



CNR: KAHC010040602020

NC: 2026:KHC:41445
MFA No. 1260 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

**MISCELLANEOUS FIRST APPEAL NO. 1260 OF 2020 (MV-
DM)**

BETWEEN:

SRI B SHIVAPRASAD RAI
S/O. LATE. B. RANGANATH RAI,
AGED ABOUT 64 YEARS
R/AT D. NO. 1-56,
BADILA HOUSE,
KANNUR POST,
MANGALURU 575 007

...APPELLANT

(BY SRI. G. RAVISHANKAR SHASTRY, ADVOCATE)

AND:

1. M/S NATIONAL INSURANCE CO. LTD
GANESH BUILDING,
BANTWAL 574211
2. MOHAMMED RIYAZ
S/O UMNARABBA,
MAJOR, R/O. 1-161,
ARABI MANZIL,
KARINGANA,
BANTWALA TALUK,
574211
3. MOHAMMED ASHWAR
IBRAHIM MAMMUNDI,

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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MAJOR, R/O. 1-161,
ARABI MANZIL,
KARINGANA,
BANTWAL TALUK-574 211

...RESPONDENTS

(BY SMT. H.R. RENUKA, ADVOCATE FOR R1,
NOTICE TO R2 IS SERVED AND UNREPRESENTED
VIDE ORDER DATED 26/07/2024, NOTICE TO R3 IS
DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED. 27.08.2019, PASSED IN MVC
NO.1733/2017, ON THE FILE OF THE MACT-II, I-ADDITIONAL
DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU,
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 RAJESH RAI K

ORAL JUDGMENT

This appeal is directed against the judgment dated
27.08.2019 passed in MVC No.1733/2017 by the I Additional
District Judge and II Additional MACT, Mangalore, D.K., (for
brevity, 'the Tribunal'), whereby the Tribunal dismissed the
claim petition filed under Section 166 of Motor Vehicles Act,
1988 by the appellant - claimant.

2. The factual matrix of the case are that on 03.07.2017 at
about 06.00 p.m., the appellant - claimant parked his vehicle



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Maruthi Swift Dzire VDI bearing registration No.KA-19-MB-5095 near Kanchana Automobiles, Kannur, Mangalore. At that time, vehicle bearing registration No.KA-19-MD-6503 came in the same direction in a high speed and dashed against the rear portion of the appellant's car. Due to the impact, the appellant's car completely damaged on its rear portion. Thereafter, the appellant informed the said incident to Kankanady Police Station and the driver of the offending car admitted his guilty. Thereafter, the appellant kept his vehicle for repair at Mandovi Motors Private Limited and an estimation was given by the said company for Rs.76,338/-. After he got repaired the car, he paid a final bill for a sum of Rs.69,426/-. As such, he filed a claim petition before the Tribunal against the owner, the driver and the insurance company of the offending car.

3. To prove the claim petition before the Tribunal, the appellant examined himself as PW.1 and also examined two witnesses as PWs.2 and 3 so also got marked eight documents as Exs.P1 to P8. Though the respondents not examined any



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witnesses, the insurance company marked one document at Ex.R1.

4. Upon assessment of oral and documentary evidence, the Tribunal dismissed the claim petition filed under Section 166 of the MV Act. The said judgment is challenged in this appeal by the claimant-appellant.

5. Heard the learned counsel for the appellant - claimant and the learned counsel for respondent No.1 - insurance company. Though the notice was served to respondent No.2, he remain unrepresented.

6. Apart from urging several contentions, learned counsel for the appellant primarily contended that the Tribunal has committed an error in dismissing the claim petition on the ground that the claimant failed to establish the occurrence of the accident in the manner pleaded, solely on the premise that there was an alteration in Ex.P1, i.e., the receipt evidencing payment of the fine amount by the driver of the offending car. He further contended that the Tribunal failed to properly appreciate the evidence of PWs.2 and 3, who are the Manger of



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Mandovi Motors Pvt Ltd and surveyor respectively and has erroneously disbelieved the photographs depicting the damage caused to the appellant's vehicle and its subsequent repairs. According to him, the insurance company has not seriously disputed the occurrence of the accident; rather, its contention before the Tribunal was that the appellant had also contributed to the accident by his negligence. Therefore, the Tribunal was not justified in discarding Ex.P1 on the ground of the alleged alteration. It is further contended that PW.3, in his cross-examination, has specifically stated that notice was issued to the concerned authorities prior to conducting the survey. Accordingly, he prays to allow the appeal by setting aside the impugned judgment and award.

