



NC: 2026:KHC:15269
MFA No. 1245 of 2015
C/W MFA No. 1247 of 2015
MFA No. 1249 of 2015
AND 1 OTHER

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. 1245 OF 2015 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 1247 OF 2015 (MV-I)

MISCELLANEOUS FIRST APPEAL NO. 1249 OF 2015 (MV-I)

MISCELLANEOUS FIRST APPEAL NO. 3408 OF 2015 (MV-D)

IN MFA No. 1245/2015

BETWEEN:

THE DIVISIONAL MANAGER,
NATIONAL INSURANCE CO LTD.
II FLOOR, RASIK CHAMBERS
OPP CENTRAL MARKET
MARKET ROAD, MANGALORE
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)

AND:

1. PARVATHAMMA
AGED ABOUT 53 YEARS
W/O LATE KRISHNAPPA

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH COURT
OF
KARNATAKA



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2. SHIVAKUMARA
AGED ABOUT 33 YEARS
S/O LATE KRISHNAPPA

3. ANNAPOORNA
AGED ABOUT 31 YEARS
D/O LATE KRISHNAPPA

ALL ARE RESIDENTS OF
SWATHI BLOCK
NO.22, POLICE QUARTERS
HANUMANTHANAGARA
OLD TOWN
BHADRAVATHI 577 301

4. JAFRU @ MAQBUL
AGED ABOUT 51 YEARS
R/O NO.410, MALLIKARJUNA EXTENSION
SHIVAJINAGARA MAIN ROAD
DUGGAPPA'S RENTED HOUSE
DAVANAGERE 577 001
(DRIVER)

5. SMT PARVEEN
AGED ABOUT 41 YEARS
W/O MOHAMMED ALI
R/O CHANNAGIRI ROAD
HOLEHONNUR
BHADRAVATHI TALUK 577 301

...RESPONDENTS

(BY SRI. R.P. MUNJOJI, ADVOCATE FOR
SRI. M R HIREMATHAD, ADVOCATE FOR R1 TO R3
NOTICE TO R4 IS DISPENSED WITH V/O DTD 16.02.2015
NOTICE TO R5 IS HELD SUFFICIENT V/O DTD 30.01.2017)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.8.2014 PASSED IN MVC
NO.1258/2009 ON THE FILE OF THE PRESIDING OFFICER,
ADDITIONAL MACT(V), BHADRAVATHI, AWARDING A



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COMPENSATION OF RS.2,34,000/- WITH INTEREST @ 6% P.A
FROM THE DATE OF THE PETITION TILL DATE OF PAYMENT.

IN MFA NO. 1247/2015

BETWEEN:

THE DIVISIONAL MANAGER,
NATIONAL INSURANCE CO. LTD.
II FLOOR, RASIK CHAMBERS
OPP CENTRAL MARKET
MARKET ROAD
MANGALORE
BY NATIONAL INSURANCE CO LTD.,
REGIONAL OFFICE, NO.144
SUBHARAM COMPLEX, M G ROAD
BANGALORE 560001
BY ITS MANAGER

...APPELLANT

(BY SRI. O MAHESH, ADVOCATE)

AND:

1. T.MALLIKARJUNA
AGED ABOUT 55 YEARS
S/O THIMMEGOWDA
SURVEYOR
TALUK SURVEY OFFICE
BHADRAVATHI 577 301
2. JAFRU @ MAQBUL
AGED ABOUT 51 YEARS
R/O NO.410, MALLIKARJUNA EXTENSION
SHIVAJINAGARA MAIN ROAD
DUGGAPPA'S RENTED HOUSE
DAVANAGERE 577 001
(DRIVER)
3. SMT PARVEEN
AGED ABOUT 41 YEARS



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W/O MOHAMMED ALI
R/O CHANNAGIRI ROAD
HOLEHONNUR
BHADRAVATHI TALUK 577 301

...RESPONDENTS
(NOTICE TO R2 IS DISPENSED WITH V/O DTD 19.02.2015
NOTICE TO R1 AND R3- SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.8.2014 PASSED IN MVC
NO.1256/2009 ON THE FILE OF THE PRESIDING OFFICER,
ADDITIONAL MACT(V), BHADRAVATHI, AWARDED A
COMPENSATION OF RS.1,14,855/- WITH INTEREST @ 6% P.A
FROM THE DATE OF PETITION TILL REALISATION.

