



CNR: KAHC010144292014

NC: 2026:KHC:49377
MFA No. 2192 of 2014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.2192 OF 2014(MV-I)

BETWEEN:

SRI SADANANDA PAI
S/O MOHANDAS PAI,
AGED ABOUT 41 YEARS,
R/AT USHA NILAYA,
GUNDMI VILLAGE,
SASTANA POST,
UDUPI TALUK & DISTRICT.

...APPELLANT

(BY SRI S.M.ANFAL, ADVOCATE FOR
SRI K PRASANNA SHETTY, ADVOCATE)

AND:

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka

1. THE BRANCH MANAGER
SHRIRAM INVESTMENT LTD.,
1ST FLOOR, TULUNADU TOWERS,
COURT ROAD,
UDUPI - 576 101.
2. DAYANANDA PAI
S/O MOHANDAS PAI
R/AT IRODY VILLAGE,
SASTANA POST,
UDUPI TALUK & DISTRICT - 576 101.
3. THE ORIENTAL INSURANCE CO.LTD.,
DIVISIONAL OFFICE:



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VISHNU PRAKASH, II FLOOR,
COURT ROAD,
UDUPI - 576 101.

...RESPONDENTS

(BY SMT.HARINI SHIVANANDA, ADVOCATE FOR R3;
R1 & R2 - NOTICE SERVED & UNREPRESENTED)

THIS MFA IS FILED U/S.173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 11.11.2013 PASSED IN MVC
NO.1149/2004 ON THE FILE OF THE ADDL.DISTRICT &
SESSIONS JUDGE & ADDL. MACT, UDUPI (SITTING AT
KUNDAPURA), KUNDAPURA DISMISSING THE CLAIM PETITION
FOR COMPENSATION.

THIS APPEAL, COMING ON FOR *FURTHER HEARING*, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 11.11.2013
passed by Additional District & Sessions Judge and Additional
M.A.C.T., Udupi (Sitting at Kundapura) (***Tribunal***) in
M.V.C.no.1149/2004, this appeal is filed.



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2. Sri K.Prasanna Shetty, learned counsel for appellant submitted that appeal was by claimant challenging dismissal of claim petition.

3. Brief facts leading to this appeal were, at 10 p.m. on 08.06.2004 claimant was travelling as pillion rider on motorcycle bearing no.KA-20-K-3340 from Udupi towards Sastana, near Mabukaka bus-stop, Irody village, Udupi taluk, while trying to avoid collision with lorry rider applied brakes suddenly, causing claimant to fall down on road and sustain injuries. It was stated, despite treatment at Vinaya Hospital, Kundapura and KMC Hospital, Kundapura, he did not recover fully and sustained loss of earning capacity. As on date of accident, he was working as Field Executive Officer of Sri Ram Investments Ltd., Udupi, and earning Rs.26,000/- per month. Therefore, he filed claim petition against owner, rider and insurer of motorcycle under Section 166 of Motor Vehicles Act, 1988 (**MV Act**).

4. It was submitted despite service of summons, owner and rider did not appear and were placed *ex parte*. Only insurer opposed claim petition on all grounds.



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5. Based on pleadings, Tribunal framed issues and additional issues as follows-

ISSUES:

1. *Whether the petitioner proves that on 08.06.2024 at about 10.00 p.m., near Mabukala bus stop, Irody village, on NH- 17, he met with an accident while proceeding on the motor cycle bearing Reg.No.KA-20-K-3340 as a pillion rider from Udupi towards Sasthan?*
2. *Whether the petitioner further proves that the said accident occurred due to rash and negligent act on the part of the rider of the motor cycle bearing Reg. No.KA-20-K-3340 and he sustained injuries?*
3. *Whether the respondent No.3 proves that petitioner was the gratuitous passenger and therefore, he is not liable to pay compensation? If so, to what extent and from whom?*
4. *Whether the petitioner is entitled for compensation? If so, to what extent and from whom?*
5. *What order or Award?*

Additional Issues framed on 31-8-2006:

1. *Whether the respondent No.3 proves that officials have not been included with risk of policy and hence, he is not liable to pay compensation?*

Additional Issues Framed on 14-12-2009:

1. *Whether the petitioner has contributed negligence to this accident?*
2. *Whether the insurance policy Issued to the motor bike bearing Reg.No.KA-20-K-3340 does not cover the risk of pillion rider or gratuitous passenger?*