7. *Per contra*, learned counsel for the insurance company, supporting the impugned judgment, contended that the Tribunal, upon meticulous consideration of the entire evidence on record, has passed a reasoned judgment which does not warrant interference by this Court. She contended that, on perusal of Ex.P1, i.e., the receipt evidencing payment of the fine amount by the driver of the offending car, a clear alteration



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is found therein. She further contended that the claimant has neither produced the IMV report nor lodged any police complaint immediately after the accident. In the circumstances, the Tribunal was justified in doubting the very occurrence of the accident in question.

8. Notwithstanding the above, she contended that Ex.P2, i.e., the estimation report, and Ex.P3, i.e., the repair bill along with two receipts, are mutually contradictory and that there is clear exaggeration in the amount of Rs.69,426/- claimed under Ex.P3 towards the alleged repair charges. She further contended that PW.3, the surveyor, in his evidence, has admitted that no notice was issued to the insurance company prior to conducting the survey. In such circumstances, learned counsel submits that the Tribunal was justified in dismissing the claim petition. Accordingly, she prays for dismissal of the appeal.

9. I have given my anxious consideration to the submission made by the learned counsel for the respective parties and perused the entire materials available on record.



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10. As could be gathered from the records, the occurrence of the accident dated 03.07.2017 and the coverage of the offending car bearing registration No.KA-19-MD-6503 under a valid insurance policy are not in dispute. The contention of learned counsel for the respondent is that there was contributory negligence on the part of the appellant, who was the owner of the damaged car bearing registration No.KA-19-MB-5095. However, the insurance company has not adduced any rebuttal evidence to substantiate the said defence. Admittedly, the driver of the offending car pleaded guilty to the alleged offence and remitted the fine amount.

11. On careful examination of Ex.P1, it is noticed that the date mentioned in the receipt has been overwritten as 03.07.2017 instead of 04.07.2017. However, the said receipt clearly discloses the date and place of the accident and the manner in which the accident occurred. No doubt, the appellant has neither lodged a complaint nor produced the IMV report. Nevertheless, in view of the fact that the driver of the offending car himself pleaded guilty in respect of the accident and there is no rebuttal evidence adduced by the insurance company, I



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am of the considered view that the Tribunal was not justified in doubting the very occurrence of the accident.

12. Insofar as the damage caused to the appellant's vehicle and the repair charges incurred by the appellant are concerned, the appellant has produced Exs.P2 and P3 i.e. the estimation report and the bill evidencing payment of the repair charges respectively. Further, Ex.P6 is the survey report issued by PW.3, the authorized surveyor, who has been examined before the Tribunal. In his evidence, PW.3 has stated that, at the instance of the appellant, he inspected and surveyed the vehicle and thereafter issued Ex.P6-survey report. However, in his cross-examination, he admitted that he had not informed the insurance company prior to conducting the survey. At the same time, he has stated that the concerned persons were informed, though no formal notice was issued to them.

13. Further, the testimony of PW.2, who is the Manager of Mandovi Motors Pvt. Ltd., lends corroboration to the evidence of PW.3. In the absence of any rebuttal evidence adduced by the insurance company, there is no justifiable reason to discard the evidence of PWs.2 and 3. A careful perusal of their cross-



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examination also does not reveal anything material to discredit or disbelieve their testimony.

14. As far as the contention raised by the learned counsel for the insurance company that there is exaggeration in Ex.P6-survey report as well as Ex.P3-repair bill is concerned, though Ex.P3 reflects the repair charges at Rs.69,426/-, the appellant has failed to produce the IMV report to ascertain the extent of actual damage caused to the vehicle. In the circumstances, having regard to the evidence on record and upon careful consideration of Exs.P2 and P3, I deem it appropriate to assess the reasonable cost of repairs at Rs.40,000/- instead of Rs.69,426/- claimed under Ex.P3. Further, Ex.P8-photographs also disclose damage to the rear bumper of the vehicle, which was subsequently replaced. Having regard to the nature of the damage and the material available on record, an amount of Rs.40,000/- would, in my considered view, constitute just and reasonable compensation towards the repair charges incurred by the appellant.



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15. Accordingly, the appeal deserves to be allowed in part, and I proceed to pass the following:

ORDER

- i. The appeal is ***allowed in part.***
- ii. The judgment dated 27.08.2019 passed in MVC No.1733/2017 by the I Additional District Judge and II Additional MACT, Mangalore, D.K. is set aside.
- iii. The appellant is entitled for a compensation of Rs.40,000 with 6% interest for the damage caused to his vehicle and the Insurance Company - respondent No.1 is directed to pay the said amount within 6 weeks from the date of receipt of a certified copy of this judgment.

SD/-
(RAJESH RAI K)
JUDGE

CR
List No.: 1 SI No.: 2