HC-KAR

NC: 2026:KHC:60403
MFA No. 3404 of 2017
C/W MFA No. 1555 of 2017

CNR: KAHC010293342017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.3404 OF 2017(MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.1555 OF 2017(MV-I)

IN MFA NO.3404/2017:

BETWEEN:

UNITED INDIA INSURANCE COMPANY LIMITED
I FLOOR, R V COMPLEX,
OPP:LIC OFFICE,
BEHIND KSRTC BUS STAND,
I FLOOR, RAMANAGARA - 562 159
REP BY THE REIGIONAL MANAGER,
UNITED INDIA INSURANCE CO LIMITED,
REGIONAL OFFICE,
5TH AND 6TH FLOOR, KRISHI BHAVAN,
NRUPATHUNGA ROAD,
BENGALURU - 560 001.

...APPELLANT

[BY SRI RAVISH BENNI, ADVOCATE (PH)]

Digitally signed by ANUSHA V
Location: High Court of Karnataka

AND:

1 . SHRI LOKESH
S/O SHRI VENKATAPPA,
AGED 25 YEARS,
R/AT PADARAHALLI VILLAGE,
KASABA HOBLI,
RAMANAGARA TALUK
AND DISTRICT - 562 109.

2 . SHRI KRISHNA NAYAK
S/O SHRI HANUMA NAYAK,
MAJOR,
R/AT PADARAHALLI VILLAGE,

KASABA HOBLI,
RAMANAGARA TALUK AND DISTRICT - 562 109.

…RESPONDENTS

[BY SRI RAJU S., ADVOCATE FOR R1;
R2 - NOTICE SERVED AND UNREPRESENTED]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 28.11.2016 PASSED IN MVC NO.156/2012 ON THE FILE OF THE ADDL.SENIOR CIVIL JUDGE, RAMANAGARA, AWARDING COMPENSATION OF RS.2,67,922/- TOGETHER WITH INTEREST THEREON AT THE RATE OF 9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF REALIZATION.

IN MFA NO.1555/2017:

BETWEEN:

LOKESH
S/O VENKATAPPA
AGED ABOUT 25 YEARS
R/AT PADARAHALLI VILLAGE
KASABA HOBLI
RAMANAGARA TALUK AND DIST

…APPELLANT

[BY SRI RAVISH BENNI, ADVOCATE (PH)]

AND:

1. KRISHNA NAYAK
S/O HANUMA NAYAK
R/AT PADARAHALLI VILLAGE
KASABA HOBLI
RAMANAGARA TQ & DIST - 572 159.

2. THE UNITED INDIA INSURANCE CO LTD
1ST FLOOR, RVR COMPLEX
OPP: LIC BEHIND KSRTC BUS STAND,
IJOOR, RAMANAGARA - 562 159.

…RESPONDENTS

[BY SRI K.HANUMANTHAPPA, ADVOCATE FOR R1;
SRI RAVISH BENNI, ADVOCATE FOR R2]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 28.11.2016 PASSED IN MVC NO.156/2012 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE, ADDITIONAL MACT, RAMANAGARA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS IS COMING ON FOR *DICTATING ORDERS*, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 28.11.2016 passed by Additional Senior Civil Judge, Additional MACT, Ramanagara ('**Tribunal**') in MVC no.156/2012, these appeals are filed. While MFA no.3404/2017 is by insurer, MFA no.1555/2017 is by claimant.

2. Brief facts leading to these appeals as stated are that at 4:30 pm on 08.01.2012, when claimant was travelling on Tractor and Trailer no.KA-52-T-0387 and 0388 as loader, its driver drove it in a rash and negligent manner on Ramanagara-Magadi road and suddenly applied brakes, which caused separation of Tractor and Trailer. Claimant fell down and

suffered grievous injuries. Despite treatment at Ramanagara Rotary Hospital and Sai Ram Hospital, Bangalore, he did not recover fully and sustained permanent physical disability. Alleging loss of earning capacity he filed claim petition under Section 166 of Motor Vehicles Act, 1988 (‘**MV Act**’) against owner and insurer of Tractor.

3. Though owner appeared, only insurer filed objections opposing claim petition on all grounds including alleging that policy issued did not cover risk of loader.

4. Based on pleadings, Tribunal framed following:

Issues:

1. *Whether the petitioner proves that on 08.01.2012 at about 4.30 a.m. he was traveling as a loader on a Tractor bearing no.KA-52-T-0387 and Trailer bearing no.KA-52-T-0388 near Ramanagara-Magadi road, Gollarahalli-Katukanapalya when the driver of the said vehicle drove in a rash and negligent manner and applied sudden breaks and the tractor and trailer got separated as a result of which petitioner suffered grievous injury as alleged?*

2. *Whether the 2nd respondent proves that the driver of the tractor and trailer had no valid driving license?*

3. *Whether the petitioner is entitled for compensation? If so, how much and from whom?*

4. What order or award?

5. To establish contentions, claimant examined himself and Dr.K Prashanth as PWs.1 and 2 and got marked Exs.P1 to P15. In rebuttal, officials of insurers and RTO deposed as RWs.1 to 3 and got marked Exs.R1 to R8.

6. On consideration, Tribunal answered issue no.1 in affirmative, issue no.2 in negative, issue no.3 partly in affirmative and issue no.4 by assessing compensation of Rs.2,67,922/- with interest at 9% per annum and holding insurer liable to pay same. Aggrieved, these appeals were filed.

7. Sri Ravish Benni, learned counsel submitted that MFA no.3404/2017 was by insurer challenging finding of Tribunal on liability. It was submitted that Tribunal failed to appreciate that Tractor had seating capacity of only one i.e. for driver. Even if Trailer were attached to Tractor, carriage of loaders was prohibited. It was submitted Full Bench of this Court in **Gadhilingappa v. K. Guleppa**, reported in **2021 SCC OnLine Kar 12137**, had held that insurer would not be liable for injuries/death of person travelling on mudguard of Tractor.

Learned counsel also seeks to rely on a decision of this Court in **Hanumanthappa v. National Insurance Co. Ltd. and Others,** reported in **2018 ACJ 1884.**

8. Besides above, even Rule 28 of 'Rules of Road Regulations, 1989' ('**Regulations**') prohibited driver of Tractor from carrying any other person on engine. Further, Tribunal failed to notice that apart from claimant there were two others travelling in Trailer indicating that Tractor-Trailer was used as passenger vehicle in violation of terms of policy covering risk only during its usage for agricultural purposes. It was further submitted that Ex.R7 – Policy did not mention about payment of premium to cover risk of 2nd employee. It was lastly submitted that interest awarded by Tribunal at 9% p.a. was excessive and warranted interference. Hence, impugned award called for interference.

9. On other hand, Sri AK Bhat, learned counsel appearing for Sri Raju S, advocate for claimant opposed insurer's appeal. It was submitted, Rule 100 of Karnataka Motor Vehicles Rules, 1989 ('**Rules'**) allows owner of goods or

hirer or their bonafide employees to travel in goods vehicle along with goods. Insurer's contention that claimant was travelling in goods vehicle would be at best a violation of policy conditions in which case an order for pay and recover could be passed. It was submitted that under similar circumstances, Division Bench of this Court in **Narasibai and Ors. v. Krishna Nayak and Anr.** [**2022:KHC:3787-DB**], had fixed liability on insurer. Likewise, even Hon'ble Supreme Court in **Shivaraj v. Rajendra and Anr.**, reported in **(2018) 10 SCC 432** held insurer to pay compensation to claimant and thereafter recover same from insured. Said ratio would apply to this case as well.

10. And relying on decision of this Court in **Mounesh v. Thimmanna**, reported in **2010 SCC OnLine Kar 462** wherein it was held that on attachment of Trailer, **Tractor functioned as goods vehicle** and holding insurance policy covering risks of workmen/loaders employed on it. On said grounds sought for dismissal of insurer's appeal.

11. Insofar as enhancement of compensation, it was submitted that as on date of accident claimant was 20 year old

earning Rs.9,000/- per month as coolie sustained permanent physical disability assessed by PW.2 at 17% to left upper limb and 15% to whole body. Further, Tribunal erred in not adding future prospects to monthly income. Even grant of Rs.1,41,309/- towards medical expenses, Rs.10,000/- towards future medical expenses, Rs.5,000/- towards nourishment and attendant charges, Rs.933/- towards loss of income during laid-up period, Rs.5,000/- towards pain and suffering and Rs.2,000/- towards loss of amenities were on lower side and sought enhancement.

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

13. From above, points that arise for consideration are:

i. *Whether Tribunal erred in holding insurer liable to pay compensation?*

ii. *Whether claimant is entitled for enhancement of compensation as prayed?*

Point no.(i):

14. In order to establish actionable negligence against owner/insurer, claimant relied on prosecution records. Exs.P1 -

FIR and Ex.P3 - Charge sheet mentions about claimant sitting on Tractor engine/mudguard along with two others. In cross-examination, claimant stated that he was travelling on Trailer. Hon'ble Supreme Court in case of **Royal Sundaram Alliance Insurance Co. Ltd. v. Honnamma**, reported in **2025 SCC OnLine SC 1027** held that when Tractor is attached with Trailer, Tractor would cause movement and be liable for accident. Hence, insurer of Tractor must first satisfy award and thereafter recover it from insured. In **Shivaraj**'s case (*supra*), dealing with case of claimant travelling on Tractor, Hon'ble Supreme Court arrived at similar conclusion. Thus, in either case, insurer would be liable to pay compensation to claimant and thereafter recover it from insured. Incidentally in present case, claimant admitted that he was travelling on Trailer. Therefore, instead of **Shivaraj**'s case (*supra*), decision in **Honnamma**'s case (*supra*), would be attracted. Reliance on decision in **Hanumanthappa**'s case (*supra*) would be inconsequential, as in instant case claimant stated that he was travelling on trailer. Hence, point no.(i) is answered partly in

affirmative holding insurer liable to pay compensation to claimant and thereafter be at liberty to recover it from insured.

Point no.(ii):

15. At outset, there is no dispute about occurrence of accident and claimant sustaining loss of earning capacity and being entitled for compensation. Though claimant stated himself to be aged 20 years earning Rs.9,000/- per month as coolie, he did not substantiate it. In absence, Tribunal rightly assessed it notionally. But notional income for year 2012 being Rs.7,000/-, Tribunal erred in taking it at Rs.4,000/-. There is no dispute about extent of loss of earning capacity assessed at 15% or about multiplier of '18'. But as per ratio laid down in **Erudhaya Priya v. State Express Transport Corporation Ltd.**, reported in **2020 SCC OnLine SC 601**, future prospects has to be added to monthly income. Since claimant was below 40 years and self-employed future prospects at 40% has to be added. Thus, compensation towards future loss of income would be:

(Rs.7,000 + 40%) x 15 % x 12 x 18 = **Rs.3,17,520/-**.

16. While passing impugned award, Tribunal has granted **Rs.1,41,309/-** in full reimbursement of medical bills produced leaving no scope for enhancement. Taking note of number and nature of fractures, award of Rs.5,000/- towards pain and suffering, would be grossly inadequate and found fit to enhance to **Rs.50,000/-**. Likewise, award of Rs.10,000/- towards future medical expenses would also be inadequate and therefore enhanced to **Rs.40,000/-**. Considering in-patient treatment period of 7 days, award of **Rs.5,000/-** towards nourishment and attendant charges would appear just and proper. Normally fractures take about three months to heal. Taking same as layoff, claimant would be entitled to **Rs.21,000/-** instead of Rs.933/- towards loss of income during treatment. Considering nature and number of fractures and disability sustained award of Rs.2,000/- towards loss of amenities would grossly inadequate and therefore stands enhanced to **Rs.30,000/-**.

17. Insofar as rate of interest Hon'ble Supreme Court has been consistently held that rate of interest at 9%. Thus,

total compensation would be **Rs.6,04,829/-**. Point no.(ii) is answered partly in affirmative.

18. Consequently, following:

ORDER

i. MFA no.3404/2017 filed by insurer is ***allowed in part***.

ii. MFA no.1555/2017 filed by claimant is ***allowed in part***.

iii. Judgment and award dated 28.11.2016 passed by Tribunal in MVC no.156/2012 is ***modified***.

iv. Insurer is directed to deposit re-assessed compensation below to claimant with liberty to recover it from insured.

v. Total compensation is re-assessed to **Rs.6,04,829/-** as against Rs.2,67,922/- assessed by Tribunal.

vi. Same shall carry interest at 9% per annum from date of claim petition till its realization.

vii. Insurer to deposit entire compensation with interest at rate of 9% per annum before Tribunal within Six weeks.

viii. On deposit, entire compensation with interest is ordered to be released in favour of claimant.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD/HNM
List No.: 1 Sl No.: 14