



CNR: KAHC010255232022

NC: 2026:KHC:42534
MFA No. 4245 of 2022
C/W MFA No. 3785 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.4245 OF 2022(MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.3785 OF 2021(MV-I)

IN MFA No. 4245/2022

BETWEEN:

P.S RAGHU RAJAN
S/O SOMASHEKHAR
AGED ABOUT 38 YEARS
R/AT VITTAL KASABA VILLAGE
BANTWALA TALUK
D.K DISTRICT- 574 343

...APPELLANT

(BY SRI. HARSHA G, ADVOCATE FOR
SRI. SACHIN B.S, ADVOCATE)

AND:

1. RAMA MOOLYA
AGED ABOUT 50 YEARS
S/O UGAPPA MOOLYA
R/AT KAMAJALU HOUSE
MANILA VILLAGE

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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BANTWALA TALUK
D.K.DISTRICT - 574 211

NOW R/AT KAMPA OF ARYAPU VILLAGE
PUTTUR TALUK, D.K.DISTRICT

2. BHARATHI AXA GENERAL INSURANCE
COMPANY LIMITED
REG. OFFICE 1ST FLOOR, FEMS ICON
SY.NO. 28, DODDANAKUNDI
BENGALURU - 560 037
INDIA IRDA REG. NO.139
3. MR. HASAINAR
AGED ABOUT 48 YEARS
R/AT GUTHINABAILU HOUSE
MANILA VILLAGE,
BANTWALA TALUK
DK DISTRICT-574211
4. UNIVERAL SOMPO GENERAL INSURANCE
COMPANY LIMITED
REGD. CORPORATE OFFICE:UNIT 401
4TH FLOOR, SANGAMA COMPLEX
127 ANDHERI KURAL ROAD
ANDHERI(EAST) MUMBAI-400 059.

...RESPONDENTS

(BY SRI. SANDESH SHETTY T, ADVOCATE FOR R1,
SRI. ASHOK N PATIL, ADVOCATE FOR R2,
R3 - SERVED
SRI. B. PRADEEP, ADVOCATE FOR R4)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 23.06.2020 PASSED IN MVC
NO. 1344/2016 ON THE FILE OF THE V ADDITIONAL DISTRICT
AND SESSIONS JUDGE AND MEMBER, ADDITIONAL M.A.C.T.
XI, DAKSHINA KANNADA, MANGALURU, SITTING AT PUTTUR,



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DAKSHINA KANNADA, AWARDING COMPENSATION OF RS.
2,57,484/- WITH INTEREST AT 6 PERCENT P.A. FROM THE
DATE OF PETITION TILL ITS REALISATION.

IN MFA NO. 3785/2021

BETWEEN:

MR RAMA MOOLYA
NOW 49 YEARS,
S/O UGAPPA MOOLYA
R/O KAMAJALU HOUSE,
MANILA VILLAGE
BANTWAL TALUK, D.K DISTRICT
NOW R/AT KAMPA OF ARYAPU VILLAGE
PUTTUR TALUK,
DAKSHINA KANNADA DISTRICT
PIN-574201

...APPELLANT

(BY SRI. SANDESH SHETTY.T, ADVOCATE)

AND:

1. MR P S RAGHU RAJAN
NOW 37 YEARS,
S/O SOMASHEKAR
R/AT VITTLA KASABA VILLAGE,
BANTWAL TALUK
DAKSHINA KANNADA DISTRICT
PIN-574 211
2. THE MANAGER
BHARATHI AXA GENERAL INSURANCE CO LTD
REGISTERED OFFICE,
1ST FLOOR, FEMS ICON,
SURVEY NO.28,
DODDANAKUNDI
BENGALURU, PIN-560037



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3. MR HASAINAR
NOW 47 YEARS,
R/AT GUTHINABAILU HOUSE
MANILA VILLAGE
BANTWAL TALUK
DAKSHINA KANNADA DISTRICT
PIN-574211

4. THE MANAGER
UNIVERSAL SOMPO GENERAL INSURANCE CO LTD
REGD CORPORATED OFFICE
UNIT 401, 4TH FLOOR,
SANGAMA COMPLEX
127 ANDHERI KURAL ROAD
ANDHERI (EAST)
MUMBAI-400 059

...RESPONDENTS

(BY SRI. HARSHA G, ADVOCATE FOR
SRI. SACHIN B S, ADVOCATE FOR R1,
VIDE ORDER DATED 03.11.2022, NOTICE TO R3 IS
DISPENSED WITH
SRI. ASHOK N PATIL, ADVOCATE FOR R2,
SRI. B. PRADEEP, ADVOCATE FOR R4)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST
THE JUDGMENT AND AWARD DT.23.06.2020 PASSED IN
MVC NO.1344/2016 ON THE FILE OF THE V ADDITIONAL
DISTRICT AND SESSIONS JUDGE AND MEMBER,
ADDITIONAL MACT, XI D.K, MANGALURU, SITTING AT
PUTTUR, D.K, PARTLY ALLOWING THE CLAIM PETITION
FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

THESE APPEALS, COMING ON FOR ADMISISON, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



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CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

1. These two appeals are directed against judgment and award dated 23.06.2020 passed in MVC No.1344/2016 by the V Additional District and Sessions Judge and Member, Additional M.A.C.T., XI, D.K. Mangaluru, sitting at Puttur, D.K (for short, 'the Tribunal'), whereby the Tribunal partly allowed the claim petition filed by respondent No.1-claimant and awarded a compensation of Rs.2,57,484/- with 6% interest and directed the insured i.e. the owner of the offending vehicle to pay the compensation by exonerating the respondent No.2-Insurance Company.

