



CNR: KAHC010571062023

NC: 2026:KHC:39765-DB
MFA No. 7349 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.7349 OF 2023 (MV-I)

BETWEEN:

KASHINATH. S.C.
S/O CHANDRAPPA S.B,
AGE 29 YEARS,
AGRICULTURIST,
R/O GOPANAL VILLAGE,
DAVANAGERE TALUK AND
DISTRICT - 577 001.

...APPELLANT

(BY SRI.R. SHASHIDHARA.,ADVOCATE)

AND:

1. SIDDALINGESHA @ SIDDALINGESHWARA,
AGE 39 YEARS,
AGRICULTURIST,
R/O GOPANAL VILLAGE,
DAVANAGERE TALUK AND DISTRICT - 577 001,
DRIVER CUM OWNER OF MOTOR CYCLE
NO.KA-17/EW -8968.
2. THE DIVISIONAL MANAGER,
NATIONAL INSURANCE CO., LTD,
SHIVANARADAMUNI PLAZA,
MCC B BLOCK, DAVANAGERE-577 001.

...RESPONDENTS

(BY SRI. N.R. RANGEGOWDA, ADVOCATE FOR R1,
SRI.RAVISH BENNI, ADVOCATE FOR R2)

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SHREERAKSHA
Location: HIGH
COURT OF
KARNATAKA



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THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 19.09.2023 PASSED IN MVC NO.544/2022 ON THE FILE OF THE III ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, DAVANAGERE, DISMISSING THE CLAIM PETITION FOR COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL JUDGMENT

(PER: HON'BLE DR. JUSTICE K.MANMADHA RAO)

This appeal is by the appellant/claimant challenging the judgment and award dated 19.09.2023 in MVC No.544/2022 passed by the Court of III Addl. Senior Civil Judge and JMFC, Davanagere (for short, 'Tribunal'), dismissing the claim petition filed by the petitioner.

2. Appellant is the petitioner and Respondent No.1 is the owner of the vehicle and Respondent No.2 is the Insurance Company before the Tribunal.

3. The parties are referred to as per their ranking before the Tribunal for easy reference.



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The brief facts of the case are as under:

4. On 30.09.2022 at about 9.30 p.m., when the petitioner was proceeding as a pillion rider in the motor cycle bearing No.KA-17/EW-8968, ridden by Respondent No.1-owner from Davanagere to Gopanal village near Kolkunte cross, Davanagere, in a rash and negligent manner and in a high speed, as a result, the rider lost control and the motor cycle fell on the road, resulting in petitioner sustaining Type 1 open fracture of tibia, plate intra articular dislocation of the right knee joint, fracture of the 7th, 8th and 9th ribs and multiple abrasions over the right hip and other grievous injuries. He was immediately shifted to CG Hospital, Davanagere and after first aid treatment, shifted to Gurushree Hospital, where he underwent treatment as in-patient for more than 25 days, during which period, even he underwent a surgery and incurred a sum of Rs.2,50,000/- towards medical and other expenses and he has also undergone follow up treatment.



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5. It is the case of the petitioner, prior to the accident the petitioner was hale and healthy and was doing agricultural and milk vending business from which he was earning Rs.25,000/- per month and he is unable to do his routine work, unable to sit, stand and walk normally. Further the accident occurred due to rash and negligence riding on the part of respondent No.1. Hadadi police have registered a case in Crime No.167/2022. The respondent No.1 is the rider cum owner of motor cycle bearing No.KA-17/EW-8968. Since Respondent No.1 possessed valid and subsistent driving license, the respondents are jointly and severally liable to pay the compensation to the petitioner.

6. Respondent No.1 remained exparte before the Tribunal, whereas the respondent No.2-Insurance Company appeared before the court through its counsel and filed its objections. Respondent No.2, in its objection statement contended that the petition filed by the



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petitioner is not maintainable either in law or on facts and there is no cause of action against the respondent No.2. The motorcycle bearing No.KA-17/EW-8968 was not at all involved in any accident. The very fact that the accident is alleged to have occurred on 30.09.2022 but reported to the police on 07.01.2022 i.e., after eight days, goes to show that no such accident ever occurred and also that the petitioner himself was riding the motorcycle at the time of accident without valid driving licence and the injuries were sustained by him due to his own fault, but the facts were twisted and respondent No.1 was falsely implicated, in collusion with the police. It is prayed by Insurance Company that for this reason alone, the petition is liable to be dismissed. Further, it is contended that the accident occurred due to rashness and negligence on the part of the petitioner himself and issuance of the policy is proved. Other averments of the petition are denied in toto and prayed to dismiss the petition. Issues were framed by the Tribunal.



