

The Divisional Manager, vs Managing Director,

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Court : Karnataka Dharwad

Decided On : Sep-09-2025

Judge : Ashok S. Kinagi

Appeal No. : MFA/25073/2012

Appellant : The Divisional Manager,

Respondent : Managing Director,

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH DATED THIS THE 09TH DAY OF SEPTEMBER, 2025 BEFORE THE HON'BLE MR. JUSTICE ASHOK S. KINAGI MISCELLANEOUS FIRST APPEAL NO. 25073 OF 2012 (MV-I) BETWEEN:

1. THE DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO. LTD., LEA COMPLEX, DHARWAD, PRESENT ADDRESS, 1ST FLOOR, ANKOLA ARCADE, DHARWAD. APPELLANT (BY SRI. S.S. JOSHI, ADV) AND:

1. MANAGING DIRECTOR, NWKSRTC, GOKUL ROAD, HUBLI.

2. SELF INSURANCE FUND, NWKSRTC, GOKUL ROAD, HUBLI.

3. SMT. MADHU W/O SHRI VENKATAREDDY, AGE: 60 YEARS, OCC: HOD IN KANNADA IN KARNATAKA UNIVERSITY, R/O: MADHAVI, 2ND CROSS, SAPTAPUR, DHARWAD. RESPONDENTS (BY SRI. S.C. BHUTI, ADV FOR R1 & R2,

MOHANKUMAR SRI. S.H.MUTALIK DESAI, ADV FOR R3) B SHELAR THIS MFA IS FILED U/S 173(1) OF MV ACT, 1988, AGAINST THE Location: JUDGMENT AND AWARD DTD:21-06-2012 PASSED IN MVC HIGH COURT OF NO.172/2008 ON THE FILE OF III ADDL. SENIOR CIVIL JUDGE AND KARNATAKA MEMBER, MACT, DHARWAD, AWARDDING THE COMPENSATION OF RS.50,000/-WITH INTEREST AT THE RATE OF 8% P.A., FROM THE DATE OF PETITION TILL REALISATION. THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, THE

JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE ASHOK S. KINAGI -2-

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE ASHOK S. KINAGI)

1. This Miscellaneous First Appeal is filed by the

Insurance Company, challenging the Judgment and award dated 21.06.2012 passed in MVC No.172/2008 by the learned 3rd Additional Senior Civil Judge and M.A.C.T., Dharwad (for short the Tribunal)

2. For convenience, the parties are referred based on their rankings before the Tribunal.

3. Brief facts leading rise to the filing of this appeal are as follows: 3.1. On, 08.11.2007, at about 12:15 PM, the

petitioner, along with her daughter, were proceeding in a car bearing registration No.KA-25/2273 enroute Sigandhuru Choudeshwari. A bus bearing registration

No.KA-31/F-1916 came in a rash and negligent manner from the opposite direction and collided with the car, and dashed to the car. As a result, the petitioner sustained grievous injuries. The

-3- petitioner filed a claim petition under Section 166 of the M.V.Act, seeking the compensation for the injuries sustained in the road traffic accident. Accordingly, prays to allow the claim petition. 3.2. The NWKRTC filed a statement of objections denying the averments made in the claim petition and contended that the accident took place due to the negligence on the part of the driver of the car. Accordingly, prays to dismiss the claim petition.

4. The Insurance Company of the car filed a

statement of objections, denying the averments made in the claim petition and it is contended that the liability of the insurance company is subject to the terms and conditions of the insurance policy. Accordingly prays to dismiss the claim petition against the insurance company.

5. The Tribunal, based on the pleadings of the parties, framed the relevant issues.
-4-

6. The petitioner, to substantiate his case, examined himself as PW-1, examined two witnesses as PW-2 and PW-3, and marked 12 documents. The Driver of the bus was examined as RW-1 and the insurance policy was marked as EX.R-1 with consent of the parties.

7. The Tribunal, after assessing the verbal and documentary evidence, allowed the claim petition in part

vide judgment dated 21.06.2012 and awarded a compensation of Rs.50,000/- to the petitioner at the rate of 8% p.a. from the date of the petition till its realization and the liability is fastened on the Insurance Company at 40% and 60% on the NWKRTC .

8. The Insurance Company, aggrieved by the 40% liability fastened on the Insurance Company, filed this appeal.

9. Heard the learned counsel for the Insurance Company and the petitioner. -5-

10. Learned counsel for the insurance company

submits that the compensation awarded by the Tribunal is on the higher side, and the liability fastened on the Insurance Company is incorrect. Hence, on these grounds, he prays to allow the appeal.

11. Per contra, the learned counsel for the petitioner

submits that the compensation awarded by the Tribunal is just and proper, and the apportionment of liability, i.e., 40% on the Insurance Company, is just and proper and the same do not call for interreference by this court. Accordingly, on these grounds, prays to dismiss the appeal.

12. Perused the records and considered the submissions of learned counsel for the parties. The point that would arise for consideration is regarding the quantum.

13. There is no dispute regarding the occurrence of

the accident and regarding the injuries sustained by the petitioner. The petitioner has produced the FIR at Ex.P4, the perusal of the same discloses that it is filed against both i.e. -6- the driver of the bus and driver of the car. Ex.P6 is chargesheet, which discloses that the police, after investigation have filed an abated chargesheet against the driver of the car. From the perusal of the Ex.P6 it is evident

that, the driver of the car drove the same more aggressively. The Tribunal, considering the entire evidence on record, was justified in fastening 60% liability on NWKSRTC and 40% on the Insurance Company. Admittedly, NWKSRTC has not preferred any appeal challenging the liability of 60% which has been fastened on it. Therefore, I do not find any error in the impugned judgment. In view of the same, the point for consideration is answered accordingly.

14. Accordingly, I proceed to pass the following

order:

ORDER

(i) The Appeal is dismissed.

(ii) The Judgment and award dated 21.06.2012 passed in MVC No.172/2008 by the learned 3rd -7- Additional Senior Civil Judge and M.A.C.T.,Dharwad, is hereby confirmed.

(iii) The amount in deposit, if any, and trial Court records be transmitted to the Tribunal, forthwith. Sd/- (ASHOK S. KINAGI) JUDGE RHR/- CT: BSB List No.: 1 Sl No.: 4

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