



CNR: KAHC010111772014

NC: 2026:KHC:54205
MFA No. 1774 of 2014
C/W MFA No. 1775 of 2014
MFA No. 1776 of 2014



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.1774 OF 2014(MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO. 1775 OF 2014(MV)

MISCELLANEOUS FIRST APPEAL NO.1776 OF 2014(MV-I)

IN MFA NO.1774/2014:

BETWEEN:

THE AUTHORISED OFFICER
NATIONAL INSURANCE CO. LTD.,
NO.982, 2ND FLOOR,
80 FEET ROAD, KORAMANGALA
4TH BLOCK, BANGALORE - 560 034.

BY NATIONAL INSURANCE CO.LTD.,
REGIONAL OFFICE NO.144,
SUBHARAM COMPLEX, M.G. ROAD,
BANGALORE-560 001.
BY ITS MANAGER.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka

...APPELLANT

[BY SRI O MAHESH, ADVOCATE (VC)]

AND:

1 . SMT.MANNA KHAN YAASMIN BANU
AGED ABOUT 23 YEARS,
W/O LATE MANNA KHAN SADIQ,
HOUSE WIFE



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- 1(a) MINOR, MANNA KHAN SHOYAB,
AGED ONE YEAR,
S/O LATE MANNA KHAN SADIQ
2. SMT.MANNA KHAN MAAJAN BI,
AGED ABOUT 48 YEARS
W/O LATE MANNA KHAN SHAFI SAB,
- 2(a) MANNA KHAN JABEENA
AGED ABOUT 18 YEARS
D/O LATE MANNA KHAN SHAFI SAB,

RESPONDENT NOs.1(a) & 2(a) ARE MINORS
REP BY NATURAL MOTHER & GUARDIAN
SMT.MANNA KHAN YASMIN BANU,
(RESPONDENT NO.1)

ALL ARE R/AT KUNCHUR VILLAGE
AND POST, HARAPANAHALLI TALUK,
DAVANAGERE DISTRICT - 577 002.

3. SMT. S.LEELA,
AGED ABOUT 46 YEARS
W/O OMKARAPPA, D.NO.57,
NIJALINGAPPA BADAVANE, "A" BLOCK,
DAVANAGERE CITY - 577 001.
4. B. SHIVAKUMAR
AGED ABOUT 29 YEARS,
S/O KOTRESHAPPA,
R/AT 12TH CROSS, 1ST MAIN,
J.C.EXTN., HARIHARA TOWN,
DAVANAGERE - 577 002.(DRIVER)

...RESPONDENTS

[BY SRI JAGADEESH HT., ADVOCATE AND
SRI VISHAL KUMAR MANGAJ ADV. FOR R3 & R4 (PH);
NOTICE TO R1, R2 & R2(a) - SERVED AND
UNREPRESENTED; R1(a) - MINOR, REP BY R1
V/C/O DATED 05.04.2015 - NOTICE TO R3 TO R4 IS D/W]



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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.11.2013 PASSED IN MVC NO. 9/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE AND MACT-IX, AT HARAPANAHALLI, AWARDED COMPENSATION OF RS.13,28,392/- WITH INTEREST @ 6% P.A FROM THE DATE OF PETITION TILL REALIZATION.

IN MFA NO.1775/2014:

BETWEEN:

THE AUTHORISED OFFICER
NATIONAL INSURANCE CO. LTD.,
NO.982, 2ND FLOOR, 80 FEET ROAD,
KORAMANGALA, 4TH BLOCK,
BANGALORE - 560 034.
BY NATIONAL INSURANCE CO.LTD.,
REGIONAL OFFICE NO.144,
SUBHARAM COMPLEX,
M.G. ROAD, BANGALORE-560 001.
BY ITS MANAGER.

