



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO. 6581 OF 2016 (MV-I)

BETWEEN:

OBALAPPA
S/O LATE MUNI VEERAPPA
AGED ABOUT 43 YEARS
R/AT NO.36, GEJJEGADHAHALLI
ARALU MALLIGE POST,
DODDABALLAPURA TALUK
BANGALORE NORTH - 562 103.

...APPELLANT

(BY SRI. SHRIPAD V. SHASTRI, ADVOCATE)

AND:

1. NATIONAL INSURANCE CO. LTD.,
R/O.SUBHARAM COMPLEX,
NO.144, M.G.ROAD, BANGALORE - 01
POLICY ISSUED BY ITS BRANCH
OFFICE AT NO.1092/2,
NEW EXTENSION,
NEAR DOOMLIGH CIRCLE
KOLAR - 563 101
IN POLICY NO.604102/31/12/6100001607
VALID FROM 20.07.2012 TO 19.7.13
BY ITS MANAGER.

2. SMT. THARA BAI
W/O RAJU, MAJOR
R/AT NO.357/19, 1ST MAIN,
9TH CROSS, PRASHANTH NAGAR
VIJAYANAGAR, BANGALORE - 560 070

...RESPONDENTS

(BY SRI. K. SRIDHARA, ADVOCATE FOR R1;
VIDE ORDER DATED 22.04.2019, NOTICE TO R2 BY WAY
OF PAPER PUBLICATION IS ACCEPTED)



THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 29.05.2015 PASSED IN MVC NO.2622/2013 ON THE FILE OF THE XIII ADDITIONAL SMALL CAUSE JUDGE & MEMBER, MACT, BENGALURU, DISMISSING THE CLAIM PETITION FOR COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

Being aggrieved by the dismissal of the petition by learned XIII Additional Small Causes Judge & Member, MACT, Bangalore in MVC No.2622/2013, the petitioner has approached this Court in appeal.

2. The factual matrix of the case is that on 14.11.2012 at about 11.30 P.M. when the petitioner along with his family members was crossing road on NH-4 i.e., Bangalore-Tumkur road near Bydarahalli Gate, a car bearing registration No.KA 01 Z 940 came from Tumkur towards Bengaluru in rash and negligent manner and dashed against the petitioner. The petitioner fell down and suffered grievous injuries and he was shifted to Victoria Hospital, Bengaluru. While he was taking treatment in the hospital, his son Puneeth lodged complaint to the Police on 16.11.2012. In the complaint, the complainant had mentioned that he had seen the number of the car in the



light of High Mast, which was bearing number KA01-Z-940 and the driver had not stop the vehicle and had sped away. Then he had secured his relatives - Narayanappa and Lokesh and then shifted the injured to the hospital. Therefore, it was mentioned that there was delay in filing the complaint. The said complaint was investigated by the concerned police and ultimately charge sheet was filed against the driver of the car.

3. The petitioner filed the petition seeking compensation from the owner and insurer of the said car. On issuance of notice respondent No.1/Insurer appeared, but the insured who is respondent No. 2 did not appear and as such he was placed ex-parte. Respondent No.1 contended that the petition is false, frivolous and there was no such accident as alleged by the petitioner. *Interalia*, it was also contented that the accident was not informed to the Insurance company and the compensation claimed is highly exorbitant and imaginary and as such the petition is liable to be dismissed.

4. On the basis of the above pleadings, the Tribunal framed the following issues:



"i) Whether petitioner proves that he has sustained injury in RTA arising out of accident alleged to have been taken place on 14.11.2012 at about 11.30 p.m. in NH-4 near Badralli Gate, Bengaluru due to the rash and negligent driving of the car bearing registration No.KA 01 Z 940 ?

ii) Whether petitioner is entitled for compensation ?
If so, what amount and from whom ?

5. The petitioner was examined as PW1 and Exs.P1 to P11 were marked. Respondent No.1/Insurance company examined its official as RW.1 and got summoned the complainant and the Investigating Officer, who were examined as RWs.2 and 3. Exs.R1 to R4 were marked.

