



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JANUARY, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 4497 OF 2017 (MV-D)

BETWEEN:

BRANCH MANAGER
THE ORIENTAL INSURANCE CO LTD
GIRISH COMPLEX
1ST FLOOR, AGRAHARA STREET
CHAMARAJANAGAR TOWN

AND ALSO
THE ORIENTAL INSURANCE CO LTD
44/45, RESIDENCY ROAD
LEO SHOPPING COMPLEX
BANGALORE-560025
BY ITS REGIONAL OFFICER

...APPELLANT

(BY SRI. H C VRUSHABHENDRAIAH, ADVOCATE)

AND:

1. SMT RATHNAMMA
W/O LATE H M SHIVANANJAPPA
AGED ABOUT 54 YEARS,
2. H S SHASHIDHAR
S/O LATE H M SHIVANANJAPPA
AGED ABOUT 36 YEARS,

BOTH ARE RESIDING AT

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH COURT
OF
KARNATAKA



NC: 2026:KHC:5576
MFA No. 4497 of 2017

VENAKAYYANACHATHRA VILLAGE
HARADANAHALLI HOBLI
CHAMARAJANAGAR
TALUK AND DISTRICT

3. R R SURESH
S/O LATE RAJU
RESIDING AT NOI.195/1
NEAR PEEPUL TREE
RAJAGHATTA HASSAN
(OWNER OF THE LORRY
BEARING REGISTRATION
NO.AP-21-X-1332)

...RESPONDENTS

(BY SRI. VEERABHADRA SWAMY H P, ADVOCATE FOR R1 & R2
R3 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 24.11.2016 PASSED IN MVC
NO.101/2016 ON THE FILE OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE AND MACT, AT CHAMARAJANAGAR,
AWARDING COMPENSATION OF RS. 6,78,000/- WITH
INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION
TILL THE DATE OF 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 insurer assailing the judgment and award dated 24.11.2016 passed in MVC No.101/2016 by the Principal District and Sessions Judge and MACT, Chamarajanagar¹.

2. The impugned judgment and award is assailed primarily on the ground that insured vehicle did not have a fitness certificate as also on the ground that the finding of contributory negligence made by the Tribunal is erroneous.

3. Having regard to the Division Bench judgments of this Court in the case of the ***Legal Claim Manager, IFFCO-TOKIO General Insurance Co.Ltd., vs. Smt.Laxmavva & Ors.,***² and ***The Oriental Insurance Co.Ltd., vs. Kumara & Ors.,***³ wherein it has been held that the absence of the fitness certificate is not a ground to exonerate the insurer

¹ hereinafter referred to as 'Tribunal'

² MFA Nos.100858/2022 c/w 103047/2022, Decided on 19.11.2025

³ MFA Nos.7792/2015 c/w 6449/2015, Decided on 21.12.2020



from payment of compensation, the said contention of insurer does not merit consideration.

4. With regard to the finding of contributory negligence, it is noticed that the Tribunal has adequately appreciated the manner of occurrence of the accident. It has been noticed that when the deceased was proceeding on his TVC Moped, and had given indication to take a turn, the insured lorry being driven in a rash and negligent manner came and hit the moped. The eye witness was examined as PW2. The criminal case was lodged against the driver of the lorry. The Tribunal has adequately appreciated the manner of occurrence of the accident to hold that the driver of lorry was negligent to the extent of 90% and deceased was negligent to the extent of 10%. No ground is made out by the appellant (insurer of the lorry) to interfere with said finding of negligence as held by the Tribunal.



5. The learned counsel for the appellant further contended that although at the time of filing of appeal, it has been contended that the quantum of compensation is on the higher side, having regard to the passage of time and keeping in mind the recent trend of judgments with regard to enhancement of compensation, he does not press the contention that the quantum of compensation awarded is on the higher side.

6. In view of the above, no ground is made out to interfere with the finding of the Tribunal. Accordingly, the above appeal is dismissed.

7. The amount deposited by the appellant be transmitted to the Tribunal for disbursement in terms of the award of the Tribunal.

Sd/-
(C.M. POONACHA)
JUDGE

Vmb
List No.: 1 Sl No.: 13