...APPELLANT

[BY SRI O MAHESH, ADVOCATE (VC)]

AND:

- 1 . MINOR IMRAN
AGED ABOUT 15 YEARS
S/O ALLABAKSHI,
REP BY GURADIAN/FATHER
ALLABHAKSHI, AGED ABOUT 33 YEARS,
S/O ISMAIL SAB, R/O 3RD CROSS,
SIDDESHWARANAGAR, RANEBENNUR TOWN,
HAVERI DIST - 581 110.



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- 2 . SMT.S.LEELA,
AGED ABOUT 46 YEARS
W/O OMKARAPPA, D.NO.57,
NIJALINGAPPA BADAVANE, 'A' BLOCK,
DAVANAGERE CITY - 577 001.
- 3 . B.SHIVAKUMAR,
AGED ABOUT 29 YEARS,
S/O KOTRESHAPPA,
R/O 12TH CROSS, 1ST MAIN,
J.C.EXTEN., HARIHARA TOWN,
DAVANAGERE - 577 001.

...RESPONDENTS

[BY SRI JAGADEESH HT., ADVOCATE FOR R1 (PH)
V/C/O DATED 10.04.2014 NOTICE TO R2 & R3 IS D/W]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.11.2013 PASSED IN MVC
NO.10/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE, MACT,
HARAPANAHALLI, AWARDING COMPENSATION OF
RS.1,60,160/- WITH INTEREST @ 8% P.A. FROM THE DATE OF
PETITION TILL REALIZATION.

IN MFA NO.1776/2014:

BETWEEN:

THE AUTHORISED OFFICER
NATIONAL INSURANCE CO. LTD.,
NO.982, 2ND FLOOR, 80 FEET ROAD,
KORAMANGALA, 4TH BLOCK,
BANGALORE - 560 034.
BY NATIONAL INSURANCE CO.LTD.,
REGIONAL OFFICE NO.144,
SUBHARAM COMPLEX, M.G. ROAD,
BANGALORE-560 001.
BY ITS MANAGER.

...APPELLANT

[BY SRI O MAHESH, ADVOCATE (VC)]



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AND:

- 1 . M SUBHAN SAB
AGED ABOUT 29 YEARS,
S/O KHAN SAB, R/O KUNCHUR
VILLAGE AND POST,
HARAPANAHALLI TALUK,
DAVANAGERE DISTRICT - 577 001.
- 2 . SMT.S.LEELA,
AGED ABOUT 46 YEARS,
W/O OMKARAPPA, D.NO.57,
NIJALINGAPPA BADAVANE A
BLOCK, DAVANAGERE CITY - 577 001.
- 3 . B.SHIVAKUMAR,
AGED ABOUT 29 YEARS,
S/O KOTRESHAPPA,
R/O 12TH CROSS, 1ST MAIN,
J.C.EXTN., HARIHARA TOWN,
DAVANAGERE - 577 001.

...RESPONDENTS

[BY SRI H.T.JAGADEESH, ADVOCATE FOR
SRI VISHAL KUMAR MANGAJ, ADV. FOR R1 (PH);
V/O DATED 05.04.2014 NOTICE TO R2 & R3 IS D/W]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.11.2013 PASSED IN MVC
NO.11/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE, MACT,
HARAPANAHALLI, AWARDING COMPENSATION OF Rs.89,000/-
WITH INTEREST @ 8% P.A. FROM THE DATE OF PETITION TILL
REALIZATION.

THESE APPEALS ARE COMING ON FOR *DICTATING*
JUDGMENT, THIS DAY, ORDER WAS MADE THEREIN AS
UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI



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JUDGMENT

Challenging common judgment and award dated 30.11.2013 passed by Senior Civil Judge & MACT - IX, Harapanahalli, in MVCs no.9, 10 and 11 of 2012, these appeals are filed by insurer.

