



**IN THE HIGH COURT OF KARNATAKA AT DHARWAD**  
**DATED THIS THE 16<sup>TH</sup> DAY OF MARCH, 2026**  
**BEFORE**  
**THE HON'BLE MR. JUSTICE RAVI V.HOSMANI**

MISCELLANEOUS FIRST APPEAL NO. 102376 OF 2014 (MV-I)

**BETWEEN:**

MAHANTESH S/O BASAPPA KATTI,  
AGE: 32 YEARS,  
OCC: OWNER OF THE VEHICLE  
BEARING NO.KA-29/T-8139/T-8140,  
R/O. KERUR VILLAGE, TQ: BADAMI,  
DIST: BAGALKOT.

...APPELLANT

(BY SRI PN HOSAMANE, ADVOCATE)

**AND:**

1. DHARAMANNA S/O HANAMAPPA NAIKAR,  
AGE: 42 YEARS, OCC: COOLIE WORK,  
R/O. BELAGANTI VILLAGE,  
TQ: BADAMI, DIST: BAGALKOT.
2. THE BRANCH MANAGER,  
NATIONAL INSURANCE CO. LTD,  
MELLIGERI COMPLEX, BAGALKOT.

...RESPONDENTS

(BY SRI CV ANGADI, ADVOCATE FOR R2;  
R1- SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO ALLOW THIS APPEAL BY SET ASIDE THE JUDGMENT AND AWARD PASSED BY THE COURT OF MEMBER M.A.C.T.-IV BAGALKOT IN MVC NO.295/2012 DATED 23.12.2013 AND DISMISS THE CLAIM PETITION OF THE RESPONDENT IN THE INTEREST OF JUSTICE AND EQUITY.

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





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

**ORAL JUDGMENT**

Challenging judgment and award dated 23.12.2013 passed in MVC.no.295/2012 by Member, MACT, Bagalkot (for short, '**Tribunal**'), this appeal is filed.

2. Sri PN Hosamane, learned counsel for appellant submits that appeal was by owner of vehicle in MVC no.295/2012 filed by respondent no.1 - claimant herein, alleging that on 23.12.2011 when he was standing by side of Narenur Cross, driver of tractor-trailer bearing no.KA-29/T-8139/T-8140 drove it in rash and negligent manner and dashed against claimant causing accident. In said accident, claimant sustained grievous injuries and despite treatment at Dr.Kerudi Hospital, Bagalkot, did not recover fully and sustained loss of earning capacity. Therefore, claim petition was filed under Section 166 of Motor Vehicles Act, 1988 against owner and insurer.

3. On contest wherein claim petition was opposed on all counts, Tribunal framed issues and recorded evidence. Claimant examined himself as PW-1 and Dr.V.R.Kanthi as PW-2 and got



marked Exhibits P1 to P8. Respondent examined its official as RW1 and got marked documents as Exs.R1 and R2.

4. On consideration, Tribunal held claimant entitled for compensation of ₹1,78,246/- with 6% interest. However on ground that claimant failed to establish driver did not have valid driving licence to drive tractor trailer though he had driving licence to drive tractor only, Tribunal dismissed claim petition against insurer. Aggrieved, present appeal is filed.

5. It was submitted that while passing impugned award, Tribunal relied upon decision of Hon'ble Supreme Court in case of ***Natwar Parikh & Co.Ltd. v. State of Karnataka and Ors.,*** reported in ***(2005) 7 SCC 364*** which was dealing with classification of vehicles for purposes of taxation. It was submitted, there was no dispute about driver of tractor holding valid driving license to drive tractor and though trailer was attached, trailer being empty, there was virtually no basis for contending that tractor-trailer would constitute a goods carriage requiring separate licence. Therefore, submitted dismissal of claim petition against insurer was on a total erroneous premise and sought for allowing appeal.



HC-KAR

6. On other hand, Sri CV Angadi, learned counsel for respondent - insurer opposed appeal. It was submitted that Hon'ble Supreme Court in **Natwar Parikh's** case had examined very issue about classification of tractor attached with trailer and held same to be a goods carriage. Therefore, Tribunal was justified in holding that driver did not have valid licence to drive goods carriage and rightly dismissed claim petition.

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

8. From above and since only owner of vehicle is in appeal challenging denial of indemnity from insurer, point that would arise for consideration is:

'Whether Tribunal was justified in dismissing claim petition against insurer?'

9. Same is answered 'partly in negative' for following reasons.

10. There is no dispute about driver of insured vehicle possessing driving licence to drive tractor. There is also no dispute about fact that at time of causation of accident, a trailer



was attached to tractor. Attachment of a trailer for carrying of goods would render tractor-trailer combination 'a goods vehicle'. However, since driver was possessing driving licence to drive tractor and claimant injured claimant is a third party, as held by Full Bench decision of this Court in case of ***New India Assurance Co. Ltd., Bijapur vs. Yallavva w/o. Yamanappa Dharanakeri, reported in 2020 (2) AKR 484***, insurer would first require to answer claims of third parties and thereafter proceed against insured even if there were infraction of terms and conditions of policy. Consequently, following:

**ORDER**

- i. Appeal is allowed in part.
- ii. Impugned judgment and award passed in MVC no.295/2012 by Tribunal is modified.
- iii. Dismissal of claim petition against insurer is set aside.
- iv. Insurer is held liable to pay compensation to claimants in first instance and thereafter would be at liberty to recover same from insured without recourse to separate proceedings.



- v. Amount in deposit, if any, is ordered to be transmitted to Tribunal.

**Sd/-  
(RAVI V.HOSMANI)  
JUDGE**

CLK  
CT:VP  
LIST NO.: 1 SL NO.: 14