



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 299 OF 2025 (MV-D)

BETWEEN:

1. SMT. PADMA H.L.
W/O. LATE B.D. MAHESHA,
AGED ABOUT 37 YEARS,
2. YASHASHWINI B.M.
D/O. LATE B.D. MAHESHA,
AGED ABOUT 14 YEARS,
3. TANUSHREE B.M.,
D/O. LATE B.D. MAHESHA,
AGED ABOUT 11 YEARS,
4. RUTHVIK GOWDA B.M.,
S/O. LATE B.D. MAHESHA,
AGED ABOUT 08 YEARS,
SINCE PETITIONER NO.2 TO 4 ARE
MINORS REPRESENTED BY HIS NATURAL
GUARDIAN MOTHER SMT. PADMA H.L
ALL ARE R/AT HONNEMADU VILLAGE,
DUDDA HOBLI, MANDYA TALUK,
MANDYA DISTRICT - 571 405.
5. SMT. SAKAMMA,
W/O LATE DODDATHAMMEGOWDA,
AGED ABOUT 61 YEARS,
R/AT BIDARAKOTE VILLAGE,
KOPPA HOBLI,
MANDYA TALUK AND DISTRICT - 571 425.

...APPELLANTS

(BY SRI. SANATH KUMARA K.M., ADVOCATE)

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA



AND:

1. RAMESH H.B.,
S/O. BASAVIAIAH,
MAJOR,
R/AT.NO.4, GANADALU VILLAGE,
DUDDA HOBLI,
MANDYA TALUK AND DISTRICT - 571 405.
2. THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO., LTD,
NO.1119/B, KAMBLI BUILDING,
ASHOK NAGAR, M.C ROAD,
MANDYA - 571 401.

...RESPONDENTS

(BY SRI. RAMESH BENNI, ADVOCATE FOR R2;
R1 - RAMESH H.B. SERVED)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.23.03.2022 PASSED IN MVC NO.1014/2020 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND CJM, MANDYA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: ON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the claimants challenging the Judgment and Award dated 23.03.2022 passed in MVC



No.1041/2020 by Additional Senior Civil Judge and CJM, Mandya. The challenge to the said Judgment and Award is in respect of the contributory negligence held by the Tribunal on the part of deceased to the extent of 10%.

2. Even though the matter is listed today for admission, with the consent of both the learned counsel for appellants and learned counsel for respondent No.2/insurer, the matter is taken up for disposal.

3. The appellants/claimants made a claim petition seeking for award of compensation for the death of B.D. Mahesha (husband of claimant No.1, father of claimant Nos.2 to 4 and son of claimant No.5) in a road traffic accident occurred on 28.07.2018 contending that the accident occurred due to rash and negligent driving by the rider of motorcycle bearing registration No.KA-11/S-4718.

4. The Tribunal recorded the evidence adduced by the parties and upon appreciating the evidence on record,



assessed the compensation and awarded the compensation under various heads and awarded total compensation of Rs.25,92,500/- and deducted 10% towards contributory negligence on the part of the deceased in a sum of Rs.2,59,250/- and awarded a sum of Rs.25,92,500/- to the claimants. The said contributory negligence on the part of the deceased as held by the Tribunal to the extent of 10% has been challenged in the present appeal by the claimants.

5. Heard the learned counsel for appellants and learned counsel for respondent No.2/insurer.

6. Learned counsel for the appellants would contend that, the Tribunal only on the ground that deceased was not holding Driving License at the time of accident has held that he has contributed negligence to the accident to the extent of 10%. The charge sheet has been filed against the rider of offending motorcycle. The said charge sheet has not been filed against the deceased for rash and negligent driving of motorcycle. There is no



allegation in the charge sheet of deceased riding his motorcycle in a rash and negligent manner.

7. Learned counsel for the appellants placing reliance on the decisions of Hon'ble Apex Court in the case of ***SUDHIR KUMAR RANA vs. SURINDER SINGH AND OTHERS*** reported in ***AIR 2008 (SC) 2405*** and in the case of ***MOHAMMED SIDDIQUE AND ANOTHER vs. NATIONAL INSURANCE COMPANY LTD. & OTHERS*** in ***CIVIL APPEAL NO.79/2020*** would contend that, mere non-possessing of Driving License cannot be a basis to conclude that the deceased has contributed to the accident. With these, he prayed to allow the appeal.

8. Learned counsel for the respondent No.2/insurer would contend that, as the deceased was not holding Driving License, he driving the motorcycle on the road is a rash and negligent part on his act and it has contributed to the accident. He places reliance on the decision of co-ordinate Bench of this Court rendered in the case of ***RAJEGOWDA vs. RANGEGWODA*** passed in



Miscellaneous First Appeal No.4323/2019 decided on ***12.09.2023*** contending that the rider of motorcycle was not having Driving License and insurance and he was carrying 50 coconuts in a gunny bag on the fuel tank of the motorcycle and contributed negligence to the extent of 50%. With these, he prayed for dismissal of the appeal.

