



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

MISCELLANEOUS FIRST APPEAL No. 812 OF 2013 (MV)

BETWEEN:

NEW INDIA ASSURANCE CO. LTD.,
REPRESENTED BY BR. MANAGRE
KOLHAPUR DIVN. OFFICE
No.1036, RAJARAM ROAD KOLHAPUR
REPRESENTED BY MANAGER
NEW INDIA ASSURANCE CO. LTD.,
M. G. ROAD,
BANGALORE - 560 001.

...APPELLANT

(BY SRI. R JAIPRAKASH, ADVOCATE)

AND:

1. SRI BYREGOWDA
SINCE DECEASED BY LR
SMT. MUNITHAYAMMA
W/O BYREGOWDA MAJOR
NAGAMANGALA VILLAGE
HEGGANAHALLI POST
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT.
2. UNITED INDIA INSURANCE CO. LTD.,
REP. BY ITS BRANCH MANAGER
No.212, SFS 407, 1ST MAIN ROAD
YALAHANKA NEW TOWN
BANGALORE - 560 064.
3. TEJ COURIERS
REP. BY ITS BRANCH MANAGER
No.5, I CROSS
LALBAGH ROAD

Digitally signed
by NIRMALA
DEVI

Location:
HIGH COURT
OF
KARNATAKA



NC: 2026:KHC:15054
MFA No. 812 of 2013

SUDAMANAGAR
BANGALORE - 560 027.

4. SANJAY S/O SAMAPANGIRAMAREDDY
AGED ABOUT 29 YEARS
No.303EWS QUARTERS, I STAGE
YELAHANKA NEW TOWN
BANGALORE- 560 064.

...RESPONDENTS

(BY SRI JANARDHAN REDDY FOR R2, ADVOCATE
NOTICE TO R1 AND R4 - SERVED
V/O DATED 11.04.2018,
NOTICE TO R3 IS HELD SUFFICIENT)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED:6.11.2012 PASSED
IN MVC No.6992/2004 ON THE FILE OF MACT, COURT OF SMALL
CAUSES, BANGALORE, AWARDED A COMPENSATION OF
Rs.1,29,000/- WITH INTEREST @ 6% P.A FROM THE DATE OF
PETITION TILL PAYMENT.

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

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

1. The present appeal is filed by the insurer impugning the
judgment and award dated 06.11.2012 in MVC No.6992/2004¹
passed by the MACT, Court of Small Causes, Bengaluru City,
(SCCH-10)².

¹ hereinafter referred to as the 'impugned judgment'

² hereinafter referred to as the 'Tribunal'



2. The facts in nutshell leading to present appeal are that the fourth respondent/claimant filed a claim petition [MVC No.6992/2004] under Section 163-A of the Motor Vehicles Act, 1988³, contending *inter-alia*, that on 13.09.2004 when he was traveling in a Tata Sumo, vehicle bearing registration No.KA-01-Z-9998, a lorry bearing registration No.KA-01-A-1765 was also proceeding without following the traffic rules, as a result of which, the said lorry hit the vehicle in which the claimant was traveling, causing the accident in question, whereunder the claimant sustained grievous injuries.

3. Claiming compensation for the injuries sustained, the claimant preferred a claim petition under Section 163-A of MV Act, arraying the owner and insurer of the Tata Sumo car as respondents No.1 and 2 and the owner and the insurer of the lorry as respondents No.4 and 5. The person who hired the car was arrayed as respondent No.3. The Tribunal noticing that the claim petition was filed under Section 163-A of the MV Act, wherein the aspect of negligence was not required to be adjudicated upon, allowed the claim petition and directed the

³ hereinafter referred to as the "MV Act"



owner and insurer of both the vehicles to pay the compensation awarded, equally, i.e., 50% each. Since the insurance policy of the car was a private car policy and the material on record indicated that the same was taken on hire, the Tribunal exonerated the insurer of the car from payment of compensation and fastened 50% of the liability on the owner of the car. The balance 50% was ordered to be paid by the owner and insurer of the lorry. The present appeal is filed by the insurer of the lorry.

4. It is the vehement contention of the learned counsel for the appellant that the claim petition having been filed by alleging that the driver of the car was solely responsible for causing the accident in question, the lorry not having been involved in the accident, the fastening of liability by the Tribunal on the owner and insurer of the lorry is erroneous. Hence, he seeks for allowing the present appeal.

5. The Tribunal while considering the aspect of liability has noticed the relevant fact situation and held as under:

"20. So far as liability is concerned, the material facts show that respondents No.1 and 2 are the owner and insurer of the Tata Sumo bearing Reg.No.KA-01-Z-9998 respondent No.3 to 5 are the owner and insurer of the



lorry bearing Reg. No. KA-01-A-1765. It is the specific contention of the respondent No.2 that, as per terms and conditions of the private Car policy, a liability only the risk of the occupants of the private car is not covered nor this respondent received any additional premium to cover such risks. To substantiate the same, respondent No.2 Company examined its official as R.W.1 and R.W.1 in his affidavit evidence has reiterated the written statement averments and produced Ex.R.1 authorization letter and Ex.R.2 copy of policy. P.W.1 in his affidavit evidence deposed that, Tata Sumo Car was hired from travels and five persons were travelling in the Tata Sumo vehicle. P.W.1 in his cross-examination admitted that the concerned police have filed charge sheet against the driver of the Tata Sumo and also admitted that at the time of accident the driver of the Lorry was driving in slow manner.