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3. *Whether the respondent No.3 proves that rider of the motor bike was not having a valid and effective driving licence to drive the said vehicle at the time of accident?*
4. *Whether the claim made by the petitioner is fraudulent one?*
5. *Whether the court/Tribunal has no jurisdiction to try this petition?*

Additional Issues framed on 18-6-2011:

1. *Whether the petitioner proves that there is nexus between the alleged accident dated 8-6-2004 and alleged injuries suffered by him as stated in the petition?*

Additional Issues framed on 1-8-2012:

1. *Whether the 3rd respondent Insurance Co., proves that the package policy issued to the private Motor Cycle does not cover the risk of employees of insured? If so, what is the effect?*
2. *Whether the 3rd respondent proves that the package policy issued to the private Motor Cycle does not cover the risk of employees if the vehicle is used for business purpose?*

6. To prove case, claimant examined himself and two others as P.Ws.1 to 3 and got marked Exs.P-1 to P-97. Insurer examined four witnesses as R.Ws.1 to 4 and got marked Exs.R-1 to R7.

7. On consideration, Tribunal answered issues no.1 to 4, additional issues no.3 and 5 dated 14.12.2009 and additional



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issue no.1 dated 18.06.2011 in negative. Additional issue no.1 dated 31.08.2006, additional issues no.1, 2 and 4 dated 14.12.2009 and additional issues no.1 and 2 dated 01.08.2012 in affirmative and issue no.5 by dismissing claim petition leading to this appeal.

8. At outset, it was submitted that trial Court dismissed claim petition on ground that claimant was rider of motorcycle and could not claim compensation for own negligence, would not be justified and contrary to records. When claimant had specifically stated that he was pillion rider on motorcycle, absence of his brother and fact that motorcycle belong to Company where he was working as Field Officer would not be basis for such conclusion. It was submitted that rider of motorcycle accepted negligence and pleaded guilty before Criminal Court. Therefore, prayed for allowing appeal and passing appropriate award.

9. On other hand, Smt.Harini Shivananda, learned counsel for respondent no.3-insurer opposed appeal. It was submitted that Tribunal had, on appreciation of entire facts and circumstances, arrived at right conclusion and there was no



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scope for interference. It was submitted that there was delay of 8 (eight) days in filing FIR. Explanation offered was that rider had initially assured reimbursement of medical expenses of treatment, but later resiled, whereas records would indicate that rider was none other than claimant's brother. It was further submitted wound certificate and treatment records would indicate that claimant was taken to hospital on 07.06.2004 by a relative without explanation about any injuries sustained by rider. Admission of claimant was also without MLC Endorsement and Ex.R-6 issued by Vinaya Hospital, Kundapura would indicate that claimant was admitted as non MLC patient from 07.06.2004 to 09.06.2004 and 16.06.2004 to 05.07.2004, whereas, date of accident was 08.06.2004. When rider of motorcycle was brother of claimant, motorcycle belonged to his employer and absence of any explanation about injuries caused to rider of motorcycle etc., finding of Tribunal about attempt to hoist false claim and dismissing it would be justified.

10. Heard learned counsel, perused impugned judgment and award and record.



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11. Only point that arises for consideration is-

"Whether finding of Tribunal dismissing claim petition suffers from perversity and calls for interference?"

12. Said point is answered in *negative* for following -

REASONS

13. As per claimant, accident occurred on 08.06.2004 and he sustained injuries while travelling as pillion rider on motorcycle which belonged to his employer and while his brother is rider. Accident did not involve any other vehicle. Ex.P-3 wound certificate as well as treatment records do not show admission of claimant as a Medico-Legal case, though history of injury is stated to be due to road traffic accident (**RTA**) and there is no explanation for same. In case rider, who was claimant's brother did not sustain any injuries, there is no explanation for delay in filing complaint or for rider not taking claimant for hospital.

14. Apart from above, fact that claimant claims that his brother had assured to reimburse medical expenses is hard to



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believe. Fact that vehicle belonged to claimant's employer and rider was his brother adds to intrigue. Final nail in coffin is that Ex.R-6 mentions date of admission of claimant for treatment as 07.06.2004, a day prior to occurrence of accident.

15. Under above facts and circumstances, dismissal of claim petition by Tribunal cannot be stated to be suffering from perversity. No grounds to interfere. Appeal is ***dismissed.***

Sd/-
(RAVI V HOSMANI)
JUDGE

hnm
List No.: 1 Sl No.: 10