, is ₹1,00,000/-.

11. In view of the foregoing discussion, this Court proceeds to pass the following:

ORDER

- (i) The appeal is allowed in part.
- (ii) The judgment and award dated 09.11.2012 passed by the Additional MACT & Fast Track Court, Koppal, sitting at Gangavathi, in MVC No.237/2011 are modified.
- (iii) The claimants shall be entitled to receive ₹1,00,000/- under the personal accident cover along with interest at the rate of 7.5% per annum from the date of filing of the claim petition till realization.
- (iv) The Insurance Company is directed to satisfy the modified award within a period of eight weeks from the date of receipt of a certified copy of this order.

- (v) Any amount deposited by the Insurance Company in excess of the modified award shall be refunded to it in accordance with law.
- (vi) There shall be no order as to costs.

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

RSH / CT:VP