

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 1ST DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

MISCELLANEOUS FIRST APPEAL NO.100009 OF 2015

BETWEEN:

SHRI. BHARMA S/O GANU MORE
AGE: 52 YEARS, OCC: PRIVATE SERVICE,
R/O: UCHAGAON VILLAGE,
TQ. AND DIST.: BELAGAVI-590016

...APPELLANT

(BY SMT. GANGA S. KARADIGUDDI, ADVOCATE FOR SRI M.M.
KHANNUR, ADVOCATE)

AND:

1 . SHRI. SATISH S/O DHAKALU CHOUGALE
AGE: MAJOR (CORRECT IN NOT KNOWN),
OCC: BUSINESS,
R/O: H.NO.1964, KADOLKAR GALLI,
BELAGAVI-590016.

2 . THE DIVISIONAL MANAGER
UNITED INDIA INSURANCE CO. LTD., 1568,
SITA SMRITI, MARUTI GALLI, BELAGAVI-590016.

...RESPONDENTS

(BY SRI SANJAY S. KATAGERI, ADVOCATE FOR R1;
SRI N.R. KUPPELUR, ADVOCATE FOR R2)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173 (1) OF THE MOTOR VEHICLES ACT, PRAYING TO SET ASIDE THE JUDGMENT & AWARD DATED:27.11.2014, PASSED IN MVC.NO.1857/2012, ON THE FILE OF PRESIDING OFFICER, FAST TRACK COURT-III, BELAGAVI AT BELAGAVI AND AWARD THE COMPENSATION AS CLAIMED IN THE CLAIM PETITION, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL IS COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 17.03.2026, THIS DAY, DELIVERED THE FOLLOWING:

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

Being aggrieved by dismissal of the claim petition, the claimant in MVC No.1857/2012 on the file of the learned FTC-III, Belagavi has maintained this appeal praying to set aside the judgment and award dated 27.11.2014 passed therein and to award the compensation as claimed in the petition.

2. The claimant namely Sri Bharna maintained the petition in MVC No.1857/2012 under Section 166 of Motor Vehicles Act seeking compensation of Rs.15,00,000/- from the owner and insurer of Goods Bolero Jeep bearing No.KA-22-B-3111 on the ground that on 17.08.2012 he met with an accident due to actionable negligence on the part of the driver of the said vehicle and sustained grievous injuries.

3. On service of notice, the owner and insurer of the vehicle appeared before the Tribunal through their counsel. However, the insurer alone contested the petition by filing a written statement.

4. The Tribunal framed relevant issues based on the pleadings of the parties, recorded their evidence, heard the arguments and disposed of the claim petition on merits of the case. The Tribunal, after considering the materials place on record such as the testimony of RW-2 and the documents produced at Ex.R1 and Ex.R3, dismissed the claim petition on the ground that the claimant failed to prove the accident as well as involvement of the vehicle in question. Being aggrieved by the said judgment and award, the claimant has preferred this appeal.

5. Smt. Ganga S. Karadiguddi, learned Counsel appearing for Sri M. M. Khannur, learned Counsel for Claimant vehemently submitted that the Tribunal has not properly appreciated the evidence available on record and erred in holding that he has failed to prove the accident as well as involvement of the vehicle in question. She submitted that the Tribunal has erroneously dismissed the claim petition without properly considering the testimony of RW-1 and RW-2 as well as pleading of guilt by the driver of the vehicle. She further submitted that the owner and insurer have neither challenged the charge sheet filed against the driver of the vehicle in

question nor adduced any evidence to support their contention. In the above circumstances, she prayed to allow the appeal.

6. Sri Sanjay S. Katageri, learned Counsel for Owner of the vehicle, submitted that the Tribunal dismissed the claim petition ignoring the documents marked at Ex.P6 – the charge sheet, and Ex.P8 – the order sheet in CC No.1366/2012, which shows pleading of guilt by the driver of the vehicle in question. At the same time, he submitted that such pleading of guilt by the driver of the vehicle, cannot be a basis to allow the claim petition only against owner of the vehicle.

