CNR: KAHC010408072018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 4253 OF 2018 (MV-I)

BETWEEN:

THE BRANCH MANAGER,
ORIENTAL INSURANCE CO. LTD.,
BRANCH OFFICE, JAYADEVA HOSTEL BUILDING,
B.H.ROAD, TIPTUR.

BY

ORINETAL INSURANCE CO. LTD.,
REGIONAL OFFICE, NO.144,
NO.44/45, LEO SHOPPING COMPLEX,
RESIDENCY CROSS ROAD,
BANGALORE – 560 025.
BY ITS MANAGER.

...APPELLANT

(BY SRI. O.MAHESH., ADVOCATE)

Digitally signed by JAI JYOTHI J
Location: HIGH COURT OF KARNATAKA

AND:

1. N.S.HEMAVATHI
   AGED 45 YEARS,
   D/O. N.G.SANJEEVAPPA,
   R/O. NIDAGHATTA VILLAGE,
   AND POST, SAKHARAYAPATTANA HOBLI,
   KADUR TALUK,
   CHIKKAMAGALURU DISTRICT – 577 101.

2. L.M.D. ZABI
   AGE 47 YEARS,
   S/O. CHAMAN SAB,
   R/O. KADUR TOWN,

KADUR TALUK–577 123.

3. NAVEENKUMAR
MAJOR,
S/O. M.S.MAHENDRA,
PE TEACHER, R/O. BELUR,
NAGAVANGALA TALUK,
MANDYA DISTRICT – 571 401.

4. TANVIR ALAM
MAJOR,
S/O. KHADER BASHA,
R/O. BY THE SIDE OF
M.M.ROAD, BABAVVA ARASIKERE TALUK,
HASSAN DISTRICT – 573 201.

…RESPONDENTS

(BY SMT. B.N.MANJULA., ADVOCATE FOR
SRI. R.C.NAGARAJ., ADVOCATE FOR R1;
NOTICE TO R3 TO R4 ARE HELD SUFFICIENT-V/O
DATED:20.01.2025;
NOTICE TO R2-DISPENSED WITH V/O/DTD:30.11.2022)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 03/03/2018, PASSED IN MVC NO.33/2011, ON THE FILE OF THE SENIOR CIVIL JUDGE & MMACT, KADUR, AWARDING COMPENSATION OF 1,94,219/- WITH INTEREST AT THE RATE OF 7% P.A. FROM THE DATE OF PETITION TILL THE REALIZATION.

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

CORAM: **HON'BLE MS. JUSTICE TARA VITASTA GANJU**

ORAL JUDGMENT

1. The present appeal seeks to challenge a Judgment and Award dated 03.03.2018 passed by the Senior Civil

Judge and MACT, Kadur, in MVC No.33/2011 (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, a sum of Rs.1,94,219/- has been granted by the learned Tribunal along with interest at the rate of 7% per annum.

2. The challenge in this appeal has been filed by the appellant/Insurance Company. By order dated 30.11.2022, notice to respondent No.2/owner was dispensed with and service in respect of respondent Nos.3 and 4 has been held sufficient by this Court by its order dated 20.01.2025.

3. When the matter is called out today, no one appears for respondent Nos.3 and 4. Given the pendency of this appeal and with the consent of the parties, the matter is taken up for hearing and disposal at the admission stage itself given the limited issue involved.

4. Learned counsel appearing for the appellant/Insurance Company submits that his challenge in the appeal is essentially on one ground. He submits that the accident took place on 25.09.2006 while the claim petition was filed on 18.03.2011. Learned counsel further submits that this aspect was also brought forth by him in his written statement that he filed to the claim petition as well. However, the learned Tribunal did not take into consideration these objections and the ground of delay. Hence the present appeal.

5. Learned counsel for respondent No.1/claimant on the other hand contends that there is no doubt that the accident took place on 25.09.2006. However, a police complaint was filed on 07.03.2007, based on which an FIR was registered. She seeks to rely upon the FIR (Exhibit P1) and the complaint (Exhibit P2) in this behalf. In addition, learned counsel submits that PW-2 was also produced as an eye-witness in the matter and the accident

has not been disputed by the appellant/Insurance Company. Lastly, it is contended by the learned counsel for the respondent No.1/claimant that the issue of delay has been dealt with by the Supreme Court in several cases holding that the mere delay in lodging the FIR by itself will not negate a claim for compensation. Reliance in this behalf is placed on a judgment of the Supreme Court in the case of ***Ravi vs Badrinarayan & Ors.***[1]

6. This Court has examined the record and evidence. The facts are not in dispute that respondent No.1/claimant was injured in an accident which took place on 25.09.2006. The injured was a housewife and agriculturalist. However, she did lodge a police complaint on 07.03.2007 (Exhibit P2). The appellant is the Insurer of the offending vehicle being a Honda Motorcycle bearing registration number KA-03/M-5659. On the basis of the complaint, the Jurisdictional police registered an FIR. The

[1] 2011 (4) SCC 693

respondent No.1/claimant who was injured in the accident had taken treatment at Sri. Sathya Sai Hospital, Kadur as well as Shivara Shivappa Memorial Hospital, Hassan. It is further stated that the respondent No.2/driver of the offending vehicle appeared before the Court of the Judicial Magistrate in CC No. 149 of 2009 and also pleaded guilty for the offences punishable under Sections 279 and 338 of the Indian Penal Code, 1860. The claim was contested by the Insurance Company. There was no presence on behalf of the remaining respondents including the driver/1st respondent and owner of the offending vehicle/2nd respondent. The respondent No.3 was the Insurance Company while respondent No.4 was the policy holder. Respondent no. 4 did not appear before the Tribunal and was proceeded with ex-parte.

