HC-KAR

NC: 2026:KHC:61644
MFA No. 4358 of 2016

CNR: KAHC010336712016

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.4358 OF 2016(MV-DM)

BETWEEN:

M/S THE ORIENTAL INSURANCE
COMPANY LIMITED
REGIONAL OFFICE NO.44/45,
LEO SHOPPING COMPLEX
RESIDENCY ROAD,
BANGALORE-560 025
REP. BY ITS REGIONAL MANAGER

...APPELLANT

(BY SRI B S UMESH, ADVOCATE)

AND:

1. DR BHASKAR ACHARYA
S/O N.RAMACHANDRA ACHARYA
AGED ABOUT 61 YEARS
DIRECTOR DR.N.R.ACHARYA MEMORIAL
HOSPITAL, N.H.-17
KOTESHWARA
KUNDAPURA TALUK
UDUPI DISTRICT-576 222.

2. SHANKARA ACHARYA
S/O NAGAPPA ACHARYA
AGE MAJOR EXACT NOW KNOWN TO APPELLANT
RETIRED REVENUE INSPECTOR,
KOKKARNE POST
UDUPI TALUK
& DISTRICT-576 234.

...RESPONDENTS

(BY SRI UDAYA PRAKASH, ADVOCATE FOR R2)

Digitally signed by ANUSHA V
Location: High Court of Karnataka

CNR: KAHC010336712016

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 14.3.2016 PASSED IN MVC NO.558/2013 ON THE FILE OF THE SENIOR CIVIL JUDGE, MEMBER, ADDITIONAL MACT, KUNDAPURA, AWARDING A COMPENSATION OF RS.1,50,760/- WITH INTEREST @ 6% P.A FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT OF COMPENSATION AMOUNT IN THE TRIBUNAL.

THIS APPEAL IS 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 14.03.2016 passed by Senior Civil Judge, Member - Addl. MACT, Kundapura, in MVC no.558/2013, this appeal is filed.

2. Sri BS Umesh, learned counsel for appellant submitted that appeal was by insurer challenging award on quantum. Brief facts leading to this appeal as per claimant were that at 6:00 p.m. on 18.11.2012 Purushothama was driving ambulance no.KA-20/B-188 towards Manipal, when near Uppoor village, car no.KA-20/P-956 driven by its driver in rash and negligent manner dashed against ambulance and caused accident. Purushothama sustained grievous injuries and though taken to Mahesh Hospital, Brahmavara, succumbed to same. Even ambulance was totally damaged. Therefore, MVC no.558/2013 was filed against owner and insurer of Car for

damages to ambulance, under Section 166 of Motor Vehicles Act, 1988.

3. On contest, wherein claim petition was opposed on various grounds, tribunal framed issues and recorded evidence.

4. Claimant along with two others deposed as PWs.1 to 3 and Exhibits P1 to P12 were marked. Respondents examined five witnesses and got marked Exhibits R1 to R9.

5. On consideration, tribunal held accident had occurred due to rash and negligent driving of Car. But on ground that driving licence of driver of Car valid from 2009 to 2012 had expired and renewed from 28.11.2012 was not valid and effective as on date of accident, held insurer liable to pay compensation to claimant but with liberty to recover it from insured. Dissatisfied with quantum of compensation, appeal was filed.

6. It was submitted, as per Ex.P6 - Motor Vehicle Inspector's Report, value of Ambulance as on date of accident was Rs.1,72,058/-. Therefore, claim of Rs.2,30,872/- towards damages itself was grossly excessive. Consequently, award of Rs.1,50,758/- as compensation would be without considering

depreciation in value of Car which was of year 2007. Hence, on ground that compensation awarded was not commensurate to value of Ambulance, prayed for allowing appeal and reducing compensation.

7. On other hand, Sri Nagaraja Hegde, learned counsel for claimant and Smt.Sinchana S., learned counsel appearing for Sri Udaya Prakash, learned counsel for owner of Car opposed appeal.

8. It was submitted, evidence on record suggest that both vehicles sustained extensive damages and claimants had produced material to substantiate cost of repair. Award was passed by reference to same. Therefore, award did not warrant interference and sought dismissal.

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

10. From above, only point that arise for consideration is:

> *"Whether compensation awarded by Tribunal was excessive and called for reduction?"*

11. At outset, this appeal is by insurer challenging quantum of compensation in a vehicle damage claim petition. There is no dispute about occurrence of accident due to rash and negligent driving of insured Car by its driver and damages sustained by Ambulance in said accident. There is also no challenge of finding of Tribunal about liability of insurer of Car to pay compensation. Dispute is only about entitlement/quantum.

12. To substantiate claim for damages, claimants relied on Registration and Tax Paid Certificates, Estimation, Repair and Spare Parts Bills, etc., marked as Exs.P4, P5, P8 to P10 and on oral evidence of official of insurer of ambulance as PW.2 and surveyor as PW.3. PW.2 stated about insurance claim having been filed by owner of ambulance and about its rejection. PW.3 surveyor not only stated about damages sustained but also about repair estimation and bills issued by repairer. He also stated that loss suffered by claimant-owner was to tune of Rs.1,20,758/-.

13. While passing impugned award tribunal noted that cross examination of witnesses by insurer was on ground that

claim was excessive and beyond value of vehicle as it was five years old and depreciation has to be accounted for. But it noted Ex.P6 - Insurance Policy of ambulance showed its insured value at Rs.1,72,058/- to reject insurer's contention. Said reasoning appears proper considering further deposition of PW.3 that claimant had paid repair cost of Rs.1,20,758/-, which it awarded.

14. Even grant of Rs.20,000/- towards idling charges and Rs.10,000/- towards inconvenience during three months ambulance was under repair also cannot be stated to be unsubstantiated or excessive. Hence, point for consideration is answered in negative. Consequently, following:

ORDER

(i) Appeal is ***dismissed*** confirming judgment and award dated 14.03.2016 passed by Tribunal in MVC no.558/2013 directing appellant - insurer to pay compensation to claimants in first instance and thereafter, be at liberty to recover it from insured

without recourse to separate proceedings;

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

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

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

Sd/-
(RAVI V HOSMANI)
JUDGE

AV/YKL
List No.: 1 Sl No.: 20