



CNR: KAHC010500462014

NC: 2026:KHC:52967
MFA No. 6901 of 2014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO. 6901 OF 2014 (MV)

BETWEEN:

NATIONAL INSURANCE CO. LTD.,
BRANCH OFFICE: DAVANAGERE,
THROUGH ITS REGIONAL OFFICE,
NO.144, SUBHARAM COMPLEX,
M.G. ROAD,
BANGALORE-560 001.
REP. BY ITS ASST. MANAGER
SRI.R. LAKSHMANA RAO.

...APPELLANT

(BY SRI BHUVAN B.M., ADVOCATE FOR
SRI SEETHARAMA RAO B C., ADVOCATE)

AND:

1. SRI M C MANJUNATH
AGED ABOUT 32 YEARS,
DIED REP BY HIS LRs
- 1(a) SMT.MAMATHA,
AGED ABOUT 32 YEARS,
W/O LATE MANJUNATH
- 1(b) KUM.M.M.GAYATHRI,
AGED ABOUT 9 YEARS,
D/O LATE MANJUNATH
- 1(c) SMT.NINGAMMA
AGED ABOUT 52 YEARS,
S/O MAGANAHALLI CHANDRAPPA,

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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SINCE 1(b) MINOR
REP BY MOTHER & GUARDIAN R1(a)
SMT.MAMATHA

R1(a) TO R1(c) ARE R/AT NO.194,
NEAR BEERESHWARA GUDI,
BANNIKODU, HARIHARA TALUK,
DAVANAGERE - 577 516.

2. MR. ATHAULLA
AGED ABOUT 26 YEARS,
S/O MR. MOHAMMED SHAFI,
R/AT NO.687/1,
TEVARACHATTI HALLI,
SHANTHINAGAR,
SHIMOGA TALUK & DISTRICT.
(DRIVER OF GOODS TEMPO
NO.KA.14/A-7808)
3. SRI C.VENKATESH
AGED ABOUT 25 YEARS,
S/O CHINNAPPA @ CHINNAMANJU,
RESIDENT OF MANJUNATHA BADAWANE,
PURALE VILLAGE,
SHIMOGA TALUK & DISTRICT.
(OWNER OF TEMPO NO. KA.14/A-7808)

...RESPONDENTS

(BY Ms.BHAVANA T.S., ADVOCATE FOR
SRI R.SHASHIDHARA, ADVOCATE FOR R1 (a-c);
R3 - NOTICE SERVED AND UNREPRESENTED;
V/C/O DATED 31.10.2019 - SERVICE OF
NOTICE TO R2 IS H/S)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 26.07.2014 PASSED IN MVC
NO.733/2012 ON THE FILE OF THE II ADDITIONAL DISTRICT &
SESSIONS JUDGE AND MEMBER, MACT-III, DAVANAGERE,
AWARDING COMPENSATION OF RS.9,78,000/- WITH INTEREST @
6% P.A FROM THE DATE OF PETITION TILL ITS DEPOSIT.



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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 26.07.2014
passed by II Additional District & Sessions Judge and Member-
MACT-III, Davanagere in MVC no.733/2012, this appeal is filed.

2. Sri Bhuvan BM., learned counsel appearing for
Sri BC Seetharama Rao, advocate for appellant submitted that
appeal was by Insurer challenging finding of Tribunal on
liability.

3. Brief facts leading to this appeal as per claimant are
that at 12:30 p.m. on 10.01.2012, when claimant was
travelling in Goods Tempo no.KA-14/A-7808, on its return
journey towards Shimogga, driver of vehicle drove it in rash
and negligent manner on Shimogga - Thirthahalli road and it
dashed against a roadside mud heap. In accident, claimant
sustained grievous injuries and despite treatment at Mc.Gann
Hospital, Shimogga and thereafter at SSIMS Hospital,
Davangere, he did not recover fully and sustained loss of



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earning capacity. Therefore, he filed claim petition under Section 166 of Motor Vehicles Act, 1988 (MV Act) against driver, owner and insurer of goods vehicle.

4. On appearance, claim petition was opposed on all grounds including insurer contending that claimant herein was a gratuitous passenger in a goods vehicle as mentioned in FIR and therefore, insurer was not liable to pay compensation.

