HC-KAR

NC: 2026:KHC:61738
MFA No. 4022 of 2016

CNR: KAHC010307422016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.4022 OF 2016(MV-D)

BETWEEN:

HDFC ERGO GENERAL INSURANCE COMPANY LTD.,
NO. 25/1, BUILDING NO.2, II FLOOR,
SHANKARANARAYANA BUILDINGS,
M.G.ROAD, BANGALORE - 560 001
HEREIN REP BY ITS ASST. MANAGER (L).

...APPELLANT

[BY SRI LINGARAJ H S., ADVOCATE (PH)]

AND:

1. VENUGOPAL
   NOW AGED ABOUT 43 YEARS,
   S/O LATE MUNISWAMAPPA,
   SINCE DECEASED REP. BY
   HIS SOLE LR RESPONDENT NO.2 HEREIN

2. KISHORE V
   NOW AGED ABOUT 21 YEARS,
   S/O VENUGOPAL

   BOTH ARE R/AT NO.20,
   4TH 'E' CROSS, VINAYAKANAGAR,
   KAMAKSHIPALYA,
   BENGALURU - 560 079.

3. MAHESH G R
   MAJOR,

Digitally signed by ANUSHA V
Location: High Court of Karnataka

S/O RANGAIAH,
R/A NO.124/56, 3RD B STREET,
1ST MAIN ROAD, 3RD CROSS,
T.R.NAGAR,
BENGALURU - 560 001.

…RESPONDENTS

BY SRI B.C.THIPPESWAMY, ADVOCATE FOR
SRI S.PARAMESHAPPA, ADVOCATE FOR R23 (PH);
V/O DTD 13.12.2023 R2 IS RECOGNIZED AS LRS OF DECEASED R1; NOTICE TO R3 IS SERVED & UNREPRESENTED]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 04.02.2016 PASSED IN MVC NO.4143/14 ON THE FILE OF THE MEMBER, PRINCIPAL MACT, BENGALURU, AWARDING COMPENSATION OF RS.14,39,365/- WITH INTEREST AT 9% P.A. FROM THE DATE OF PETITION TILL REALISATION.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 04.02.2016 passed by Member, Principal MACT, Bengaluru, in MVC no.4143/2014, this appeal is filed.

2. Sri HS Lingaraju, learned counsel submitted that appeal was by insurer challenging finding of tribunal on liability as well as on quantum.

3. Brief facts leading to this appeal as per claimants were that at 11:30 a.m. on 31.08.2014 when Smt.Shobha was walking towards market, driver of auto no.KA-05/AB-2153 drove it in rash and negligent manner and it dashed against her. In accident she sustained grievous injuries and despite treatment at Panacea Hospital, Basaveshwara Nagar, Bengaluru, she did not recover and succumbed to same on 07.09.2014 during treatment. Claiming compensation, her husband and son filed a claim petition under Section 166 of Motor Vehicle Act, 1988, against owner and insurer of Auto.

4. On contest, claim petition was opposed on all grounds. Based on pleadings, tribunal framed issues and recorded evidence.

5. Claimant deposed as PW.1 and got marked Exhibits P1 to P11. Respondent examined its official as RW1 and got marked Exhibits R1 and R2.

6. On consideration, Tribunal held accident had occurred due to rash and negligent driving of auto by its driver leading to the death of Smt.Shobha and claimants were entitled for compensation assessed at Rs.14,39,365/- with interest at 9% per annum. Aggrieved thereby appeal was filed.

7. It was submitted that at time of accident, driver of autorickshaw did not hold any valid and effective driving licence. Besides permit and fitness had expired. In view of above, tribunal erred in holding insurer liable to pay compensation. On quantum it was submitted that claimants were husband and major son of deceased who could not be stated to be dependent on income of deceased. Therefore, claim petition was untenable and liable for dismissal. On said ground sought for allowing of appeal.

8. On other hand, Sri BC Thippeswamy, learned counsel appearing for S Parameshappa, learned counsel for respondent no.2-claimant would oppose appeal. Insofar as challenge on liability it was submitted that even in case of occurrence of accident while driver did not have valid and effective driving licence, claimant was a pedestrian and as

such, a third party to contract of insurance. Hon'ble Supreme Court in case of **Rama Bai v. Amit Minerals** reported in **2025 SCC OnLine SC 2067** had held insurer liable to pay compensation to third party claimants with liberty to recover same from insured. Same would be position even in case registration and permit were to be established to have expired. On quantum it was submitted that deceased was wife of claimant no.1 and mother of claimant no.2. Services of a housewife to a household was well recognised in ***Shishu Pal v. Surjeet*** reported in ***2026 SCC OnLine SC 1114*****.** Therefore, challenge on ground of claimants not depending on income of deceased would be untenable and sought for dismissal.

9. Heard learned counsel, perused impugned award and record.

10. This appeal is by insurer challenging finding of tribunal on liability and on quantum. Points that would arise for consideration are:

i. Whether tribunal was justified in holding insurer liable to pay compensation?

ii. Whether assessment of compensation by tribunal was excessive, called for reduction?

Reg. Point no.1:

11. To substantiate actionable negligence against owner/insured, claimants relied on police investigation records. Though same would implicate occurrence of accident due to rash and negligent driving of auto by its driver, Ex.P2-charge sheet would reveal that driver of autorickshaw was charge sheeted not only for offences under Section 279 and 304A of IPC, but also under Sections 134A and B, 187, 3(1), 181, 5, 180, 56 and 192 of MV Act, which would arise only in case driver of a motor vehicle did not have any valid and effective driving licence. Under similar circumstances, while considering insurer's challenge on ground of driver not possessing driving licence, Hon'ble Supreme Court has held insurer would still be liable to pay compensation to claimant and thereafter recover it from insured. Said ratio would apply on all squares to instant case. Besides same, even challenge on ground of fitness and permit having expired, position in law would still be same. Therefore, point no.1 is answered *partly in affirmative*.

Reg. Point no.2:

12. In view of Hon'ble Supreme Court in ***Shishu Pal***'s case (supra) recognizing various services rendered by a housewife to a household, it can no more be contended that husband and major son of a housewife would not be dependent on her. Therefore, challenge on quantum would be without any merit and as such, answered in *negative.*

13. Consequently, following:

ORDER

(i) Appeal is ***allowed in part***;

(ii) Judgment and award dated 04.02.2016 passed by Member, Principal MACT, Bengaluru, in MVC no.4143/2014, is *modified* only to extent of holding insurer liable to pay compensation to claimants in first instance and thereafter, be at liberty to recover it from insured without recourse to separate proceedings;

(iii) Amount in deposit is ordered to be transmitted to Tribunal for disbursal;

(iv) Insurer to deposit balance compensation, if any, before Tribunal within six weeks;

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

(vi) Since claimant no.1 has died during pendency of appeal, entire compensation would be payable to claimant no.2.

Sd/-
(RAVI V HOSMANI)
JUDGE

YKL,AV
List No.: 1 Sl No.: 18