



CNR: KAHC010441222014

NC: 2026:KHC:55665
MFA No. 8094 of 2014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO. 8094 OF 2014 (MV)

BETWEEN:

MISS KAVYAPRIYA V.,
D/O C.VENUGOPAL
AGED ABOUT 24 YEARS,
RESIDING AT NO.20,
10TH CROSS,
R.A.ROAD, EJIPURA,
VIVEKANAGARA,
BENGALURU - 560 047.

...APPELLANT

[BY SRI P.SURESH, ADVOCATE FOR
SRI G.SUKUMARAN, ADVOCATE (PH)]

AND:

1. THE ORIENTAL INSURANCE CO.LTD.,
BENGALURU REGIONAL OFFICE,
44/45, LEO SHOPPING COMPLEX,
RESIDENCY ROAD CROSS,
P.B.NO.25123,
BENGALURU - 560 026,
REPRESENTED BY ITS
INCHARGE MANAGER.
2. JOHN M.THOMAS,
S/O THOMAS M.,
MAJOR IN AGE,
RESIDING AT
PUTHENPURACKAL HOUSE,

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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CHUMATHRA POST,
THIRUVALLA - 689 103,
KERALA STATE.

...RESPONDENTS

[BY SRI S SRISHAILA, ADVOCATE FOR R1 (VC);
NOTICE TO R2 - SERVED & UNREPRESENTED]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 24.07.2014 PASSED IN MVC
NO.1324/2013 ON THE FILE OF THE III ADDITIONAL SENIOR
CIVIL JUDGE, MACT, COURT OF SMALL CAUSES, BENGALURU,
DISMISSING THE CLAIM PETITION FOR COMPENSATION.

THIS APPEAL IS COMING ON FOR *Dictating Orders*,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 24.07.2014
passed by Senior Civil Judge and JMFC and MACT, Periyapatna
(**'Tribunal'**) in MVC no.1324/2013, this appeal is filed.

2. Sri P Suresh, learned counsel appearing for Sri G
Sukumaran, advocate for appellant submitted that appeal was
by claimant. Brief facts leading to this appeal as per claimant
are that at about 7:45 p.m. on 21.11.2012, when claimant was
riding motorcycle no.KA-03-HM-9876 near Ejipura main road,



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rider of motorcycle no.KL-28-7570 rode it in rash and negligent manner due to which it dashed against claimant's motorcycle. In accident, he sustained grievous injuries and despite treatment at St.Philomena Hospital, Mallige Medical Centre and Shanthi Hospital and Research Centre Pvt. Ltd., Bangalore, she did not recover fully and sustained loss of earning capacity. Claiming compensation she filed claim petition under Section 166 of Motor Vehicle Act, 1988 (**MV Act**) against owner and insurer of offending motorcycle.

3. On appearance only respondent no.1 filed objection opposing claim petition in *toto*. Based on pleadings, tribunal framed following:

ISSUES:

1. *Whether the petitioner proves that she had sustained injuries in a Motor Vehicle Accident that was taken place on 21-11-2012, at about 7.45p.m near Ejipur main road, 27th cross, Bengaluru, involving vehicle bearing Reg. No.KL-28-7570 belonging to Respondent No.2 and insured with Respondent No.1?*
2. *Whether the petitioner proves that the accident has mainly occurred due to the rash and negligent driving of the said vehicle?*
3. *Whether the petitioner is entitled for compensation from the respondents, If so what is the quantum?*



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4. What order?

4. In trial claimant, Praveen C. and Dr.S. Ramachandra deposed as PWs.1 to 3 and got marked Exs.P1 to 21. Respondents did not lead evidence.

