



CNR: KAHC010279762021

NC: 2026:KHC:43051
MFA No. 3334 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.3334 OF 2021 (MV-D)

BETWEEN:

1. M.T. DEVARAJEGOWDA,
S/O. THIMMEGOWDA,
AGED ABOUT 63 YEARS,
2. KAMALAMMA,
W/O M T DEVARAJEGOWDA,
AGED ABOUT 58 YEARS,
3. KUMARASWAMY M D
S/O M T DEVARAJEGOWDA
AGED ABOUT 35 YEARS,
4. NALINAKSHI M.D.,
D/O DEVARAJEGOWDA
AGED ABOUT 29 YEARS
R/O SIGARANAHALLI VILLAGE
HALE KOTE HOBLI,
HOLENARASIPURA TALUK.

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

APPELLANTS 1 TO 3
MUDDANHALLI VILLAGE
KATTAYA HOBLI,
HASSAN TALUK AND DIST.

PRESENTLY R/AT
MUDDANAHALLI VILLAGE



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KATTAYA HOBLI,
HASSAN TLAUK AND
DIST - 573 128.

...APPELLANTS

(BY SRI. GIRISH B BALADARE, ADVOCATE)

AND:

1. GIRISH .S
S/O SHANKARASHETTY,
AGED ABOUT 33 YEARS,
R/AT SINGODANAHALLI KOPPALU,
KIRAGADALU POST, KASABA HOBBI,
ALUR TALUK, HASSAN DISTRICT - 573201.

2. THE MANAGER
RELIANCE GENERAL INSURANCE
COMPANY LTD., 1ST FLOOR,
KRITHIKA ORCADE, N.R. CIRCLE,
HOLENARSIPURA ROAD,
HASSAN - 573 201.

...RESPONDENTS

(BY SRI. H.C. BETSUR, ADVOCATE FOR R2
R1 - SD/-)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.31.03.2021 PASSED IN MVC
NO.1659/2018 ON THE FILE OF THE 5TH ADDITIONAL DISTRICT
AND SESSIONS JUDGE, HASSAN.

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



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CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

The claimants have preferred this appeal against the judgment and award dated 31.03.2021 passed in MVC No.1659/2018 by the V Additional District and Sessions Court and Additional MACT, Hassan (hereinafter referred to as 'the Tribunal'), whereby the Tribunal dismissed the claim petition filed by the claimants-appellants under Section 166 of the Motor Vehicles Act, 1988.

2. The factual matrix of the case is that, on 15.12.2017, Jagadish (deceased) was proceeding on a motorcycle bearing Reg. No. KA-13-EH-2661 from Muddanahalli towards Hassan. When he reached Shettyhalli Road, Marganahalli, the rider of a motorcycle bearing Reg. No. KA-13-EG-0552, who was proceeding from the opposite direction in a rash and negligent manner, while attempting to avoid a ditch on the road, dashed against the motorcycle of Jagadish. Due to the impact, Jagadish fell down on the road and sustained severe head injuries. Immediately thereafter, he was shifted to



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Janapriya Hospital, Hassan, and subsequently to the Government Hospital, Hassan, for further treatment. However, during the course of treatment, he succumbed to the injuries on 12.03.2018. Hence, the legal representatives of deceased Jagadish filed the claim petition seeking compensation on account of his accidental death.

3. The Tribunal upon assessment of oral and documentary evidence, dismissed the claim petition filed by the claimants. The said judgment is challenged in this appeal by the claimants.

4. Heard the learned counsel for the appellants and learned counsel for the respondent - insurance company.

5. Apart from urging several other contentions, the learned counsel for the appellants primarily contended that the Tribunal has grossly erred in dismissing the claim petition, principally on the ground that there was a delay of two days in lodging the complaint by the brother of the deceased. According to him, the Tribunal has further erred in observing that there was no nexus between the death of the deceased



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and the accident in question. Placing reliance upon the MLC register maintained by Janapriya Hospital, the case sheet and the police intimation letter, along with an application filed under Order XLI Rule 27 of the CPC, the learned counsel submitted that these documents clearly establish that, immediately after the accident, the hospital authorities registered the MLC and intimated the same to the jurisdictional Police. However, despite receiving such intimation, the jurisdictional Police failed to register a case. In such circumstances, the Tribunal ought not to have dismissed the claim petition merely on the ground of delay in lodging the complaint or on the basis of the cause of death. Accordingly, he prays that the appeal be allowed.