9. Having heard the learned counsels appearing for parties, the Court has perused the Judgment, Award and the decisions relied upon by the learned counsel appearing for parties.

10. The following point for consideration:

- i) Whether the Tribunal is justified in holding that the deceased has contributed to the accident to the extent of 10%?

11. The above said point is answered in negative for the following reasons:

- i) The deceased was riding his motorcycle from Mandya to Koppa on the left side of the road and at



that time, the rider of offending motorcycle drew it in a rash and negligent manner came from back side and dashed against back side of motorcycle of the deceased. As a result, the deceased sustained injuries on all parts of the body and he succumbed to the injury in the hospital.

ii) The charge sheet has been filed against the rider of offending motorcycle for driving in a rash and negligent manner. The charge sheet has not been filed against the deceased for driving the motorcycle in a rash and negligent manner. It is not in dispute that the deceased was not holding Driving License on the date of accident. Merely because the deceased was not holding Driving License at the time of the accident is not a ground to hold that he was driving the motorcycle in a rash and negligent manner unless the facts of the case indicate is rash and negligent driving. The Hon'ble Apex Court in the



case of **SUDHIR KUMAR RANA** supra has held as under:

"9. *If a person drives a vehicle without a licence, he commits an offence. The same, by itself, in our opinion, may not lead to a finding of negligence as regards the accident. It has been held by the courts below that it was the driver of the mini-truck which was being driven rashly and negligently. It is one thing to say that the appellant was not possessing any licence but no finding of fact has been arrived at that he was driving the two-wheeler rashly and negligently. If he was not driving rashly and negligently which contributed to the accident, we fail to see as to how, only because he was not having a licence, he would be held to be guilty of contributory negligence.*"

In the case of **MOHAMMED SIDDIQUE AND ANOTHER** (supra) has held as under:

"13. *But the above reason, in our view, is flawed. **The fact that the deceased was riding on a motor cycle along with the driver and another, may not, by itself, without anything more, make him guilty of***



contributory negligence. At the most it would make him guilty of being a party to the violation of the law. Section 128 of the Motor Vehicles Act, 1988, imposes a restriction on the driver of a two wheeled motor cycle, not to carry more than one person on the motor cycle. Section 194-C inserted by the Amendment Act 32 of 2019, prescribes a penalty for violation of safety measures for motor cycle drivers and pillion riders. Therefore, the fact that a person was a pillion rider on a motor cycle along with the driver and one more person on the pillion, may be a violation of the law. But such violation by itself, without anything more, cannot lead to a finding of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the impact of the accident upon the victim. **There must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the accident upon the victim.** It may so happen at times, that the accident could have been averted or the injuries sustained could have been of a lesser degree, if there had been no violation of the law by the victim. What could



*otherwise have resulted in a simple injury, might have resulted in a grievous injury or even death due to the violation of the law by the victim. **It is in such cases, where, but for the violation of the law, either the accident could have been averted or the impact could have been minimized, that the principle of contributory negligence could be invoked.** It is not the case of the insurer that the accident itself occurred as a result of three persons riding on a motor cycle. It is not even the case of the insurer that the accident would have been averted, if three persons were not riding on the motor cycle. The fact that the motor cycle was hit by the car from behind, is admitted. Interestingly, the finding recorded by the Tribunal that the deceased was wearing a helmet and that the deceased was knocked down after the car hit the motor cycle from behind, are all not assailed. Therefore, the finding of the High Court that 2 persons on the pillion of the motor cycle, could have added to the imbalance, is nothing but presumptuous and is not based either upon pleading or upon the evidence on record. Nothing was extracted from PW-3 to the effect that 2 persons on the pillion added to the imbalance."*



iii) Considering the said decisions, it is clear that driving of a vehicle without license does not lead to finding of negligence as regards to accident. In the case relied upon by learned counsel for respondent Nos.2/insurer, there was negligence on the part of the rider of motorcycle/injured who was carrying 50 coconuts in a gunny bag keeping them on fuel tank of the motorcycle. There is no such allegation against the deceased who was riding his motorcycle.

12. Considering the above said aspects, the Tribunal is not justified in holding that the deceased has contributed to the accident and assessing it at 10%. The said finding of the Tribunal is set aside.

13. Considering all the above aspects, the claimants are entitled to entire compensation awarded by the Tribunal in a sum of Rs.25,92,500/- with interest from the date of petition till realisation.

14. In view of the above, the following:



ORDER

- i) *Miscellaneous First Appeal is **allowed**.*
- ii) *The finding of the Tribunal that the deceased has contributed 10% to the accident is **set aside**.*
- iii) *The claimants are entitled to entire compensation assessed by the Tribunal in a sum of Rs.25,92,500/- with interest from the date of petition till realization.*
- iv) *The claimants are not entitled to interest for the delay period of 932 days in filing the appeal.*
- v) *The remaining terms and conditions of the Judgment and Award passed by the Tribunal shall remain unaltered.*

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE