HC-KAR

NC: 2026:KHC:59912
MFA No. 8255 of 2013

CNR: KAHC010415212013

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO. 8255 OF 2013 (MV-D)

BETWEEN:

ICICI LOMBARD GIC LTD.,
NO.89, SVR COMPLEX,
HOSUR MAIN ROAD,
MADIWALA, BANGALORE - 68.

…APPELLANT

(BY SRI. A.N. KRISHNA SWAMY, ADVOCATE)

AND:

1. SMT. H. KALPANA
   W/O LATE TULASI RAMPRASAD,
   NOW AGED ABOUT 28 YEARS,

Digitally signed by ASHWINI MAYAPPA MAVARAKAR
Location: High Court of Karnataka

2. SRI. T. VINAYA PRASAD
   S/O LATE TULASI RAMPRASAD,
   NOW AGED ABOUT 8 YEARS,

3. MASTER T. SUJITH PRASAD
   S/O LATE TULASI RAMPRASAD,
   NOW AGED ABOUT 6 YEARS,

4. SRI. SHANKAR PRASAD
   S/O LATE BALAJI PRASAD,
   AGED ABOUT 78 YEARS

PETITIONER NO.2 AND 3 ARE MINORS

REPRESENTED BY THEIR
MOTHER/NATURAL GUARDIAN

ALL ARE RESIDING AT NO.22/1,
SRIKRISHNA NILAYA, 6TH CROSS,
DIVANARAPALYA, MATHIKERE,
BANGALORE - 560 054.

5. T. GANESH
MAJOR,
R/O NAMBIHALLI VILLAGE,
SHIVAPURA POST,
SRINIVASAPURA TALUK,
KOLAR DISTRICT - 563 101.

…RESPONDENTS

(BY SRI. N. GOPALA KRISHNA, ADVOCATE FOR R1 TO R4;
SRI. G.C. PRADEEP, ADVOCATE FOR R5;
R2 AND R3 ARE MINOR, REPRESENTED BY R1)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 07.06.2013 PASSED IN MVC NO.8657/2010 ON THE FILE OF THE VII ADDITIONAL JUDGE, MEMBER MACT-3, BANGALORE, AWARDING COMPENSATION OF RS.8,96,000/- WITH INTEREST @ 8% P.A FROM THE DATE OF PETITION TILL REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

CNR: KAHC010415212013

ORAL JUDGMENT

Challenging judgment and award dated 07.06.2013 passed by VII Additional Judge, Member, MACT-3, Bangalore (for short, 'Tribunal') in MVC no.8657/2010, this appeal is filed by Insurance Company.

2. Sri A N Krishna Swamy, learned counsel for appellant submitted that appeal was filed by insurer challenging award on question of liability, mainly on ground of non-involvement of insured vehicle in accident and false implication.

3. Brief facts as per claimants, were that at 08:00 p.m. on 11.08.2010, Tulasi Ramprasad was riding motorcycle bearing no.KA-04-EV-2713 on NH-4 near Core-in-School, Vadagur Gate when driver of scorpio Jeep no.KA-07-M-2300 drove it in a rash and negligent manner and dashed against motorcycle from opposite side. In accident, Tulasi Ramprasad sustained fatal injuries and died. Alleging loss of dependency on account of his death,

wife, children and father of deceased filed a claim petition under Section 166 of MV Act against owner and insurer of Jeep. On contest, wherein claim petition was opposed on all grounds, including denial of involvement of vehicle in accident, Tribunal framed following issues:

> *"1. Do the petitioners prove that Tulasi Ramprasad died in an accident arising out of rashness/negligence of the driver of the Mahindra Scorpio bearing registration No.KA-07-M-2300 as alleged in the petition?*
>
> *2. Whether the petitioners prove that they are LRs of the deceased Tulasi Ramprasad?*
>
> *3. Whether the petitioners are entitled for compensation? If so, how much and from whom?*
>
> *4. What Order or Award?"*

4. Claimant no.1 and an eyewitness and deposed as PW.1 and PW.2 and got marked Exs.P1 to P6. Owner deposed as RW.1 and official of insurer deposed as RW.2 and Exs.R1 to R7 were marked.

5. On consideration, Tribunal held issues no.1 and 2 in affirmative and issue no.3 partly in affirmative by

holding that accident occurred due to rash and negligent driving of insured vehicle by its driver and that claimants were entitled to total compensation of Rs.8,96,000/- with interest at 8% per annum from respondents no.1 and 2 jointly and severally. Aggrieved by said findings, insurer in appeal.

