

The Divisional Manager, vs Manjunath S/O Shivappa Kolkar,

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Court : Karnataka Dharwad

Decided On : Feb-28-2025

Judge : Hanchate Sanjeevkumar

Appeal No. : MFA/24304/2012

Appellant : The Divisional Manager,

Respondent : Manjunath S/O Shivappa Kolkar,

Judgement :

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IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH DATED THIS THE 28TH DAY OF FEBRUARY, 2025 BEFORE THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR MISCELLANEOUS FIRST APPEAL NO.24304 OF 2012 (MV-I) BETWEEN: THE DIVISIONAL MANAGER, UNITED INDIA INSURANCE CO. LTD., DIVISIONAL OFFICE, MARUTI GALLI, SEETA SMRUTI, P.B. NO.156, 1568, BELAGAVI, BY ITS SENIOR DIVISIONAL MANAGER. APPELLANT (BY SRI. S.S. KOLIWAD, ADVOCATE) AND:

1. SRI MANJUNATH S/O. SHIVAPPA KOLKAR, AGE: 25 YEARS, OCC: MASON, R/O: GANDHINAGAR, BELAGAVI.

2. SRI ANIL MARIA REBELO,

AGE: MAJOR, OCC: BUSINESS, R/O: SANJAY NARAYAN KUDEKHA, Digitally signed by NEAR CHAPPEL NAGA MODEM, MALLIKARJUN NAVEILIM, SALCETE GOA, SOUTH GOA. RUDRAYYA KALMATH Location: HIGH COURT RESPONDENTS OF KARNATAKA (NOTICE TO R1 AND R2 ARE SERVED) THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF MV ACT 1988, PRAYING TO SET ASIDE THE

JUDGMENT AND AWARD DATED 26-05-2012 PASSED IN MVC

NO.1504/2011 ON THE FILE OF PRESIDING OFFICER, FAST TRACK COURT-II AND MEMBER, ADDL. MACT, BELAGAVI AND ETC., THIS MISCELLANEOUS FIRST APPEAL, COMING ON FOR HEARING, THIS DAY, THE COURT DELIVERED THE FOLLOWING: -2-

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR) This appeal is filed by the Insurance Company challenging the judgment and award dated 26.05.2012, passed in MVC No.1504/2011, by the Fast Track Court II and Additional MACT,

Belgaum (for short, Tribunal), questioning the liability fastened on it on the ground that claimants were inmates in the Tata Sumo Car bearing registration No.GA-02/J-0156. But the insurance policy issued towards the said car is liability only policy. Hence, the risk of inmates is not covered, as the inmates in the said car are not third parties.

2. The occurrence of accident and injuries sustained by the claimants are not in dispute in this case.

3. Admittedly, the claimants are inmates in the Tata

Sumo car bearing registration No.GA-02/J-0156 and insurance policy issued towards the said car is liability only policy. The issue raised by the

appellant/Insurance Company is squarely covered by the judgment of this Court in the case of DIVISIONAL MANAGER, UNITED INDIA INSURANCE -3- COMPANY Ltd., AND OTHERS VS. SHAMARAYA AND OTHERS¹. Therefore, as per dictum laid down by the Honble Supreme Court and also in the case of SHAMARAYA (supra) and as per Section 147 of the M.V Act, the risk of inmates of car/Jeep is not covered under the liability only policy.

Therefore, the Insurance Company is not liable to pay compensation to the claimants and was exonerated from payment of compensation to the claimants. Hence, the owner of offending vehicle i.e., respondent No.2/owner of Tata Sumo Car bearing registration No.GA-02/J-0156 alone is liable to pay compensation to the claimants. Accordingly, the appeal is liable to be allowed.

4. Hence, I proceeds to pass the following:

ORDER

a) The appeal is allowed. b) The judgment and award dated 26.05.2012, passed in MVC No.1504/2011, by the Fast Track Court II and Additional MACT, Belgaum, stands modified in holding MANU/KA/4690/2020 -4-

that the respondent No.2/owner of TATA Sumo car is liable to pay compensation to the claimants as awarded by the Tribunal. c) The liability fastened on the insurance company is set aside. d) The amount in deposit made by the appellant/Insurance Company shall be transmitted to the Tribunal. e) No order as to cost. Sd/- (HANCHATE SANJEEVKUMAR) JUDGE PMP List No.: 1 SI No.: 54

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