



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 17TH DAY OF MARCH, 2026
BEFORE

THE HON'BLE MR. JUSTICE RAVI V.HOSMANI

MISCELLANEOUS FIRST APPEAL NO.102554 OF 2014 (MV-I)

BETWEEN:

THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
TONTADARYA VEEDHYAPEET BUILDING,
NEAR ROTARY CIRCLE GADAG,
R/BY DIVISIONAL MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, ANKOLA ARCADE, 1ST FLOOR,
KALABHAVAN DHARWAD, R/BY ITS DIVISIONAL MANAGER.

...APPELLANT

(BY SRI NAGANGOUDA R. KUPPELUR, ADVOCATE)

AND:

1. SHRI BAILAPPA S/O ANDAPPA KURI,
AGE: 62 YEARS, OCC: HOTEL BUSINESS,
R/O: TOTAGANTI, TQ: RON, DIST: GADAG.
2. ANDAVVA @ ANNAPPA W/O BASAPPA,
AGE: 62 YEARS, OCC: BUSINESS,
R/O: TOTAGANTI, TQ: RON, DIST: GADAG.
(OWNER OF THE TRACTOR
TRAILER NO.KA-26/TA-3805 TA-3806)

...RESPONDENTS

(BY SRI GS HULMANI, ADVOCATE FOR R1;
NOTICE TO R2 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988 PRAYING TO CALL FOR THE RECORDS CONNECTED WITH AWARD AND JUDGMENT MADE IN MVC NO.04/2013 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDL. MACT RON, EXAMINE THE SAME AND SET ASIDE THE AWARD DATED 30.06.2014 IN THE INTEREST OF JUSTICE.

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 30.06.2014 passed by Senior Civil Judge and Additional MACT, Ron¹ in MVC no.04/2013, this appeal is filed.

2. Sri NR Kuppelur, learned counsel for appellant submitted that appeal was by Insurer challenging finding on liability. It was submitted as per claimant that on 30.08.2011 claimant-Bailappa was returning after completion of agricultural work on tractor and trailer bearing no.KA 26 TA 3805 and KA 26 TA 3806, by sitting on mudguard of tractor. Due to rash and negligent driving of same by its driver, it dashed against road side sign board and caused accident. Due to same, claimant sitting on mudguard fell down and rear wheel of tractor ran over his leg resulting in grievous injuries. Despite treatment he did not recover fully and sustained loss of earning capacity. Therefore, he filed claim petition under Section 166 of Motor Vehicles Act, 1988, against owner and Insurer of tractor.

¹ For short, 'Tribunal'



3. Despite service of notice, respondent no.1-owner did not appear. He was placed ex-parte. Only Insurer opposed claim petition.

4. On contest, Tribunal framed issues and recorded evidence. Claimant examined himself and Dr. Palled as PW1 and PW2 and got marked documents at Exs.P1 to P163. Respondents did not lead evidence. On consideration, Tribunal held accident occurred due to rash and negligent driving of tractor by its driver and claimant was entitled for compensation of Rs.2,76,356/- with interest from Insurer. Aggrieved thereby, Insurer was in appeal.

5. It was submitted, even as per claimant's own version and police investigation records, accident occurred while claimant was traveling by sitting on mudguard of tractor. Regulation 28 of Road Regulations, 1989, in force as on date of accident, prohibited any person from traveling by sitting on mudguard of tractor. Consequently, there was breach of terms and conditions of policy. Therefore, Tribunal was not justified in holding Insurer liable.

6. Apart from above, police investigation records would reveal that driver of tractor was prosecuted not only for rash and



negligent driving but also for causing accident without possessing valid and effective driving license. On said ground, insurer could not have been held liable and sought for allowing appeal.

7. On other hand, Sri GS Hulmani, learned counsel for respondent no.1 opposed appeal.

8. Heard learned counsel for parties and perused impugned judgment, award and records.

9. From above, and since only Insurer is in appeal challenging finding of Tribunal on liability, point that would arise for consideration is:

Whether Tribunal was justified in fastening liability on Insurer?

10. At outset, there is no dispute about occurrence of accident involving insured vehicle and claimant sustaining injuries/disability/loss of earning capacity due to same. Challenge is mainly on finding of Tribunal on liability. Same is on two aspects; firstly, driver of tractor was charge sheeted for causing accident by driving vehicle without necessary driving license and secondly, permitting claimant to travel on mudguard of tractor, though same was prohibited.



11. Perusal of claim petition averments, depositions as well as police investigation records which were relied by claimant, reveal that accident occurred when claimant was traveling by sitting on mudguard of tractor.

12. Perusal of Regulation 28 of Road Regulations, 1989, would prohibit carriage of passengers on mudguard of a tractor. Besides, it is seen that driver of tractor was charge sheeted for driving a tractor without driving license. Above would be breach of terms and conditions of policy and as claimant is not a third party, fastening liability on Insurer would not be justified.

13. Accordingly, point for consideration is answered partly in affirmative as above. Consequently, following:

ORDER

- (i) Insurer's appeal is ***allowed***. Judgment and award dated 30.06.2014 passed by Senior Civil Judge and Additional MACT, Ron in MVC no.04/2013, is modified, dismissing claim petition against Insurer and holding owner liable to pay compensation awarded by Tribunal.



- (ii) Amount in deposit is ordered to be refunded to appellant.

Sd/-
(RAVI V.HOSMANI)
JUDGE

SMM, CT:VP
LIST NO.: 1 SL NO.: 15