



CNR: KAHC010310382022

NC: 2026:KHC:52549
MFA No. 4956 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 23RD DAY OF SEPTEMBER, 2026
BEFORE
THE HON'BLE MR. JUSTICE S RACHAIAH
MISCELLANEOUS FIRST APPEAL NO. 4956 OF 2022
(MV-D)

BETWEEN:

THE UNITED INDIA INSURANCE CO. LTD.,
3RD FLOOR, SUNDAR ARCADE,
OPPOSITE KSRTC BUS STAND,
MYSORE CITY, MYSURU.
NOW REPRESENTED BY
ITS REGIONAL MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
REGIONAL OFFICE, 6TH FLOOR,
KRISHI BHAVANA, HUDSON CIRCLE,
NRUPATHUNGA ROAD
BANGALORE – 560 001.

...APPELLANT

(BY SRI. H. C. VRUSHABHENDRAIAH., ADVOCATE)

AND:

1. SRI. SRINIVASASHETTY,
S/O LATE KARISHETTY,
AGED ABOUT 51 YEARS,
R/O DODDAPALYA VILLAGE,
ARAKERE HOBLI,
SRIRANGAPATNA TALUK,
MANDYA DISTRICT – 571 438.



NC: 2026:KHC:52549
MFA No. 4956 of 2022

CNR: KAHC010310382022

2. SMT. CHANNAJAMMA,
W/O SRINIVASASHETTY,
AGED ABOUT 41 YEARS,
R/O DODDAPALYA VILLAGE,
ARAKERE HOBLI,
SRIRANGAPATNA TALUK,
MANDYA DISTRICT – 571 438.
3. SRI. SOMANNA M. M.,
S/O MARIGOWDA.
AGED ABOUT 52 YEARS,
R/O MUNDUGADORE VILLAGE,
ARAKERE HOBLI,
SRIRANGAPATNA TALUK,
MANDYA DISTRICT – 571 438.

...RESPONDENTS

(BY SRI. JAGADEESH H. T., ADVOCATE FOR R1 AND R2;
R3 IS SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 20.11.2021, PASSED IN
MVC.NO.90/2019, ON THE FILE OF THE PRL. SENIOR CIVIL
JUDGE AND MEMBER, M.A.C.T. AT SRIRANGAPATNA, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE S RACHAIAH



CNR: KAHC010310382022

NC: 2026:KHC:52549
MFA No. 4956 of 2022

ORAL JUDGMENT

This appeal has been filed by the appellant being aggrieved by the order dated 20.11.2021 passed in MVC.No.90/2019 on the file of the Principal Senior Civil Judge and MACT, Srirangapatna.

2. The facts of the case would indicate that on 24.10.2018 at about 11.20 am, the deceased Sridhara who was riding his motorcycle bearing its registration No.KA-09-ES-0163 on Srirangapatna-Bannur Road, at that point of time, driver of the tractor drove the same in a rash and negligent manner and dashed against the deceased. Consequently, he fell down from his motorcycle and sustained grievous injuries to his head and other parts of the body. Due to the said accident, the injured Sridhara died on the spot. The claimants have filed a claim petition before the Tribunal and the Tribunal awarded a total compensation of Rs.18,95,000/- with interest at the rate of 6% per annum.

3. The submission of the learned counsel for the appellant/Insurance Company is that the award passed by the



NC: 2026:KHC:52549
MFA No. 4956 of 2022

Tribunal by ignoring the contributory negligence despite the said negligence has been proved by the respondent/Insurance Company is erroneous and not proper. It is further submitted that the Tribunal has not appreciated the fact that the motorcyclist had consumed alcohol to an extent of 64 mg/100 mg. The accident occurred due to loss of his control and dashed against the tractor. Hence, 50% has to be deducted as a contributory negligence is the submission of the learned counsel for the appellant.

4. On the contrary, learned counsel for the respondents/claimants justified the award passed by the Tribunal and prays to dismiss the appeal.

5. Having heard the learned counsel for the respective parties and also on going through the findings of the Tribunal in respect of negligence, the Tribunal did not consider the findings on the negligence. No doubt, the postmortem report at Ex.P10 would indicate that the deceased had consumed alcohol at the time of accident. The percentage of the alcohol in the blood was 64 mg/100 mg. However, the Tribunal opined that no



NC: 2026:KHC:52549
MFA No. 4956 of 2022

CNR: KAHC010310382022

document was produced by the insurance company to substantiate that the accident had occurred under the influence of alcohol and it has occurred due to the negligence of the deceased.

6. On going through the evidence and also document available on record, I am of the considered opinion that consuming alcohol while driving the vehicle itself is an offence and the negligence of the deceased cannot be overlooked. Hence, the 20% of contributory negligence is required to be fixed on the deceased.

7. In the light of the observation made above, I proceed to pass the following:

ORDER

- i) The petition is ***allowed-in-part***.
- ii) The award dated 20.11.2021 in MVC.No.90/2019 passed by the Principal Senior Civil Judge and MACT, Srirangapatna is modified.
- iii) The contributory negligence of 20% to be fastened upon the deceased.



NC: 2026:KHC:52549
MFA No. 4956 of 2022

CNR: KAHC010310382022

- iv) The respondent No.2-Insurance Company is liable to deposit 80% of the amount/award passed by the Tribunal and the same shall be deposited within six weeks from the date of receipt of certified copy of this order.
- v) The Registry is directed to communicate this order along with the records to the Tribunal for necessary compliance.

Sd/-
(S RACHAIAH)
JUDGE

NR/-
List No.: 1 Sl No.: 43