



CNR: KAHC010313102014

NC: 2026:KHC:51399
MFA No. 7402 of 2014

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 19TH DAY OF SEPTEMBER, 2026
BEFORE**

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.7402 OF 2014(MV-I)

BETWEEN:

SRI M MAHESH
S/O SRI MAYIGAIAH @ MAMIGAYYA
AGED ABOUT 23 YEARS
OCC: DRIVER
R/O KUKKURU, MALUR HOBLI
CHENNAPATTANA TALUK
RAMANAGAR DISTRICT - 571 501.

...APPELLANT

(BY SRI SURESH M LATUR, ADVOCATE)

AND:

1. SRI RAGHAVENDRA D.C.
S/O LATE CHANDRAPPA
R/O NO.4, 3RD MAIN
A D HALLI
BANGALORE - 560 079.
2. THE DIVISIONAL MANAGER
THE ORIENTAL INSURANCE CO. LTD.,
DO.NO.9, SUVARNA TOWERS
NO.70/5, NEAR BDA COMPLEX
VIJAYANAGAR, GOVINDARAJNAGAR
BANGALORE - 560 040.

...RESPONDENTS

(BY SRI A.N.KRISHNA SWAMY, ADVOCATE FOR R2;
R1 - NOTICE SERVED AND UNREPRESENTED)

Digitally signed
by ANUSHA V
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 04.03.2014 PASSED IN MVC NO.8033/2012 ON THE FILE OF THE XXI ADDITIONAL SMALL CAUSES JUDGE & XIX A.C.M.M, COURT OF SMALL CAUSES & MEMBER, MACT, BANGALORE, DISMISSING THE CLAIM PETITION FOR COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and decree dated 04.03.2014 passed by XXI Addl. Small Causes Judge & XIX ACMM, Small Causes Court, Bangalore (***Tribunal***) in M.V.C.no.8033/2012, this appeal is filed.

2. Sri Suresh M. Latur, learned counsel for appellant submitted that appeal was by claimant challenging dismissal of claim petition.

3. Brief facts leading to this appeal are that at 8.15 a.m. on 14.11.2012 when claimant was riding his scooter no.KA-05/K-7531 from Bengaluru towards Ramanagara, and



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was near S.J., Factory driver of a Qualis no.KA-03/AA-4779 drove it in rash and negligent manner and dashed against claimant's scooter causing accident. Immediately after accident, claimant was taken to BGS Hospital, Ramanagara and later to Rajarajeshwari Medical College. Despite treatment, he did not recover fully and sustained permanent disability/loss of earning capacity. Claiming compensation, he filed claim petition against owner and insurer of Qualis vehicle under Section 166 of Motor Vehicles Act, 1988 (***MV Act***).

4. On appearance, owner entered appearance and filed objections denying negligence in causing accident. It was alleged that claimant had created documents to implicate vehicle. It was, however, stated that vehicle was insured with second respondent and sought for dismissal of claim petition against owner.

5. Insurer filed objections admitting issuance of insurance policy to vehicle in question and its coverage as on date of accident. It, however, contended that owner had not complied with requirement of Section 134(c) or 158(6) of M.V.



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Act and there was no intimation about accident. Claim petition was also opposed on other grounds for dismissal.

6. Based on pleadings, tribunal framed following-

ISSUES

- i. Whether the petitioner proves that on 14.11.2012 at about 8.15 a.m. when the petitioner was riding his Kinetic Honda bearing regn. No.KA-05/K-7531, Opp. SJ Factory, Madapura Gate, Ramanagara Taluk, he met with an accident and sustained injuries due to the actionable negligence on the part of driver of the Qualis bearing reg. no.KA-03-AA-4779?
- ii. Whether the petitioner is entitled for compensation as prayed?
- iii. What order or award?

7. Thereafter claimant examined himself and another as P.Ws.1 and 2 and got marked Exs.P1 to P-12. Respondents did not lead any evidence.



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8. On consideration, tribunal dismissed claim petition on reasoning that in claim petition offending vehicle was described as a white Qualis car whereas in cross-examination claimant admitted that accident was caused by a red Qualis car, which would not be justified as entire prosecution records were against offending vehicle and owner had, in fact, pleaded guilty in criminal case. Therefore, award was unsustainable and sought for allowing appeal.

