



CNR: KAHC010178822023

NC: 2026:KHC:44709
MFA No. 2257 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.2257 OF 2023(MV-D)

BETWEEN:

THE MANAGER UNITED INDIA
INSURANCE CO., LTD.,
GOVINDA KRUPA GC ROAD,
SAGAR TALUK,
SHIVAMOGA DISTRICT.
REPRESENTED BY ITS DIVISIONAL MANAGER
UNITED INDIA INSURANCE CO. LTD.,,
NO.1137/942, 2ND FLOOR, RUB BUILDING,
A.A. CIRCLE, B.H. ROAD,
SHIVAMOGGA – 577 201.

...APPELLANT

(BY SRI. BENNI RAVISH CHANDRASHEKAR., ADVOCATE)

AND:

1. KALPANA,
W/O SATEESH NAIK,
AGED ABOUT 36 YEARS,
HOUSEWIFE,
2. SATEESH NAIK,
S/O MALLESHAPPA NAIK,
AGED ABOUT 41 YEARS,
OCC, AGRICULTURALIST,
RESIDING AT HEBUTTI VILLAGE,
SIRSI TALUK, U.K DISTRICT,
PRESENT R/O TELAGUNDALLI VILLAGE,

Digitally
signed by
REKHA R
Location:
High Court of
Karnataka



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MAJARE KEREKOPPA,
CHANDRAGUTTI HOBLI,
SORBA TALUK - 577 429.

3. SANJEEVA,
S/O RAMACHANDRA,
AGED ABOUT 33 YEARS,
DRIVER OF KSRTC,
BEARING REG NO KA-31-F1384,
SIRSI DEPOT - 581 401.
4. THE DIVISIONAL MANAGER,
K.S.R.T.C SIRSI DISTRICT,
SIRSI DIVISION,
SIRSI - 581 401.
5. MOHAN B.K.,
S/O BOMMAPPA,
AGED ABOUT 31 YEARS,
OCC AGRICULTURAL,
R/O TALUGYNDALI MAJARE,
KAREKOPPA VILLAGE,
SORBA TALUK,
SHIVAMOGA DISTRICT - 577 429.
6. SANTOSH,
S/O ERESHNAIK HIREGULI,
(HEMAGAR-5), POST. HALAGERI,
SIDDHAPURA TALUK,
OWNER OF HONDA ACTIVE,
BEARING RE NO KA-31-Y -5657
PIN CODE - 581 355.

...RESPONDENTS

(BY SRI. SANDESH T.B., ADVOCATE FOR R1, R2, R5 & R6,
SRI. D. VIJAYAKUMAR, ADVOCATE FOR R4,
VIDE ORDER DATED 09.07.2026, NOTICE TO R3 IS
DISPENSED WITH)



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THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:28.12.2022 PASSED IN MVC NO.110/2019 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, ADDITIONAL MACT, XIII SORABA, AWARDING COMPENSATION OF RS.5,90,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

This appeal by the Insurer of Active Honda two wheeler bearing Registration No.KA-31/Y-5657, calling in question the liability to pay the compensation fastened on it, by means of Judgment and Award dated 28.12.2022 in MVC.No.110/2019 passed by Senior Civil Judge and JMFC Additional Motor Accident Claims Tribunal, XIII Soraba.¹

2. The parties are referred to as per their ranking before the Tribunal.

¹ 'Tribunal' for short



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3. Facts germane to file the present appeal are as under:

3.1 In an accident occurred on 07.03.2018 at about 01.00 p.m., when the brother of claimant No.1 along with the minor son of the claimants, aged about 6 years, were moving on in a Honda Activa two wheeler bearing Registration No.KA-31/Y-5657, when reached the starting point of mud road from Telagundli to Kerekoppa Village, a KSRTC bus bearing Registration No.KA-31/F-1384 came from Sirsi side being driven in a rash and negligent manner by its driver, dashed against two wheeler, wherein both the rider of two wheeler sustained injuries and the injuries sustained by minor Sudarshan turned to be fatal.

3.2 The claimants/parents of the minor Sudarshan filed claim petition seeking compensation of Rs.12,60,000/- from respondent Nos.1 and 2, i.e., driver and Divisional Manager of KSRTC. Originally, the petition was filed against the driver and the Divisional Manager of



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KSRTC. Subsequently respondent Nos.2 to 4 i.e., the rider, owner and Insurer of motorcycle were impleaded.

3.3. Upon service of notice, respondents have appeared through their respective counsel and only the Corporation-respondent No.2 and Insurer-respondent No.5 filed their objection. The respondent No.2-Corporation filed the statement of objection denying the claim petition averments taking a specific contention that a false complaint came to be foisted against the driver of the KSRTC bus. It is the rider of the motorcycle who caused accident with a stationed vehicle i.e., when the bus was stopped to enable the passenger to alight from the bus, and sought to dismiss the claim petition.

