

The Divisional Manager, vs Shri.Govind

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Court : Karnataka Dharwad

Decided On : Sep-17-2025

Judge : Ashok S. Kinagi

Appeal No. : MFA/103896/2016

Appellant : The Divisional Manager,

Respondent : Shri.Govind

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 17TH DAY OF SEPTEMBER, 2025 BEFORE THE
HON'BLE MR. JUSTICE ASHOK S. KINAGI MISCELLANEOUS FIRST
APPEAL NO. 103896 OF 2016 (MV-I) BETWEEN:

1. THE DIVISIONAL MANAGER,

NATIONAL INSURANCE CO. LTD., PONDA, GOA, THROUGH THE
SENIOR DIVISIONAL MANAGER, DIVISIONAL OFFICE, RAMADEV
GALLI, BELAGAVI, NOW REPT. BY MANAGER, NATIONAL
INSURANCE COMPANY, HUBBALLI-580023. APPELLANT (BY SRI.

GANGADHAR S HOSAKERI, ADV) AND:

1. SHRI. GOVIND S/O GANESH CHOUDHARI, AGE: 45 YEARS, OCC: NIL, R/O: CHANDWADI, POST: ASU, TQ: JOYADA, DIST: KARWAR-581301.

2. SMT. RADHA W/O GOVIND CHOUDHARI, AGE: 39 YEARS, OCC: HOUSEHOLD, R/O: CHANDWADI, POST: ASU, TQ: JOYADA, DIST: KARWAR-581301.

3. SHRI. SAKARAM S/O SADOBA DESAI,

MOHANKUMAR B SHELAR AGE: MAJOR, OCC: BUSINESS, R/O: NO.04/63, CHANDU GALLI, BELAGAVI-590002. Location: RESPONDENTS HIGH (BY SRI. KISHOR S. SUTAR, ADV FOR R1 & R2) COURT OF KARNATAKA

THIS MFA IS FILED U/S.173(1) OF MOTOR VEHICLES ACT, AGAINST THE JUDGMENT & AWARD DATED:28.09.2016, PASSED IN MVC.NO.816/2015 ON THE FILE OF THE VI ADDL. DISTRICT AND SESSIONS JUDGE AND MEMBER ADDL. MACT, BELAGAVI, AWARDED THE COMPENSATION OF RS.9,99,000/- WITH INTEREST AT THE RATE OF 9% P.A. FROM 15.4.15, TILL REALIZATION, EXCLUDING THE PERIOD FROM 16.6.2016 TO 24.9.2016, WHICH SHALL BE DEPOSITED BEFORE THE TRIBUNAL WITHIN ONE MONTH FROM THE DATE OF THIS

ORDER.

-2- THIS APPEAL, COMING ON FOR DISMISSAL, THIS DAY, THE COURT DELIVERED THE FOLLOWING: CORAM: THE HON'BLE MR. JUSTICE ASHOK S. KINAGI

ORAL JUDGMENT

1. This Appeal is filed by the Insurance Company

challenging the judgment and award dated 28.09.2016 passed in MVC No.816/2015 by the learned VI Additional District and Sessions Judge and Additional MACT, Belagavi (for short the Tribunal).

2. Brief facts, leading rise to the filing of this appeal are as follows:

3. On 04.06.2011 at 3.35 p.m., on Ramnagar Asu road,

the driver of the offending Tipper bearing registration No.KA-22-A-8362, owned by its owner i.e., Sakaram and insured with the insurance company, drove the same at a high speed, in a rash and negligent manner and dashed to the motorcycle bearing registration No.GA-08-C-9156, ridden by one Krishna, wherein the son of the petitioner namely Pradeep, and one Ajay -3-

aged 13 years were travelling, since Ajay was suffering from high fever, who were proceeding for the medical treatment of the said Ajay, causing the said three persons grievous injuries. The said three persons were admitted to different hospitals. Pradeep succumbed to the injuries on 04.06.2012. The deceased used to earn Rs.25,000/- per month. The legal representatives of the deceased Krishna filed a claim petition in MVC NO. 815/2015. The petitioners, are the legal representatives of the deceased Pradeep, have filed a claim petition in MVC No.816/2015 claiming the compensation for the death of the Pradeep in a road traffic accident and accordingly, prays to allow the claim petition.

4. A Notice was issued to the owner of the offending vehicle. However, despite the service of a notice, he remained unrepresented before the tribunal and was placed exparte. -4-

5. The Insurance company filed a statement of objections

denying the averments made in the claim petition except admitting that the insurance policy was in force as of the date of the accident and it is

contended that the accident occurred due to the rash and negligent riding of the offending motorcycle by its rider Krishna. There is contributory negligence on the part of the deceased. Hence, prays to dismiss the claim petition against the Insurance Company.

6. The Tribunal, based on the pleadings of the parties, framed the separate issues.

7. The petitioner No.1, in MVC No.816/2015 was examined as PW.1, and marked 10 documents as Exs.P1 to P10. Conversely, the Insurance Company has not led either oral or documentary evidence.

8. The tribunal, after assessing verbal and documentary evidence, allowed the claim petition in part vide -5-

judgment dated 28.09.2016 and awarded a

compensation of Rs.9,99,000/- with interest at the rate of 9% p.a. from the date of the petition till its realization. The owner and the insurance company were held jointly and severally liable to pay the compensation and directed the insurance company to deposit the compensation amount.

9. The Insurance Company, aggrieved by the judgment

and award passed by the Tribunal, filed this Miscellaneous First Appeal.

10. Heard the arguments of the learned counsel for the Insurance Company.

11. Learned counsel for the Insurance Company submits

that the deceased Krishna himself was negligent in riding the motorcycle ,and he has contributed to the cause of the accident. The tribunal has not considered the said aspect adequately and fastened the entire -6- liability on the Insurance Company. Hence, on these grounds, he prays to allow the appeal.

12. Perused the records, and considered the submissions of the learned counsel for the Insurance Company.

13. The point that would arise for consideration in this appeal is regarding the liability. Reg. Liability:

14. There is no dispute regarding the occurrence of

accident and death of the deceased Pradeep. The petitioners, to prove that there was negligence on the part of the driver of the offending vehicle, produced a charge sheet marked as Ex.P3. The tribunal was justified in answering issue No.1 in the affirmative. I concur with the findings recorded by the tribunal on issue No.1. Although the Insurance Company has taken a defense that the deceased Krishna has contributed for the cause of the accident and there is contributory negligence. -7-

15. The insurance company has not led any evidence to

prove that the rider of the motorcycle i.e., deceased Krishna contributed for the cause of the accident. The charge sheet is filed against the driver of the offending vehicle, and no abated charge sheet was filed against the deceased Krishna.

16. The tribunal considering a charge sheet, has rightly

held that the accident occurred due to the rash and

negligent driving of the driver of the offending vehicle. Hence, I do not find any error in the impugned judgment. In view of the same, the point regarding liability is answered accordingly.

17. Accordingly, I proceed to pass the following order:

ORDER

I. The Appeal is dismissed. II. The impugned judgment and award passed by the tribunal is hereby confirmed. -8- III. The amount in deposit and the TCR shall be transmitted to the tribunal. Sd/- (ASHOK S. KINAGI) JUDGE SKS CT: BSB/ List No.: 1 Sl No.: 12

