



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.2949 OF 2023 (MV-D)

BETWEEN:

TATA AIG GENERAL INSURANCE CO. LTD.,
2ND FLOOR, A.P AND DEVI
JAMBUKESHWARA ARCADE,
NO.69, MILLERS ROAD,
BENGALURU - 560 052
REPRESENTED BY ITS
ASSOCIATE VICE PRESIDENT.

...APPELLANT

(BY SRI. S.V. HEGDE MULKHAND, ADVOCATE)

AND:

1. RAJAMMA
W/O AVINAPPA
AGED ABOUT 54 YEARS,
2. AVINAPPA
S/O JOGANNA
AGED ABOUT 59 YEARS,
3. SHANTHARAJU
S/O AVINAPPA
AGED ABOUT 40 YEARS,
4. JOGANNA
S/O AVINAPPA
AGED ABOUT 38 YEARS,

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by G
SHREERAKSHA
Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:34344-DB
MFA No. 2949 of 2023

5. SRINIVASA G A
S/O AVINAPPA
AGED ABOUT 36 YEARS,

6. VEENA
D/O AVINAPPA
AGED ABOUT 28 YEARS,

ALL ARE R/O AGRAHARA HANDIKUNTE
SIRA TALUK,
TUMKUR DISTRICT - 572 137.

7. PANCHALINGAIAH B.K,
S/O KEMPALINGEGOWDA,
AGED ABOUT 54 YEARS,
R/O BUDIGUPPE VILLAGE,
KALLAHALLI POST,
KANAKAPURA TALUK,
RAMANAGARA DISTRICT-562 117.

...RESPONDENTS

(BY SRI.RAMU V, ADVOCATE FOR R1-R6,
SRI.M.L.GOWDA, ADVOCATE FOR R7)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 15.11.2022 PASSED IN MVC
NO.280/2019 ON THE FILE OF THE SENIOR CIVIL JUDGE AND
ADDITIONAL MACT, SIRA, AWARDED COMPENSATION OF
RS.38,41,512/- WITH INTEREST AT 6 PERCENT P.A. FROM THE
DATE OF PETITION TILL THE DATE OF DEPOSIT.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO



ORAL JUDGMENT

(PER: HON'BLE DR. JUSTICE K.MANMADHA RAO)

This appeal is by the appellant/Insurance Company challenging the impugned Judgment and Award dated 15.11.2022 passed in MVC No.280/2019 by the Court of Senior Civil Judge/Motor Accident Claims Tribunal at Sira, ('Tribunal', for short), awarding compensation of Rs.38,41,512/- with interest at the rate of 6% p.a., from the date of petition till realization.

2. The parties are referred to as per their rankings before the Tribunal for easy reference.

The brief facts of the case are as under:

3. On 08.09.2019 at 3.40 a.m., the son of the petitioner deceased Ajjanna @ Ajay and his friends by name Vinay, Kiran, Vinay B.P and Girish were proceeding from Sira to Gokarna in motor cycle bearing No.KA-42-M-9491, being driven by Kiran and when it reached near Harihara Taluk, N.H.4 road, he drove the same in a rash



and negligent manner and dashed against the divider. As a result, the car capsized and again dashed against lorry bearing Reg.No.MH-09/EM-9155. As a result, the deceased Ajjanna sustained grievous injuries all over the body and died at the spot and post mortem was conducted. In the accident, four passengers died and one person was injured. A petition under Section 166 of the Act was filed by legal representatives of Ajjanna, seeking compensation of Rs.40,00,000/-.

4. Upon service of notice, respondents appeared through their counsel and respondent No.1 had filed written statement. The respondent No.1 has denied petition averments and contends that he has been false implicated in the case and his vehicle had valid and effective driving licence on the date of alleged accident and respondent No.2 is liable to indemnify the same. and prayed to dismiss the claim petition.



5. On the basis of the pleadings of the parties, the Tribunal framed issues and recorded the evidence. The petitioner was examined as PW-1 and examined one witness as PW-2 and marked documents at Exs.P1 to Ex.P-19. On behalf of the respondent, senior manager was examined as RW-1 and got marked documents at Exs.R1 and R2.

6. After hearing the parties and on perusal of the documents, the Tribunal held that the accident occurred due to rash and negligent driving of the offending vehicle. As the offending vehicle was insured with the respondent and same was in force on the date of accident. Therefore, it was ordered that respondent No.2 was ordered to indemnify respondent No.1.

7. The Tribunal awarded total compensation of Rs.38,41,512/- along with interest at the rate of 6% p.a., from the date of petition till the date of deposit and Respondents 1 and 2 were jointly held liable to pay the



compensation. Respondent No.2 being the insurer was directed to indemnify Respondent No.1 and directed to deposit the compensation amount along with interest within one month from the date of receipt of the Order. The compensation was allocated in the ratio of 50:10:10:10:10:10 among petitioner Nos.1 to 6.

8. Out of the compensation amount awarded to Petitioner No.1, 50% was ordered to be released in her favour and remaining 50% was ordered to be deposited in fixed depdoist in any nationalized bank of her choice for a period of three years, with liberty to draw accrued interest. Entire compensation was ordered to be released in favour of Petitioner Nos.2 to 6 on proper identification.

9. Learned counsel for the appellant/Insurance Company has contended that the authorized registered seating capacity of the insured car bearing Reg.No.KA-42-M-9491 is five including the driver of the car. It is contended that at the time of the accident in question,



seven persons including driver were proceeding in the said car, which is in violation of the terms and conditions and limitation of the policy issued. Therefore, it is contended that the Tribunal erred in fastening the liability to pay the compensation awarded to claimants contrary to the principles of law laid down by the Supreme Court.