7. Per contra, Sri N. R. Kuppelur, learned Counsel for Insurer vigorously submitted that as per the earliest medical record the claimant had suffered injuries due to 'fall'. He further submitted that there was delay in lodging the complaint. According to him the claimant has not adduced cogent and convincing evidence on record either to explain the delay in lodging the complaint or to prove the accident. As such, he submitted that the claimant has not made out any valid ground to interfere with the impugned judgment and award.

8. Having heard the counsel appearing for both sides and on bearing in mind the materials available on record, the following points arise for consideration of this Court:

- (i) Whether the Tribunal is justified in holding that the claimant has failed to prove the accident and the involvement of vehicle in question in such incident?
- (ii) Whether the claimant has made out valid ground to interfere with impugned judgment?

Point Nos.(i) and (ii):

9. The case of the claimant is that on 17.08.2012 at about 5.45 p.m., while he was standing near Uchagaon Cross, a Goods Bolero Jeep bearing No.KA-22-B-3111 came from Belagavi side towards Shinoli in rash and negligent manner and dashed against him. As a result, he sustained grievous injuries all over the body and was immediately taken to Vijaya Hospital, Belagavi, where he underwent the treatment. The insurer has specifically denied both the accident and involvement of vehicle in question. As such, it requires for this Court to find out whether the claimant has adduced sufficient evidence on record to discharge the initial burden of proving his case.

10. The materials on record show that the claimant examined no other witness to prove the alleged incident or the vehicle involved, apart from his own testimony as PW-1 and

certain documents marked as Ex.P-1 to P-6 and Ex.P-8. The claimant mainly relies on the charge sheet produced at Ex.P6 and the order sheet in C.C. No. 1366/2012 produced at Ex.P8 to support this contention. These documents show that upon completion of the investigation, the jurisdictional police filed a charge sheet against the driver of the Goods Bolero Jeep bearing No. KA-22-B-3111 in connection with the accident in question, and that the said driver later pleaded guilty before the jurisdictional Magistrate.

11. Generally, the courts/tribunals treat the charge sheet as prima facie evidence of negligence and involvement of the vehicle especially when it records that the driver was proceeded against for rash and negligent driving in the accident. Where the driver pleads guilty before the magistrate in the criminal case, that conduct is treated as supporting the inference of negligence and may reinforce the presumption created by the charge sheet. The charge sheet and the fact that the driver pleaded guilty before the criminal court raise a rebuttable presumption in favour of the claimant. Still, the claim petition is to be decided on its own evidence. The insurer is entitled to adduce rebuttal evidence. If such rebuttal evidence is placed on record, the Tribunal must weigh

the entire spectrum of evidence on preponderance of probabilities and is not bound by the criminal court record alone.

12. In the present case, the insurer has examined two witnesses namely Dr.Ravi Basalingappa Patil and Dr.Dhaklu Sambaji Kadam as RW-1 and RW-2, respectively. RW-1 is the Orthopedic in Vijaya Hospital, Belagavi. He has admitted that the claimant had come to their hospital with a referral letter issued by RW-2, a doctor, practicing in Uchagaon Village. RW-2 has reiterated that after examining the claimant, he had referred him to Vijaya Hospital, Belagavi for further treatment. The insurer has got marked the referral letter issued by RW-2 as Ex.R1 and true copy of Out Patient Register maintained by RW-2 as Ex.R3. Both these documents contain history of injury suffered by the claimant as "fall". The suggestions made during the cross examination of these witnesses indicate that the claimant admits having gone to RW-2 for treatment at first instance and then went to Vijaya Hospital, Belagavi for higher treatment with the referral letter of RW-2. Further, he does not dispute the correctness of history of injury mentioned therein as a 'fall'. On the other hand, he has tried to contend that the fall could even on account of an accident. However, it is to be

noted that the claimant has not laid necessary foundation to put forth such a contention.

