



CNR: KAHC010528752016

NC: 2026:KHC:50462
MFA No. 736 of 2016
C/W MFA No. 8100 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.736 OF 2016 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.8100 OF 2015(MV-I)

IN MFA No. 736/2016

BETWEEN:

SRI T M CHANDANA
S/O T K MADESH
AGED ABOUT 20 YEARS,
R/O TURUKARA KOPPALU VILLAGE,
KIKKERI HOBLI,
K.R.PETE TALUK - 571 426
MANDYA DISTRICT.

PRESENTLY RESIDING AT
C/O SATHISH,
MARIGUDI KOPPALU,
KASABA HOBLI,
HASSAN TALUK - 573 201.

...APPELLANT

(BY SRI G.M.SHARATHKUMAR, ADVOCATE FOR
SRI CHETHAN B., ADVOCATE)

AND:

1. SR S J RANGE Gowda
S/O LATE JAVARE Gowda,
MAJOR,
R/O 1ST MAIN ROAD, 2ND CROSS,
CHIKKAKATTE HATTIRA,
SHANTHINAGARA,
HASSAN - 573 201.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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2. THE MANAGER
ORIENTAL INSURANCE CO.,LTD.,
S.S.COMPLEX, SUBHASH SQUARE,
HASSAN - 573 201.

...RESPONDENTS

(BY SRI O.MAHESH, ADVOCATE FOR R2;
V/C/O DATED 28.05.2019 NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 06.08.2015 PASSED IN MVC
NO.148/14 ON THE FILE OF THE 2ND ADDITIONAL DISTRICT &
SESSIONS JUDGE & ADDITIONAL MACT, HASSAN, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 8100/2015

BETWEEN:

THE BRANCH MANAGER
ORIENTAL INSURANCE CO. LTD
SS COMPLEX, SUBASH SQUARE,
HASSAN.
BY THE ORIENTAL INS.CO.LTD.,
REGIONAL OFFICE, 2ND FLOOR,
SUMANGALA COMPLEX,
LAMINGTON ROAD,
HUBLI - 580 020.

...APPELLANT

(BY SRI O MAHESH, ADVOCATE)

AND:

1. T M CHANDANA
AGED ABOUT 19 YEARS,
S/O T K MADESH,



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TURUKARA KOPPALU VILLAGE,
KIKKERI HOBLI, K R PET TALUK,
MANDYA DISTRICT - 577 401.

AT PRESENTLY R/AT
C/O SATHISH, MARIGUDI KOPPALU,
KASABA HOBLI,
HASSAN TALUK AND DIST - 573 201.

2. S J RANGE Gowda
Major,
S/O Late Javaregowda,
1ST Main Road, 2ND Cross,
Chikkakatte Hattira,
Shanthinagar,
Hassan - 573 201.

...RESPONDENTS

(BY SRI G.M.SHARATH KUMAR, ADVOCATE FOR
SRI CHETAN B., ADVOCATE FOR R1;
NOTICE SERVED TO R2 AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 6.8.2015 PASSED IN
MVC NO.148/2014 ON THE FILE OF THE II ADDITIONAL
DISTRICT & SESSIONS JUDGE, ADDITIONAL MACT,
HASSAN, AWARDED A COMPENSATION OF RS.2,22,748/-
WITH INTEREST @ 6% P.A ON 1,97,748/- FROM THE DATE
OF PETITION TILL THE DATE OF PAYMENT.

THESE APPEALS, COMING ON FOR *ADMISSION*, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI



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ORAL JUDGMENT

Challenging judgment and award dated 06.08.2015 passed by II Additional District and Sessions Judge and Additional MACT, Hassan ('**Tribunal**') in MVC no.148/2014, these appeals are filed.

2. MFA no.736/2016 is filed by claimant for enhancement of compensation, while MFA no.8100/2015 is filed by insurer challenging award on ground of false implication of insured vehicle for purpose of claim.