2. Brief facts leading to these appeals as stated are that at 4:15 pm on 18.11.2010, when Manna Khan Sadiq was riding motorcycle no.KA-36/L-8297 with two pillion riders on Harapanahalli-Harihar Road, driver of Jeep no.KA-01/MC-1449 drove it in rash and negligent manner, it dashed against motorcycle. Accident resulted death of Manna Khan Sadiq on-spot. Pillion riders sustained grievous injuries. Despite treatment at Government Hospital, Harapanahalli, SSIMS Hospital, Bapuji Hospital and Shilpa Diagnostic Centre, Davanagere, they did not recover fully and sustained loss of earning capacity. Alleging loss of dependency wife, minor son, mother and minor sister of deceased Manna Khan Sadiq filed MVC no.9/2012 against owner, driver and insurer of offending vehicle. While pillion riders filed MVCs no.10 and 11/2012 for compensation towards loss of earning capacity etc. Since all claims arose out of same accident, they were clubbed together.



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3. On appearance, respondents opposed claim petitions on all grounds including alleging contributory negligence on part of deceased. Based on pleadings, tribunal framed following:

ISSUES

MVC No.9/2012

1. *Whether the petitioners prove that on 18/11/2010 about 4.15 pm near Hirekere on Harapanahalli-Harihar Road, when Munna Khan Sadiq alongwith Subhan Sab were traveling on two wheeler vehicle bearing Reg.No.KA 36/L-8297, at that time the Respondent No.2 being the driver of Mahindra Scorpio SLX Turbo Omni vehicle 4 wheeler bearing Reg.No.KA01/MC-1449, drove it in a high speed with rash and negligent manner and thereby caused the accident, due to that said Munna Khan Sadiq died at the spot?*
2. *Whether the Respondent No.1 and 3 prove that they are not liable to pay any compensation to the petitioners?*
3. *Whether the petitioners are entitle for the compensation, If so from whom, what extent and what rate of interest?*
4. *What Relief or award?*

MVC NO.10/2012 & MVC NO.11/2012

1. *Whether the petitioners proves that on 18/11/2010 about 4.15 pm near Hirekere on Harapanahalli-Harihar Road, when he was traveling on two wheeler vehicle bearing Reg.No.KA 36/L-8297 alongwith his friend, at that time the Respondent No.2 being the driver of Mahindra Scorpio SLX Turbo Omni vehicle 4*



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wheeler bearing Reg.No.KA01 MC-1449, drove it in a high speed with rash and negligent manner and thereby caused the accident, due to that he sustained simple/grievous injuries?

- 2. Whether the Respondent No.1 and 3 prove that they are not liable to pay any compensation to the petitioner?*
- 3. Whether the petitioner is entitle for the compensation, If so from whom, what extent and what rate of interest?*
- 4. What Relief or award?*

4. In trial, claimant no.1 in MVC no.9/2012, guardian of claimant in MVC no.10/2012 and claimant in MVC no.11/2012 along with Doctors who treated them deposed as PWs.1 to 5 and got marked Exs.P1 to P73. Insurer did not lead oral evidence but got marked Insurance policy as Ex.R1 with consent.

5. On consideration, tribunal answered issues no.1 in affirmative, issues no.2 in negative and issues no.3 and 4 in favor of claimants, assessed compensation and held insurer liable to pay same. Aggrieved thereby, these appeals are filed.

6. Sri O Mahesh, learned counsel for appellant submitted that appeals were by insurer challenging finding of tribunal on liability. It was submitted, Section 128 of MV Act



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provided for carriage of only one pillion rider on motorcycle. In violation of same, deceased Manna Khan Sadiq was carrying two pillion riders on motorcycle. It was submitted motorcycle was not built to carry excess passengers or weight, which would cause imbalance, loss of control and cause accident. Therefore, when illegal carriage of two pillion riders had caused accident, insurer would not be liable to pay compensation. On said ground sought for allowing appeal.

