



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 9513 OF 2015 (MV-D)

BETWEEN:

1. SMT. SUJATHAMMA
W/O LATE. K C SRINIVAS
AGED ABOUT 35 YEARS,
2. S SUDHAKARA
A/O LATE. K C SRINIVAS
AGED ABOUT 15 YEARS,
3. S SUMAN
A/O LATE. K C SRINIVAS
AGED ABOUT 11 YEARS,

APPELLANTS 2 & 3 ARE MINORS
BEING REPRESENTED BY THEIR
MOTHER-CUM-NATURAL GAURDIAN
APPELLANT NO.1

ALL ARE R/AT KOTHANUR VILLAGE,
KASA HOBLI, SHIDLAGHATTA - TQ,
CHICKBALLAPUR DIST

Digitally signed
by
PADMA SHREE
SHEKHAR
DESAI
Location: High
Court of
Karnataka

...APPELLANTS

(BY SMT. SUGUNA R REDDY., ADVOCATE)

AND:

1. SRI. C.A. NEER KAWSAR
S/O C.M ABU MOHAMMED
MAJOR IN AGE,
NO. 388/A, A.T LAYOUT,
SHANTHINAGAR,



BANGALORE-560 027.

2. THE BRANCH MANAGER
UNITED INDIA INSURANCE CO. LTD.,
NO. 40, 1ST FLOOR,
LAKSHMI COMPLEX,
OPP. TO VANIVILAS HOSPITAL,
K R ROAD, FORT,
BANGALORE 64.
3. SRI. KALEEM
MAJOR IN AGE
R/AT NO. 172,
ANJANAPPA BLOCK
YELAHANKA TOWN,
BANGALORE-64.

...RESPONDENTS

(BY SRI. A M VENKATESH., ADVOCATE FOR R2,
SRI. M.D. RAGHUNATH, ADVOCATE FOR R1,
V/O DTD:24.01.2022 NOTICE TO R3 IS HELD SUFFICIENT)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED: 16/12/2014 PASSED IN MVC
NO.7585/2010 ON THE FILE OF XII ADDITIONAL SMALL
CAUSES JUDGE AND MEMBER, MACT, BANGALORE,
DISMISSING THE CLAIM PETITION FOR COMPENSATION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON
29.06.2026 COMING ON FOR PRONOUNCEMENT OF JUDGMENT
THIS DAY, **P SREE SUDHA J.**, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA



CAV JUDGMENT

This appeal is filed against the judgment and award dated 16.12.2014 passed by the XII Additional Small Cause Judge and Member, MACT, Bengaluru in MVC No.7585 of 2010.

2. One K.C. Srinivasa, son of late Channarayappa, met with an accident on 18.07.2010 and died. Subsequently, his wife and children filed a claim application claiming compensation of Rs.9,00,000/- with interest. The Tribunal, considering the entire evidence on record, granted the compensation of Rs.4,35,100/- with interest at the rate of 6% per annum from the date of petition till realisation. It was further held that respondent No.3 was liable to pay the compensation amount.

3. Aggrieved by the said order, this appeal is preferred by the appellant-claimants in which it is mainly contended that K.C. Srinivasa was an agriculturist. Tribunal held that he had no driving licence at the time of accident basing on the charge sheet filed by the police. Respondents have not adduced any evidence, as per the catena of decisions of the Apex Court, burden of proof lies on insurance company to establish validity



of the licence of the driver and wilfully breach on the part of the owner. In this case, he has not discharged the burden. The insurance company was absolved from the liability to the third party. It is contended that no future prospects is added and the amounts granted under the other heads are meagre. Interest is to be granted at the rate of 9% per annum.

4. The manner of accident shows that while K.C. Srinivasa was proceeding on his motor cycle and when he reached near Airport Tower Cross, the rider of the scooty vehicle bearing registration No.KA-50-H-1460 came from his opposite direction in rash and negligent manner and dashed him. As a result, K.C.Srinivasa fell down from the motor cycle. At the same time, another motor cycle bearing registration No.KA-01-J-2050 came from opposite direction in a rash and negligent manner and due to the high speed lost the control of the said vehicle and dashed against K.C Srinivasa. As a result, he sustained severe injuries, shifted to the hospital and died subsequently. K.C Srinivasa was aged 35 years, doing agriculture and earning Rs.39,900/- per annum. Charge sheet



is filed against the rider of the motorcycle bearing No.KA-01-J-2050 in Crime No.179 of 2010.

