

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.102877 OF 2016 (MV)

BETWEEN:

SRI. HANAMANT SHANKAR KALLIMANI
AGE: MAJOR, OCC. BUSINESS,
R/O ADI JAMBHU NAGAR, BESIDE KLE HOSPITAL,
GOKAK, TQ. GOKAK, DIST. BELAGAVI-591307.

...APPELLANT

MOHANKUMAR
B SHELAR

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MOHANKUMAR B SHELAR
Location: High Court of
Karnataka, Dharwad Bench
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(BY SRI. RAMACHANDRA MALI, ADVOCATE)

AND:

1. SMT. SUSHILA W/O RAJU PATIL
AGE. 27 YEARS, OCC. HOUSEHOLD WORK,
R/O MORAB, TAL. RAIBAG,
DIST. BELAGAVI-591317.
2. KUMARI. ASHWINI D/O RAJU PATIL
AGE. 8 YEARS, OCC. NIL,
R/O MORAB, TAL. RAIBAG,
DIST. BELAGAVI-591317.
3. KUMARI. SAKSHITA D/O RAJU PATIL
AGE. 6 YEARS, OCC. NIL,
R/O MORAB, TAL. RAIBAG,
DIST. BELAGAVI-591317.

4. THE MANAGER,
IFFCO TOKIO GENERAL
INSURANCE COMPANY LIMITED,
HAVING ITS OFFICE AT BHAVANI ARCADE,
3RD FLOOR, NEAR-OLD BUS-STAND,
OPPOSITE BASAVA VAN,
NEW COTTON MARKET,
HUBBALLI-580029.

...RESPONDENTS

(BY SRI. M.Y. KATAGI, ADVOCATE FOR R4;
NOTICE TO R1 IS SERVED;
R2 & R3 ARE MINORS R/BY R1)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE
MOTOR VEHICLES ACT 1988, PRAYING TO CALL FOR RECORDS
IN MVC NO.937/2011 ON THE FILE OF THE III ADDL. SENIOR
CIVIL JUDGE AND ADDL. MACT, BELAGAVI AND SET ASIDE THE
JUDGMENT AND AWARD DATED 30.01.2013 MADE IN MVC
NO.937/2011 PASSED BY THE III ADDL. SENIOR CIVIL JUDGE
AND ADDL. MACT, BELAGAVI AS THE SAME BEING ERRONEOUS
AND ILLEGAL AND NOT SUSTAINABLE IN LAW IN THE INTEREST
OF JUSTICE AND EQUITY.

THIS MFA HAVING BEEN HEARD AND RESERVED ON
05.01.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT
THIS DAY, THE COURT DELIVERED THE FOLLOWING:

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 ('the MV Act' for short) by the owner of the vehicle to set aside the judgment and award dated 30.01.2013 in M.V.C. No.937/2011, on the file of the III Additional Senior Civil Judge and Additional MACT, Belagavi (herein after referred to as 'the Tribunal' for short).

2. The appellant-owner of the vehicle herein is the respondent No.1 before the Tribunal and the respondents No.1 to 3 herein are the petitioners/claimants No.1 to 3 before the Tribunal and the respondent No.4 herein- Insurance Company is the respondent No.2 before the Tribunal.

3. The brief facts leading to the filing of the case are that the claimants No.1 to 3, claiming to be the legal heirs of the deceased, filed a claim petition under Section 166 of the MV Act before the Tribunal.

4. On 14.09.2009, the deceased-Sri Raju Siddagouda Patil, aged about 24 years was proceeding in the Auto Rickshaw bearing No.KA-23/A-505 owned by the respondent No.1-owner of the vehicle, from Raibag to Morab. The driver of the Auto

Rikshaw was driving the vehicle in high speed, rash and negligent manner, suddenly lost control over his vehicle, as a result the vehicle turn turtle by the side of the road causing accident. As a result, the deceased sustained injuries to vital parts of his body and succumbed to death.

5. However, no proper notice was served on respondent No.1-owner of the vehicle and he was placed *ex-parte* before the Tribunal. Thereafter, the Tribunal fastened liability on the owner of the vehicle and awarded the compensation of Rs.4,77,000/- with 9% interest on the ground that the driver of the vehicle did not possess a valid driving licence as on the date of the accident.

6. The learned counsel for the appellant-owner of the vehicle would contend that the Tribunal has gravely erred in holding that the driver of vehicle was not possessing a valid driving licence at the time of the accident and, on that basis, the Insurance Company was exonerated from its liability to indemnify the appellant, and fastened liability upon the appellant without proper appreciation of the material on record.

7. It is also submitted that the appellant-owner of the vehicle has deposited the statutory amount of Rs.25,000/-

before this Court by way of Demand Draft No.164906 drawn on State Bank of India, HC Extension Counter, Dharwad, payable at Dharwad in favour of the Additional Registrar General, High Court of Karnataka, Dharwad Bench.

8. It is further submitted that the appellant has filed IA No.3/2017 under Order XLI Rule 27 read with Section 151 of the CPC along with accompanying affidavit and produced valid driving licence of the driver of the Auto Rikshaw bearing No.KA-23/A-505.

9. Heard learned counsel appearing for the parties and perused the materials on record.

10. Having considered the contentions advanced and perused the material placed on record, it is observed that the Tribunal failed to appreciate that the driver was in fact holding a valid driving licence at the time of the accident, which could not be produced before the Tribunal as no proper notice was served on the appellant and was placed ex-parte, depriving the opportunity of the appellant to place the licence on record. Even otherwise, mere charge-sheeting of the driver of the vehicle for alleged absence of licence does not absolve the Insurance

Company of its statutory liability, particularly when the vehicle was admittedly insured with respondent No.4 herein-Insurance Company on the date of the accident and there was no breach or violation of the policy conditions.

11. In view of the above discussions, this Court finds that the findings recorded by the Tribunal, particularly with regard to fastening of liability on the owner of the vehicle, are unsustainable in law. Consequently, this Court deems it just and proper to interfere with the impugned award. Hence, the appeal deserves to be allowed and the matter is remitted back to the Tribunal for fresh consideration in accordance with law.

12. In view of the foregoing discussions, this Court proceed to pass the following;

ORDER

- (a) Miscellaneous First Appeal is ***allowed.***
- (b) The impugned Judgment and Award dated 30.01.2013 in M.V.C. No.937/2011, passed by the III Additional Senior Civil Judge and Additional MACT, Belagavi, is set aside and the matter is remanded back to the Tribunal for fresh consideration.

- (c) The Tribunal shall give opportunity to both the parties to adduce evidence and produce valid driving licence and directed the Tribunal to consider the same.
- (d) The parties are directed to appear before the Tribunal without awaiting any further notice from the Tribunal.
- (e) By giving opportunities to both the parties, the Tribunal shall dispose of the case as expeditiously as possible i.e., within the period of six months from the date of re-opening of the case.
- (f) Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the order passed by this Court forthwith.
- (g) The statutory amount in deposit i.e., Rs.25,000/- along with accrued interest, if any, shall be transmitted to the Tribunal.

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

RSH, CT:VP
LIST NO.: 1 SL NO.: 31