

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 9TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.103363 OF 2017 (MV)

BETWEEN:

RAJU GOPAL PATIL,
AGE: 30 YEARS, OCC: MASON NOW NIL,
R/O: PATIL GALLI, SHAGANMATTI,
POST: SHAGANMATTIM,
TAL: AND DIST: BELAGAVI-590012.

...APPELLANT

(BY SRI. VITTHAL S. TELI, ADVOCATE)

AND:

1. RAVI GOPAL PATIL,
AGE: MAJOR YEARS, OCC: BUSINESS,
R/O: PATIL GALLI, SHAGANMATTI,
POST: SHAGANMATTIM,
TAL: AND DIST: BELAGAVI-590012.
2. THE NATIONAL INSURANCE CO. LTD.,
REPRESENTED BY DIVISIONAL OFFICER,
RAMDEV GALLI, BELAGAVI-590001.
3. KHAJASAB M ATTAR,
AGE: MAJOR, OCC: BUSINESS,
R/O: BAZAR GALLI, HIREBAGEWADI,
TAL: AND DIST: BELAGAVI-591109.

...RESPONDENTS

(BY SRI. S.S. JOSHI, ADVOCATE FOR R2;
SRI. SUBHASH J. BADDI, ADVOCATE FOR R3;
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, AGAINST THE JUDGMENT AND AWARD DATED 03.12.2016 PASSED IN MVC NO.2289/2015 ON THE FILE OF THE XI-ADDITIONAL DISTRICT AND SESSIONS JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BELAGAVI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION & ETC.

MOHANKUMAR
B SHELAR

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MOHANKUMAR B SHELAR
Location: High Court of
Karnataka, Dharmwad Bench
Date: 2026.01.27 16:48:09
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THIS MFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 05.01.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

CAV JUDGMENT

This appeal is filed under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'the MV Act') by the claimant, calling in question the judgment and award passed in MVC No.2289/2016 on the file of the XI Additional District and Sessions Judge and Additional MACT, Belagavi (for short, 'the Tribunal'), insofar as it relates to the quantum of compensation and the finding on contributory negligence. The appellant seeks enhancement of compensation with interest at 18% per annum and setting aside of the finding holding contributory negligence to the extent of 50%.

2. For the sake of convenience, the parties are referred to as arrayed before the Tribunal.

3. The brief facts leading to the filing of this appeal are that on 20.02.2015 at about 10.30 a.m., the claimant was riding his motorcycle bearing registration No.KA-22/Y-1065 on NH-1 Highway, proceeding from Hirebagewadi towards M.K. Hubli, by observing traffic rules and at a moderate speed. At that time, another motorcycle bearing registration No.KA-22/EC-2213, ridden

in a rash and negligent manner, dashed against the claimant's motorcycle, resulting in an accident.

4. Due to the accident, the claimant sustained grievous injuries. He was initially shifted to the District Hospital, Belagavi, and thereafter to Vijaya Ortho and Trauma Centre, Belagavi, for further treatment. It is stated that the claimant spent about ₹15,000/- towards medical expenses. At the time of accident, the claimant was engaged in agricultural activities and earning approximately ₹10,000/- per month.

5. After service of notice, respondent No.2-Insurance Company filed objections denying the claim. It was contended that as per police records, the accident occurred due to the rash and negligent riding of the claimant himself. It was further contended that since the claimant was riding a motorcycle owned by his brother, he steps into the shoes of the insured and therefore is not a third party. On these grounds, dismissal of the claim petition was sought.

6. In order to substantiate his claim, the claimant examined himself as PW-1 and produced documents at Exs.P1 to

P12. On behalf of respondent No.2, one witness was examined as RW-1 and Ex.R1 was marked.

7. The Tribunal, after considering the evidence on record, partly allowed the claim petition holding that the claimant had contributed to the accident to the extent of 50%. Accordingly, it directed respondent Nos.1 and 2 to pay 50% of the compensation and fastened liability for the remaining 50% on respondent No.3, the owner-cum-rider of the other motorcycle.