9. It was submitted that as on date of accident claimant was 21 years of age working as driver and earning Rs.15,000/- per month. He had sustained fracture of left elbow. He further submitted that claim petitions under M.V. Act follow summary procedure and for purposes of proof of negligence, reliance on prosecution papers would be sufficient. For said proposition, he relied on decision of Hon'ble Supreme Court in case of **Meera Bai and Ors. v. ICICI Lombard General Ins. Co. Ltd. and Anr.** reported in **2025 ACJ 1131**. Therefore, claimant was entitled for compensation and prays for awarding just compensation.



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10. On other hand, Sri A.N. Krishna Swamy, learned counsel for insurer opposed appeal. It was submitted that tribunal has assigned two specific reasons for dismissal. Firstly, about discrepancy insofar as colour of vehicle involved in accident and secondly inconsistency about manner of occurrence of accident, and therefore, finding of tribunal was justified.

11. Heard learned counsel and perused impugned judgment and award and records.

12. This appeal is by claimant challenging dismissal of claim petition. Therefore, point that arises for consideration is-

'Whether tribunal was justified in dismissing claim petition?'

13. In order to establish occurrence of accident due to actionable negligence on part of driver of insured vehicle, claimant relied upon prosecution records, namely, FIR, complaint, chargesheet, crime details form, wound certificate and Motor Vehicles Inspector's report marked as Exs.P1 to P6.



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He also deposed as PW.1. As per claimant, accident occurred on Bengaluru-Mysore road when Qualis vehicle dashed against scooter from behind. Prosecution records would reveal that complaint was filed by claimant's father two days after accident and reason for belated filing of complaint was about attending to his injured son at hospital. Ex.P5 wound certificate issued by Rajarajeshwari Medical College and Hospital, Bengaluru, mentions history of injuries as due to RTA. Claimant is examined at 10.30 a.m. on 14.11.2012. Injuries noted are grievous in nature. There is no indication about claimant having been admitted as a Medico-Legal Case. Ex.P6 motor vehicle inspector's report indicates minor damages to both vehicles. Ex.P10 outpatient card would record history of injuries as due to RTA at 9.30 a.m. due to collision of bike with car. Though in his deposition, claimant stated that immediately after accident, he was taken to Ramanagara hospital, there is no material produced from said hospital. Normally, as held by Hon'ble Supreme Court in **Meerabai's** case, claimant would be justified in relying on prosecution records for establishing actionable negligence against offending vehicle. However, same would not



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bar tribunal or Courts from looking into specific facts and circumstances which would establish manner of occurrence of accident. Admittedly, insurer did not lead any evidence.

14. Perusal of examination-in-chief of PW1 does not mention offending vehicle as red Qualis. In cross-examination, there is admission. But there is no further cross-examination by referring to prosecution records mentioning offending vehicle as a white Qualis car, whether mere error in description of colour of vehicle would be fatal and would depend upon specific facts and circumstances especially in this case where complainant is not eye-witness. Further, in instant case, though claimant has filed claim petition seeking for compensation on account of sustaining permanent physical disability, he has not examined Doctor to substantiate same.

15. In view of above facts and circumstances, it is found fit to remit matter back to tribunal for further evidence about treatment records of claimant from BGS Hospital, Ramanagara to also produce entire chargesheet records in criminal case if a photograph of vehicles involved in accidents are available to verify whether paint of offending vehicle



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smeared on accident vehicle. This would clarify whether there was false implication of insured vehicle for purposes of claim. Tribunal to consider same in light of fact that there was delay of two days in filing complaint and arrive at fresh conclusion based on additional evidence, if any, led by parties. Point for consideration is answered partly in negative.

16. Consequently, following -

ORDER

- i) Appeal is ***allowed***, judgment and decree dated 04.03.2014 passed by XXI Addl. Small Causes Judge & XIX ACMM, Small Causes Court, Bangalore, in M.V.C.no.8033/2012 is set aside.
- ii) Matter is remitted back to tribunal for fresh consideration by permitting both parties to lead additional evidence, if any, in light of observations made.



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iii) Since matter is of some vintage, tribunal is directed to expedite disposal. Parties are directed to co-operate for disposal.

iv) Registry to draw decree and remit trial Court records for tribunal forthwith. Since claimant as well as insurer are served, they are directed to appear before tribunal without awaiting fresh notice on **03.11.2026**. Tribunal shall issue notice to owner and proceed with matter thereafter, as stated above.

Sd/-
(RAVI V HOSMANI)
JUDGE

HNM
List No.: 1 Sl No.: 6