7. Based on the rival contentions of the parties, the following issues were framed.

> *"1. Whether the petitioner proves that, she has sustained grievous injuries due to the actionable negligent driving of the maruthi omni bearing Regn.No.KA.03/M-5659 by*

the respondent No.1 in a road traffic accident which took place on 25.9.2006 at about 5.45 p.m. near bridge of Thangali cross on N.H.206, Kadur tq.?

2. Whether the petitioner is entitled for the compensation? If so, what amount?

3. What award or order?"

8. The claimant examined herself as PW-1 and got an independent witness examined as PW-2. A total of 66 documents were marked on behalf of the respondent No.1/claimant as Exhibits P1 to P66. They included the FIR (Exhibit P1), complaint (Exhibit P2), spot mahazar (Exhibit P3), Wound Certificates (Exhibits P4 & P5), order sheet (Exhibit P6), plea (Exhibit P7), certificate (Exhibit P8), medical bills (Exhibits P9-37), 28 medical prescriptions (Exhibits P38 to 65) and the RTC (Exhibit P66). Further, through the court commission the Doctor was examined as CW1 and two documents namely case sheet and X-ray film were marked as Exhibits C1 and C2. The Insurance company got examined one of its officials as RW1 and the Insurance Policy (Exhibit R1) was marked.

9. Based on the evidence placed on record, the issue of negligence was held to be proved. On the injuries sustained, the learned Tribunal examined the wound certificate and other documents produced. Given the notional income of the claimant at Rs.6,000/- per month and since the age of the first respondent/claimant was 36 years at the time of the accident, applying multiplier '15', loss of future income was calculated at Rs.1,08,000/-. In addition, the learned Tribunal awarded compensation as per the table as under:

Sl.No.	**Heads of compensation**	**Amount (in Rs.)**
1	Loss of future income	Rs.1,08,000/-
2	Medical expenses & attendant charges	Rs. 26,219/-
3	Loss of income during laid up period and attendant charges	Rs. 3,000/-
4	Conveyance charges	Rs. 2,000/-
5	Pain and suffering	Rs. 30,000/-
6	Food and nourishment	Rs. 15,000/-
7	Towards future medical expenses	Rs. 10,000/-
	TOTAL	**Rs.1,94,219/-**

10. The learned Tribunal thus found that the respondent No.1/claimant was entitled for compensation of Rs.1,94,219/- and that the since there is a valid insurance policy, the appellant/Insurer has been held liable to pay the compensation. In addition, interest at 7% was also awarded by the learned Tribunal.

11. As stated above, the challenge in the present appeal is only on one ground that the injured/claimant was a housewife as well as an agriculturist. After the accident, she sustained injuries and that she was taken to two hospitals for treatment. She has also stated that after the accident she is not in a position to do any agricultural work. The respondent No.1/claimant has also placed on record the affidavit of the witness who has testified to the accident. The relevant extract of PW-2 paragraph 2 is set out below:

"AFFIDAVIT

xxx xxx xxx

2. I submits that, on 25-09-2006 at about 05.45 P.M. I was coming from Kadur to Tangali village by walking on

> *the by side of the road.* ***When I was reached near Tangali bridge which is near Tangali gate, at that time the petitioner was also coming in a motor cycle bearing Reg. No. KA-18/L-9564 as a pillion rider, from Kadur direction, on the left side of the N.H. 206 road****. When the said vehicle has reached near Tangali bridge at that time one Maruthi Omni van bearing Reg. No. KA-03/M-5659 driven* ***by the 1st respondent in a rash and negligent manner came from opposite direction and has dashed to the motor cycle. Thereby the accident was happened.*** *Due to the accident the petitioner has sustained injuries on her right ankle, right knee and other parts of the body. I had seen the said Motor Vehicle accident. The accident was happened due to rash and negligent driving of the 1st respondent."*
>
> [Emphasis Supplied]

12. In addition, the respondent No.1/claimant has also produced Exhibit P6 which is the order sheet of the Jurisdictional court. It is not disputed that on the basis of a complaint dated 07.03.2007 (Exhibit P2) an FIR (Exhibit P1) was lodged. It is also not disputed that the accident has occurred on 25.09.2006.

13. The issue raised by the appellant was also raised before the learned Tribunal. The learned Tribunal examined this issue and based on the evidence produced, found that the factum of accident is not in dispute. The

learned Tribunal relied on the admissions made by the respondent No.1/owner and respondent No.3/Insurer in their depositions. The learned Tribunal also relied on the injuries sustained which support the case of the respondent No.1/claimant, to hold that the delay in lodging of FIR by itself would not be a ground to suspect the case of the respondent No.1/claimant.

14. The only ground of challenge in the present appeal is the delay in filing the claim petition. Learned counsel for the appellant has also not been able to show any document or pleading on record which would support his contentions or raise any suspicion on respondent No.1/claimant in relation to the delay.

15. It is settled law that mere delay will not deceive a claim. The Supreme Court in the Judgment in the case of ***Ravi***, has held as follows:

> ***"17. It is well settled that delay in lodging the FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the***

police station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim.

18. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so the contents of the FIR should also be scrutinised more carefully. ***If the court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground****. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences.*

[Emphasis Supplied]

16. As stated above, since the accident itself is not in dispute, this Court finds that the challenge by the appellant/Insurance Company cannot be sustained. The appeal is accordingly ***dismissed***. Pending applications stand closed.

Digitally signed by
TARA VITASTA GANJU
Location: HIGH COURT
OF KARNATAKA

(TARA VITASTA GANJU)
JUDGE

KS
List No.: 1 Sl No.: 29