



**IN THE HIGH COURT OF KARNATAKA,
AT DHARWAD**

DATED THIS THE 29TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

MISCELLANEOUS FIRST APPEAL NO.100037 OF 2014 (MV)

BETWEEN:

SRI VEERABHADRAPPA
BASAVANNEPPA GIRJI,
AGE: 68 YEARS, OCC: AGRI,
R/O. 1ST CROSS,
DANESHWARI NAGAR,
HAVERI.

...APPELLANT

(BY SRI BM PATIL, ADVOCATE)

AND:

THE DIVISIONAL MANAGER,
SRIRAM GENERAL INSURANCE CO. LTD.,
E-8, EPIP, RIICO INDUSTRIAL AREA,
SITAPUR, JAIPUR,
RAJASTHAN.

...RESPONDENT

(BY SRI SK KAYAKAMATH, ADVOCATE (VC))

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, AGAINST JUDGMENT AND AWARD DATED 23.11.2013, PASSED IN MVC.NO.223/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE AND AMACT, AT HAVERI, DISMISSING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION & ETC.

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

CORAM: THE HON'BLE MR. JUSTICE RAVI V.HOSMANI





ORAL JUDGMENT

Challenging judgment and award dated 23.11.2013 passed by Senior Civil Judge and AMACT Haveri (*'tribunal'* for short) in MVC no.223/2012, this appeal is filed.

2. Sri BM Patil, learned counsel for appellant submitted that appeal was by claimant challenging dismissal of claim petition. It was submitted that on 28.10.2011 when claimant, owner of vehicle no.KA-27/A-5594 was travelling from Ranebennur towards Haveri, met with accident at 04:30 p.m. near Chatradurgamma temple on account of rash and negligent driving by its driver. In accident, claimant sustained grievous injuries and despite treatment did not recover fully and therefore filed claim petition against insurer.

3. On appearance, insurer denied occurrence of accident due to negligent driving of insured vehicle by its driver, denied age, occupation and income of claimant, admitted issuance of insurance policy, but contended did not cover risk of owner and claim petition under Section 166 of Motor Vehicles Act, 1988 (*'MV Act'* for short) was not maintainable. Apart from above,



violation of terms and conditions of policy by driver were also denied.

4. Based on pleadings, tribunal framed issues and recorded evidence. Claimant along with Dr.Shivappa deposed as PW1 and PW2 and got marked Exs.P.1 to P12. While official of insurer was deposed as RW1 and got marked Exs.R1 to R6.

5. On consideration and taking view that claimant being owner of vehicle could not maintain claim application against insurer before tribunal as well as on ground that even if additional premium was paid, same was to cover risk only in case of death or loss of limbs, eyes and permanent total disablement, dismissed claim petition. Aggrieved, claimant was in appeal.

6. It was submitted that there was no dispute about occurrence of accident involving insured vehicle and claimant sustaining injuries in said accident. There was also no dispute about coverage of insurance as on date of accident and that claimant was owner of offending vehicle. As per Ex.R.1, additional premium of Rs.100/- was paid to cover risk of owner



and policy issued was 'Package Policy' and not an 'Act Liability Only Policy'. Therefore, insurer cannot escape liability. It was alternatively submitted, insurer having received premium to cover risk of owner upto sum of ₹2,00,000/-, tribunal erred in not holding insurer liable to pay at-least contractual liability amount.

7. In support of his submissions learned counsel relied upon decision of Hon'ble Supreme Court in case of ***National Insurance Company v. Ashalata Bhowmik and Ors.***, reported in ***AIR 2018 Supreme Court 4133*** and decision of this Court in case of ***Divisional Manager v. Mohan*** in ***MFA no.24391/2013 C/w MFA no.24676/2013 [2021:KHC-D:5700]***. On said ground sought for allowing appeal.

8. On other hand, Sri SK Kayakamath, learned counsel for respondent-insurer opposed appeal. It was firstly submitted, claim petition was rightly dismissed by tribunal on ground of non maintainability as well as on ground that risk of owner covered was limited. It was submitted, as per Ex.P.11-disability certificate, claimant had sustained fracture of distal one third (1/3rd) of left forearm. It was submitted that, risk covered was in



case of death, loss of limbs, eyes etc., or permanent total disablement, since premium was accepted by mentioning GR36A-PA in insurance policy and IMT-21, IMT-22 and IMT-28.

9. In support of his submission learned counsel relied upon decision of Hon'ble Supreme Court in ***Manjusha and Ors. v. United India Assurance Company Limited and Anr.***, in ***SLP (c) no.5885/2019 [2025 INSC 896]***.

