



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

MISCELLANEOUS FIRST APPEAL NO. 4402 OF 2014 (MV)

BETWEEN:

SRI K C RAMESH
S/O K V CHINNAPPA GOWDA
AGED ABOUT 43 YEARS
OWNER CUM DRIVER OF THE GOODS
AUTO RICKSHAW
NO.KA-18/8885
R/A KODIGE HALAMATTUR VILLAGE
HARIHARAPURA HOBLI
KOPPA TALUK
CHIKKMAGALUR DISTRICT

...APPELLANT

(BY SRI. SATISH V, ADVOCATE)

AND:

1. SMT GIRIJA
W/O LATE RAJU NAGANNA
AGED ABOUT 39 YEARS
2. SRI MAHESH
S/O LATE RAJU
AGED ABOUT 23 YEARS
3. MAMTHA
D/O LATE RAJU
AGED ABOUT 22 YEARS



RESPONDENT NO.1 TO 3 ARE
R/AT ARAMBALLI,
HALAMATTUR VILLAGE AND POST
KOPPA TALUK
CHIKKMAGALUR

4. THE BRANCH MANAGER
UNITED INDIA ASSURANCE
INSURANCE COMPANY LTD.,
BRANCH OFFICE
CRESENT ROAD,
K M ROAD
CHIKKMAGALUR

...RESPONDENTS

(BY SRI. RAVISH BENNI, ADVOCATE FOR R4
NOTICE TO R1 TO R3 -SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 15.03.2014 PASSED IN MVC
NO.308/2011 ON THE FILE OF THE I ADDITIONAL DISTRICT
JUDGE, MEMBER, MACT, CHICKMAGALUR, AWARDING
COMPENSATION OF Rs.4,46,000/- WITH INTEREST @ 6% P.A.
FROM THE DATE OF PETITION TILL REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA



ORAL JUDGMENT

1. The present appeal is filed by the owner of the vehicle calling in question of the judgment and award dated 15.03.2014 passed in MVC No.308/2011¹ by the I Additional District Judge and Member, MACT., Chikmagalur², whereunder the claim petition filed by the claimant has been partially allowed and a compensation of ₹4,46,000 has been awarded together with interest at 6% per annum. The Tribunal further directed that the compensation awarded shall be paid by respondent No.1 - owner of the vehicle and dismissed the claim petition filed against respondent No.2 - insurer. The Tribunal has held that the claimant was a gratuitous passenger travelling in the insured vehicle which is a goods auto rickshaw.

2. The relevant facts in a nutshell leading to the present appeal are that on 05.05.2010, one Sri Raju³ was stated to be travelling in the goods auto rickshaw, which was owned and driven by its owner. That when the same was proceeding, due to rash and negligent driving of the driver of the goods auto

¹ Hereinafter referred to as 'impugned judgment'

² Hereinafter referred to as 'Tribunal'

³ Hereinafter referred to as 'deceased'



rickshaw, the said vehicle met with an accident whereunder, the deceased sustained grievous injuries and succumbed to the same.

3. Claiming compensation for the death of the deceased, his wife and children filed the claim petition arraying the owner cum driver of the goods auto rickshaw as respondent No.1 and the insurer of the said goods auto rickshaw as respondent No.2 in the claim proceedings. The claimant No.1 examined herself as PW1. Exs.P1 to P6 were marked in evidence. The representative of the insurer was examined with RW 1. Exs. R1 to R3 were marked in evidence. The Tribunal by its judgment and award partly allowed the claim petition and awarded compensation as noted above. However, with regard to liability, the Tribunal recorded a finding that the deceased was a gratuitous passenger in the goods vehicle and hence, absolved the insurer from payment of compensation and fastened the liability to pay the compensation on the owner of the vehicle. Being aggrieved, the present appeal is filed by the owner.

4. It is the vehement contention of the learned counsel for the owner that the deceased had hired the insured goods auto



rickshaw to transport firewood to his house and hence, the Tribunal erred in fastening the liability on the owner of the vehicle. It is further submitted that the aspect regarding the deceased having hired the vehicle, is forthcoming from the suggestions made by the learned counsel for the insurer while cross examining RW1. Hence, it is contented that the impugned judgment be modified to direct the insurer to pay the compensation awarded.

5. Per contra, learned counsel for the insurer justifies the finding of the Tribunal and further submits that in the complaint [Ex.P3] as well as in the inquest panchnama [Ex.P5], the narration as to the occurrence of the accident at an undisputed point of time clearly denotes that the owner cum driver of the insured goods auto rickshaw had loaded the said vehicle with firewood and when he was returning, the deceased requested to stop the auto and boarded the same and while they were proceeding, the accident occurred. Hence, it is contented that the finding that the deceased was a gratuitous passenger in a goods vehicle is just and proper.



6. The submissions made by both counsels have been considered and the material on record have been perused.

7. The question that arises for consideration is 'whether the finding of the Tribunal on liability is erroneous and required to be interfered by this Court in the present appeal?'.

8. In the complaint [Ex.P3] on the basis of which the FIR [Ex.P2] is lodged, it is clearly stated that owner of the insured goods auto rickshaw was driving the same and the same was loaded with firewood and when he was returning, the deceased requested the said goods auto rickshaw be stopped and boarded the same. That when the deceased was travelling in the goods auto rickshaw which was loaded with firewood, the accident occurred. The said manner of occurrence of the accident has also been noticed in the inquest panchanama at Exhibit P5.

9. The Tribunal noticed the contents of the FIR [Ex.P2] as well as the inquest panchanama [Ex.P5] and recorded a finding that the deceased was travelling in the insured goods auto rickshaw as a gratuitous passenger and he was not travelling



in the said vehicle along with either with his goods or as a representative of the goods. Having regard to the material on record, the said finding recorded by the Tribunal is just and proper.

10. Although it is the vehement contention of the learned counsel for the appellant that the manner of suggestion made to RW.1 by the learned counsel for the insurer clearly suggest that the deceased was the owner of the goods that were being transported by the insured vehicle, the said suggestion is not clear and categorical as is sought to be contented by the learned counsel for the appellant. In any event, the manner of the accident as set out in the FIR [Ex.P2] and the inquest panchnama [Ex.P5] being clear and categorical, the question of interfering with the finding of the Tribunal on liability in the present appeal does not arise.

11. No other contention is put forth by the appellant in the present appeal. Accordingly, the above appeal is dismissed as being devoid of merit.



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12. The amount deposited by the appellant in the above appeal be transferred to the Tribunal for disbursement in terms of the judgment of the Tribunal.

Sd/-
(C.M. POONACHA)
JUDGE

BS
List No.: 1 Sl No.: 16