7. In order to prove his case, the petitioner got examined himself as P.W.1 and got marked Ex.P.1 to Ex.P.12. The petitioner examined Dr.S.N.Hiremath as PW.2 and got marked Ex.P.11(a) and 16 and respondent No.1 was examined as PW.3. The respondent No.2- Insurance Company has examined its Manager as RW.1 and got marked Ex.R.1. The petitioner had sought for a compensation of Rs.30,00,000/- from Respondent Nos.1 and 2. After hearing the parties, the Tribunal has observed that the accident occurred on 30.09.2022 and complaint was lodged on 07.10.2022. Hence, there is an inordinate delay in lodging the complaint. Further, it is observed by Tribunal that there are inconsistent material produced by the petitioner regarding the manner of accident. It is further observed that Respondent No.1-owner of vehicle has not sustained any injuries and no medical records are produced by him. Therefore, in view of contradictions regarding the manner of accident, the Tribunal has observed that the documents have been concocted and



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false case has been filed and dismissed the petition holding that the petitioner is not entitled for any compensation. Aggrieved by the same, appellant/petitioner is before this Court.

8. Learned counsel for the petitioner has contended that immediately after the accident, he was taken to CG Hospital, Davanagere and after first aid treatment, shifted to Gurushree Hospital, where he underwent treatment as in-patient for more than 25 days, during which period, even he underwent a surgery and incurred a sum of Rs.2,50,000/- towards medical and other expenses and he has also undergone follow up treatment. He has sustained Type 1 open fracture of tibia, plate intra articular dislocation of the right knee joint, fracture of the 7th, 8th and 9th ribs and multiple abrasions over the right hip and other grievous injuries. Thus, the petitioner has sustained 35% to 40% permanent disability. He was an inpatient for 12 days in Gurushree Hospital, Davanagere. It is



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contended that Hadadi Police have registered a case in Crime No.167/2022.

9. The learned counsel for the petitioner vehemently argued that even in case of a pillion rider falling and sustaining injuries, in the history the same would be mentioned as "fall from motor cycle". It is further contended that the petitioner has produced the extract of the MLC register and petitioner is given a separate number as 247624 and the said number is entered in the MLC register.

10. It is contended by the petitioner that prior to the accident, he was hale and healthy and was doing agriculture and milk vending business and earning a sum of Rs.25,000/- p.m. Due to the injuries and fracture sustained as a result of the accident, he is unable to do his routine work and unable to sit and walk. It is contended that the accident occurred due to rash and negligent riding of Respondent No.1-owner and rider of motor cycle bearing No.KA-17/EW-8968 and the Respondent No.1 possessed valid and effective driving licence. Therefore,



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Respondent Nos.1 and 2 are jointly and severally liable to pay the compensation.

11. It is contended by respondent-Insurance Company that the very fact that the accident is alleged to have occurred on 30.09.2022 but reported to the police on 07.01.2022 i.e., after eight days, goes to show that no such accident ever occurred and also that the petitioner himself was riding the motorcycle at the time of accident without valid driving licence and the injuries were sustained by him due to his own fault, but the facts were twisted and respondent No.1 was falsely implicated, in collusion with the police. It is contended by Insurance Company that the accident was of the year 2022 and it was a self accident. The petitioner was not travelling as a pillion rider of motor cycle bearing No. No.KA-17/EW-8968, ridden by Respondent No.1-owner from Davanagere to Gopanal village near Kolkunte cross, Davanagere. Further, it is contended that the petitioner himself was the rider of the motor cycle and the accident occurred due to



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rash and negligent driving by the petitioner. Respondent No.1-owner and rider of the motor cycle was placed exparte before the Tribunal. Therefore, it is contended that the Tribunal has rightly dismissed the petition and the appeal is liable to be dismissed.

12. Heard the learned counsel for the petitioner and Respondent Nos.1 and 2 and perused the material on record.

13. It is the case of the petitioner that on 30.09.2022 at around 9.30 pm when the petitioner was proceeding as a pillion rider in the motorcycle bearing No.KA-17/EW-8960 ridden by respondent No.1 from Davanagere to Gopanal village near Kolkunte cross, Davanagere, the respondent No.1 who was the rider of the motorcycle drove the same in a rash or negligent manner and also at high speed and lost control over the motorcycle resulting in petitioner falling on the road and sustaining several fractures, dislocation of the right knee



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joint and multiple abrasions over the right hip, and other grievous injuries.

14. Per contra, the contention of respondent No.2 is that the petitioner was himself the rider and not the pillion rider as is being alleged and the petitioner sustained injuries due to his own fault as it was a case of self-fall from motor cycle and the respondent No.1 was falsely implicated in collusion with the police authorities.