IN MFA NO. 1249/2015

BETWEEN:

THE DIVISIONAL MANAGER
NATIONAL INSURANCE CO LTD
II FLOOR, RASIK CHAMBERS
OPP:CENTRAL MARKET
MARKET ROAD,MANGALORE
BY NATIONAL INSURANCE CO LTD
REGIONAL OFFICE, NO.144
SUBHARAM COMPLEX, M G ROAD
BANGALORE-560001
BY ITS MANAGER

...APPELLANT

(BY SRI. O MAHESH, ADVOCATE)

AND:

1. KRISHNA
S/O THIMMANNA
AGED ABOUT 54 YEARS
R/O RANGENAHALLI VILLAGE
TARIKERE TALUK-577228



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2. JAFRU @ MAQBUL
AGED ABOUT 51 YEARS
R/O NO.410, MALLIKARJUNA EXTENSION
SHIVAJINAGARA MAIN ROAD
DUGGAPPA'S RENTED HOUSE
DAVANAGERE-577001
(DRIVER)
3. SMT PARVEEN
W/O MOHAMMED ALI
AGED ABOUT 41 YEARS
R/O CHANNAGIRI ROAD
HOLEHONNUR
BHADRAVATHI TALUK-577301

...RESPONDENTS

(NOTICE TO R1 IS DISPENSED WITH V/O DTD 21.11.2016
NOTICE TO R2 IS DISPENSED WITH V/O DTD 19.02.2015
NOTICE TO R3 - SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.8.2014 PASSED IN MVC
NO.1257/2009 ON THE FILE OF THE PRESIDING OFFICER,
FAST TRACK, ADDITIONAL MACT(V), BHADRAVATHI,
AWARDING A COMPENSATION OF RS.48,150/- WITH
INTEREST @ 6% P.A FROM THE DATE OF PETITION TILL
REALIZATION.

IN MFA NO. 3408/2015

BETWEEN:

1. SMT PARVATHAMMA
W/O LATE KRISHNAPPA
AGED ABOUT 57 YEARS
HOUSEHOLD WORK
2. SHIVAKUMARA
S/O LATE KRISHNAPPA
AGED ABOUT 32 YEARS



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3. ANNAPOORNA
D/O LATE KRISHNAPPA
AGED ABOUT 30 YEARS

ALL ARE R/AT "SWATHI" BLOCK
NO.22, POLICE QUARTERS
HANUMANTHANAGARA,
OLD TOWN
BHADRAVATHI 577516

...APPELLANTS

(BY SRI. R.P. MUNJOJI, ADVOCATE FOR
SRI. M R HIREMATHAD, ADVOCATE)

AND:

1. JAFRU @ MAQUBUL
S/O HUSSAIN SAB
AGED ABOUT 50 YEARS
DRIVER OF TATA ACE
LUGGAGE VEHICLE
BEARING REG.NO. KA-14/A-4929
R/O NO.410, MALLIKARJUNA
EXTENSION
SHIVANAGARA MAIN ROAD
DUGGAPPA'S RENTED HOUSE
DAVANAGERE - 577 005
2. SMT PARVEEN
W/O MOHAMMED ALI
AGED 40 YEARS
OWNER OF TATA ACE
LUGGAGE VEHICLE
BEARING REG. NO. KA-14/A-4929
R/O CHANNAGIRI ROAD,
HOLEHONNUR
BHADRAVATHI TALUK - 577 516
3. THE NATIONAL INSURANCE CO. LTD.
II FLOOR, RASIK CHAMBERS
OPP. CENTRAL MARKET,



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MARKET ROAD
MANGALORE PIN - 566 042

...RESPONDENTS

(BY SRI. O MAHESH, ADVOCATE FOR R3
NOTICE TO R1 & R2 IS DISPENSED WITH
V/O DTD 22.03.2016)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.08.2014 PASSED IN MVC NO.1258/2009 ON THE FILE OF THE PRESIDING OFFICER, COURT OF FAST TRACK AND ADDITIONAL MACT(V), BHADRAVATHI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

