

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.10/2022 (MV-D)

BETWEEN:

1. SMT. NAGARATHNAMMA
W/O LATE K.V. MUNE GOWDA
AGED ABOUT 39 YEARS.
2. KUM. K.M. SAHANA
D/O LATE K.V. MUNE GOWDA
AGED ABOUT 21 YEARS.
3. MASTER K.M. CHARAN KUMAR
S/O LATE K.V. MUNE GOWDA
AGED ABOUT 18 YEARS.
4. SMT. VENKATAMMA
D/O CHIKKARAMAYYA
W/O VENKATESHAPPA
AGED ABOUT 67 YEARS.

ALL ARE R/AT BAYLANARASAPURA
KONDRAHALLI
HOSAKOTE TALUK
BENGLAURU RURAL DISTRICT- 562122.

...APPELLANTS

(BY SRI. K.T. GURUDEV PRASAD, ADV.,)

AND:

1. M/S. IFFCO-TOKIO GENERAL INSURANCE CO., LTD.,
MOTORS CLAIMS HUB, NO.141

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA

4TH FLOOR, SRI SHANTHI TOWERS
OPP. CUPA, 3RD MAIN
EAST TO NGEF LAYOUT
KASTURINAGAR
BENGALURU 560 043.

2. MR. SHIVAKUMAR
S/O DHYVANNA
NAGARENAHALLI VILALGE AND POST
HOSAKOTE TALUK
BENGALURU RURAL DISTRICT - 562129

...RESPONDENTS

(BY SRI. B. PRADEEP, ADV., FOR R1
SRI. LOKESHA D.K. ADV., FOR R2)

THIS MFA IS FILED U/S.173(1) OF MV ACT, PRAYING TOCLL FOR THE RECORDS ON THE FILE OF THE JUDGMENT AND AWARD PASSED BY THE XV ADDITIONAL SMALL CAUSE JUDGE AND XXIII ACMM AND MEMBER, MACT AT MAYOHALL UNIT, BENGALURU, (SCCH-19) DATED 17.04.2021 PASSED IN MVC NO.5001/2019, PREFER THIS MEMORANDUM OF MISCELLANEOUS FIRST APPEAL TO SET-ASIDE THE JUDGMENT AND AWARD DISMISSING THE CLAIM PETITION THEREBY GRANT COMPENSATION BY ALLOWING THE CLAIM PETITION BY AWARDING COMPENSATION WITH COURT COST AND INTEREST AGAINST THE RESPONDENTS, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON 14.07.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY **VIJAYKUMAR A. PATIL J.**, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This appeal is filed by the claimants challenging the judgment and award dated 17.04.2021 passed in MVC No.5001/2019 by the XV Additional Small Cause Judge and XXIII ACMM, Member, MACT, Bengaluru (SCCH-19) (for short, 'Tribunal').

2. Though this appeal is listed for admission, with the consent of learned counsel for the parties, it is taken up for final disposal.

3. The brief facts leading to filing of this appeal are that the wife, children and mother of late K.V.Mune Gowda filed a claim petition contending that on 08.06.2019, Sri.K.V.Mune Gowda was travelling as a pillion rider in a motorcycle bearing registration No.KA-54 EN-3741 on Doddakoliga-D.Shettahalli Road. When they reached near Anjaneya temple opposite road, the rider of the vehicle rode the motorcycle in a rash and negligent

manner and suddenly, a street dog entered the road and the rider dashed the dog which resulted in the accident. Due to the impact, the pillion rider fell down, sustained severe injuries and he was shifted to Sai Ranga Hospital, thereafter to Vydehi Hospital and was admitted as an inpatient and later succumbed to the injuries. It is averred that the deceased was aged about 45 years, working as an agricultural Coolie and used to earn Rs.20,000/- p.m. and due to his untimely death, the claimants being the dependents have sought compensation.

4. The respondent No.1 filed written statement denying the averments made in the claim petition, more particularly with regard to the aspect of negligence by the rider of the motorcycle which was insured with them. It is averred that the deceased was riding the motorcycle involved in the accident and it was a self-fall and therefore, the claimants are not liable to any compensation. It is further averred that the deceased was

neither wearing a helmet nor having a driving licence and sought for dismissal of the claim petition.