2. While the claimant filed MFA.No.3785/2021 seeking enhancement of compensation, the insured of the offending vehicle filed MFA.No.4245/2022 challenging saddling of liability on the insured by exonerating the insurer on the ground of violation of policy condition that, the driver of the offending vehicle was not possessing valid driving licence as on the date of accident.



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3. The insured has also filed I.A.No.2/2022 in MFA No.4245/2020 for production of additional documents i.e., the extract of driving licence of Appanna Naik i.e. the driver of the offending vehicle.

4. The factual matrix of the case, in brief, is that on 17.12.2015 at about 10.15 a.m., respondent No.1-claimant was travelling in an Auto Rickshaw bearing registration No.KA-19-D-8763 from Peruvai towards Manila. When he reached near Kollathadka village, Bantwal Taluk, a lorry bearing registration No.KL-07-P-3870, driven by its driver in a rash and negligent manner from the opposite direction, dashed against the Auto Rickshaw in which the claimant was travelling. Due to the impact, the Auto Rickshaw toppled and the claimant sustained severe injuries. Immediately after the accident, he was shifted to Suraksha Hospital, Vittal, where he was provided first aid and thereafter he was shifted to Mahaveera Medical Centre, Puttur, for further treatment. Accordingly, the claimant filed a claim petition before the Tribunal seeking compensation for the injuries sustained by him in the accident.



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5. The Tribunal upon assessment of oral and documentary evidence, partly allowed the claim petition as stated supra. The said judgment is challenged in this appeal by both the claimant and insured i.e. the owner of the offending vehicle.

6. Heard learned counsel for the respective parties and also perused the material on record.

7. The primary contention of learned counsel for the appellant-insured in MFA No.4245/2022 is that the Tribunal erred in fastening the liability upon the insured, despite the driver of the offending vehicle possessing a valid driving licence as on the date of the accident. By filing I.A.No.2/2022 under Order XLI Rule 27 of the CPC, along with the driving licence, it is contended that the driver of the offending lorry was duly licensed to drive the vehicle as on the date of the accident. It is further contended that, though the charge sheet was filed against the driver of the offending vehicle, the insured due to inadvertence, he failed to produce the driving licence of the driver before the police. Accordingly, he prays to allow appeal.



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8. *Per contra*, learned counsel for the respondent No.2-insurance company contended that the driver of the offending vehicle was charge-sheeted for not possessing a valid driving licence and that the Police issued a notice under Section 133 of the Motor Vehicles Act calling upon the insured to produce the requisite documents, including the driving licence. Despite service of the said notice, the insured failed to produce the driving licence, and therefore, the police rightly proceeded to file the charge sheet against the driver. Accordingly, the Tribunal was justified in fastening the liability upon the insured-owner of the offending vehicle.

9. He further contended that, despite service of notice, the insured of the offending vehicle failed to contest the matter and placed expert before the Tribunal. Therefore, at this stage, the appellant cannot contend that the driver was holding a valid driving licence. The document now produced along with the application under Order XLI Rule 27 of the CPC requires to be duly proved and its genuineness and validity are required to be tested by the Tribunal. Accordingly, he prays that the appeal be



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dismissed or, alternatively, the matter be remanded to the Tribunal for fresh consideration.

10. Learned counsel for the appellant-claimant in MFA No.3785/2021 contended that Tribunal is not justified in awarding meager compensation. However, he fairly contend that now that the owner-insured of the offending vehicle has placed the driving licence of the driver of the offending lorry, the matter may be remitted back to the trial Court for fresh consideration. However, upon such remand the insured of the offending vehicle is liable to pay the interest if liability fixed to the respondent No.2 - Insurance Company.

11. Learned counsel for respondent No.4-Insurance Company supports the impugned judgment.

12. I have given my anxious consideration, both on the submission and perusal of the documents including the IA No.2/2022.

13. As could be gathered from records, after the accident the charge sheet has been laid against the driver of the offending lorry for the reason that he was not possessing valid driving



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licence. It could also be gathered from records that the jurisdictional police have issued notice to the owner - appellant in MFA No.4245/2022 to produce the driving licence and other documents pertaining to the vehicle. However, he failed to produce the same. As such the police filed charge sheet against the driver of the offending vehicle. Further, the insured placed expert before the Tribunal.

14 In such circumstances, the tribunal has rightly fastened the liability against the insured-owner of the offending vehicle by exonerating the insurance company. However, on careful examination the documents i.e. the extract of driving license produced along with the IA No.2/2022, the same depicts that the driver of the offending vehicle one Appanna Naik had valid driving license as on the date of accident. However, veracity of this license has to be tested by the Tribunal by examining its author or authorized officer. Accordingly, I proceed to pass the following:

ORDER

- i. The appeals are ***allowed***.



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- ii. The judgment and award dated 23.06.2020 passed in MVC.No.1344/2016 by the V Additional District and Sessions Judge and Member, Additional M.A.C.T., XI, D.K. Mangaluru, sitting at Puttur, D.K is set aside.
- iii. The matter is remitted back to the Tribunal concerned for fresh consideration.
- iv. The parties shall appear before the Tribunal on **18.09.2026** without expecting any notice from the Tribunal.
- v. The parties are at liberty to produce additional documents and lead further evidence.
- vi. The Tribunal shall make endeavour to dispose of the matter within an outer limit of six months from the date of appearance of the parties.
- vii. The parties are directed to co-operate with the Tribunal for speedy disposal of the matter.
- viii. All contentions of the parties are left open.



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The amount deposited by the insured-appellant in MFA No.4245/2022 shall be transmitted to the Tribunal and shall be kept in a fixed deposit in any Nationalized Bank till disposal of the claim petition.

In view of disposal of the appeals, pending I.As., if any, stand disposed of.

SD/-
(RAJESH RAI K)
JUDGE

CR
List No.: 1 Sl No.: 14