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

ORAL JUDGMENT

1. MFA No.1245/2015, MFA No.1247/2015 and MFA No.1249/2015 are filed by the insurer challenging the common judgment and award dated 30.08.2014 passed in MVC Nos. 1258/2009, 1256/2009 and 1257/2009 respectively¹ by the Fast Track and Additional Motor Accident Claims Tribunal (V), Bhadravathi². Vide the impugned judgment, the Tribunal has

¹ hereinafter referred to as 'impugned judgment'

² hereinafter referred to as the 'Tribunal'



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partly allowed the claim petitions and awarded compensation as under:

i. MVC No.1258/2009	₹2,34,000/-
ii. MVC No.1256/2009	₹1,14,855/-
iii. MVC No.1257/2009	₹48,150/-

2. The said compensation was directed to be paid with interest at 6% p.a., and the owner and insurer of the insured vehicle were ordered to pay the compensation awarded. The insurer has filed the above appeals impugning the judgment and award of the Tribunal assailing the same on the ground of involvement of the insured vehicle.

3. MFA No.3408/2015 is filed by the claimants in MVC No.1258/2009 seeking for enhancement of the quantum of compensation.

4. The said appeals are taken up together since they arise out of the same accident and the impugned judgment in all the appeals are the same.



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5. The relevant facts in a nutshell leading to the present appeals are that on 16.06.2009, the claimants in MVC.No.1256/2009 and MVC.No.1257/2009 along with one Krishnappa (husband of 1st petitioner in MVC No.1258/2009) had gone for survey of land and after completing the same, at about 02.30 p.m., they were waiting by sitting on a motorbike. It is a case of the claimants that at the said time, the insured vehicle, which was a Tata Ace luggage vehicle bearing No.KA.14.A.4929 being driven in a rash and negligent manner hit the said persons, as a result of which, said Krishnappa sustained injuries and succumbed to the same. The other persons sustained injuries. Claiming compensation for the death of Krishnappa and for the injuries sustained by the other persons, the claim petitions were filed arraying the driver, owner and insurer of the insured vehicle, as respondent Nos.1 to 3 respectively.

6. The insurer entered appearance before the Tribunal and contested the claim proceedings, *inter alia* disputing the involvement of the insured vehicle.



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7. The Tribunal, upon appreciation of the oral and documentary evidence available on record held that the claimants have demonstrated that the insured vehicle was involved in the accident. Accordingly, the Tribunal awarded the compensation as noticed above and directed that the owner and insurer were jointly and severally liable to pay the compensation awarded. Being aggrieved, the present appeals are filed.

8. Heard the submissions of the learned counsel for the insurer and the learned counsel for the claimants.

9. The primary contention put forth on behalf of the insurer is that there was no reference to the insured vehicle either in the complaint or in the spot mahazar; that for the first time, after a further statement was recorded, the vehicle number has been mentioned in the IMV report. The basis for including the insured vehicle at a subsequent stage is not forthcoming. That the name of the driver has been subsequently changed. The learned counsel for the insurer also points out that in Ex.P3 (complaint) there is no reference to either vehicle number or the chassis number. Hence, the learned counsel seeks for



allowing of the appeals and setting aside the impugned judgment.

10. *Per contra*, the learned counsel for the claimants justifies the finding of the Tribunal on negligence and liability and seeks for enhancement of the compensation in MVC No.1258/2009.

11. The submissions of both the learned counsels have been considered and the material on record has been perused.

12. The accident is stated to have occurred on 16.06.2009, wherein one person (Krishnappa) died and two other persons sustained injuries. It is further undisputed that in the complaint (Ex.P3) the registration number of the insured vehicle is not mentioned. The colour of the vehicle is also not mentioned. In the spot mahazar (Ex.R3), which was recorded on 16.06.2009 at 06.45 p.m., there is no mention of either the registration number or the colour of the insured vehicle. The learned counsel for the insurer seeks to point out that there is no mention of chassis number of the vehicle.

13. The further statement was recorded on 02.07.2009, consequent to which, the IMV report (Ex.P8) has been drawn.



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It is in the further statement and in the IMV report that the number of the insured vehicle is mentioned for the first time. The complainant - B.Raju has been examined as PW4.; the panch witness Sri T.M.Basavaraja has been examined as PW5; and the Motor Vehicle Inspector Sri John B.Misquin has been examined as PW.6.

