

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.102946 OF 2017 (MV)

BETWEEN:

SHEIK IMTIYAZ PASHA S/O SHEIK ISMAIL,
AGE: 29 YEARS, OCC: BUSINESS,
R/O: NO.25/2, 8TH B CROSS, G FLOOR,
VASANTH NAGAR, BANGALORE-560001.

...APPELLANT

(BY SMT. ASHARANI H. MUNJI, ADVOCATE FOR
SRI. G.S. HULMANI, ADVOCATE)

AND:

1. SHIVANAND S/O CHIKKAHONNAPPA SOMAPURA,
AGE: MAJOR, OCC: BUSINESS,
R/O: H S K LAYOUT, DABASPET,
TQ: NELAMANGALA, DIST: BANGLORE-562111.

2. SBI GENERAL INSURANCE COMPANY LTD.,
NO.3/1, RUKMINO TOWERS, FLOTFARM ROAD,
SHESHADRI PURAM, BANGALORE-560020.

...RESPONDENTS

(BY SRI. SUBHASH J. BADDI, ADVOCATE FOR R2;
NOTICE TO R1-DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT 1988, AGAINST THE JUDGMENT AND AWARD DATED 28.01.2017 PASSED IN MVC NO.1333/2014 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, RANEBENNUR, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION & ETC.

THIS MFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 06.01.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

MOHANKUMAR
B SHELAR
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MOHANKUMAR B SHELAR
Location: High Court of
Karnataka, Dharmawad Bench
Date: 2026.01.27 16:48:08
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CAV JUDGMENT

This appeal is filed under Section 173(1) of Motor Vehicles Act, 1988 (hereinafter referred to as 'MV Act') by the claimant challenging by the Judgment and Award dated 28.01.2017 passed in MVC No.1333/2014 by the II Additional Senior Civil Judge and AMACT, Ranebennur ('the Tribunal' for short).

2. For convenience, the parties are referred to, based on their rankings before the Tribunal.

3. Facts giving rise to the filing of the appeal briefly stated are as under:

It is the case of the appellant-claimant that on 26.11.2013, at about 1.30 p.m., the claimant and others were traveling in a car bearing Reg.No.KA-30/MJ-2250 from Bangalore to Mumbai. When they came near Mankanur Cross on NH-4, at that time, the driver of the lorry bearing Reg.No.KA-52/5859 drove the same in a rash and negligent manner and dashed to the car and caused the accident. Due to the accident, the front portion of the car got damaged.

The petitioner filed a claim petition under Section 166 of the M.V.Act claiming compensation of Rs.2,52,710/- towards damages.

4. In response to court notice, respondent No.2-Insurance company appeared before the Tribunal and filed written statement denying the averments made in the claim petition except that the offending lorry was insured for the period of 28.02.2013 to 27.02.2014. The driver of the lorry did not possess valid and effective driving licence. It is also contended that the driver of the car has also contributed to the accident. Hence, prays to dismiss the claim petition.

5. The Tribunal on the basis of the pleadings of the parties, framed issues. The petitioner examined as P.W.3 got marked common documents at Exs.P1 to Ex.P16. On the other hand, respondent No.2-Insurance Company examined one witness as R.W.1 and got marked documents at Exs.R1 & R2. The Tribunal after assessing the oral and documentary evidence, allowed the claim petition in part and awarded compensation of Rs.80,000/- with interest at

the rate of 6% p.a., from the date of petition till realization.

6. The appellant-claimant, aggrieved by the judgment and award passed by the Tribunal, filed this Miscellaneous First Appeal.

7. Learned counsel for the appellant-claimant submits that the judgment and award passed by the Tribunal is against the facts and circumstances of the case. The Tribunal has not properly considered the damages caused to the car in right perspective while awarding compensation. He submits that as per Ex.P4-IMV report, the car has severally damaged. He also produced Ex.P14-vehicle credit bill which discloses that appellant-claimant require Rs.2,00,000/- towards repair charges of the car. He submits that without examining the oral and documentary evidence, the Tribunal has awarded global compensation of Rs.80,000/- which is on the lower side. Hence, on these grounds, he prays to allow the appeal.

8. Per contra, learned counsel for the respondent-Insurance Company supports the impugned judgment and award passed by the Tribunal. He submits that the compensation awarded by the Tribunal is just and proper, and do not call for any interference by this court. Hence, on these grounds, he prays to dismiss the appeal.

9. Heard the learned counsel for the appellant-claimant and the learned counsel for the respondent-Insurance Company.

10. Having heard the learned counsel for the parties and on re-appreciation of the material on record, it is seen that the appellant-claimant has produced Ex.P14-vehicle credit bill. However, the appellant has not examined the author of Ex.P14. The appellant has produced Ex.P4-IMV report. As per the IMV report, the front bumper, bonnet, radiator and front wind screen glass were damaged. The IMV report did not disclose the inside damages. Nothing prevented the appellant to conduct the survey to ascertain the actual damages.

11. It is well established principle of law that when special damage is claimed, each Rupee has to be accounted for and proofs like any other claim. Mere production of Exs.P4 and P14 *per se* was not proof of the claim. The Tribunal after considering the entire material available on record has awarded global compensation of Rs.80,000/- which is just and proper, and do not call for any interference by this court.

12. In view of the above discussion, this court proceeds to pass the following:

ORDER

- i) The appeal is ***dismissed***.
- ii) The judgment and award passed by the Tribunal is hereby confirmed.

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

MBS
CT:VP