



CNR: KAHC010219802013

NC: 2026:KHC:52607
MFA No. 3497 of 2013

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. 3497 OF 2013 (MV)

BETWEEN:

M/s. ORIENTAL INSURANCE COMPANY LIMITED
NO.4/10, NAVEEN COMPLEX
HEBBAL MAIN ROAD
METAGALLI, MYSORE
NOW REP BY ITS REGIONAL OFFICE
NO.44/45, LEO SHOPPING COMPLEX
RESIDENCY ROAD
BANGALORE - 560 025.
REP BY ITS AUTHORIZED SIGNATORY.

...APPELLANT

(BY SRI K.S.LAKSHMI NARASAPPA, ADVOCATE FOR
SRI A M VENKATESH, ADVOCATE)

AND:

1. NINGARAJU
SINCE DEAD BY LRS
- 1(a) PRAMILA
W/O NINGARAJU
AGED ABOUT 39 YEARS
- 1(b) THEJASVINI
D/O NINGARAJU
AGED ABOUT 19 YEARS
- 1(c) RAJU
S/O NINGARAJU
AGED ABOUT 16 YEARS
RESPONDENT NOS.1(b) & 1(c) ARE
MINORS, REP BY THEIR MOTHER AND

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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NATURAL GUARDIAN RESP NO.1(a)

ALL ARE R/AT P HOSAHALLI
BELAGOLA HOBLI
SRIRANGAPATNA TALUK
MANDYA DISTRICT.

4. S K MAHENDRA
S/O KALIGOWDA
AGED ABOUT 51 YEARS
R/AT NO.4/355, K R NAGAR
TENT STREET.
PRESENTLY R/A SALIGRAMA
K R NAGAR TALUK
MYSORE DISTRICT.
5. S GNANENDRA
S/O SRIRAMULU
AGED ABOUT 53 HYEARS
R/AT 192, TANK BUND ROAD
INDIRANAGAR
MYSORE-10.
(OWNER OF ASHOK LEYLAND
BUS BEARING REGN NO KA-09/9381)

...RESPONDENTS

[BY SRI G K SHIVAPRAKASH, ADVOCATE FOR R1(a) TOR1(c);
R3 - NOTICE SERVED AND UNREPRESENTED;
V/C/O DATED 10.09.2015 NOTICE TO R2 IS H/S]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 15.09.2012 PASSED IN MVC
NO.406/2006 ON THE FILE OF THE PRINCIPAL CIVIL JUDGE
(SR.DN), & JMFC, SRIRANGAPATNA, AWARDED
COMPENSATION OF Rs.4,15,750/- WITH INTEREST @ 6% P.A.
FROM THE DATE OF PETITION TILL DEPOSIT IN TRIBUNAL.

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



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CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 15.09.2012 passed by Principal Civil Judge (Sr. Dvn.) and JMFC at Srirangapatna in MVC no.406/2006, this appeal is filed.

2. Sri Lakshmi Narasappa, learned counsel for appellant insurer, submitted that appeal was solely on finding of Tribunal that death of injured claimant Ningaraju on 17.05.2009 was due to accidental injury suffered on 17.03.2006. It was fairly submitted that insurer was not disputing occurrence of accident due to rash and negligent riding of insured vehicle by its driver and suffering injuries.

3. Brief facts as would be necessary for purposes of this case are that at 11.00 am on 17.03.2006 when Ningaraju was traveling as passenger in auto rickshaw no.KA-09/5934 on T. Narasipura-Kollegala main road along with two others driver of bus no.KA-09/9381 drove it in rash and negligent manner and it dashed against auto causing accident. In accident, Ningaraju sustained grievous head injuries and he took treatment initially at General Hospital, T Narasipura and



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thereafter at KR Hospital, Mysuru and JSS Hospital, Mysuru. Alleging loss of earning capacity on account of said injury, Ningaraju had filed MVC no.406/2006 under Section 166 of MV Act against owner and insurer of bus. During pendency of claim petition, Ningaraju died on 17.05.2009. His legal representatives i.e. wife and two minor children came on record and claimed that death of Ningaraju was due to accidental injuries and after discharge as inpatient, he was taking outpatient treatment. Same was disputed.

4. Based on pleadings, Tribunal framed issues and recorded evidence. Claimant no.1 deposed along with Dr.Mukunda as PWs 1 and 2 and got marked Exs.P1 to P99. Respondents did not lead any evidence. Though Exhibit P99 as well as PW2 only stated that death was due to cerebral hypoxia, without any material to indicate that cerebral hypoxia was due to accidental injuries and had nexus with it, Tribunal assessed compensation and held insurer liable to pay same. Therefore, impugned award was liable to be modified.

