HC-KAR

NC: 2026:KHC:60006
MFA No. 8870 of 2013

CNR: KAHC010525932013

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.8870 OF 2013(MV-I)

BETWEEN:

SRI N GANESH
AGE: 50 YEARS,
S/O LATE M.S. NARAYANA AYYAR,
OCC: NIL, R/O NO.1908/5,
3RD CROSS, PRASHANTHANAGAR,
HOUSING BOARD COLONY,
MAGADI ROAD,
BANGALORE - 560 079.

...APPELLANT

(BY SRI SURESH M LATUR, ADVOCATE)

AND:

1. SRI V SELVARAJ
S/O P. VELUSWAMY,
AGE: MAJOR,
OCC: BUSINESS, R/O NO.12,
7TH CROSS, CHOLUR PALYA,
BANGALORE - 560 023.

2. THE DIVISIONAL MANAGER
ORIENTAL INSURANCE CO. LTD.,
DO.NO.9, NO.5, VATAL NAGARAJ ROAD,
OKALIPURAM,
BANGALORE - 560 025.

...RESPONDENTS

(BY SRI K.S.LAKSHMINARASAPPA, ADVOCATE FOR
SRI A M VENKATESH, ADVOCATE FOR R2;
V/C/O DATED 08.03.2019 - SERVICE OF
NOTICE TO R1 IS H/S)

Digitally signed by ANUSHA V
Location: High Court of Karnataka

CNR: KAHC010525932013

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 03.01.2012 PASSED IN MVC NO.4460/2003 ON THE FILE OF THE 16TH ADDITIONAL JUDGE, MACT, BANGALORE, DISMISSING CLAIM PETITION FOR COMPENSATION.

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 03.01.2012 passed by XVI Additional Judge, MACT, Bengaluru in MVC no.4460/2003, this appeal is filed.

2. Sri Suresh M Latur, learned counsel for appellant submitted, this appeal was by claimant challenging dismissal of claim petition. Brief facts leading to this appeal are that at 6:30 a.m. on 25.08.2003, when claimant was crossing road in front of Ashoka Hotel en route Basaveshwara Temple, rider of TVS Motorcycle no.KA-02-S-5268, rode it in rash and negligent manner and it dashed against him, causing accident. Despite taking treatment at Shobha Nursing Home and later at KC General Hospital, Bengaluru, he did not recover fully and sustained loss of earning capacity. Claiming compensation, he

filed claim petition under Section 166 of Motor Vehicles Act, 1988 (**MV Act**) against owner/rider and insurer of motorcycle.

3. Despite service of notice, owner/rider of motorcycle did not appear and was placed *ex parte*. Insurer opposed claim petition on all grounds including negligence on part of rider of motorcycle, denying involvement of insured vehicle and alleging violation of certain terms and conditions of policy by insured. Based on pleadings, Tribunal framed issues and recorded evidence.

4. Claimant along with Dr.Malinamani deposed as PWs.1 and 2 and got marked Exhibits P1 to P16. In rebuttal, official of Insurance Company was examined as RW.1 and got marked Exhibits R1 to R3. On consideration, Tribunal answered issues no.1 and 2 as not arisen for consideration and issue no.3 by dismissing petition. Aggrieved thereby, this appeal was filed.

5. It was submitted that though in initial complaint filed, registration number of offending vehicle was inadvertently mentioned as KA-02-5378, actual vehicle which had caused accident was TVS Suzuki motorcycle no.KA-02-S-5268. It was

submitted, very next day after filing of complaint, complainant had given further statement in which he had mentioned correct vehicle number. It was submitted, while dismissing claim petition, Tribunal held that vehicle number mentioned in charge sheet, spot panchanama, etc. was KA-02-5378. It was submitted, claimant was consistent in description of offending vehicle as TVS Suzuki motorcycle. It was submitted, documents secured from RTO office i.e., vehicle registration extract produced along with IA no.1/2021 would indicate that vehicle with registration no.KA-02-5378 was Auto-rickshaw while vehicle with registration no.KA-02-S-5268 was TVS Suzuki motorcycle. Above material would indicate that accident in question was caused by TVS Suzuki motorcycle and mere erroneous mention in vehicle number ought not to lead to dismissal of claim petition. It was further submitted, in their written statement, insurer had not totally denied accident in question but only disputed negligence aspect and same had to be considered as admission of insurer in involvement of vehicle in accident. Even in cross-examination, suggestions made would amount to admission of accident. Therefore, dismissal of

claim petition by Tribunal was not justified and sought for reversal of same by awarding appropriate compensation.

6. On other hand, Sri KS Lakshmi Narasappa, learned counsel appearing for Sri AM Venkatesh, learned counsel for respondent no.1-insurer would oppose appeal. It was submitted, reasons assigned by Tribunal for dismissal were stated in paragraphs 12 to 15. It was submitted, records would fully justify said order and therefore, sought for dismissal of appeal. It was also submitted by learned counsel for appellant that even rider of motorcycle had appeared and pleaded guilty to have caused accident in criminal proceedings.

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

8. Since claimant is in appeal challenging dismissal of claim petition, point arises for consideration is:

"Whether Tribunal was justified in dismissing claim petition?"

9. This appeal is by claimant challenging dismissal of claim petition. While passing impugned award, Tribunal

examined discrepancy insofar as vehicle number right from Ex.P1 - FIR and compared it with Exs.R1, R2 and R3 - FIR, charge sheet and sketch, certified copies of which were produced by respondents. Though claimant sought to contend that vehicle number was erroneously entered in complaint/FIR but corrected in further statement, Tribunal found that documents marked as Exs.P1 to P4 were inconsistent with Exs.R1 to R3. There was clear alteration of vehicle number by overwriting number as 'KA-02-**5378'** as 'KA-02-S-5268'. Said tampering was not only in Ex.P2 - Chargesheet but also in Ex.P4 - spot panchanama. In fact, on noticing such discrepancy, when earlier claim petition was disposed of, in appeal, matter was remitted back by this Court reserving liberty to claimant to lead further evidence to summon police personnel or offer explanation. Tribunal however noted that after remand, claimant did not lead any further evidence prompting Tribunal to draw adverse inference. Thus, it is seen that claim petition was dismissed not only on ground of mistake in mentioning vehicle number in complaint but on ground that claimant tampered with certified copies produced before Court by altering vehicle number from '5378' to '5268'. Time and

again, Hon'ble Supreme Court has held claim petition filed with unclean hands, cannot be entertained. Therefore, Tribunal would be justified in dismissing claim petition.

10. In view of above, point for consideration is answered in affirmative.

Appeal is ***dismissed*** by imposing cost of Rs.5,000/- payable to insurer.

Pending applications, if any, are *dismissed* as unnecessary.

Sd/-
(RAVI V HOSMANI)
JUDGE

AV
List No.: 1 Sl No.: 22