21. Respondent No.5 counsel taken the specific contention that, there is no negligence on the part of the driver of the Lorry and the accident occurred due to negligence of the driver of the Tata Sumo bearing Reg. No.KA-01-2-9998. Tata sumo vehicle having a private Car policy, hence intentionally the petitioner has impleaded 4th and 5th respondents. He has relied the decision reported in 2012 ACJ 1, National Insurance Co. Ltd., Vs. Sinitha and others. The said decision is not applicable in this case, because in the above decision motorcyclist hit a large stone lying on tar road and sustained fatal injuries. The Tribunal found that, the deceased was responsible for the accident and allowed compensation which was confirmed in appeal but the award was modified and stated that, the insurance company is liable.

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23. The policy of both the vehicles are valid and in force as on the date of accident. But Ex.R.2 is the policy pertaining to Tata Sumo bearing Reg. No.KA-01-Z-9998 and it reveals that, the said policy covers Private Car policy and the liability only the risk of the occupants of the private car is not covered. P.W.1 in his cross-examination admitted that, at the time of accident Car was hired with 3rd respondent. Hence respondent No.2 proves that he is not liable to pay compensation. Hence,



owner of the Tata Sumo Car bearing Reg.No.KA-01-Z-9998 is liable to pay 50% of the compensation to the petitioner. Respondent No.4 and 5 are the owner and insurer of the lorry bearing Reg. No.KA-01-A-1765. The petitioner shall recover the balance 50% of compensation amount from the owner and insurer of the Lorry bearing Reg. No.KA-01-A-1765 and they are jointly and severally liable to pay the said 50% of compensation. Accordingly I answered Issue No.2 partly in the Affirmative."

6. As noticed by the Tribunal, admittedly two vehicles were involved in the accident, i.e., the car and the lorry. The Tribunal has rightly noticed that under Section 163-A of the MV Act, it is not necessary to plead or prove negligence of the driver involved in the accident and the aspect of negligence is not the subject matter of adjudication in the proceedings under Section 163-A of the MV Act.

7. At this stage, it is pertinent to notice the judgment of the Supreme Court in the case of **United India Insurance Company Ltd. Vs. Sunil Kumar and Another⁴**, wherein it was held as under:-

"8. From the above discussion, it is clear that grant of compensation under Section 163-A of the Act on the basis of the structured formula is in the nature of a final award and the adjudication thereunder is required to be made without any requirement of any proof of negligence of the driver/owner of the vehicle(s) involved in the accident. This is made explicit by Section 163-A(2). Though the aforesaid section of the Act does not

⁴ (2019) 12 SCC 398



specifically exclude a possible defence of the insurer based on the negligence of the claimant as contemplated by Section 140(4), to permit such defence to be introduced by the insurer and/or to understand the provisions of Section 163-A of the Act to be contemplating any such situation would go contrary to the very legislative object behind introduction of Section 163-A of the Act, namely, final compensation within a limited time-frame on the basis of the structured formula to overcome situations where the claims of compensation on the basis of fault liability were taking an unduly long time. In fact, to understand Section 163-A of the Act to permit the insurer to raise the defence of negligence would be to bring a proceeding under Section 163-A of the Act on a par with the proceeding under Section 166 of the Act which would not only be self-contradictory but also defeat the very legislative intention.

9. For the aforesaid reasons, we answer the question arising by holding that in a proceeding under Section 163-A of the Act, it is not open for the insurer to raise any defence of negligence on the part of the victim."

(emphasis supplied)

8. The ratio, as held in the case of **Sunil Kumar** (supra) has also been followed by a subsequent judgment of Supreme Court in the case of **Shivaji and Another Vs. Division Manager, Untied India Insurance Co. Ltd. and Others**⁵.

9. In view of the settled position of law as noticed above, the Tribunal was justified in not undertaking an inquiry into the aspect of negligence and directing payment of 50% each by the

⁵ 2018 SCC Online SC 877



owner/insurer of both the vehicles which were involved in the accident.

10. Although it is the vehement contention of the learned counsel for the appellant that there was no negligence attributable to the driver of the lorry, in view of the settled position of law as noticed above, the contentions put forth by the appellant in the above appeal is not liable to be excepted.

11. In view of the aforementioned, the above appeal is dismissed as devoid of merit.

12. The amount deposited by the appellant in the above appeal be transmitted to the Tribunal for disbursement in terms of the award of the Tribunal.

Sd/-
(C.M. POONACHA)
JUDGE

Vmb, List No.: 1 Sl No.: 10