5. The 3rd respondent/driver of the vehicle did not turn up even after service of notice and he was set *ex-parte*.

6. Respondent No.1 and 2 appeared through counsel and filed written statement. Respondent No.2 stated that as on the date of accident, the rider/Harish, son of Rame Gowda was not holding valid and effective driving licence and hence, they are not liable to pay compensation. The owner of the vehicle has entrusted his vehicle knowing fully well that the rider of the offending vehicle was not holding valid and effective driving licence and violated the terms and conditions of the policy. R1 being the owner of the vehicle stated that he sold the vehicle on 10.05.2010 to one Kaleem and intimated the same to the concerned RTO on 12.05.2010 itself. Therefore, Kaleem becomes the subsequent purchaser. As such, he is not liable to pay compensation and his name was falsely shown in the cause title as C.A. Kausar instead of C.A.Neer Kawsar.



7. The present claim application is filed under Section 163A of M.V. Act. As such, issue No.3 was recasted. Brother of the deceased was examined as PW1 and he stated that while K.C Srinivasa was travelling on a TV Star vehicle, one Scooty came in a rash and negligent manner and dashed him. When he fell down, rider of the hero Honda motorcycle bearing registration No.KA-01-J-2050 came in a rash and negligent manner and dashed him. The deceased fell down and sustained multiple injuries. It is further stated that respondent No.1 is not owner of the vehicle as on the date of accident. Already, he sold the vehicle and the policy was in existence as on the date of accident.

8. As per the charge sheet-Exhibit P6, the driver of the vehicle had no valid and effective driving licence. And even after issue of notice, he has not appeared or filed any written statement. If at all the rider of the vehicle was having valid and effective driving licence, he would have appeared and resisted the claim. Therefore, it can be presumed that he has no valid driving licence and accordingly, it was held that the insurance



company is not liable and the owner of the vehicle is liable to pay the compensation.

9. Learned counsel for the appellant-claimants has relied upon the judgment of the Hon'ble Supreme Court in the case of **TATA AIG General Insurance Company Ltd., Mumbai Vs. Shivagnagavva Bhimappa Pujari** reported in 2024(4) AKR 603, wherein it was held as follows:

" There was lack of evidence from claimant or owner to prove that driver had a valid licence – insurer was rightly directed to pay compensation initially, but can then recover the cost from the truck owner."

10. Learned counsel for the appellant-claimants has also relied upon the judgment of the Hon'ble Supreme Court in the case of **Narsimlu Earanna and others Vs. Earesh Bolbandi and others** reported in **2022(3) AKR 59**, wherein it was held as follows:

" Mere production of charge sheet would not prove that driver was not holding driving licence. Insurer did not file any application before the Tribunal to call for records from driver/owner, insurer failed to produce material to prove breach



of policy condition on ground that driver was not holding valid driving licence – insurer liable to pay compensation.”

11. Respondent No.1 is the owner of the vehicle and he has already sold the vehicle to respondent No.3 and the policy was in existence on the date of accident. Therefore, insurance company is directed to pay compensation and at liberty to recover the same from respondent NO.3 by due process of law.

12. This application is filed under Section 163A of the M.V. Act. As such the Tribunal has rightly considered his income and granted reasonable compensation. This Court finds no reason to interfere with the said compensation amount granted by the Tribunal.

13. Therefore, the following order is passed:

(i)Appeal is allowed in part.

(ii) The insurance company is directed to deposit compensation of Rs.4,35,100/- with interest at the rate of 6% p.a. within one month from today.



(iii) On such deposit, the claimant is permitted to withdraw the entire amount along with the interest accrued on it, as per the share allotted by the Tribunal.

(iv) The respondent-insurance company is at liberty to recover the said amount from the owner of the vehicle by due process of law.

Sd/-
(P SREE SUDHA)
JUDGE

CS
CT:NR
List No.: 1 Sl No.: 53