



CNR: KAHC010185972013

NC: 2026:KHC:52540
MFA No. 2655 of 2013
C/W MFA.CROB No. 62 of 2014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.2655 OF 2013(MV-I)

C/W

MFA CROSS OBJECTION NO.62 OF 2014 (MV-I)

IN MFA No. 2655/2013

BETWEEN:

BAJAJ ALLAINZ GENERAL INSURANCE
COMPANY LTD.,
FIRST FLOOR, B M ROAD,
HASSAN, BY ITS MANAGER
REP BY ITS REGIONAL OFFICE
BAJAJ ALLIANZ GENERAL INS CO LTD.,
RESIDENCY ROAD, BANGALORE.

...APPELLANT

(BY SRI B.PRADEEP, ADVOCATE)

AND:

1. PRAVEEN KUMAR
S/O RANGASWAMY
AGED ABOUT 23 YEARS
DODDAKARADEVU VILLAGE
DANDIGANAHALLI HOBLI
CHANNARAYAPATNA TALUK
HASSAN DISTRICT
PRESENTLY RESIDING AT
ADLIMANE ROAD
HASSAN.
2. HUCHEGOWDA
S/O NANJEGOWDA
AGED ABOUT 62 YEARS
BOMMENAHALLI VILLAGE

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



CNR: KAHC010185972013

NC: 2026:KHC:52540
MFA No. 2655 of 2013
C/W MFA.CROB No. 62 of 2014

DUDDA HOBLI, HASSAN TALUK
HASSAN DISTRICT.

...RESPONDENTS

[BY SRI G.R.SANTHOSH, ADVOCATE FOR R1 (AB);
R2 - NOTICE SERVED]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 8.1.2013 PASSED IN MVC
NO.1023/2010 ON THE FILE OF THE MEMBER, ADDITIONAL
MACT, PRINCIPAL SENIOR CIVIL JUDGE, HASSAN, AWARDING
A COMPENSATION OF RS.2,54,000/ WITH INTEREST @ 6% P.A
FROM THE DATE OF PETITION TILL DEPOSIT.

IN MFA.CROB NO. 62/2014

BETWEEN:

PRAVEEN KUMAR
AGED ABOUT 24 YEARS,
S/O RANGASWAMY
R/A DODDAKARADEVU VILLAGE,
DANDIGANAHALLI HOBLI,
CHANNARAYAPATNA TALUK]
HASSAN DISTRICT.
PRESENTLY RESIDING AT
ADLIMANE ROAD, HASSAN.

...CROSS OBJECTOR

[BY SRI G.R.SANTOSH, ADVOCATE (AB)]

AND:

1. BAJAJ ALLAINZ GENERAL
INSURANCE COMPANY LTD.
1ST FLOOR, B.M.ROAD,
HASSAN BY ITS MANAGER
REPRESENTED BY ITS
REGIONAL OFFICE
BAJAJ ALLAINZ GENERAL
INSURANCE CO.LTD.,
RESIDENCY ROAD
BANGALORE.



CNR: KAHC010185972013

NC: 2026:KHC:52540
MFA No. 2655 of 2013
C/W MFA.CROB No. 62 of 2014

2. HUCHEGOWDA
S/O NANJEGOWDA
AGED ABOUT 62 YEARS,
BOMMENAHALLI VILLAGE
DUDDA HOBLI
HASSAN TALUK AND DISTRICT.

...RESPONDENTS

(BY SRI B.PRADEEP, ADVOCATE FOR R1)

THIS MFA.CROB IN MFA.NO.2655/2013 FILED U/O 41
RULE 22 OF CPC, AGAINST THE JUDGMENT AND AWARD
DATED 08.01.2013 PASSED IN MVC NO. 1023/2010 ON
THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE,
ADDITIONAL MACT, HASSAN, PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 08.01.2013 passed
by Principal Senior Civil Judge, Additional MACT, Hassan, in
MVC no.1023/2010, this appeal and cross objection are filed.
While MFA no.2655/2013 is filed by insurer challenging award
of Tribunal on ground of false implication of insured vehicle for
purpose of claim, MFA CROB. no.62/2014 is filed by claimant
for enhancement of compensation.



CNR: KAHC010185972013

NC: 2026:KHC:52540
MFA No. 2655 of 2013
C/W MFA.CROB No. 62 of 2014

2. Brief facts leading to this appeal/cross objection are that at 08:30 p.m. on 20.12.2009, when claimant was stated to be walking on side of road near Shanidevara temple, rider of motorcycle no.KA-13-L-8618 rode it in rash and negligent manner and it dashed against claimant. In accident, claimant sustained grievous injuries and was immediately taken to Mangala Hospital, Hassan and thereafter to NIMHANS, Bengaluru. Despite treatment, he did not recover fully and sustained loss of earning capacity. Therefore, he filed claim petition under Section 166 of MV Act against owner and insurer of motorcycle.

3. On service of notice, owner entered appearance and denied negligence on part of rider of motorcycle in causing accident. Insurer not only denied age, occupation, income and loss of earning capacity of claimant, but also alleged false fixation of insured vehicle for purpose of claim. In addition violation of terms and conditions of license were also alleged. On above grounds sought for dismissal.

