



CNR: KAHC010510692016

NC: 2026:KHC:53068
MFA No. 8486 of 2016

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 24TH DAY OF SEPTEMBER, 2026
BEFORE**

**THE HON'BLE MR. JUSTICE RAVI V HOSMANI
MISCELLANEOUS FIRST APPEAL NO.8486 OF 2016(MV-DM)**

BETWEEN:

SRI GANEH RAI
S/O LATE SUBBANNA RAI
AGED ABOUT 65 YEARS
D.NO.1-29, HOSA MANE
KAMBLAKODI HOUSE,
KANNUR VILLAGE AND POST
MANGALORE TALUK - 575 015
DAKSHINA KANNADA.

...APPELLANT

(BY SRI RAPESH G.V., ADVOCATE FOR
SRI NISHIT KUMAR SHETTY, ADVOCATE)

AND:

1. MR. SUJITHA KUMAR ALVA
S/O KRISHNA ALVA
MAJOR, R/A YETHMOGURU GUTHU
KANDAVARA VILLAGE
MANGALORE TALUK - 575 013
DAKSHINA KANNADA.
2. THE ORIENTAL INSURANCE CO. LTD.,
CBO-1, KRISHNA PRASAD BUILDING,
3RD FLOOR, M.G.ROAD
MANGALORE, D.K.-575 001.

...RESPONDENTS

[BY SRI K.S.LAKSHMI NARASAPPA, ADVOCATE FOR
SRI A M VENKATESH, ADVOCATE FOR R2;
V/C/O DATED 06.08.2019 NOTICE TO R1 IS D/W]



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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 09.09.2016 PASSED IN MVC NO.915/2015 ON THE FILE OF THE III ADDITIONAL DISTRICT JUDGE, MEMBER, MACT-IV, D.K., MANGALURU, DISMISSING THE CLAIM PETITION FOR COMPENSATION.

THIS APPEAL, 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 09.09.2016 passed by III Additional District Judge, Member, MACT-IV, D.K., Mangaluru, in MVC no.915/2015, this appeal is filed.

2. Sri Rupesh GV, learned counsel appearing for Nishit Kumar Shetty, advocate for appellant submitted that appeal was by claimant challenging dismissal of claim petition.

3. Brief facts leading to this appeal as stated are that on 24.10.2014 when claimant was driving his car no.KA-05-9680 near Kodakkal railway bridge over NH-73, driver of tanker lorry no.KA-19D-216 drove it in rash and negligent manner and it dashed against hind side of car causing accident. Due to accident, claimant's car sustained damages. Claiming



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compensation, claim petition was filed under Section 166 of MV Act against owner/insurer of lorry.

4. Despite service of notice, owner did not appear and 4was placed ex-parte. Only insurer opposed appeal by filing objections.

5. Based on pleadings, Tribunal framed issues and recorded evidence. Claimant examined himself as PW1 and surveyor of insurer as PW2. Exs.P1 to P10 were got marked. Respondents did not plead evidence. On consideration, Tribunal dismissed claim petition on sole ground that claimant had failed to produce endorsement from his insurer that he had not obtained compensation for damages.

6. It was submitted that in claim petition as well as in his deposition, claimant stated that he had not sought any compensation from his insurer and though he applied to his insurer for issuance of no claim certificate, but same was not issued. Therefore, merely on said ground and when claimant produced original repair bills before Tribunal, dismissal of claim



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petition was not justified. On said ground, sought for allowing appeal and for awarding just compensation.

7. On other hand, Sri KS Lakshmi Narasappa, learned counsel appearing for AM Venkatesh, advocate for respondent no.2 insurer opposed appeal. It was submitted since claimant's vehicle was also insured and claim petition was filed for damages to vehicle, a no claim certificate by his insurer would be necessary in order to avoid double claim. On failure to produce said certificate, drawing of adverse inference by Tribunal and passing of award was justified and sought for dismissal.

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

9. From above and since appeal is by claimant challenging dismissal of claim petition, point that would arise for consideration is,

"Whether dismissal of claim petition by Tribunal on ground of failure to produce no claim certificate was justified?"



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10. Occurrence of accident involving insured vehicle and claimants' vehicle sustaining damages are not in dispute. Only issue is whether a claimant claiming compensation of damages to his vehicle would require to mandatorily produce no claim certificate from his insurer and whether failure would be fatal. There is no provision in Motor Vehicles Act or other laws mandating said requirement. It is only a rule of prudence. In instant case, since claimant not only stated in claim petition that he had not obtained compensation from his insurer, but deposed so and produced original vehicle repair bill and subjected himself for cross examination. In absence of any material elicitation or any specific evidence by insurer, Tribunal would not be justified in dismissing claim petition by drawing adverse inference. In view of above, appeal would succeed in part.

11. Perusal of Ex.P3 - repair bills reveals that total amount spent is Rs.12,298/-. In addition, claimant would be entitled for some compensation for period vehicle was sent for repairs and not available for his use. On overall consideration it



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is found appropriate to award a total compensation of Rs.20,000/-. In view of above, following:

ORDER

(i) Appeal is ***allowed in part.***

(ii) Claimant is entitled for compensation of Rs.20,000/- from insurer with interest at 6% per annum from date of claim petition till deposit.

(iii) Insurer to deposit said compensation before Tribunal within 6 weeks and on deposit entire compensation is ordered to be transmitted to claimant by electronic means.

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

YKL
List No.: 1 Sl No.: 18