15. After hearing the learned counsel for the parties and on perusal of the material available on record, it is observed by this Court that the petitioner has contended before the Tribunal that the petitioner was proceeding as a pillion rider on motor cycle bearing No.KA-17/EW-8960 at the time of accident, instead the case of the respondent No.2 that the petitioner himself was the rider and respondent No.1 was falsely implicated by projecting him as the rider. The Tribunal has further observed that the actual facts were twisted and respondent No.1 was falsely



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implicated in collusion with the police authorities, which infers that the petitioner will have to demonstrate with cogent reasons as to what caused the delay in lodging the complaint. The petitioner has got examined himself as PW.1 and reiterated the averments of the petition in his chief-examination affidavit. P.W.1 has further deposed regarding the accident, manner in which the accident took place as well as rash and negligent riding of motor cycle bearing No. KA.17/EW-8968 by its rider as the cause for accident. P.W.1 has further deposed regarding the injuries sustained by him in the said accident and treatment taken for those injuries as well as expenses met out for taking such treatment. Further the petitioner seeks to support his oral evidence with 16 documents which are exhibited as Ex.P.1 to P.16. The petitioner himself lodged the complaint before the jurisdictional police alleging rashness or negligence on the part of respondent No.1 who was the alleged rider of the offending motor cycle bearing Reg.No.KA-17/EW-8968 and the petitioner has also



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alleged that the same resulted in the accident which led to petitioner sustaining the injuries narrated by him. Based on said complaint, the police have registered a case against respondent No.1 as per Ex.P.1. There is a delay in lodging the F.I.R.

16. The learned counsel for the petitioner vehemently argued that even in case of a pillion rider falling and sustaining injuries, in the history the same would be mentioned as "fall from motor cycle". This argument has strength and has to be examined properly. Further, MLC register extract is also produced. In this case the petitioner was given the number 247624 as per ER record, which has not been summoned. The respondent No.1 is mysteriously absent once the accident occurred and petitioner sustained injuries. It is clear from the facts that after allegedly causing accident he disappeared and did not come to picture until he gave letter in writing to the PSI, Hadadi P.S. on 15.10.2022 admitting that he was



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the rider of the motor cycle at the time of accident. Though RW.1 was cross-examined at length, nothing which could support the petitioner's case could be elicited by the Tribunal from the mouth of RW.1. Further, the police have filed the chargesheet which is exhibited as Ex.P3. The police have chargesheeted the respondent No.1 in the said case and the respondent No.1 has even pleaded guilty. Therefore, the Tribunal was bound to assess the material placed before it in order to come to a conclusion regarding rashness and negligence of the rider of the motor cycle.

17. It is observed by this Court that in Paragraph No.15 of the Judgment of the Tribunal, it has been observed that in Ex.P13, it is mentioned that the injuries were sustained from "fall from motor cycle" and it is not mentioned that the petitioner was not a pillion rider. Further, where it is not mentioned that the petitioner was a pillion rider, would necessarily have to mean that they



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were not informed that the patient was proceeding as a pillion rider.

18. Further, Even though there is a delay of eight days in lodging the complaint, that itself cannot be taken as a basis to deny that the accident has not at all taken place as the Insurance Company has failed to substantiate its contention that the appellant-claimant was not at all travelling as a pillion rider on the date of the accident. As per police records, the accident is said to have been occurred while petitioner was proceeding as a pillion rider in motor cycle bearing Reg.No.KA-17/EW-8968 due to rash and negligence of respondent No.1. The Judgment of the Tribunal should be based on actual facts and on scrutinizing the material on record properly and it should not be based on surmises and conjectures.

19. Therefore, it is observed from the material on record and Judgment of the Tribunal that the Tribunal has failed to properly assess the documents produced by both



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the parties and without examining the witnesses in detail, has hurriedly come to a conclusion that the appellant/petitioner before the Tribunal has not sustained injuries in the alleged accident and he was not traveling as a pillion rider of the motor cycle bearing Reg.No. KA-17/EW-8968.

20. Having considered the submissions of the learned counsel for the parties, we proceed to pass the following:

ORDER

i) The Miscellaneous First Appeal is ***allowed.***

ii) The judgment and award dated 19.09.2023 in MVC No.544/2022 passed by the Court of III Addl. Senior Civil Judge and JMFC, Davanagere, is hereby ***set aside*** and the matter is remanded back to the Tribunal for fresh consideration.

iii) The Tribunal shall give opportunity to both the parties to adduce fresh evidence and produce documents.



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iv) By giving opportunities to both the parties, the Tribunal shall dispose of the case as expeditiously as possible i.e., within the period of four months from the date of re-opening of the case.

v) Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the order passed by this Court forthwith.

vi) Amount in deposit along with accrued interest if any, shall be transmitted to the Tribunal.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

bnv
List No.: 1 Sl No.: 59