



CNR: KAHC010237072020

NC: 2026:KHC:46333  
MFA No. 4711 of 2020

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 27<sup>TH</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE RAJESH RAI K**

**MISCELLANEOUS FIRST APPEAL NO.4711 OF 2020(MV-I)**

**BETWEEN:**

M/S NEW INDIA ASSURANCE COMPANY LIMITED  
REPRESENTED BY DIVISIONAL MANAGER  
A.M ARKADE, NEAR VIDHYARTHI BHAVAN  
C.G HOSPITAL ROAD, DAVANGERE  
REPRESENTED BY ITS REGIONAL OFFICE  
SITUATE AT NO.9, MAHALAKSHMI CHAMBERS  
2<sup>ND</sup> FLOOR, M.G ROAD, BANGALORE-560 001  
REPRESENTED BY MR K.T VARDARAJAN  
ASSISTANT MANAGER

...APPELLANT

(BY SMT. GEETHA RAJ, ADVOCATE)

**AND:**

1. MR.SHANMUKHAPPA  
S/O LATE CHINDANADAPPA  
AGED ABOUT 55 YEARS  
AGRICULTURIST, RESIDENT OF  
HALEHALLI GOLLARAHATTI VILLAGE  
HOLALKERE, CHITRADURGA DISTRICT-577 526

2. MR. M.G THIMMAPPA  
S/O GOVINDAPPA, MAJOR  
R/AT GILIKENAHALLI VILLAGE  
HOLALKERE TALUK

...RESPONDENTS

(BY SRI. SHIVAKUMARAPPA T.C, ADVOCATE FOR R1,  
VIDE ORDER DATED 27.04.2024, STEPS NOT NECESSARY  
IN RESPECT OF DECEASED R2)

Digitally signed  
by PANKAJA S  
Location: HIGH  
COURT OF  
KARNATAKA



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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 09.01.2020 PASSED IN MVC NO.08/2018 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC,MACT, HOLALKERE, AWARDED COMPENSATION OF RS. 1,60,874/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL DEPOSIT.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

**ORAL JUDGMENT**

The Insurance Company has preferred this appeal against the judgment and award dated 09.01.2020 passed in MVC No.08/2018 by the Senior Civil Judge and MACT at Holalkere (for short, 'the Tribunal') whereby the Tribunal partly allowed the claim petition and awarded compensation of Rs.1,60,874/- with 6% interest.

2. The factual matrix of the case is that, on 14.05.2017 at about 08.45 a.m., the claimant was proceeding in a motorcycle bearing registration No.KA-16/EE-3774 as a pillion rider. When he reached near a place called Halehally Gate, Halehally Village of Holalkere Taluk, the driver of the Tractor bearing registration No.KA-16/TB-4261 which was ahead from the motorcycle of the claimant suddenly stopped



**CNR: KAHC010237072020**

the Tractor. Due to which, the rider of the motorcycle was unable to control the motorcycle and dashed the rear portion of the Tractor. Due to the impact, the claimant sustained grievous injuries. Thereafter, he was shifted to Chitradurga Multi Specialty Hospital for treatment. Hence, he filed a claim petition before the Tribunal claiming compensation for the accidental injuries.

3. The Tribunal, upon assessment of oral and documentary evidence, partly allowed the claim petition as stated supra. The said judgment is challenged by both Insurance Company as well as the claimant. The Insurance Company has preferred MFA No.4711/2020 and the claimant preferred MFA CROB No.47/2024.

4. The cross objection filed by the claimant was disposed by the Co-ordinate bench of this Court vide judgment and order dated 19.01.2026 by enhancing compensation from Rs.1,60,874 to Rs.2,07,074/- with an observation that the enhancement is subject to the outcome of the appeal filed by the Insurance Company.

5. Heard learned counsel for the respective parties.



CNR: KAHC010237072020

6. The learned counsel for the Insurance Company primarily contended that after the accident, the jurisdictional Police laid charge sheet against both the driver of the Tractor and also rider of the motorcycle. Nevertheless, the claimant was the owner of the motorcycle, in which he was travelling as a pillion rider at the time of accident. She contented that since the Tribunal held that both the rider of motorcycle and the driver of the Tractor have equally contributed negligence for the accident and in view of the judgment of the Hon'ble Apex Court in ***Khenyei v. New India Insurance Company Limited and Others - (2015) 9 SCC 273***, the claimant is entitled to maintain a claim petition against any one of the joint tortfeasors involved in the accident. However, as per the above judgment, after initially making good of the compensation by any one of the joint tortfeasor, he will be at liberty to recover the portion of the amount as per the negligence contributed by the other tortfeasor. In the instant case, the Tribunal fastened the entire liability on the Insurance Company of the Tractor without an order of pay and recovery of 50% of the amount from the owner of the motorcycle. According to her, in the instant case, the claimant being the owner of the motorcycle,



CNR: KAHC010237072020

NC: 2026:KHC:46333  
MFA No. 4711 of 2020

he has to forgive 50% of the compensation even according to the judgment of the Hon'ble Apex Court in the case of ***Khenyei*** supra.

7. The aforesaid position of law is not seriously disputed by the learned counsel for the claimant-respondent.

8. I have carefully perused the entire evidence on record. On perusal of the complaint averments and also the spot mahazar, the same reveal that while the claimant proceeding along with the rider on the motorcycle, the Tractor which was proceeding ahead to the motorcycle suddenly stopped. Due to which, the rider of the motorcycle was unable to control the motorcycle and dashed the rear portion of the Tractor. In such circumstances, I am of the view that though the rider of the motorcycle contributed some negligence for the accident without observing the movement of the vehicle ahead and without maintaining sufficient distance from the ahead vehicle, the same could not be assessed at 50%. In the fact and circumstances of this case, I am of the view that the rider of the motorcycle contributed 30% of the negligence for the accident and 70% of the negligence was contributed by the



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MFA No. 4711 of 2020

driver of the Tractor by suddenly stopping the Tractor without any signal. Thus, the compensation awarded by the Tribunal which was enhanced in MFA CROB No.47/2024 by the Co-ordinate Bench of this Court is concerned, the appellant-Insurance Company of the Tractor is liable to pay 70% of the compensation to the claimant and the claimant-respondent shall forgive 30% of the compensation awarded by the Tribunal, since he is the owner of the motorcycle. The appeal is accordingly ***allowed in part.***

9. The judgment and award dated 09.01.2020 passed in MVC No.08/2018 by the Senior Civil Judge and MACT at Holalkere is modified.

The amount in deposit, if any, shall be transmitted to the Tribunal.

Pending I.As., if any, stand disposed of.

**Sd/-  
(RAJESH RAI K)  
JUDGE**

HKV  
List No.: 1 Sl No.: 29