14. PW.4 has deposed that he did not mention the vehicle number and it is only subsequently that the vehicle number was inserted. Further, the panch witness (PW.5) has also deposed regarding the fact of panch being drawn, however it is admitted that the vehicle number was not mentioned. PW.6 has deposed with regard to preparation of the motor vehicle report. However, PW.6 admits that the documents of the vehicle were not furnished to him by the police authorities so as to verify the other details/particulars like, chassis number, etc. To a specific query as to whether the insured vehicle was white in colour, PW.6 has categorically denied the same. However, in the mahazar (Ex.R3), it is specifically mentioned that the vehicle is white in colour.



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15. The policy of insurance is marked as Ex.R8. The representative of the insurer has been examined as RW.1 and he has disputed the involvement of the insured vehicle.

16. The Tribunal while considering the material on record has noticed that the complainant had stated in the cross-examination that he was unaware of the name of the driver of the vehicle, but has mentioned the name as Zafrulla s/o Mohammad Sab. That after enquiry, subsequently, he came to know the name of the driver as Zafrulla @ Maqbu Pasha s/o Hussain Sab. Hence, in this regard, he gave a further statement (Ex.P22).

17. The Tribunal has also noticed that RW.1 has admitted that he has not verified the involvement of the vehicle by appointing their own investigator. The Tribunal has further noticed that Motor Vehicle Inspector has deposed that he has inspected the insured vehicle.

18. The material on record would indicate that the insurer has contested the claim proceedings on two grounds i.e., with



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regard to the involvement of the vehicle as well as by contesting the change of name of the driver.

19. With regard to the involvement of the vehicle, admittedly, the number of the vehicle is not mentioned either in the complaint (Ex.P3) or in the spot mahazar (Ex.R3). However, in the spot mahazar, the colour of the vehicle is mentioned as white colour. The number of the insured vehicle is for the first time stated in the further statement (Ex.P22), which was recorded on 17.06.2009 and the number of the insured vehicle is also forthcoming from the IMV report (Ex.P8) which was prepared on 02.07.2009. The Motor Vehicle Inspector (PW.6) categorically denies that he has inspected a white colour vehicle.

20. The aspect with regard to the basis on which the number of the insured vehicle has been mentioned in the further statement has not been stated. The investigating officer has not been examined as to the basis of the investigation that has been carried out, which has resulted in filing of charge sheet against the insured vehicle.



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21. It is also pertinent to note that neither the owner, nor the driver of the insured vehicle have either appeared before the Tribunal or this Court.

22. The Tribunal solely on the basis that the insurer has not appointed its own investigator and has not challenged the charge sheet has, accepted the case put forth by the claimants with regard to the involvement of the insured vehicle. However, the insurer has contested the claim proceedings by pointing out that there was no basis for including the number of the insured vehicle in the further statement (Ex.P22) that was subsequently recorded.

23. The learned counsel for the insurer also points out that the policy of insurance (Ex.R8) was issued on 01.04.2009 by mentioning the chassis number and engine number and the accident occurred on 16.06.2009. Hence, it is contended that without a registration certificate a vehicle could not be plied on the road for 4 months.

24. In the absence of an explanation forthcoming as to the basis on which the insured vehicle was shown to have been



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involved in the accident i.e., suitable explanation as to the basis on which the same having been mentioned for the first time in the further statement (Ex.P22), the case of the claimants regarding involvement of the insured vehicle and claiming compensation from the insurer does not arise.

25. In view of the aforementioned, the following:

ORDER

- i. The appeals filed by the insurer MFA No.1245/2015, MFA No.1247/2015 and MFA No.1249/2015 are allowed;
- ii. The appeal filed by the claimant in MFA No.3508/2015 is dismissed.
- iii. The judgment and award dated 30.08.2014 passed in MVC Nos.1258/2009, 1256/2009 and 1257/2009 respectively, by the Fast Track and Additional Motor Accident Claims Tribunal (V), Bhadravathi, is set aside and the claim petitions are dismissed;



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- iv. The amount in deposit in MFA No.1245/2015, MFA No.1247/2015 and MFA No.1249/2015 be refunded to the appellant -insurer;
- v. The records be returned to the Tribunal forthwith;
- vi. Modified decree to be drawn accordingly;
- vii. No costs.

Sd/-
(C.M. POONACHA)
JUDGE

ND
List No.: 1 SI No.: 5