13. In the present case, the insurer examined two witnesses, namely Dr. Ravi Basalingappa Patil and Dr. Dhaklu Sambaji Kadam as RW-1 and RW-2, respectively. RW-1, an orthopedic doctor at Vijaya Hospital, Belagavi, admitted that the claimant had come to their hospital with a referral letter issued by RW-2, a doctor practicing in Uchagaon Village. RW-2 reiterated that after examining the claimant, he had referred him to Vijaya Hospital, Belagavi, for further treatment. The insurer got the referral letter issued by RW-2 marked as Ex. R1 and a true copy of the Out-patient Register maintained by RW-2 as Ex.R3. Both documents contain the history of the injury suffered by the claimant as a result of "fall." The suggestions made during the cross-examination of these witnesses indicate that the claimant admits having gone to RW-2 for treatment first and then to Vijaya Hospital, Belagavi, for higher treatment with RW-2's referral letter. Further, he does not dispute the correctness of the injury history mentioned therein as a "fall." On the other hand, he has tried to contend that the fall could have resulted even from an

accident. However, it is to be noted that the claimant has not laid necessary foundation to set up such a contention.

14. Firstly, the claimant has not mentioned his treatment by RW-2 either in the averments of the petition or in his evidence. Further, the claimant alleges that the offending vehicle dashed against him, resulting in grievous injuries all over his body. In contrast, the wound certificate marked as Ex. P7 shows that the claimant suffered no bleeding injuries in the alleged incident except tenderness and blunt trauma. It was only on x-ray examination that a fracture of the greater trochanter of the right femur was found.

15. Added to the above, there was an admitted delay of one day in lodging the complaint. Though the incident allegedly occurred on 17.08.2012 at about 5:45 p.m., the complaint was lodged only on 18.08.2012, and the case was registered on that date at 8:30 p.m. The complaint offers no explanation for the delay except stating that immediately after the accident, the claimant was taken to the hospital and was undergoing treatment. During the cross-examination of RW-1, the claimant elicited that the hospital authorities had submitted an MLC report to the jurisdictional police regarding the claimant's injuries. RW-1 stated that such a report was submitted to the

police on 18.08.2012. However, the claimant did not produce a copy of this report. The case papers include the case sheet pertaining to the claimant's treatment at Vijaya Hospital, which contains a copy of the intimation given by the hospital authorities. The endorsement on this intimation shows that the jurisdictional police received it on 18.08.2012 at 16:20 hours. Thus, it is clear that it took the hospital authorities almost 24 hours to send the MLC intimation to the police.

16. Learned Counsel for the Claimant has vehemently contended that during his cross-examination, RW-2 admitted the claimant was unconscious when brought for treatment and thereby an attempt was made to project that the claimant had not given history of the injury, to the hospital authorities. However, this is factually incorrect. In his evidence RW-2 categorically stated that the claimant was conscious when he came for treatment. Even the other materials on record indicate that the claimant was fully conscious after the alleged incident.

17. Thus, on re-appreciating the oral and documentary evidence on record, it becomes clear that the claimant has not adduced sufficient and convincing evidence to prove the alleged accident and the vehicle involved, so as to establish his entitlement to compensation from the owner and insurer of the

vehicle in question. At the same time, the insurer has adduced satisfactory and credible evidence to rebut the presumption arising from Ex. P6 and Ex. P8. For the foregoing reasons, Point No. (i) is answered in the affirmative and Point No. (ii) is in the negative.

18. In the result, this Court proceeds to pass the following:

ORDER

- (i) The appeal is dismissed.
- (ii) The judgment and award dated 27.11.2014 passed in MVC No.1857/2012 by learned Presiding Officer, FTC-III Court, Belgaum is confirmed.
- (iii) The registry is directed to send back trial court record to concerned Tribunal, at the earliest.
- (iv) Draw an award accordingly.

**Sd/-
(B. MURALIDHARA PAI)
JUDGE**

RKM, YAN
CT: CMU