



CNR: KAHC010658622025

NC: 2026:KHC:53823
MFA No. 7513 of 2025
C/W MFA No. 7535 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 7513 OF 2025

(MV-I)

C/W

MISCELLANEOUS FIRST APPEAL No. 7535 OF 2025

(MV-I)

IN MFA No. 7513/2025

BETWEEN:

SMT. KALAVATHI S CHATRA
AGE 56 YEARS
W/O S.SACHIDANANDA CHATRA
KASABA VILLAGE, KUNDAPURA TALUK
UDUPI DISTRICT
PIN 576 201.

...APPELLANT

(BY SRI NAGESHA M.E, ADVOCATE)

AND:

1. ASHWINI, AGE 34 YEARS
W/O DINAKARA SHETTY
R/O ULLUR-74 VILLAGE
KUNDAPUR TALUK
UDUPI DISTRICT - 576 202.

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JUDGE, HIGH COURT OF KARNARAKA





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2. THE ORIENTAL INSURANCE CO.LTD.,
NEAR MASTHIKATTE
MASTHI TOWER KUNDAPURA
UDUPI DISTRICT, PIN 576 201.

...RESPONDENTS

(BY SRI. B VIJAY SHETTY, ADVOCATE FOR R1
SRI K SRIDHARA, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:03.04.2025
PASSED IN MVC No.388/2021 ON THE FILE OF THE SENIOR
CIVIL JUDGE AND ADDITIONAL MACT, KUNDAPURA,
AWARDING COMPENSATION OF Rs.1,85,338/- WITH INTEREST
AT 6 PERCENT PA. FROM THE DATE OF PETITION TILL
REALIZATION.

IN MFA No. 7535/2025

BETWEEN:

SMT. KALAVATHI S CHATRA
AGED ABOUT 56 YEARS
W/O S SACHIDANANDA CHATRA
KASABA VILLAGE, KUNDAPURA TALUK
UDUPI DISTRICT - 576 201.

...APPELLANT

(BY SRI. NAGESHA M.E, ADVOCATE)

AND:

1. SAKSHATH SHETTY
AGED ABOUT 18 YEARS
S/O ASHWINI
R/O ULLUR-74 VILLAGE
KUNDAPUR TALUK
UDUPI DISTRICT-576 202.

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2. THE ORIENTAL INSURANCE CO. LTD.,
NEAR MASTHIKATTE, MASTHI TOWER
KUNDAPURA, UDUPI DISTRICT-576 201.
BY M.D.

...RESPONDENTS

(BY SRI. B VIJAY SHETTY, ADVOCATE FOR R1
SRI K SRIDHARA, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:03.04.2025 PASSED IN MVC No.410/2021 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MACT, KUNDAPURA, AWARDED COMPENSATION OF Rs.1,33,021./- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT.

THESE APPEALS COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

1. Both the appeals are filed by the owner of the bus challenging the liability fastened on her in the judgment and award dated 03.04.2025 passed in MVC Nos. 410/2021 and 388/2021 (common judgment).

2. Heard learned counsel for appellant – owner, learned counsel for respondent No. 2 – Insurer and learned counsel for claimants.

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3. The mother and son who sustained injuries in the accident that occurred on 25.01.2021 made claim petitions in MVC Nos. 388/2021 and 410/2021 praying to award compensation for the injuries sustained by them. The Tribunal after recording evidence, appreciating the evidence on record, assessed the compensation and awarded compensation in a sum of Rs.1,85,338/- in MVC 388/2021 and Rs.1,33,021/- in MVC 410/2021 with interest at the rate of 6% per annum from the date of petition till the date of realization. The Tribunal has fastened the liability on the appellant - owner of the bus on the ground that the cheque issued towards payment of premium of insurance policy had been dishonored for want of funds and the same had been intimated by the Insurer to the owner. Said liability fastened on the owner is challenged by the owner in the present appeals.

