



CNR: KAHC010447172023

NC: 2026:KHC:53424
MFA No. 5948 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.5948 OF 2023(MV-D)

BETWEEN:

SMT. PARVATHAMMA,
W/O LATE DEVARAJEGOWDA,
AGED ABOUT 70 YEARS,
R/O NO.1668, H.P. ASHIRVAD COMPLEX,
R.C. ROAD, NEAR NCC COMPLEX,
HASSAN DISTRICT - 573 201.

...APPELLANT

(BY SRI. RAVI M.M., ADVOCATE)

AND:

SHRI RAM GENERAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE, 1ST FLOOR,
10TH CROSS, NEAR WILSON GARDEN,
BANGALORE - 560 027.

...RESPONDENT

(BY SRI. ANUP SEETHARAM RAO., ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 29.04.2023 PASSED IN MVC NO.850/2020 ON THE FILE OF THE MEMBER, ADDITIONAL M.A.C.T., HASSAN, DISMISSING THE CLAIM PETITION FOR COMPENSATION.

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

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CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL JUDGMENT

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'M.V. Act') by the claimant challenging the judgment of dismissal and award dated 29.04.2023 in M.V.C.No.850/2020 on the file of the Additional Senior Civil Judge and Additional M.A.C.T., Hassan (in short, 'the Tribunal').

2. Parties would be referred with their ranks, as they were before the Tribunal for sake of convenience and clarity.

3. The claimant being the wife of the deceased Devarajegowda has filed the claim petition under Section 163-A of M.V. Act, claiming compensation of Rs.12,00,000/- with interest at 12% p.a., in respect of the death of her husband in road traffic accident that has taken place on 20.02.2019 at 03.00 p.m., involving the

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car bearing Reg.No.KA-13/M-6456 (in short 'offending car') near Taj Hotel, Karabailu Village.

4. The case of claimant in nutshell is that Devarajegowda was travelling in the offending car and because of the rash and negligent driving of the driver of the car; it became toppled on left side. As a result of which, Devarajegowda sustained grievous injuries. Immediately, he was shifted to Adichunchanagiri Hospital, wherein he succumbed to the injuries in spite of the treatment. Prior to the accident, deceased was doing agriculture and was earning Rs.42,000/- per annum. Due to his death, claimant is deprived of love and affection of her husband. The respondent is the insurer of the offending car. Hence, claimed compensation.

5. Respondent-insurance Company filed its objection statement wherein it contended that the deceased himself was the insured and aged about 70 years as on the date of accident. As per the claim petition,

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he was earning Rs.42,000/- per annum. Hence, the claim petition under Section 163-A of M.V. Act is not maintainable in law. The deceased was the owner of the offending car and he was insured with the respondent-insurance Company. Hence, the insured cannot be a third party and cannot claim compensation from the insurance Company. Thus, it is not liable to pay the compensation. The Tribunal has no jurisdiction to entertain the petition. The Section 163-A of M.V. Act came into existence only to pay compensation to third party victims on no-fault principle and not to indemnify the contractual liability.

6. After framing of issues, recording evidence and hearing arguments of both sides, the Tribunal came to the conclusion that the claimant is not entitled for compensation because the deceased is the owner-cum-insured of the car in which he was travelling and the respondent is the insurance Company. It is not the claim petition filed by the third party and it is only a contractual



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liability between the claimant and insurance Company. Further, the claimant was having income more than Rs.40,000/-. Hence, dismissed the claim petition.

7. Aggrieved by the same, the claimant is before this Court.

8. Heard the arguments of both sides.

9. Learned counsel for the appellant Sri Ravi M.M. would submit that there is coverage of risk of the owner-cum-driver of the car in the policy executed in favour of the deceased by the respondent. Hence, the claimant being the wife of the deceased is entitled to claim compensation from the respondent/insurance Company. But this fact is not considered by the Tribunal in an appropriate manner. Hence, prayed for allowing the appeal and to grant compensation to the claimant under Section 163-A of the M.V. Act.

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10. Learned counsel for the respondent Sri Anup Seetharam Rao would submit that there is contractual liability between the respondent and the deceased. The compensation amount can be claimed by the claimant before respondent/insurance Company and not by any claim petition before the Court. Section 163-A of M.V. Act applies only to the cases where third party liability is involved and not in any other such circumstance. In this regard, he places reliance on the judgment of Hon'ble Apex Court in ***Dhanraj v. New India Insurance Co. Ltd. and another¹***. Hence, prayed for dismissal of the petition.

11. Having heard arguments of both sides, verifying the appeal papers and the Trial Court records, the point that arises for consideration is:

"Whether the claim petition under Section 163-A of the M.V. Act filed by the insured against insurer is maintainable in law, when income of the deceased is more than Rs.40,000/-?"

¹ ***reported in (2004) 8 SCC 553***



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12. Finding of this Court on the above point is in **Negative** for the following:

REASONS

13. The facts which are established before the Tribunal are that the deceased was travelling in the offending car and it was being driven by the driver who was holding valid and effective driving licence and at that time, the accident had taken place and the car toppled on the left side of the road, i.e. on 20.02.2019 at 03.00 p.m. near Taj Hotel, Karabailu Village from Hassan to Bengaluru road and because of that the husband of the claimant Devarajegowda sustained injuries and he succumbed to those injuries in Adichunchanagiri Hospital.

14. It is not in dispute that the deceased was the owner of the offending car and the policy stands in the name of deceased Devarajegowda with respondent-insurance Company. Ex.R.2- the insurance policy reveals that PA cover under Section III for owner-Driver (CSI) is



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Rs.15,00,000/- and for this additional premium was paid by the deceased. It is also not in dispute that the claimant is the wife of the deceased and dependent on the deceased.