5. Based on pleadings, Tribunal framed following:

ISSUES:

- 1. Whether the petitioner proves that, the alleged accident was occurred on 11.01.2012 at about 12.30 p.m., on a public road near Hulihala bridge of Sakrebailu in Theerthahalli Taluk deu to rash and negligent driving of vehicle bearing Regn. No.KA-14/A-7808 by its driver and that he has sustained severe injuries and the same have cause him permanent disablement ?*
- 2. Whether the respondent No.3 proves that, there were violation of policy conditions, therefore, they are not liable to pay the compensation?*
- 3. Is the petitioner entitled for compensation? If so, at what rate and from whom?*
- 4. What Order or award?*

6. Claimant along with Dr.M. Venkatramana Rao deposed as PWs.1 and 2 and got marked Exhibits P1 to P210.



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Insurer examined its official as RW.1 and got marked copy of insurance policy as Exhibit R1.

7. On consideration, Tribunal answered issue no.1 in affirmative, issue no.2 in negative and issues no.3 and 4 in favour of claimant and assessed total compensation of Rs.9,78,000/- with interest at 6% p.a. from date of petition till deposit and held insurer liable to pay same jointly and severally with owner of vehicle. Aggrieved thereby, this appeal was filed.

8. It was submitted that immediately after accident, complaint was registered by owner of vehicle with Police, mentioning that on date of accident, after unloading watermelons at Mangaluru, vehicle was returning towards Shimogga and on way, claimant boarded goods vehicle. On noticing that gratuitous passenger would not be covered under insurance policy, a further statement was given stating that claimant was engaged as 'unloader' while goods vehicle was going towards Mangaluru, without any supporting material. Despite same, Tribunal fastened liability on insurer and same would be contrary to law and sought for allowing appeal.



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9. On other hand, Ms.Bhavana TS., learned counsel appearing for Sri R Shashidhara, advocate for respondent no.1-claimant sought to oppose appeal.

10. It was submitted, in later statement of complainant, employment of claimant as loader in goods vehicle was clarified. It was submitted that Rule 100 of Motor Vehicles Rules, 1989 (**Rules**) would permit carriage of one loader even in medium goods vehicle. Therefore, insurer's contention on liability was not justified and sought dismissal.

11. Heard learned counsel, perused impugned judgment and award and record.

12. In view of nature of contention urged, occurrence of accident involving insured vehicle due to rash and negligent driving of insured vehicle by its driver, vehicle being covered by insurance policy, claimant sustaining loss of earning capacity and being entitled for compensation are not in dispute. Only ground of challenge by insurer is on its liability. Therefore, point that arise for consideration is:

"Whether Tribunal was justified in holding insurer liable to pay compensation?"



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13. Thrust of appellant-insurer's contention that claimant was gratuitous passenger is based on contents of complaint filed by owner of vehicle. Indeed, FIR clearly states that as per complaint, claimant had boarded vehicle on its return journey from Mangaluru, after unloading watermelons and there is no material to indicate that vehicle on its return journey towards Shimogga also was loaded and an unloader was required to be engaged. Rule 100 of Rules does authorize owner of vehicle to carry upto 2 loaders in a medium goods vehicle. Accident in question involves goods tempo. In absence of vehicle carrying goods, carriage of any person in goods vehicle would only be as gratuitous passenger or as fair paid passenger. There is no material to indicate that claimant had boarded vehicle as fair paying passenger. In either case, it would be in violation of policy conditions.

14. Hon'ble Supreme Court in case of ***Kaminiben & Ors. v. Oriental India Insurance Co. Ltd. & Ors.*** [Diary no. - 13639/2023], after referring to various earlier decisions on liability of insurer towards gratuitous passenger in goods vehicle i.e., ***Manuara Khatun & Ors. v. Rajesh Kumar Singh & Ors.***



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reported in **(2017) 4 SCC 796, National Insurance Company Limited v. Saju P. Paul & Anr.** reported in **(2013) 2 SCC 41** and **Amudhavalli & Ors. v. HDFC Ergo General Insurance Company Ltd. & Ors.** [2025 INSC 1219], held that insurer would be liable to pay compensation to claimant in first place and thereafter recover it from insured in same proceedings. Said judgment would fully cover matter in question.

15. In view of above, point for consideration is answered *partly in negative*. Consequently, following:

ORDER

- (i) Appeal is ***allowed in part;***
- (ii) Judgment and award dated 26.07.2014 passed by II Additional District & Sessions Judge and Member-MACT-III, Davanagere in MVC no.733/2012 stands *modified;*
- (iii) Insurer is held liable to pay compensation awarded by Tribunal to third party claimant with interest in first place and thereafter, would be entitled to recover same from



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insured without need for separate
proceedings;

(iv) Amount in deposit is ordered to be
transmitted to Tribunal for disbursal;

(v) Balance amount, if any, is required to be
deposited within six weeks;

(vi) On deposit, entire compensation is ordered to
be released in favour of claimant.

Sd/-
(RAVI V HOSMANI)
JUDGE

AV
List No.: 1 SI No.: 21