



CNR: KAHC010018882023

NC: 2026:KHC:42239
MFA No. 297 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.297 OF 2023 (MV-I)

BETWEEN:

SMT. BABY,
W/O SADASHIVA GOWDA,
AGED ABOUT 40 YEARS,
R/AT SHIVAKRIPA HOUSE,
HUNSEKATTE,
BELTHANGADY KASABA VILLAGE,
BELTHANGADY TALUK,
DAKSHINA KANANDA DISTRICT – 574 326.

...APPELLANT

(BY SRI. KARUNAKARA P., ADVOCATE)

AND:

1. MR. UMARABBA,
S/O LATE PUTTUMONU,
AGED ABOUT 36 YEARS,
R/AT ADARSHA NAGARA
NIDGAL, KALMANJA VILLAGE,
BELTHANGADY TALUK,
DK DISTRICT – 574 241.

2. ROYAL SUNDARAM ALLIANCE
INSURANCE COMPANY LTD.,
KANKANADY,
MANGALORE – 575 002.

...RESPONDENTS

(BY SRI. RAVI S. SAMPRATHI, ADVOCATE FOR R2,
VIDE ORDER DATED 10.03.2025 NOTICE TO
R1 IS HELD SUFFICIENT)

Digitally
signed by
REKHA R
Location:
High Court of
Karnataka



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THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:27.10.2017 PASSED IN MVC NO.1021/2013 ON THE FILE OF THE PRL. SENIOR CIVIL JUDGE AND M.A.C.T, BELTHANGADY, DISMISSING THE CLAIM PETITION FOR COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

This appeal is by the claimant calling in question the judgment and award dated 27.10.2017 passed in MVC No.1021/2013 by the Principal Senior Civil Judge and MACT, at Belthangady¹, whereby the Tribunal rejected the claim petition filed under Section 163(A) of the Motor Vehicles Act, 1988², only on the premise that in the absence of proof of negligence by the claimant.

2. The parties are referred to as per their ranking before the Tribunal.

¹ Hereinafter referred to as 'Tribunal' for the sake of brevity

² For short 'the Act'



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3. Heard Sri.Karunakara P, learned counsel appearing for the appellant and Sri.Ravi S. Samprathi, learned counsel appearing for the respondent No.2.

4. The facts germane to file this appeal are as follows:

The facts of the case are not in dispute with respect to the accident which has occurred on 04.09.2012 involving two vehicles namely, a motorcycle bearing Reg.No.KA-19-L-8397 on which the petitioner was proceeding as a rider and a lorry bearing Reg. No.KA-21-9222. The case of the appellant/claimant was that, when he was venturing to overtake the lorry after getting the signal by the driver of the lorry, the driver of the lorry swerved the lorry on the wrong side, in that the motorcycle came in contact with lorry, thereby leading to grievous injuries suffered by the appellant, resulting in 30% disability as per the certificate of disability produced



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and marked as Exs.P-14 and 19 along with X-ray films at Exs.- P-20 and P-21.

5. Sri.Karunakara further submits that the Tribunal dismissed the claim petition only on the point that the petitioner has been arrayed as accused No.2 in the criminal case filed by the police and even charge sheet also filed against the rider as well as the driver of the vehicle. Though the claim petition was filed under Section 163A of the Motors Vehicles Act, 1988³, the Tribunal observed that since the claimant shall not be called upon to prove the negligent and wrongful act, however, held that neither the Insured nor the Insurer pleaded and proved through cogent evidence, negligence to defeat the claim of the claimant. In the absence of such a pleading and proof and on the ground of admissions of PW1, the Tribunal dismissed the claim petition holding that the petitioner herself has proved that the accident has

³ For short 'MV Act'



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occurred due to wrongful act or negligence on the part of the claimant/petitioner.

6. In that view of the matter, the judgment and award passed by the Tribunal is against the settled position of law. To buttress his arguments, he has relied on the judgment of Hon'ble Supreme Court in the case of ***THE NEW INDIA ASSURANCE COMPNAY LIMITED v. USHA DEVI AND OTHERS*** in SLP (Civil) No.15191/2020 c/w SLP (CIVIL) No.9460/2022 dated 14.07.2025.

7. In contrast, Sri.Ravi S. Samprathi, with all vehemence submits that the Tribunal on the basis of the materials produced before it, properly considered the same and passed the impugned judgment and award dismissing the claim petition. As such the said judgment and award does not call for any interference.

8. Having considered the rival submission, this Court has perused the entire appeal papers.



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9. The Hon'ble Supreme Court in **USHA DEVI's** case supra at paragraph 11 of its judgment referring the judgment in the case of **UNITED INDIA INSURANCE COMPANY LTD., v. SUNIL KUMAR & ANR.⁴**, has held that, when there are two vehicles involved, and the claim petition is filed under Section 163A of the MV Act, does not require any proof of negligence for seeking compensation. Since the claim petition was filed under Section 163A of the MV Act, question of negligence cannot be looked into. In that view of the matter, the Hon'ble Supreme Court in the said case retained the order passed by the High Court, setting aside the judgment of the Tribunal awarding compensation of Rs.15,00,000/- in respect of an application filed under Section 163A of the MV Act, holding that in the absence of positive evidence being placed by the insurer of the offending vehicle to prove the manner in which the accident occurred and in view of the fact that the deceased was a 'third party' to the vehicle involved in

⁴ (2019) 12 SCC 398



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the case, the insurer of the other vehicle held to be liable to be pay compensation jointly and severally.

10. In view of the law laid down by the Hon'ble Surpeme Court, this Court is of the opinion that the findings of the Tribunal on negligence, in the petition filed under Section 163A of the MV Act, is not sustainable in law. The injuries suffered and the disability stated are not seriously disputed. However, the insurance company has argued that the doctor has not been examined. In that view of the matter, keeping in view the structured formula provided under Schedule to the MV Act while disposing of the petition under Section 163A of the Act, instead of dwelling upon each and every head provided therein, if a global compensation of Rs.1,25,000/- is awarded with 6% p.a. interest, it would meet the ends of justice.

11. For the reasons aforestated, this court proceed to pass the following:



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ORDER

- (i) The appeal is ***allowed in part***, by setting aside the judgment and award dated 27.10.2017 passed by the Prl. Senior Civil Judge and MACT at Belthangady, in MVC No.1021/2013, dismissing the claim petition.
- (ii) The appellant/claimant is entitled for global compensation for Rs.1,25,000/- along with 6% p.a. interest from the date of petition till realization.
- (iii) The respondent No.2/Insurer shall deposit Rs.1,25,000/- along with 6% p.a. interest within six (6) weeks from the date of receipt of copy of this order before the concerned Tribunal.
- (iv) Upon such deposit, the entire amount shall be released in favour of claimant on proper identification.



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(v) The Registry is directed to issue certified copy, only upon production of document for having paid cost of Rs.2,500/-.

Sd/-
(T.M.NADAF)
JUDGE

DR
List No.: 1 SI No.: 21
ct-vn