6. After hearing the arguments of both sides, the Tribunal came to the conclusion that there is no evidence to show that the vehicle owned by respondent No.2 and insured with respondent No.1 was involved in an accident as such and dismissed the petition. The Tribunal, despite framing an issue regarding quantum of compensation did not venture into the said issue and did not answer the same. Being aggrieved by the said judgment, the petitioner is before this Court.



7. The moot question before this Court is, whether the accident had occurred involving the car owned by respondent No.2 and insured with respondent No.1.

8. Sri Shripad V. Shastri, learned counsel appearing for the appellant/petitioner would submit that appreciation of the evidence by the Tribunal is not proper. He pointed out that RW.1 who is the official of the company himself has admitted that the driver had ran away from the spot after parking the vehicle at the spot. He also pointed out that the spot mahazar of the Police disclosed these facts. He pointed out that there may be discrepancies in the testimonies of PW.1 and RW.2, that will not be of much importance since a Statutory Authority like Police have investigated the matter and ultimately they have filed charge sheet against the driver of the car. Therefore, he submits that the Tribunal fell in error in holding that there is no sufficient proof to show that the accident was caused by the car owned by respondent No.2.

9. Per contra, Sri K.Sridhara, learned counsel appearing for respondent/Insurance company would submit that the testimony of PW.1 and RW.2 would go to show that



they came to know about the registration number of the car on the basis of number plate which had fell down on the spot. This aspect is not found in the complaint and therefore the testimony of PW.1 and RW2 is doubtful. Since there is discrepancy in how the police came to know about the number of the car, this aspect should have been clarified by the petitioner and due to such discrepancy, there is a doubt in respect of involvement of the car. Therefore, he supports the impugned judgment of the Tribunal and seeks dismissal of the appeal.

10. The perusal of the judgment of the Tribunal shows that the Tribunal mainly relied on the testimony of PW.1 and RW.2 and the FIR at Ex.P1. It is observed that PW.1 had not stated about the presence of RW.2 at the spot. Therefore, the testimony of RW.2 becomes doubtful. It also observed that there is no mention of fallen number plate being furnished to the Police and therefore the Police had come to know about the involvement of the said car. The Investigating papers are silent and the Investigating Officer who deposed as RW.3 denies that any number plate was handed over to the Police by PW.1 or



RW.2. Therefore, on the basis of this discrepancy, the Tribunal holds that the involvement of the said car is not proved.

11. It is pertinent to note that in an accident brought under tort, the requirement of proof is governed by the rule of preponderance of probability. The strict rules of evidence as applicable to a criminal case is not contemplated under the Provisions of Motor Vehicles Act. It is an inquiry which has to be held by the Tribunal and based on the rule of preponderance of probability, the evidence has to be considered and weighed. It cannot be overlooked that the principles of legislation which govern a proceeding under Section 166 of Motor Vehicles Act is a beneficial one and not an adversarial one. With this background, the evidence on record needs to be considered.

12. The first information about the accident was recorded by the hospital authorities, which could be found at Ex.R4 which is MLC record of Victoria Hospital. In this document, it is categorically mentioned that the petitioner was admitted to the hospital with alleged history of hit by a car while crossing the road and accident had occurred at about 11 pm. The first information of accident recorded holds that it is a



car which was involved in an accident. The next record which contains the vehicle number etc., is the complaint filed by RW.2 before the Police as per Ex.P1. In Ex.P1, RW.2-Puneeth states that on 14.11.2012, he, his father and other members of the family were returning and at about 11.30 pm, while they were crossing NH-4, a car was driven negligently and dashed against the petitioner. It is stated that he had seen the car number in the light of High Mast and it was bearing KA 01 Z 940. The police conducted the spot mahazar on the same day at about 12.45 pm and in the spot mahazar also the car number is mentioned. It is stated that the car driver had not stopped the vehicle and had gone away. The statement of PW.1/petitioner was recorded by the police on the same date and in the said statement also he had stated that his son had seen the vehicle number and the driver of the car had not stopped the car after the accident. The police, after complete investigation, have filed the charge sheet as per Ex.P5.