5. The Tribunal framed the issues and recorded the evidence. The claimants examined two witnesses namely PW-1 and PW-2 and got marked Exs.P1 to P16. The respondents also examined two witnesses namely RW-1 and RW-2 and got marked Exs.R1 and R2. The Tribunal, on appreciation of the evidence, rejected the claim petition by recording the reasons that the deceased himself was riding the motorcycle at the time of accident, he himself fell down from the motorcycle, sustained injuries and died in the hospital. Being aggrieved, the claimants are in appeal.

6. Sri.K.T.Gurudev Prasad, learned counsel for the appellants submits that the Tribunal committed a grave error in appreciating the oral and documentary evidence placed by the claimants. It is submitted that Exs.P15 and P16 are the copy of police intimation and MLC register copy sent by the hospital to the police which clearly

indicate that the deceased met with the accident on 08.06.2019. It is further submitted that the jurisdictional police, after a detailed investigation, filed the charge sheet which indicates that the accident occurred on 08.06.2019, the deceased was a pillion rider, he sustained grievous injuries and succumbed to those injuries. It is also submitted that PW-2 has clearly deposed before the Tribunal that the deceased took treatment in their hospital and Exs.P15 and P16 are pertinent to the deceased. It is contended that RW-1 – the Investigating Officer has supported the claim of the claimants with regard to the date of accident, injuries suffered and the Tribunal, without any reason, disbelieved the same and rejected the claim petition. Hence, he seeks to allow the appeal by awarding just compensation to the claimants.

7. *Per contra*, Sri.B.Pradeep, learned counsel for respondent No.1 supports the impugned judgment and award of the Tribunal and submits that the Tribunal has recorded detailed reasons while rejecting the claim petition and the same does not call for any interference. It is

submitted that the complaint is registered with the police on 12.06.2019 after a period of 5 days and no explanation is offered in the complaint for the delay. Considering the aforesaid aspect, the Tribunal has rightly dismissed the claim petition by recording the reason that the deceased was the rider of the motorcycle and it is a case of self-fall and the same does not call for any interference. Hence, he seeks to dismiss the appeal.

8. Sri.Lokesh D.K., learned counsel for respondent No.2 submits that an appropriate order may be passed in the case as the respondent No.2 is the owner of the motorcycle which is insured with the respondent No.1 and if there is any liability, the respondent No.1 has to make good of the same.

9. We have heard the arguments of learned counsel for the appellants, learned counsel for the respondents and meticulously perused the material available on record including the Tribunal records.

10. The only point that would arise for consideration in this appeal is:

"Whether the impugned judgment and award passed by the Tribunal calls for any interference?"

11. The above point is answered in the negative for the following reasons:

a) The wife, children and mother of late K.V.Mune Gowda filed a claim petition contending that on 08.06.2019, Sri.K.V.Mune Gowda was travelling as a pillion rider in a motorcycle bearing registration No.KA-54 EN-3741 on Doddakoliga-D.Shettahalli Road. When they reached near Anjaneya temple opposite road, the rider rode the motorcycle in a rash and negligent manner and suddenly, a street dog entered the road and the rider dashed the dog which resulted in the accident. Due to the impact, the pillion rider fell down, sustained severe injuries and he was shifted to Sai Ranga Hospital, thereafter to Vydehi Hospital and was admitted as an inpatient and later succumbed to the injuries. The deceased was aged about 45 years, working as an agricultural Coolie and used to

earn Rs.20,000/- p.m. and due to his untimely death, the claimants being the dependents sought compensation.

b) The respondent No.1 filed written statement denying the averments made in the claim petition, more particularly with regard to the aspect of negligence by the rider of the motorcycle which was insured with them. It is averred that the deceased was riding the motorcycle involved in the accident and it was a self-fall and the respondents are not liable to any compensation. It is further averred that the deceased was neither wearing a helmet nor having a driving licence and sought for dismissal of the claim petition.

c) The Tribunal framed the issues and recorded the evidence. The claimants examined two witnesses namely PW-1 and PW-2 and got marked Exs.P1 to P16. The respondents also examined two witnesses namely RW-1 and RW-2 and got marked Exs.R1 and R2. The Tribunal, on appreciation of the evidence, rejected the claim petition by recording the reasons that the deceased himself was riding the motorcycle at the time of accident, he himself

fell down from the motorcycle, sustained injuries and died in the hospital.