5. Learned counsel submitted that as per Full Bench decision of this Court in case of **Kannamma v. Deputy**



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General Manager reported in **ILR 1990 KAR 4300** in case of death of an injured claimant during pendency of claim petition for reasons other than accidental injuries, Tribunal would require to assess damages only under certain limited heads. Any award in excess of same was liable to be reduced. On said grounds sought for allowing appeal.

6. On other hand, Sri GK Shivaprakash, learned counsel for respondents-claimants opposed appeal. It was submitted that Ex.P99-Death Certificate issued by KR Hospital, Mysuru, as well as PW2 had stated that death was due to cerebral hypoxia. Since Ningaraju had sustained severe head injury in accident that occurred on 17.03.2006 merely on ground that death was about 3 years after accident, when it was due to cerebral hypoxia, there would be sufficient basis for Tribunal to record findings that death was due to accidental injuries and therefore award did not call for interference. On said ground sought for dismissal.

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



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8. From above and since insurer is in appeal only on finding of Tribunal that death had nexus with accidental injuries, point that arises for consideration is,

" Whether finding of Tribunal that death was due to accidental injuries and therefore, insurer was liable to pay compensation as death claim calls for interference?"

9. As rightly submitted, occurrence of accident involving insured vehicle, death of Ningaraju sustaining injuries therein are not in dispute. Medical records i.e. medical bills with supporting prescriptions marked as Ex.P3 to Ex.P9 would substantiate that claimant had sustained injuries and took treatment by spending money. Only material on record to establish that death was on account of accidental injuries would be Ex.P99 death certificate and deposition of PWs1 and 2. Ex.P99 is a certificate issued by hospital about death and is not a death certificate issued by Registrar of Births and Deaths. PW1 in her deposition stated that after accident, Ningaraju was initially taken to General Hospital, T.Narasipura, thereafter to KR Hospital, Mysuru, and later to JSS Hospital, Mysuru. She also stated that after discharge, Ningaraju was taking outpatient treatment. Deposition of PW2 synchronises insofar



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as occurrence of accident and Ningaraju being admitted to General Hospital, T. Narasipura, Mysuru. However, though he states that Ningaraju was admitted to hospital with history of being an epileptic since 2 years. His next statement is about death due to cerebral hypoxia on 17.05.2009 at 12.30 p.m. It is stated that post mortem was not conducted on request of relatives. PW2 is author of Ex.P99. Ex.P99 does not state any better than PW2 insofar question whether death of claimant due to cerebral hypoxia on 17.05.2009 had any nexus with head injury sustained by claimant in accident that occurred on 17.03.2006. Two factors weigh on this Court to come to a conclusion that this matter requires remand. Firstly, assertion by PW1 that after discharge from hospital as inpatient, Ningaraju was taking outpatient treatment and secondly failure by insurer to cross examine PW2 to substantiate its contention. In view of above, it is found appropriate to provide opportunity to both sides to establish whether death had nexus with accidental injuries. Point no.1 is answered accordingly.

10. Since insurer has not disputed occurrence of accident and claimant sustaining injuries therein and in either



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case, insurer would be liable to reimburse claimants for money spent towards medical expenses and noting that amount covered under Exs.P3 to P94-bills/prescription totals to about Rs.15,750/-, it is found appropriate to permit claimants to withdraw Rs.25,000/- in order to provide succor to victim's family till conclusion of proceedings.

11. Hence, following:

ORDER

(i) Appeal is ***allowed in part.***

(ii) Judgment and award dated 15.09.2012 passed by Principal Civil Judge (Senior Division) and JMFC at Srirangapatna, in MVC no.406/2006 is set aside.

(iii) Matter is remitted back to Tribunal for fresh disposal by permitting parties to adduce additional evidence.

(iv) Amount in deposit is ordered to be transmitted to Tribunal. Out of same, a sum of Rs.25,000/- is ordered to be released in favour of claimant subject to final outcome of award.



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(v) Since both parties are represented, to expedite disposal, they are directed to appear before Tribunal without awaiting fresh notice on **03.11.2026.**

(vi) Registry is directed to draw decree and transmit trial Court records to Tribunal well before said date.

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

YKL
List No.: 1 Sl No.: 15