3. Brief facts leading to these appeals, as stated, are that at about 4:45 p.m. on 28.11.2013, when claimant was walking by side of road along with his father near Beekanahalli Cross, rider of motorcycle no.KA-13/R-9555 rode it in rash and negligent manner dashed against claimant causing accident. In accident, claimant sustained grievous injuries and despite being treated at Janapriya Hospital, Hassan, he did not recover fully and sustained loss of earning capacity. Claiming compensation, he filed MVC no.148/2014 against owner and insurer of



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motorcycle no.KA-13/R-9555 under Section 166 of Motor Vehicles Act, 1988 ('**MV Act**').

4. Despite service of notice, owner did not appear and was placed *ex-parte*. Only insurer opposed claim petition denying age, occupation, income, nature of injuries and disability as well as alleging false implication of insured vehicle for purpose of claim. Even violation of policy conditions and compensation being excessive were also urged.

5. Based on pleadings, Tribunal framed following:

ISSUES

1. *Whether the petitioner proves that, he sustained injuries in a road traffic accident that took place on 28.11.2013 at about 4:45 p.m., near Beekanahalli Cross, Hassan - Puradamma road, because of rash and negligent riding of Bajaj Discover Motorbike bearing registration No.KA-13/R-9555 by its driver as alleged in the petition?*
2. *Whether the petitioner is entitled for compensation? If so, at what quantum and from whom?*
3. *What order?*

6. To substantiate same, claimant examined himself as PW.1; Dr.Abdul Basheer, Orthopaedic Surgeon at Janapriya



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Hospital as PW.2; Mallikarjuna, owner of MG Medical Shop as PW.3 and Exs.P1 to P16 were got marked. On other hand, insurer examined its official as RW.1 and got marked Ex.R1.

7. On consideration, Tribunal answered issue no.1 in affirmative; issue no.2 by assessing total compensation of Rs.2,22,748/- and issue no.3 holding insurer liable to pay same. Dissatisfied with award, these appeals are filed.

8. Sri O Mahesh, learned counsel for appellant - insurer submitted that during examination-in-chief, PW.1 - claimant stated, when he was admitted to hospital he was unaware about person who caused accident, whereas in complaint filed next day, name of owner/rider and motorcycle number were clearly mentioned. Further, in complaint, claimant's father had mentioned that rider of motorcycle had come to Janapriya Hospital where claimant was admitted for treatment and had promised to bear medical expenses, but resiled later. These were grave contradictions.

9. It was further submitted that Ex.P4 - Wound certificate did not state any particulars about manner of



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occurrence of accident. In his deposition, PW.1 stated that he went to hospital at 7:00 p.m., whereas PW.2 - Dr.Abdul Basheer stated that claimant came to hospital at 5:45 p.m. In Ex.P14-A - MLC extract there was alteration of date of admission to hospital by using whitener fluid. When same is considered along with admission by PW.2 that in Ex.P15 - X-ray film portion disclosing name, time and date on X-ray was cut and removed would also give rise to grave suspicion. It was submitted, there is contradictory statement of PW.2 that there were no records about forwardal of MLC intimation to Police Station, but Ex.P2 is supposedly issued by Janapriya Hospital itself. Further, as per deposition of PW.3, all medical bills were issued to claimant were on same day. On above grounds sought for allowing insurer's appeal and setting aside judgment and award passed by Tribunal and dismissing claimant's appeal.

10. On other hand, Sri G.M. Sharathkumar, learned counsel appearing for Sri B Chethan, advocate for claimant opposed insurer's appeal. It was submitted even claimant had filed appeal for enhancement of compensation. It was submitted, ignoring correction, date mentioned in other parts of



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document would be in tune with claimant's version and there would be no justification for suspicion.

11. It was submitted, in his deposition, PW.3 stated that though bills were issued on a later date together, he stated that date of admission of claimant was 28.11.2013. It was submitted there was no dispute about injuries sustained by claimant and therefore, there was no merit in challenging only on ground of false implication of injured vehicle for purpose of claim. It was submitted that police on independent investigation had filed charge sheet against rider of motorcycle.