6. At outset, it was submitted that accident in question allegedly occurred at 08:00 p.m. on 11.08.2010, however, complaint was filed on next day. Though vehicle number was mentioned in complaint, after investigation police filed a C-report as per Ex.R1, specifically stating that there was sufficient material to indicate that insured vehicle was at a different place from accident spot and not involved in accident. Despite same, while passing impugned order, observation of Tribunal that insured vehicle was found at accident spot while conducting spot mahazar was contrary to record and, therefore, finding of Tribunal was liable to be set aside. On said ground, learned counsel sought for allowing appeal.

7. On other hand, Sri A.N. Gopal Krishna, learned counsel for respondents no.1 to 4, opposed appeal.

8. In order to establish actionable negligence against owner and insurer of offending vehicle, claimants relied on police investigation records, namely, FIR, complaint, spot mahazar and Motor Vehicle Inspector's report, marked as Exs.P1 to P3. Complaint was filed by brother of deceased on receipt of information from one Ramesh, examined as PW.2. In terms of complaint, FIR was registered.

9. It was further submitted that wife of owner of offending vehicle was admittedly Vice President of Zilla Panchayath and had used political influence, leading to police filing C-report. At time of passing award, Tribunal had appreciated material on record in proper perspective and fastened liability upon owner and insurer. Therefore, there was no merit in appeal and sought for dismissal.

10. Heard learned counsel for parties. Perused impugned judgment, award and record.

11. From above and since appeal by insurer is on sole ground of false implication of insured vehicle for purpose of claim, point that arises for consideration is:

> *"Whether Tribunal was justified in holding that insured vehicle caused accident and that claimants were entitled to compensation from owner/insurer? To establish actionable negligence against owner and insurer of offending vehicle, claimants relied on FIR and complaint, spot mahazar, MVA report and inquest report, which are marked as Exs.P1 to P4?"*

12. Perusal of compliant would reveal that it was given day after accident in question and complaint does mention that it was based on information received from one Ramesh about accident having been caused by a Mahindra scorpio vehicle bearing registration no.KA-07-M-2300. Ex.P1- FIR is registered based on said complaint, In spot mahazar drawn in next day, it is recorded that offending vehicle did not stop at accident spot after accident. Motor Vehicle Inspector's report at Ex.P3 would

not record any damages on insured vehicle. As rightly submitted by learned counsel for respondents-claimants, Motor Vehicle Inspector's inspection is on 13.09.2010 more than a month after accident and there would be some scope for contending that vehicle could have been got repaired by them. But no specific material is placed on record to establish same. Suggestions to said effect are denied by owner of vehicle examined as RW.1.

13. When Ex.P2 spot mahazar specifically records that offending vehicle had not stopped at accident spot after accident, finding of Tribunal that offending vehicle was available at accident spot at time of mahazar would be contrary to record.

14. Moreover, Ex.R2-final report would indicate that it is based on C-report, marked as Ex.R1. In course of investigation, police had found sufficient material to indicate that Mahindra Scorpio belonging to respondent

No.1 was not at accident spot but was parked in front of his house, which would substantiate an alibi.

15. C-report would also refer to a complaint filed against PW.2. Status of investigation and prosecution in that regard is not clarified. In case it were contention of claimants that respondent no.1 had used political influence to subvert investigation/prosecution, they ought to have examined Investigating Officer before Tribunal, even if they had not challenged C-report.

16. On other hand, there are suggestions and counter-suggestions based on which claimants seek to cast a shadow of suspicion on respondent no.1 on ground that his wife was Vice President of Zilla Panchayath to imply political influence and failure to explain why PW.2 himself did not file a police complaint. There is also delay in filing complaint which would cast claimants' version under suspicion.

17. Under above circumstances, based on inconclusive material, Tribunal would not be justified in fastening liability on insurer. However, since it is a death claim, it is found appropriate to provide an opportunity to claimants to establish their claim and hence, answering point for consideration in favour of appellant/insurer in part, following:

ORDER

i. Appeal is ***allowed-in-part***.

ii. Impugned judgment and award dated 07.06.2013 passed by VII Additional Judge, Member, MACT-3, Bangalore in MVC no.8657/2010, is hereby set aside.

iii. Matter is remitted back to Tribunal for fresh consideration, reserving liberty to claimants to examine Investigating Officer or any other person who is an eyewitness to establish

actionable negligence against owner and insurer.

iv. Since matter is of some vintage and parties are represented, they are directed to appear before Tribunal without need for fresh summons on 02.12.2026.

v. Registry is directed to refund amount in deposit to appellant electronically.

vi. Registry is directed to remit trial Court records to Tribunal to reach it well before said date.

vii. Parties are directed to cooperate for early conclusion and MACT is directed to expedite proceedings.

Sd/-
(RAVI V HOSMANI)
JUDGE

TMP
List No.: 1 Sl No.: 6