4. Based on pleadings, Tribunal framed following issues:



CNR: KAHC010185972013

NC: 2026:KHC:52540
MFA No. 2655 of 2013
C/W MFA.CROB No. 62 of 2014

- "1. Whether the petitioner proves that he has sustained injuries in a motor vehicle accident that was taken place on 20.12.2009 at about 8.30 p.m., near angadihalli bus-stand, due to rash and negligent riding of motor cycle bearing registration no.KA-13-L-8616 being driven by its rider in an actionable negligence?*
- 2. Whether the petitioner is entitled to compensation? If so, for what amount and from whom?*
- 3. What order or award?"*

Thereafter, claimant examined himself and Dr.Abdul Basheer as PWs.1 and 2 and got marked Exs.P1 to P20. Insurer examined himself as RW.1 and got marked Exs.R1 to R4.

5. On consideration, Tribunal held issue no.1 in affirmative, issue no.2 partly in affirmative and issue no.3 by assessing total compensation of Rs.2,54,000/- with interest at 6% per annum and held owner/insurer liable to pay compensation. Aggrieved thereby, insurer was in appeal while claimant had filed cross objection for enhancement.

6. It was submitted that as per claimant, accident occurred when insured motorcycle dashed against pedestrian.



CNR: KAHC010185972013

NC: 2026:KHC:52540
MFA No. 2655 of 2013
C/W MFA.CROB No. 62 of 2014

It was submitted that accident occurred at 08.30 pm on 20.12.2009. Complaint was filed three days later at 03:30 pm without proper explanation for delay. It was submitted that claimant took treatment at Mangala Hospital, Hassan from 20.12.2009 to 26.12.2009. Subsequently he got admitted to NIMHANS. It was submitted that despite claimant taken to Mangala Hospital as a road accident victim, his admission in said hospital was not as a medico legal case. Even though PW2 Dr.Abdul Basheer who allegedly treated claimant in Mangala Hospital stated to have issued medical legal case intimation to jurisdictional police, no record was produced to substantiate same. Apart from above, it was submitted that in Ex.R3, emergency case record of NIMHANS Hospital, history of injuries was stated to be due to skid and fall from motorcycle. Above factors would cumulatively indicate false fixation of insured vehicle for purposes of claim and therefore sought for allowing appeal and setting aside judgment and award.

7. On other hand though claimant is served and represented in insurer's appeal and also filed cross objection for enhancement, there is no representation on behalf of claimant.



CNR: KAHC010185972013

NC: 2026:KHC:52540
MFA No. 2655 of 2013
C/W MFA.CROB No. 62 of 2014

8. Perusal of grounds in cross-objection would indicate that claimant is seeking for enhancement of compensation awarded under various heads.

9. In view of above, points that arise for consideration are:

(i) Whether Tribunal was justified in holding occurrence of accident was due to rash and negligent driving of insured vehicle?

(ii) Whether claimant is entitled for enhancement of compensation?

10. **Point no.1:** To substantiate actionable negligence against rider/owner of insured vehicle, claimant relied on police investigation records, namely, police notice, FIR, complaint, seizure mahazar, spot mahazar and charge sheet marked as Exs.P1 to P6 respectively. To substantiate his injuries, treatment taken and disability sustained, claimant relied upon wound certificate, medical bills and prescriptions, discharge summary, CT scan report, X-ray, photographs etc., marked as Ex.P7 to Ex.P20 respectively. Claimant also relied on his own deposition as PW1 and deposition of doctor as PW2.



CNR: KAHC010185972013

NC: 2026:KHC:52540
MFA No. 2655 of 2013
C/W MFA.CROB No. 62 of 2014

11. As rightly pointed out, specific case about manner of occurrence of accident by claimant in his examination in chief affidavit are that while claimant was walking by side of road as a pedestrian, rider of motorcycle rode it in rash and negligent manner and it dashed against claimant causing accident. First public record about accident is wound certificate issued by Mangala Hospital. Ex.P9, discharge summary does not indicate admission of claimant as a medico-legal case. Date of admission noted is 20.12.2009 and date of discharge as 26.12.2009. Ex.P2 FIR and Ex.P3 complaint would reveal that complaint is given by claimant himself at police station on 23.12.2009, i.e. 'while he was under treatment' at Mangala Hospital. Though PW2 Dr. Abdul Basheer stated that admission was as a medico-legal case and intimation was given to police, no record is produced about same. Under circumstances filing of complaint after three days would be suspect of afterthought/manipulation. Absence of admission as medico-legal case, failure to produce MLC intimation and filing of complaint during treatment by complainant going to police station and statement by claimant that prior to discharge, he



CNR: KAHC010185972013

NC: 2026:KHC:52540
MFA No. 2655 of 2013
C/W MFA.CROB No. 62 of 2014

went to NIMHANS Hospital would add to intrigue. Further, in course of his deposition, claimant stated that he had filed an application for correction of entry in history of injuries about 'skid and fall from bike' instead of 'accident due to motorcycle'. However, lengthy explanation offered would end with admission that hospital had not accepted application and made corrections. Above factors would cumulatively indicate false implication of insured vehicle for purposes of claim. Hence finding of Tribunal holding insurer liable to pay compensation would be contrary to material on record and as such perverse. Point no.1 is therefore answered in favour of insurer. Accordingly, appeal is allowed. As a result, Cross Objection no.62/2014 filed by claimant is dismissed.

Amount in deposit is ordered to be refunded to appellant by electronic means.

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

YKL
List No.: 1 Sl No.: 14