12. Insofar as claim for enhancement, it was submitted that claimant was 18 years of age, earning Rs.9,000/- per month from milk vending and agriculture. However, Tribunal assessed his monthly income at only Rs.5,000/- which called for scaling up. It was submitted that Tribunal erred in not awarding any compensation towards loss of amenities. Even when claimant sustained fractures of left radius and ulna and PW.2 - Doctor stated that same had resulted in 29% disability to affected upper limb. However, Tribunal erred in considering



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disability only at 10% and awarded inadequate compensation. It was submitted that compensation awarded towards laid up period and future loss of income was inadequate. It was submitted that compensation of Rs.6,000/- awarded towards other incidental expenses was on lower side and sought for enhancement.

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

14. From above, it is seen that insurer is challenging award on ground of false implication, while claimant is seeking for enhancement of compensation. Therefore, points that arise for consideration are:

- 1. "Whether Tribunal was justified in passing impugned award against insurer?"*
- 2. Whether claimant is entitled for enhancement of compensation?"*

15. To substantiate actionable negligence against rider of insured vehicle, claimant not only examined himself as PW.1, but also got marked copy of FIR, complaint, police intimation, spot panchanama and sketch, wound certificate, motor vehicle



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inspector's report, seizure panchanama, charge sheet and MLC extract as Exs.P1 to P7 and P14. Indeed as per police investigation records, rider of motorcycle is implicated for rash and negligent driving and causing accident. However as per claimant's father, who filed complaint before police, a day after accident reason assigned for delay in filing complaint was that owner of offending vehicle had assured to foot medical expenses, but resiling therefrom later. It is mentioned that rider of motorcycle had accompanied victim to hospital, but PW.1 in his deposition stated that accident occurred at 7:00 p.m. and immediately after accident he went to Janapriya Hospital and at that time he was unaware about details/particulars of owner/rider of offending vehicle, which would be contradiction. There is further contradiction about time of accident since PW.2 - Doctor, who had treated claimant at Janapriya Hospital stated that immediately after accident, injured claimant had arrived at hospital for treatment at 5:45 p.m.

16. As per claimant as well as PW.2, date of admission of claimant was on 28.11.2013, but in Ex.P13, there is clear



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correction of some other date as 28.11.2013. Even in Ex.P14 there is correction of date of admission. But in history of injuries column, accident is stated to have occurred at 4:45 p.m. on 21.11.2013. There are further contradictions in X-rays. Ex.P11 - X-ray taken on 06.01.2014 and Ex.P16 taken on 08.07.2014 bear name of claimant and date of X-ray. But Ex.P15, X-ray alleged to have taken on 28.11.2013 does not contain name of claimant and date of X-ray which part appears to be cut away. Further statement of PW.3, owner of medical shop at Janapriya Hospital that all bills were raised on same day within half an hour would further fuel suspicion. His claim that medicines were issued on credit basis and bills raised at time of discharge and making payment would also be contradictory. Date of medical bills do not coincide with date of discharge. Cumulative effect of all above contradictions and absence of any reasonable explanation would indicate that for purpose of claim, records were manipulated and claim petition sought to be hoisted against insurer. In view of above, point no.1 is answered in negative. Consequently, claim petition would require to be rejected.



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17. In view of finding on point no.1, holding claim petition to be untenable due to manipulation of records, there would be no scope for examination of claimants' appeal for enhancement. In view of above, point no.2 is answered in negative.

18. Consequently, following:

ORDER

- i) MFA no.736/2016 filed by claimant is ***dismissed.***
- ii) MFA no.8100/2015 filed by insurer is ***allowed.***
- iii) Impugned judgment and award dated 06.08.2015 passed by Tribunal in MVC no.148/2014, is ***set aside;***
- iv) Amount in deposit is ordered to be refunded to appellant - insurer electronically.

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

GRD
List No.: 1 Sl No.: 8