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

11. From above, point that arise for consideration are:

(i) *Whether tribunal was justified in dismissing claim petition? And*

(ii) *Whether claimant is entitled for compensation from insurer?*

12. **Point no.(i)**:. There is no dispute about occurrence of accident involving insured vehicle and claimant sustaining grievous injuries. In order to establish loss of earning, claimant relied upon wound certificate, discharge summary, disability certificate etc. Insurer admitted issuance of insurance policy



before tribunal. But opposed claim mainly on ground that claimant being owner of vehicle could not maintain claim petition against his insurer before motor accident claims tribunal as was not a third party. Claim petition was also opposed on ground that premium paid was to cover limited risk of owner i.e., for a sum of ₹2,00,000/- in case of death, permanent total disablement, loss of limbs, loss of eyes etc. Insurer produced insurance policy as Ex.R1 and also examined its official as RW1. Perusal of Ex.R1 reveals that insurance policy is a 'Package Policy' and additional premium of ₹100/- is received towards p.a. cover of owner. Indeed there is mention of GR36A-PA, but IMT referred are 21, 22 and 28, without text of either GR36A-PA or IMT being printed on policy. RW1 in his deposition only deposed about claim petition by owner against his insurer being not tenable under provisions of MV Act and did not state about meaning of restriction of risk as per IMT 21, 22 and 28 or GR36A-PA.

13. While passing impugned award, tribunal though adverted to contentions urged, observed that PA cover of ₹100/- was to cover risk of driver only in respect of death of injured or loss of two limbs or sight of two eyes or one limb and one eye or



loss of one limb or one eye or permanent total disability. However, basis for such limit is not forthcoming.

14. As per medical treatment records, disability certificate and deposition of PW2, claimant aged 67 years agriculturist stated to be earning ₹3,00,000/- per annum sustained fracture of both bones at distal 1/3rd of left forearm and treated as indoor patient for 39 days. Injury resulted in disability of 21 to 24% to whole body and 33 to 40% in respect of affected limb as assessed in Ex.P11 and spoken about by PW2. This would indicate that claimant had sustained permanent physical disability. Though learned counsel for insurer would be justified in contending that claimant would not be third party and entitled to maintain claim petition against insurer before a claims Tribunal under provisions of MV Act, Hon'ble Supreme Court in cases of contractual liability have instead of relegating claimant to fresh proceedings under Consumer Protection Act, has directed insurer to pay compensation upto its contractual limit. In view of above, point no.(i) is answered in negative.

15. **Point no.(ii):** Claimant has sustained grievous injuries resulting in permanent physical disability. Claimant has



sustained fracture of both bones of left forearm. Therefore, he would be entitled for compensation towards pain and suffering, medical expenses, incidental expenses, future loss of income, loss of amenities and loss of income during laid-up period. Since he has sustained fracture of both bones, it is found appropriate to award sum of **₹40,000/-** towards pain and suffering. As no medical bills are produced, no award can be passed towards same. Treatment records would indicate that claimant was inpatient for a period of 39 days, but in Government Hospital. Therefore, it is found appropriate to award sum of **₹25,000/-** towards diet, conveyance and other incidental expenses. Though PW2 in Ex.P11 has assessed whole body disability at 21 to 24% and limb disability at 33 to 40%, considering advanced age of claimant and his occupation as agriculturist which may not involve hard labour by claimant himself, it is found appropriate to consider loss of earning capacity at 10%. As there is no material to establish income of ₹3,00,000/- per annum, notional income for year 2011 at ₹6,000/- has to be considered and multiplier applicable would be '5'. Thus compensation towards future loss of income would be:

$$₹6,000 \times 10\% \times 12 \times 5 = \mathbf{₹36,000/-}.$$



16. Since claimant has sustained permanent physical disability, it is found fit to award sum of **₹20,000/-** towards loss of amenities. Normally, fractures take about three months to heal. Treating said period as layoff, claimant is awarded **₹18,000/-** (₹6,000 x 3) towards loss of income during laid up period. Thus, claimant is held entitled for total compensation of **₹1,39,000/-**. Since same is within limit of insurer, insurer is directed to pay same with 6% interest from date of claim till deposit.

17. On deposit, Tribunal is directed to release entire compensation in favour of claimant. Point no.(ii) answered accordingly.

18. In terms of above, appeal is **allowed in part**.

Sd/-
(RAVI V.HOSMANI)
JUDGE