3.4 Whereas, respondent No.5 filed statement of objection though denying the claim petition averments, however specifically contented that there is no liability to pay compensation to the petitioners.



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3.5. The Tribunal upon completion of pleadings framed three issues:

- (1) On the point of rash and negligent driving by the driver of the bus;
- (2) Towards the entitlement of compensation, if so, from whom and the quantum of compensation; and
- (3) The common issue of what order?

3.6. Thereafter, an additional issue came to be framed on the contention of respondent No.2-Corporation that, whether the accident has taken place due to the negligent riding of two wheeler by respondent No.3 i.e., rider of the motorcycle. In order to prove their case, the claimant No.1 examined as PW1 and produced 16 documents and marked them as Ex.P1 to Ex.P16. The KSRTC examined its conductor as RW1 and produced one document marked as Ex.R1. The Authorized Officer of respondent No.5-Insurer, examined as RW2 and produced two documents and marked them as Ex.R2 and Ex.R3.



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3.7 The Tribunal thereafter, appreciating the evidence both oral and documentary, answered Issue No.1 in 'negative' and additional issue in 'affirmative' and awarded a sum of Rs.5,90,000/- as compensation for death of a minor, aged 6 years, along with 6% interest per annum and directed the respondent No.5-Insurer to pay entire compensation. It is this Judgment and Award passed by the Tribunal is called in question in this appeal.

4. Heard Sri.Ravish Benni, learned counsel appearing for the appellant-Insurer; Sri. Sandesh T.B, learned counsel appearing for respondent Nos.1, 2, 5 and 6 and Sri. D.Vijay Kumar, learner counsel appearing for respondent No.4. Vide order dated 09.07.2026, notice to respondent No.3 is dispensed with.

5. Sri. Ravish Benni, with all vehemence submits that the reason subscribed by the Tribunal to fasten the liability on the Insurer, is the evidence of RW1, the conductor of the bus. Entire police records produced are



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pointing at the driver of the bus that he is the person responsible for causing the accident and claiming the life of minor and causing injuries to rider of the motorcycle. No documents have been produced by the Corporation except the general power of attorney to support their contention i.e., the rider of the motorcycle is responsible for the accident causing death of minor as well as injuries to himself.

6. The Tribunal has failed to consider the admission elicited in the cross-examination, wherein a specific question has been suggested, as to whether the crime and charge sheet filed against the driver has been challenged or not, the answer obviously was negative. No document has been produced though the RW1 has contended that after the accident, the driver of the bus approached the police and tried to lodge a complaint. It was contended that the police have declined to receive the complaint stating that already a crime has been registered against



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the vehicle and since the vehicle of the Corporation is the heavy vehicle, the case would be registered only against the heavy vehicle and sent back the driver. However, nothing is forthcoming as to whether they have filed any private complaint to register their case against rider as per the contention taken in the evidence. The Tribunal has failed to consider this aspect of the matter and only on the self serving statement of the conductor, in the teeth of police documents, lucidly pointing out that the driver of the bus is the person responsible for the accident, crime has been registered against him and even the police laid charge sheet in that regard. In that view of the matter, the entire liability fastened on the Insurer requires to be set aside and the Corporation be made liable to pay the compensation.

7. In support of his arguments, Sri.Ravish Benni, referred to the judgment of Co-ordinate Bench of this Court, in the case of **UNITED INDIA INSURANCE CO.**



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LTD. VS. KUMARI. LAKSHMI.G AND OTHERS in MFA.No.1036/2022 C/w MFA.No.4058/2022 disposed on 04.03.2024 and relied on paragraph No.11 of the Judgment to contend that, the Co-ordinate Bench has held that in view of FIR and charge sheet having been laid against the rider of the motorcycle, and no case filed against the driver of the maxi cab, in that eventuality the question of fastening the liability against the owner of the maxi cab and thereby directing the Insurer to pay the compensation does not arise and directed the owner cum rider of the motorcycle is liable to pay the compensation and the liability fastened on the Insurer of the maxi cab was set aside, allowing the appeal filed by the Insurance Company.