4. Learned counsel for appellant - owner would contend that appellant was placed ex-parte and therefore she has not contested the claim petitions. Evidence led by

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the Insurer regarding cancellation of policy, dishonour of cheque and intimation regarding the same remained unchallenged. Notice of dishonour of cheque has not been served on the appellant - owner of the bus since signature on the postal acknowledgement is not of the appellant. He further submits that issuance of cheque, alleged dishonour of cheque and intimation of the same is during the period of lock down due to COVID-19 and as per the communication issued by Ministry of Road, Transport and Highways, Government of India, New Delhi, there was extension of validity of the documents relating to Motor Vehicles Act, 1988. He further submits that appellant - owner of the vehicle should be given an opportunity to contest the claim petitions and for that the matters are required to be remanded and prays for remand of the matters by setting aside the impugned judgment.

5. Learned counsel for Insurer would contend that the Insurer has led evidence, examined R.W.1 and produced Ex.R.1 to Ex.R.8 to indicate that intimation of

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dishonour of cheque has been issued and served on the owner of the vehicle and also regarding cancellation of insurance policy. Considering the same, the Tribunal has rightly fastened the liability on the owner.

6. Learned counsel for claimants would contend that if the matter is remanded it will cause hardship to the claimants and therefore the amount deposited by the owner requires to be released to the claimants subject to result of the claim petitions before the Tribunal.

7. Having heard learned counsel for the parties the Court has perused the common judgment, award and trial Court records.

8. Both the claim petitions filed by the injured mother and son have been clubbed together and common judgment has been passed. Even common evidence has been recorded in both the claim petitions. The Insurer has specifically contented that cheque issued by owner of the bus towards payment of premium for issue of insurance policy was dishonored, intimation of dishonor was sent to

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the owner and it was served. Postal acknowledgement was produced in that regard. Thereafter the insurance policy was cancelled. Appellant - owner of the bus remained ex-parte and has not contested the claim petitions. Evidence of respondent No. 1 has remained unchallenged since there is no cross-examination by the owner of the vehicle.

9. Contention of the owner of the vehicle is that said renewal of the policy is during COVID-19 lockdown and intimation regarding dishonour of cheque has not been served on the appellant - owner of the bus. It is also contented that the signature on the postal acknowledgment – Ex.R.5 is not of the appellant - owner of the bus. Since the owner of the bus has not contested, she has to be given an opportunity to contest the claim petitions and grounds raised by the Insurer regarding dishonour of the cheque, intimation of dishonour to the owner and cancellation of the policy. Considering the said contentions taken by the owner of the bus, the matters are required to be remanded to the Tribunal only to

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consider the liability to pay the compensation assessed by the Tribunal. Said remand does not pertain to the compensation already assessed by the Tribunal. Considering that the claimants are injured, the amount already deposited by the appellant - owner of the bus has to be disbursed to the claimants and it is subject to result of the claim petitions.

10. In view of the above, the following;

ORDER

- i) Both appeals are allowed.
- ii) The judgment and award dated 03.04.2025 passed in MVC Nos. 410/2021 and 388/2021 is set aside only in respect of the liability to pay the award amount.
- iii) Parties are at liberty to lead additional evidence with regard to the liability to pay the compensation amount.

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- iv) Appellant - owner of the vehicle has to file statement of objections on the date of appearance before the Tribunal.
- v) Parties are directed to appear before the Tribunal on 28.10.2026 without awaiting any Court notice.
- vi) The compensation already assessed by the Tribunal is not disturbed and the remand is only with regard to determining the liability to pay the compensation assessed.
- vii) The amount deposited by the Appellant owner in both appeals is to be transmitted to the Tribunal.
- viii) The amount so transmitted and in deposit before the Tribunal is ordered to be released to the claimants of both the claim petitions and the said release is subject to result of the claim petitions

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with regard to liability to pay the compensation amount. The Tribunal shall get executed indemnity bond in that regard from the claimants.

- ix) Registry is directed to send back the trial Court records along with a copy of the Judgment forthwith so as to reach the Tribunal before the date of appearance.

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

LRS
List No.: 1 Sl No.: 40
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