6. Alternatively, he submits that the application filed under Order XLI Rule 27 of the CPC be allowed and the matter be remitted to the Tribunal for fresh consideration after taking the said documents on record and affording an opportunity to the parties to adduce further evidence, if any.

7. *Per contra*, the learned counsel for the respondent-Insurance Company, supporting the impugned judgment and award, contended that the Tribunal, upon meticulous



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appreciation of the evidence available on record, has rightly dismissed the claim petition. Placing reliance on the evidence of PW2, he submitted that, though PW2 claims to be an eyewitness to the accident, he did not lodge any complaint immediately after the accident. He further contended that there are material contradictions in the testimony of PW2 with regard to the occurrence of the accident, the subsequent registration of the FIR and filing of the charge sheet. He further contended that, without there being any material on record to establish a nexus between the accident and the death of the deceased, the Tribunal was justified in dismissing the claim petition.

8. According to him, the Tribunal has rightly appreciated the evidence on record and arrived at the conclusion that the claimants failed to establish that the death of the deceased was attributable to the injuries sustained in the accident in question. He also contended that, despite the Tribunal having afforded sufficient opportunity to the appellants-claimants to lead evidence and produce the relevant documents, they failed to place the said documents on record. Therefore, the application filed by the appellants under Order



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XLI Rule 27 of the CPC at this stage, seeking to produce additional evidence, is not maintainable and is liable to be rejected. Accordingly, he prays for dismissal of the appeal.

9. I have given my anxious consideration both on the submission and perused the entire materials available on record.

10. On careful examination of the impugned judgment, it is evident that the Tribunal dismissed the claim petition principally on the ground that, though PW2 claimed to be an eyewitness to the incident and had shifted the injured Jagadish to the hospital, he had not stated the manner in which the accident occurred or the reason for the accident. The Tribunal also took note of the delay of two days in lodging the complaint by the brother of the deceased. Further, the post-mortem report at Ex.P7 records the cause of death as "Death is due to complications subsequent to head injury sustained". The Tribunal observed that, in the absence of reliable evidence establishing that the injuries sustained by the deceased were attributable to the accident in question, the claim petition could not be entertained. However, on perusal of the application filed



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by the learned counsel for the appellants under Order XLI Rule 27 of the CPC, along with the affidavit of appellant No.1, it is seen that the application is accompanied by the MLC register, Police intimation regarding the accident and injuries, and the case sheet. The history of the accident recorded in the MLC mentions that the deceased was brought with a history of road traffic accident (RTA) that occurred on 15.12.2017 at about 5:30 p.m. near Shettihalli Road, Marganahalli. The Police intimation also contains similar information. Further, the case sheet records that the deceased had sustained injuries in a road traffic accident involving the collision of two motorcycles. The affidavit accompanying the application under Order XLI Rule 27 of the CPC states that, inadvertently, the aforesaid documents could not be produced before the Tribunal due to lack of knowledge on the part of the claimants, who are stated to be rustic villagers. Though there is a delay in producing these documents, the contents thereof *prima facie* indicate that the injuries sustained by the deceased were on account of a road traffic accident. These documents, therefore, have a direct bearing on the issue as to whether there was a nexus between



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the accident and the injuries sustained by the deceased, and consequently, his death. In the interest of justice and keeping in view the benevolent object underlying the provisions of the Motor Vehicles Act, in my considered view, an opportunity ought to be afforded to the appellants to produce the aforesaid documents before the Tribunal. The said documents require consideration and appreciation by the Tribunal along with the evidence already on record. Accordingly, the matter deserves to be remitted to the Tribunal for fresh consideration after taking the additional documents on record and affording reasonable opportunity to both parties to lead further evidence, if any. According I pass the following:

ORDER

- i) The appeal is ***allowed***.
- ii) The judgment and award dated 31.03.2021 passed in MVC No.1659/2018 by the V Additional District and Sessions Court and Additional MACT, Hassan is set aside.
- iii) The matter is remitted back to the Tribunal for fresh consideration.



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iv) Both the parties are at liberty to adduce evidence if any, and to produce documents before the Tribunal.

v) The Tribunal is at liberty to frame the additional issues, if any, to adjudicate the claim petition.

vi) The parties shall appear before the Tribunal on **21.09.2026** without further notice.

vii) The Tribunal is requested to dispose of the matter at the earliest.

viii) However, it is made clear that the appellants shall not be entitled for interest from the date of judgment i.e. 31.03.2021 till disposal of the claim petition.

Accordingly, the I.A No.1/2026 is disposed of in above terms.

SD/-
(RAJESH RAI K)
JUDGE

GPG
List No.: 1 SI No.: 3