8. Learned counsel for the appellant-claimant would contend that the claim petition was filed under Section 163A of the MV Act, under which the claimant is not required to plead or prove negligence, and the only requirement is involvement of the motor vehicle in the accident. Therefore, the finding on contributory negligence is wholly unsustainable.

9. It was further contended that under Section 163A of the MV Act, the claimant is entitled to claim compensation from any one of the joint tort-feasors and apportionment on the basis of contributory negligence is impermissible.

10. It was also submitted that the Tribunal failed to properly assess the injuries suffered by the claimant, namely

fracture of patella with malunion, resulting in permanent disability. The Tribunal ignored the mandate of Schedule II of the MV Act, which requires disability to be assessed in terms of the Employees' Compensation Act, 1923, by treating it as whole-body disability.

11. Learned counsel further argued that the compensation awarded towards pain and suffering, medical expenses, nourishment, conveyance and attendant charges is meager and not commensurate with the nature of injuries. The Tribunal also erred in not adopting the notional income of ₹40,000/- per annum as prescribed under Schedule II of the MV Act, after deducting one-third towards personal expenses.

12. Heard learned counsel appearing on either side and perused the materials on record.

13. *Having considered the contentions advanced, the points that arise for consideration in this appeal are:

14. In view of the above It is now well settled that in a claim under Section 163A of the MV Act, the claimant is not required to plead or establish negligence. The liability under Section 163A is based on the principle of no-fault liability. Once the involvement of the motor vehicle in the accident is established,

*Deleted vide chamber order dated 27.01.2026

Sd/-
(DR.KMRJ)

compensation as per the structured formula under Schedule II follows as a matter of course.

Section 163 A of the MV Act reads as under:-

"163A. Special provisions as to payment of compensation on structured formula basis.— (1) *Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.*

Explanation.—For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) *In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.*

(3) *The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule."*

15. In view of the aforesaid discussion and by relying on the judgment of the Apex Court in the case of **United Insurance Company Limited v. Sunil Kumar and Another** in **Civil Appeal**

No.9694/2013, referring to section 163A of the MV Act, held that Section 163-A imposes liability on a no-fault basis, making fault or negligence irrelevant to the claim. It does not permit apportionment of liability or proof of contributory negligence by the victim. Allowing such defence would defeat the object and purpose of Section 163-A. Once death or permanent disablement during vehicle use is established and the vehicle is insured, statutory compensation must be paid by the owner or insurer.

16. Therefore, the concept of contributory negligence has no application to claims under Section 163A of the MV Act. Hence, the finding recorded by the Tribunal attributing 50% contributory negligence to the claimant is legally unsustainable and is liable to be set aside.

17. As regards the quantum of compensation is concerned, the Tribunal has failed to strictly adhere to Schedule II of the MV Act. The nature of injuries, period of treatment, and the resultant disability suffered by the claimant has not been properly appreciated.

18. In view of the above, learned counsel for the appellant has rightly placed reliance on the judgment of this Court dated

04.03.2024 in **Smt. Renuka Mahabaleshwar Bhat and others v. Azeez Rahman and others** passed in **MFA No.102120/2016**, wherein it has been reiterated that negligence is irrelevant in a claim under Section 163A and compensation must strictly follow the structured formula.

19. Therefore, this Court is of the considered opinion that the judgment and award passed by the Tribunal insofar as it relates to the finding on contributory negligence and quantum of compensation is hereby set aside. The matter requires reconsideration by the Tribunal.

20. In view of the foregoing discussions, this Court proceeds to pass the following:-

ORDER

- i) Accordingly, the appeal is **allowed**.
- ii) The judgment and award passed by the Tribunal is hereby set aside.
- iii) The matter is remitted back to the Tribunal for fresh consideration, in accordance with law.

- iv) The parties are directed to appear before the Tribunal without awaiting any further notice from the Tribunal.
- v) By giving opportunities to both the parties, the Tribunal shall dispose of the case as expeditiously as possible i.e., within a period of six months from the date of re-opening of the case.
- vi) Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the order passed by this Court, forthwith.
- vii) The amount deposit, if any, shall be transmitted to the Tribunal forthwith.

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

MBS
Ct: VP