d) The case of the claimants is that the deceased K.V.Mune Gowda was travelling in the motorcycle as a pillion rider and one Shivakumar was the rider of the motorcycle and suddenly, a street dog entered the road and the rider dashed the street dog due to which the pillion rider fell down, sustained grievous injuries and succumbed to the same. He was provided first-aid at Sai Ranga Hospital and then shifted to Vydehi Hospital during the course of treatment. The case of the claimants as well as the charge sheet material indicate that the road traffic accident occurred on 08.06.2019 and the accident occurred due to the actionable negligence on the part of the rider of the motorcycle Shivakumar and the respondent No.1-Insurance Company being the insurer of the vehicle involved in the accident owned by the respondent No.2, is liable to pay the compensation. The oral evidence of PW-1 - claimant No.1 and PW-2 Dr.D.Raghuvardhan Reddy indicate that the deceased took

treatment as an outpatient in Sai Ranga Hospital on 08.06.2019. The charge sheet filed by the jurisdictional police indicates the aforesaid fact and the said aspect is also reiterated by RW-1 – the Investigating Officer.

e) It is required to be noticed that the claimants have produced Exs.P15 and P16, the copy of police intimation and MLC register copy alleged to have been sent by Sai Ranga Hospital to the jurisdictional police. A perusal of the said documents indicate that the accident occurred on 08.06.2019. The deceased reported in the said hospital with RTA and was provided treatment. The said documents are dated 11.06.2019 and it is not forthcoming from the aforesaid exhibits as to why the said Hospital has not forwarded the intimation of the accident to the jurisdictional police on 08.06.2019 itself. The oral evidence of PW-2 makes it clear that the aforesaid exhibits relied on by the claimants are dated 11.06.2019 and the said Hospital has not forwarded the MLC intimation to the police immediately after the accident. It is also required to be noticed that the evidence on record clearly indicates

that the deceased was accompanied by one Nagesh who claims to be an eyewitness to the incident. However, the said Nagesh was not examined as a witness before the Tribunal by the claimants. It is not forthcoming as to why the said Nagesh who took the injured to Sai Ranga Hospital has not lodged a complaint with the jurisdictional police immediately after the accident or even on the next day.

f) It is further noticed that the written complaint was lodged by the wife of the deceased i.e. claimant No.1 on 12.06.2019 at 8.30 p.m. and there is no explanation for lodging the complaint after a period of 5 days from the date of the alleged accident. It is also required to be noticed that the filing of the written complaint by the claimant No.1 is after the death of K.V.Mune Gowda which creates suspicion with regard to the stand of the claimants. The evidence of RW-1 - the Investigating Officer does not inspire the confidence of this Court with regard to his statement that the accident occurred on 08.06.2019 and he has also not explained as to why there

was a delay in lodging the complaint. The said witness has also deposed that the MLC intimation was issued only on 12.06.2019 though the accident was occurred on 08.06.2019. It is interesting to observe that the claimants have not produced any other documents from Sai Ranga Hospital for having taken treatment in the said hospital on 08.06.2019. The records indicate that the deceased was shifted from Sai Ranga Hospital to Vydehi Hospital. The said records though disclose that the injuries are due to RTA however, those documents are later in point and there is no evidence on record to believe the version of the claimants that the accident had occurred on 08.06.2019, the deceased was a pillion rider and he was provided treatment at Sai Ranga Hospital.

g) The oral and documentary evidence placed by the claimants including the charge sheet material are later dated documents. There are no other documents available on record to indicate that the accident had occurred on 08.06.2019 and the deceased was a pillion rider and it was not a self-fall. In the absence of any such evidence, the

Tribunal has rightly recorded detailed reasons that the deceased himself was riding the motorcycle at the time of accident and it is a case of self-fall, he sustained injuries and succumbed to the same. We do not find any error in the aforesaid finding. The Tribunal, on appreciation of the oral and documentary evidence has recorded its reason and proceeded to dismiss the claim petition. We are of the considered view that the finding of the Tribunal is based on the appreciation of evidence placed before it and the same does not call for any interference. Hence, we proceed to pass the following:

ORDER

The appeal is devoid of merits and the same is rejected.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

RV