HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 2990 OF 2023

(MV-I)

BETWEEN:

MURTHY @ NARASIMHAMURTHY
S/O LATE LAKAKIAH
AGED ABOUT 35 YEARS
R /AT JAYAPURA VILLAGE
MYSURU TALUK & DISTRICT
(OWNER OF M/C KA -09-HC 5965)

...APPELLANT

(BY SRI GOVINDARAJ K, ADVOCATE)

AND:

KARIYAIAH
S/O CHIKKAMADAIAH
AGED ABOUT 57 EYARS
BETTADABEEDU VILLAGE
G B SARAGURU POST
HAMPAPURA HOBLI
H D KOTE TALUK
MYSURU DISTRICT – 570 026.

PRESENT ADDRESS:

No. 308, 10TH CROSS
II STAGE, SRIRAMPURA
BEHIND WATER TANK
MYSURU.

...RESPONDENT

(BY SRI SRINIVASA D C, ADVOCATE)

Digitally signed by LAKSHMINARAYANA MURTHY RAJASHRI
Location: HIGH COURT OF KARNATAKA

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:26.08.2021 PASSED IN MVC No.942/2017 ON THE FILE OF THE COURT OF SMALL CAUSES & MACT-C/C OF ADDITIONAL COURT OF SMALL CUASES MYSURU, AWARDING COMPENSATION OF Rs.1,85,500/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL ITS REALISATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

1. This appeal is filed by the respondent challenging the judgment and award dated 26.08.2021 passed in MVC No. 942/2017 by the Principal Judge, Court of Small Causes and MACT, Mysuru.

2. Respondent made a claim petition for award of compensation for the injuries sustained by him in a road traffic accident which took place on 17.02.2016 contending that the accident occurred due to the rash and negligent driving by the driver of Hero Honda Splendor Plus Motorcycle bearing registration No. KA-09-HC-5965. Appellant who was respondent before the Tribunal appeared before the Tribunal and filed his statement of

objections contending that the accident occurred due to the rash and negligent driving of the TVS XL Super Moped by the claimant himself. On the basis of the said pleadings the Tribunal framed issues. Claimant has been examined as P.W.1 and got marked Ex.P.1 to Ex.P.15 and also examined the Doctor as P.W.2 and got marked Ex.P.16 to Ex.P.19. Appellant who was the respondent before the Tribunal has not let in any evidence. Appellant also has not cross-examined P.W.1 and P.W.2. The Tribunal, based on the said evidence on record, allowed the claim petition and awarded compensation of Rs.1,85,000/- with interest at the rate of 6% p.a. from the date of petition till the date of realization and held that the appellant herein is liable to pay the said compensation with interest. Appellant has challenged the said judgment and award passed by the Tribunal in the present appeal.

3. Heard learned counsel for appellant and learned counsel for the respondent.

4. Learned counsel for appellant would contend that the accident occurred due to the rash and negligent driving of the motorcycle by the claimant himself. Appellant was not given sufficient opportunity to contest the matter. Learned counsel for appellant prays for remanding the matter.

5. Learned counsel for respondent would contend that the appellant was given sufficient opportunity by the Tribunal and he has not availed the said opportunities. The Tribunal, based on the evidence on record, has rightly passed the impugned judgment and award.

6. As learned counsel for appellant has sought for remand of the matter this Court had directed him to deposit a sum of Rs.70,000/-. Appellant has deposited Rs.70,000/- before this Court. Appellant has also deposited the statutory deposit of Rs.25,000/- at the time of filing of the appeal.

7. On perusal of the records of the Tribunal it is seen that the appellant has filed his statement of objections contesting the petition of the claimant. One of the main contentions of the appellant in his statement of objections is that the accident has not taken place due to his rash and negligent driving of the motorcycle but it is due the rash and negligent driving of the motorcycle by the claimant himself. The claimant has been examined as P.W.1 and he has not been cross-examined. Cross-examination has been taken as nil. Subsequently, due to COVID-19 lockdown the matter came to be adjourned from time to time. Doctor has been examined on 30.03.2021 and on the same day as the learned counsel for appellant herein was absent, cross-examination has been taken as nil. Considering the said aspect, proceedings have taken place during COVID-19 and the appellant herein was not given sufficient opportunity to contest the claim petition. Therefore, appellant requires an

opportunity to contest the petition and for that the mater requires to be remanded.

8. In view of the above, the following;

O R D E R

i) Appeal is allowed subject to payment of cost of Rs.5,000/- payable to the respondent.

ii) The judgment and award dated 26.08.2021 passed in MVC No. 942/2017 by the Principal Judge, Court of Small Causes and MACT, Mysuru is set aside.

iii) The matter is remanded to the Tribunal for affording opportunity to the appellant herein to cross-examine P.W.1 and P.W.2 and to lead evidence.

iv) Parties are directed to appear before the Tribunal on 17.08.2026 without awaiting any Court notice.

v) Office is directed to transmit the amount in deposit (Rs.25,000/- + Rs.70,000/-) to the Tribunal.

vi) The Tribunal shall keep the said amount in fixed deposit with a nationalized Bank for a period of 1 year with auto renewal instruction.

vii) Appellant herein shall bear the expenses of securing the presence of P.W.2 – Doctor for recording his cross-examination.

viii) Appellant shall deposit the cost payable to the respondent before the Tribunal on or before 17.08.2026.

ix) The Tribunal shall dispose of the petition expeditiously.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

LRS
List No.: 1 Sl No.: 35