8. In contrast Sri D.Vijaykumar, learned counsel for the Corporation with all vehemence submits that, in general the police always file a case against the heavy vehicle, whether there is involvement or non-involvement,



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only on the count that the driver of the heavy vehicle is responsible for the accident. The conductor who is an eyewitness to the incident has clearly stated that, when the bus was stopped at bus stop for alighting the passengers, the rider of the motorcycle came along with the deceased minor boy in a rash and negligent manner, lost control over the motorcycle and dashed the idle bus, causing severe injuries to himself and fatal injuries to the deceased minor. Except the suggestion that, neither the Corporation nor the driver has not challenged the crime and charge sheet filed against the driver, there is no cross-examination on the evidence of the conductor-RW1 with reference to the incident of accident. In that view of the matter, the Tribunal has appropriately considered the material placed on record and answered additional Issue in 'affirmative' and Issue No.1 in 'negative' saddled entire liability on the Insurer of the motorcycle.



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9. Further, learned counsel submits that the evidence of the conductor clearly indicates that the driver has tried to file the complaint, since the police have declined to register the complaint and trotted him away stating that they would register complaint only against the heavy vehicle. This clearly shows that the police in collusion with the claimant wanted to see that somehow they could claim compensation, filed a case against the driver of the KSRTC bus, though the incident and involvement of the vehicle is otherwise and sought to dismiss the appeal. In that view of the matter, nothing survives in this appeal to consider and sought to dismiss the appeal.

10. Learned counsel for the claimant argued in support of the Judgment passed by the trial Court.

11. Having considered the rival submissions, this Court has perused the entire appeals as well as the trial Court record.



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12. The only point that would arise for consideration is:

Whether the Tribunal is right in answering Issue No.1 in 'negative' and Additional Issue No.1 'affirmative', thereby fastening entire liability on the Insurer of the motorcycle?

13. It is not in dispute that entire police records were against the driver of the KSRTC bus. Though the RW1-conductor of the KSRTC has stated that the driver has tried to lodge a complaint, the police have declined to register the complaint and trotted him away on the premise that, they would register complaint only against the heavy vehicle. Nothing is placed on record to show whether any such complaint was tried to be filed. Neither the copy of the complaint nor any action thereafter taken in that regard as provided under the provisions of the Code of Criminal Procedure are forthcoming. Except the self-serving statement of the conductor of the Corporation



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and one document i.e. authorization letter, nothing has been placed by the Corporation to support its contention in its statement of objection and in examination in chief. The witness categorically admits that they have not challenged the registration of crime as well as filing of charge sheet against the driver of the KSRTC bus. This itself is more than sufficient to explain the occurrence of the incident and involvement of the bus. Except the conductor, who is an interested witness to safeguard the interest of the Corporation, the Corporation has not taken any pain to examine either any independent witness or the Investigation Officer to substantiate its contention taken in the statement of objection and examination in chief. In that view of the matter, it becomes very hard for this Court to countenance the contentions urged by the KSRTC before the Tribunal as well as before this Court in argument.



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14. A perusal of reasons given by the Tribunal shows that the Tribunal has given unnecessary weightage to the evidence of RW1, in the teeth of the police records, manifestly and categorically pointing entire responsibility and negligence at the driver of the bus. In the judgment of the Co-ordinate Bench in ***UNITED INDIA INSURANCE COMPANY LIMITED*** supra, this Court had an occasion to dwell upon a case in an identical facts, wherein the FIR and charge sheet has been laid against the rider of the motorcycle. However, no case was filed against the driver of the maxi cab. In that an eventuality, the Co-ordinate Bench has held that, no liability can be fastened on the Insurer of the maxi cab, in the absence of any crime or charge sheet having been filed against the driver of the maxi cab.

15. The facts involved in the case supra are identical to the facts in the case on hand. Accordingly, this Court holds that the finding of the Tribunal in the teeth of



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the police records, fastening entire liability on the Insurer of the motorcycle is impermissible besides unsustainable in law. Accordingly, the finding on Issue No.1 is answered in 'affirmative' and on additional issue framed in 'negative'. Consequently, setting aside the liability fastened on the Insurer. The point for consideration is answered, accordingly.

16. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

- i. Appeal filed by the Insurer is ***allowed***.
- ii. The judgment and award dated 28.12.2022 in MVC.No.110/2019 passed by Senior Civil Judge and JMFC Additional Motor Accident Claims Tribunal, XIII Soraba, on issue No.1 and additional issue is set-aside and the entire liability fastened on the Corporation, in view of answering



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Issue No.1 in 'affirmative', and additional issue in 'negative'.

- iii. The Corporation shall deposit entire compensation awarded by the Tribunal along with the interest within six weeks from the date of receipt of copy of this order before the Tribunal.
- iv. Upon deposit, entire amount shall be released in favour of the claimants on proper identification, as per the appropriate order by the Tribunal.
- v. The amount in deposit by the Insurer shall be returned to the Insurer, upon proper identification by way of digital payment.
- vi. Registry is directed to send back the trial Court records forthwith without causing any delay.

**Sd/-
(T.M.NADAF)
JUDGE**

PK
List No.: 1 Sl No.: 1