5. On consideration, tribunal answered issues no.1 to 3 in negative and issue no.4 by dismissing claim petition, leading to this appeal. It was submitted, reasons assigned for dismissal of claim petition by tribunal were delay in filing complaint, non-examination of doctor who treated claimant etc. were untenable. It was submitted, immediately after accident claimant was taken to St.Philomena Hospital. And Ex.P6 wound certificate issued by said hospital, discloses history of injuries as due to RTA on 21.11.2012. Claimant examined Doctor who treated her at Shanthi Hospital as PW.3, who stated that ACL Tear can be confirmed only by MRI Scan and such patients cannot move confidently and fold knee freely and stated that from 21.11.2012 till 10.02.2013 claimant was on conservative treatment. And based on his experience even before MRI Scan, he had diagnosed injury as ACL Tear and complete recovery usually took 3-4 months. It was submitted, since PW.3 had



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referred to treatment taken by claimant in different hospitals, non-examination of other Doctor/s would not be fatal. And Ex.P6 disclosed intimation given to police. Thus, there was sufficient explanation for delay in filing complaint and dismissal of claim petition would not be justified. On said ground, sought for allowing appeal.

6. On other hand, Sri Srishaila, advocate for respondent no.1 (insurer), opposed appeal by submitting that claim was fraudulent by false implication of insured vehicle. It was submitted, accident in question was self-accident. As claimant's mother was employee of Jayadeva Hospital, medical records were created and police complaint was filed after 11 days. This was reason for non-examination of Doctor from St.Philomena Hospital. It was submitted injuries sustained were simple in nature, no fracture sustained and treatment was conservative as out-patient. Even in-patient records of Mallige Medical Centre were created and produced without examining Doctor. On said ground sought for dismissal of appeal.

7. Respondent no.2 – owner of offending vehicle is served and unrepresented.



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8. Heard learned counsel, perused impugned award and record.

9. Since appeal is by claimant against dismissal of claim petition, point that arises for consideration is:

Whether dismissal of claim petition requires interference by awarding suitable compensation?

10. Appeal is against dismissal of claim petition. Award reveals reasons for dismissal of claim petition were that in cross-examination, PW.1 admitted suggestion that injuries were simple in nature and self-fall were denied. Thereafter tribunal refers to insurer's contention about 11 days delay in lodging complaint. It observed, since insurer has denied accident claimant ought to have led evidence to establish same and drawing adverse inference for non-examination of Doctor from Mallige Hospital, fact that claimant was an engineer and her mother employed at Jayadeva Hospital drew adverse inference and dismissed claim petition. Tribunal further referred to admission by PW.1 about sustaining simple injuries and taking treatment as out-patient in St.Philomena Hospital and Mallige Medical Centre contradicting Ex.P7 – Discharge Summary which



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showed in-patient treatment from 10.02.2013 to 12.02.2013 which was 80 days after accident. Noting above discrepancies, claim petition was dismissed.

11. As per claimant accident occurred at 7:45 pm on 21.11.2012. In claim petition as well as in her deposition claimant stated immediately after accident she was taken to St.Philomena Hospital. Ex.P6-wound certificate of said hospital mentions examination of claimant at 8:00 pm as out-patient and noting injuries as simple. Ex.P7-discharge summary issued by Shanthi Hospital indicates date of admission as 10.02.2013 and discharge after two days. Interestingly Ex.P8 – lab test reports of Shanthi Hospital show date as 08.02.2013. Ex.P9- OPD letter of Mallige Centre mentions date of examination as 22.11.2012. Ex.P10 - MRI report of 23.11.2012 shows ACL tear. Though Ex.P10 identified ACL tear on 23.11.2012 itself, admission of claimant to hospital for treatment after 80 days was found suspicious by tribunal. Explanation by PW.3 that ACL tear can be identified only by MRI scan, that he diagnosed it by experience patient cannot move freely and bend leg and recovery taking three months would appear contrary to record.



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Hence, disbelief of claimants version by tribunal would appear justified. Point for consideration is answered in negative.

12. Consequently, following:

ORDER

Appeal is ***dismissed***.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

YKL
List No.: 1 Sl No.: 51