10. Learned counsel for the appellant relied upon the decision of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. vs. Anjana Shyam and others*** reported in ***(2007)7 SCC 445***, wherein the Hon'ble Supreme Court has held that as the Insurance Policy covered only the permitted number of passengers and the vehicle carried passengers exceeding the number of permitted passengers, the insurer's liability is limited by the insurance taken out for the number of permitted passengers.

11. It is further contended by the appellant that the accident occurred due to sole negligence of driver of lorry



and the owner and insurer of lorry were not made as parties to the petition. The insured vehicle bearing No.KA-42/M-9491 was driven by one Kiran along with other five passengers. He was under the influence of alcohol and lost control over the vehicle at mid night and the driver willingly carried excess passengers knowingly regarding the maximum passengers to be carried. Hence, it is against rules and the petition is liable to be dismissed for non-joinder of necessary parties also.

12. Learned counsel for Respondents 1 to 6-claimants contended that the deceased was the sole bread earner for the family and was working as Electrician in DTDC Company, Bengaluru and getting salary of Rs.30,000/- per month and earning Rs.5,000/- per month from agriculture. It is contended that the accident occurred due to rash and negligent driving of the driver of car bearing No.KA-42-M-9491 by its driver. Further, as regards the claim petitions filed, only five persons have filed claim petitions and the policy does not whisper



whether it specifically covers only 4+1 including the driver as contended by R.W.1. Therefore, it is contended that the Insurance Company is liable to pay compensation for five claims and it is not specifically mentioned in the policy that it covers 4+1 persons, i.e., one driver and other four persons.

13. Heard learned counsel appearing for both the parties and perused the records.

14. On hearing the learned counsel for the parties and going through the records, as regards the date, time, place and vehicles involved in the accident, claimants in the cross-examination though suggested about travelling of six members in the said car by consuming alcohol and the same have been denied by the PW-1. Therefore, the said suggestions are enough to infer that the Insurance Company admits the date, time and place of accident.

15. Respondent No.2-Managing Director of the offending car in its objection statement contended that



due to sole negligence of driver of lorry accident has occurred and owner and insurer of Lorry were not made as parties to the petition, the driver of the insured vehicle KA-42-M-9491 was driven by the one Kiran along with other five passengers, driver who was under the influence of alcohol and lost the control by the said vehicle at mid night, as a result of which the alleged accident was took place the respondent No.1 and his driver knowingly carried the excess persons against the rules resulted in breach of policy terms. hence petition is bad for non-joinder of necessary parties and petition is liable to be dismissed. In order to prove the said contention, Senior Manager got examined as R.W.1. He has reiterated the contents of objection statement. R.W.1 has admitted that in the said accident four persons died and one got injured and all the family members of deceased passengers have filed petitions before the court at Bangalore and the judgment pronounced on 01.10.2019. The compensation also awarded in favour of the family members of



remaining three deceased passengers who died in the said accident and in all the said cases only the owner of the car and insurance company of the said car were made as a parties. It has been contended that, excess passengers were travelling in the said car which met with the accident. However, RW.1 has admitted that only five cases have been registered, claiming compensation.

16. The policy itself reflects that it will cover 4+1 persons including the driver. Therefore, the contention of the appellant/Insurance Company that they are liable to pay compensation only for 4+1 persons including the driver, is not sustainable as Ex.R2 the policy reflects seating capacity is for five persons and the said policy does not whisper whether the policy specifically covers only 4+1 including the driver as contended by learned counsel for the Insurance Company. Further, it is admitted by RW.1 himself that only five claim petitions have been filed, in which three cases have been disposed and another MVC No.109/2019 was pending for disposal at Yadagiri.



17. Therefore, the respondent is liable to pay compensation for 4+1 as the column in the policy pertains to seating capacity of the vehicle and in the absence of no specification about whether it includes driver or not it has to be presumed that they are only liable to pay for 4+1 persons as covered in the policy. The Insurance Company is liable to indemnify the owner for 4+1 persons who were the injured as well as deceased passengers in the said car which met with an accident.

18. Further, the Judgment of the Hon'ble Supreme Court relied upon by the appellant/Insurance Company in Anjana Shyam's case supra, is not applicable to the case on hand as the Policy itself makes it clear that five persons (4+1) are covered under the Policy.

19. On hearing the submissions of learned counsel for both the parties and on perusing the record, this Court has observed that the Tribunal has properly appreciated the evidence and material on record and awarded



compensation of Rs.38,41,512/- along with interest at the rate of 6% p.a., from the date of petition till the date of deposit. Respondent Nos.1 and 2 are jointly and severally liable to pay the compensation amount. Respondent No.2 being insured was directed to deposit the said amount and to indemnify respondent No.1. There are no merits to interfere with the impugned judgment of the Tribunal. Hence, the appeal lacks merits and the same has to be dismissed.

20. Accordingly, I proceed to pass the following:-

ORDER

i) Miscellaneous First Appeal is
dismissed.

ii) The Judgment and Award dated 15.11.2022 passed in MVC No.280/2019 by the Court of Senior Civil Judge/Motor Accident Claims Tribunal at Sira, is hereby affirmed.



- iii) Apportionment of compensation shall be made as per the Order of the Tribunal.
- iv) Appellant-Insurance Company shall deposit the compensation amount along with accrued interest within eight weeks from the date of receipt of copy of this Judgment.
- v) Amount in deposit, if any, shall be transmitted to the Tribunal.
- v) Registry is directed to send back the TCR to the Tribunal, forthwith.

SD/-
(S.G.PANDIT)
JUDGE

SD/-
(DR.K.MANMADHA RAO)
JUDGE