15. Admittedly, the claim petition is filed by the wife of insured against the insurer in respect of the death of the injured in the road traffic accident that has taken place involving the insured's car. This is the contractual liability between the insurer and insured. Petition under Section 163-A can be filed by the third parties claiming compensation and not by the insured himself.

16. In the claim petition itself, the income of the deceased is mentioned as Rs.42,000/-.

17. The benefit under Section 163-A of the M.V. Act is available only to those persons whose income is less than Rs.40,000/-. It is a structured formula, under which, the legislature thought that the persons who need not establish the rashness or negligence on the part of the

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driver of the vehicle and they can obtain compensation speedily and hence, this structured formula is came into existence. In this regard, this Court places reliance on the judgment of the Hon'ble Apex Court in **The Oriental Insurance Company Limited vs. Hansarajbhai Kodala²**.

18. This Court further places reliance on the judgment of the Hon'ble Apex Court in **Deepal Girishbhai Soni and Others vs. United India Insurance Company Limited, Baroda³**, the Hon'ble Apex Court at paragraph No.67 held as follows:

"67. We, therefore, are of the opinion that Kodala has correctly been decided. However, we do not agree with the findings in Kodala that if a person invokes provisions of Section 163-A, the annual income of Rs.40,000 per annum shall be treated as a cap. In our opinion, the proceeding under Section 163-A being a social security provision, providing for a distinct scheme, only those whose annual income is up to Rs.40,000 can take the

² reported in **AIR 2001 SC 1832**

³ reported in **(2004) 5 SCC 385**



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benefit thereof. All other claims are required to be determined in terms of Chapter XII of the Act."

19. In the aforesaid judgment, the Apex Court held that it is not agreeable with the finding in **Kodala's** case cited supra that if a person invokes provision of Section 163-A of the M.V. Act, the annual income of Rs.40,000/- per annum shall be treated as a cap and the proceedings under Section 163-A of M.V. Act being a social security provision providing for a distinct scheme only those whose annual income is up to Rs.40,000/- can take the benefit thereof. All other claims are required to be determined in terms of Chapter XII the M.V. Act.

20. Thus, the Hon'ble Apex Court specifically held that to apply the provision of Section 163-A of M.V. Act, the claimant has to establish that his income is upto the limit mentioned in the said Section i.e., in the second Schedule upto Rs.40,000/- and this is made with a view that only certain class of people i.e. whose income is

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below poverty line shall get the benefit. The Statute cannot be taken in a lighter way. When the Statute makes some limit with some intention, the Courts cannot dilute it.

21. Further, in **Deepal's** case cited supra at paragraph Nos.24 and 25, the Hon'ble Apex Court held as under:

"24. Section 163-A was inserted by Act 54 of 1994 which came into force from 14.11.1994. The said provision has been inserted to provide for a new pre-determined structured formula for payment of compensation to road accident victims on the basis of age/ income of the deceased or the person suffering permanent disablement.

Sections 163-A and 163-B read thus:

*"163-A. Special provisions as to payment of compensation on structured- formula basis. -
(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.*

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Explanation. - For the purposes of this sub-section, 'permanent disability' shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

163-B. Option to file claim in certain cases. - Where a person is entitled to claim compensation under Section 140 and Section 163-A, he shall file the claim under either of the said sections and not under both."

25. The second schedule referred to in Section 140 of the Act provides for a structured formula for the purpose of grant of compensation to a third party involved in fatal accident/injury. By reason thereof a multiplier system is introduced pursuant where to and in furtherance whereof the amount of compensation is required to be calculated having regard to the age of the victim and his annual income. However, in terms of the note appended to the said Schedule the amount of compensation so

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arrived at in the case of fatal accident, the claims is to be reduced by one-third, in consideration of the expenses which the victim would have incurred towards maintaining himself, had he been alive.

Clause (2) of the said Second Schedule provides that the amount of compensation shall not be less than Rs. 50,000/-. It also provides for grant of compensation under several heads, namely, (3) General Damages in case of death, (4). General Damages in case of injuries and disabilities, (5). Disability in non-fatal accidents and (6) notional income for compensation to those who had no income prior to accident. However, the maximum amount which is to be paid under the different heads had also been specified.

Chapter XII deals with constitution of claims tribunals, application for compensation, option regarding claims for compensation in certain cases, award of the claims tribunal etc. Sections 166, 167 and 168 read thus:

"166. Application for compensation. - (1) An application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made-

(a) by the person who has sustained the injury; or

(b) by the owner of the property; or

(c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or



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(d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed:

Provided that where no claim for compensation under section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.

*(3) *** (4) The Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of section 158 as an application for compensation under this Act.*



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22. Admittedly, in the present case, in the petition itself, the claimant stated that the income of deceased is at Rs.42,000/- p.a. and thus, it exceeds the limit prescribed under the Act. Hence, definitely the claim petition is not maintainable in law.

23. At this juncture, the learned counsels for the appellant and the respondent would submit that it is always open for the claimant to get the relief by filing a proper application before the respondent/insurance Company and the insurance Company will consider the application in accordance with law.

24. Hence, this Court passes the following:

ORDER

- i. The appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is ***dismissed*** by confirming the judgment and award dated 29.04.2023 in M.V.C.No.850/2020 on the file of the Addl. Senior Civil Judge and Addl. M.A.C.T, Hassan.

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- ii. However, the liberty is reserved to the claimant to approach the respondent/insurance Company to claim compensation as agreed between parties in the insurance policy because there is insurance coverage for the owner/driver upto Rs.15,00,000/-.

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(GEETHA K.B.)
JUDGE

SSD

List No.: 1 Sl No.: 44