7. Sri Vishal Kumar Mangaj and Sri Jagadeesh HT, learned counsel for claimants opposed appeals and prayed for dismissal.

8. Heard learned counsel, perused impugned award and record.

9. In view of above, common point arising for consideration is:

" Whether Tribunal erred in holding Insurer liable to pay compensation?"

10. These appeals by insurer against impugned award are solely on liability, mainly on ground that carriage of two



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pillion riders on motorcycle in violation of Section 128 of MV Act would *per se* imply negligence.

11. In instant case, to establish actionable negligence, claimants relied on prosecution records, complaint, FIR, charge sheet, spot mahazar and Motor Vehicle Inspector's Report as Exs.P1 to P4 and P7. It is seen that prosecution records implicate driver of insured vehicle for causing accident by his rash and negligent driving. Admittedly, PW.1 is widow of rider and PW.2 is guardian of claimant and were not eye-witnesses. PW.3 is second pillion rider and eye-witness. In his cross-examination, he denies suggestion about accident being caused *due to rider of motorcycle not possessing driving licence*. Suggestion by insurer that rider was facing problem in riding motorcycle due to two pillion riders is denied. *However suggestion that there was head-on collision between motorcycle and Jeep in middle of road is admitted*. Spot Mahazar does not describe location of accident spot from edge of road.

12. Thus, only material evidence insofar as negligence is absence of driving licence of rider of motorcycle and



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occurrence of accident in middle of road. On whether occurrence of accident in middle of road by itself lead to implication of contributory negligence, Hon'ble Supreme Court in case of ***Syed Sadiq v. United India Insurance Co. Ltd.***, reported in **(2014) 2 SCC 735**, held:

"Contributory negligence:

29. *On the matter of extent of contribution to the accident, it is held by the Tribunal that the appellant claimants herein should have taken utmost care while moving on the highway. Looking at the spot of the accident, the Tribunal concluded that the appellant claimants were moving on the middle of the road which led to the accident. Therefore, the Tribunal concluded that though the tractor has been charge-sheeted under Sections 279 and 338 IPC, but given the facts and circumstances of the case, the appellant claimants also contributed to the accident to the extent of 25%. The High Court without assigning any reason concurred with the findings of the Tribunal with respect to contributory negligence. We find it pertinent to observe that both the Tribunal and the High Court erred in holding the appellant claimants in these appeals liable for contributory negligence. The Tribunal arrived at the above conclusion only on the basis of the fact that the accident took place in the middle of the road in the absence of any evidence to prove the same. Therefore, we are inclined to hold that the contribution of the appellant claimants in the accident is not proved by the respondents by producing evidence and therefore, the finding of the Tribunal regarding contributory negligence, which has been upheld by the High Court, is set aside."*



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13. Similarly, contention about implying negligence due to carriage of two pillion riders on motorcycle has been negated by Hon'ble Supreme Court in **Mohammed Siddique v. National Insurance Company Ltd.**, reported in **(2020) 3 SCC 57**, holding as follows:

*"12. Both 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 194C 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 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***



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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.

13. Therefore, in the absence of any evidence to show that the wrongful act on the part of the deceased victim contributed either to the accident or to the nature of the injuries sustained, the victim could not have been held guilty of contributory negligence. Hence the reduction of 10% towards contributory negligence, is clearly unjustified and the same has to be set aside."

14. And three Judges Bench of Apex Court in **Dinesh Kumar v. National Insurance Co. Ltd.**, reported in **(2018) 1 SCC 750**, and two Judges Bench in **Saraswati Palariya v. New India Assurance Co. Ltd.**, reported in **2018 SCC OnLine SC 3988**, arrived at similar conclusion in respect of contention about accident caused by rider/driver without driving licence.



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15. In view of above, insurer's challenge fails. Point for consideration is answered in negative. Consequently, following:

ORDER

Appeals are ***dismissed***. Amount in deposit is ordered to be transmitted to Tribunal for payment.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

AV,YKL
List No.: 1 Sl No.: 51