13. Petitioner in his cross-examination by the insurance company stated that the number plate fell over the ground and his daughter Pushpalatha collected those numbers and gave it to his brother-in-law and it may be noted that it was elicited



that his brother-in-law/Narayanaswamy had lodged the complaint, but in fact it was his son Puneeth who had lodged the complaint. It is also elicited that his wife and daughter were also with him. It is pertinent to note that no question was posed to him in the cross-examination to enquire whether the said Puneeth was with him or not. If at all the question was posed, he would have answered about the presence of his son Puneeth which would have thrown light on the testimony of RW.2. It is also elicited in the cross-examination that he do not know respondent No.2/Tharabai. Therefore, from the testimony of PW.1, it may be inferred that he and his family members including RW.2 were returning to his house from a family function and while crossing the road, the accident happened and falling of the number plate was elicited for the first time in the cross examination of PW.1 and this aspect is not established by the testimony of Investigating Officer. The fact remains that at the time of admission to the hospital, the involvement of the car was mentioned. It is also clear that the driver had not stopped the car after the accident and as such he has been prosecuted for such hit and run case.



14. The testimony of RW.2, who is an eye witness to the accident shows that since he did not support the version of the insurance company, he was treated hostile. In the cross-examination, it is elicited as below:

" My father was with me at a distance of 2-3 ft., the front left portion of the case dashed against my father. Myself and my father were crossing the road and my sister and mother were at the edge of the road and were about to cross it. It is correct to suggest that since there was dark we could not see the vehicle. It is not correct to suggest that even the car in question is not at all involved in the accident for the sake of compensation we have falsely implicated.

It is correct to suggest that the car in question is the vehicle which has caused the accident to my father."

15. It may be noted that in the cross examination there is nothing which suggests that the car owned by respondent No.2 and insured by respondent No.1 was not involved in the accident. On the other hand, there is a suggestion that the car in question was involved in the accident. This definitely goes against respondent No.1/Insurance company and therefore it creates dent in the defence which has been built by it.

16. There is another aspect which needs to be noted. In the cross-examination of RW.1/official of insurance



company, it was suggested to him that the driver had run away from the spot after leaving the car. Curiously, the suggestion has been answered in the affirmative by the official of the insurance company. Therefore, it is evident that the official of the insurance company has not disclosed certain aspects which was within his knowledge. Therefore, the testimony of RW.1 is also doubtful. Under these circumstances, applying the principles of preponderance of probabilities, it has to be held that the investigation by the police and statement of RW.2 were in favour of the petitioner and the Tribunal fell in error in doubting the involvement of the car owned by respondent No.2. It is also pertinent to note that there is nothing to suggest either in the cross examination of PW1 or RW2 that there is a nexus between the petitioner and respondent No.2 owner of the car, therefore a false implication of the vehicle has been made. Under these circumstances, the impugned judgment of the Tribunal is erroneous and it has not considered the rule of preponderance of probability in the right spirit while coming to the conclusion. In the result, the appeal deserves to be allowed.



17. The Tribunal has not determined the compensation though an issue was framed to that effect. Obviously, the evidence was available before it. Therefore, it has shirked its responsibility from answering issue No.2. It is settled principle of law that a Court has to answer all the issues when a particular issue is not considered as a preliminary issue. Therefore, the matter needs to be remitted to the Tribunal for determination of the compensation amount.

18. For the aforesaid reasons, I pass the following:

ORDER

- i) The appeal is allowed.
- ii) The impugned judgment and award dated 29.05.2015 passed by the Tribunal is set aside.
- iii) The matter is remitted to the Tribunal for determining Issue No.2 and pass appropriate orders on quantum of compensation amount.



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iv) Both the parties are directed to appear before the Tribunal on 10.03.2026 without awaiting for fresh notice by the Tribunal.

Sd/-
(C M JOSHI)
JUDGE

AKC
List No.: 1 Sl No.: 7