

The Divisional Manager vs Ambabai and Ors

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Court : Karnataka Kalaburagi

Decided On : Jun-30-2025

Judge : Mohammad Nawaz,K S Hemalekha

Appeal No. : MFA/201281/2023

Appellant : The Divisional Manager

Respondent : Ambabai and Ors

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA KALABURAGI BENCH DATED THIS THE 30TH DAY OF JUNE, 2025 PRESENT THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ AND THE HON'BLE MRS. JUSTICE K S HEMALEKHA MISCL. FIRST APPEAL NO.201281 OF 2023 (MV-D) BETWEEN: THE DIVISIONAL MANAGER UNITED INDIA INSURANCE CO. LTD., S.S.FRONT ROAD, SANGAMA BUILDING, VIJAYAPURA NOW REPRESENTED BY ITS DIVISIONAL MANAGER APPELLANT (BY SRI S. S. ASPALLI, ADVOCATE)

Digitally signed AND: by BASALINGAPPA SHIVARAJ DHUTTARGAON
1. SMT. AMBABAI Location: HIGH COURT OF W/O MUDAKAPPA

NATIKAR KARNATAKA AGE: 45 YEARS, OCC: HOUSEHOLD,

2. MUDAKAPPA S/O HANMANT NATIKAR, AGED ABOUT 49 YEARS,
OCC: AGRICULTURE,

3. ANIL S/O MUDUKAPPA NATIKAR, AGED ABOUT 22 YEARS, -2-
OCC: STUDENT ALL ARE R/O SOLAWADAGI TQ: B.BAGEWADI DIST:
VIJAYAPURA - 586 203.

4. SRI YALLAPPA

S/O LAXMIBAI CHALAWADI AGED ABOUT 29 YEARS, OCC:
BUSINESS OWNER OF TATA-ACE-REGN.NO.KA-28/C-2343, R/O:
KUNTOJI, TQ: MUDDEBIHAL, DIST: VIJAYAPURA - 586 212.
RESPONDENTS (BY SRI SUDHIRSINGH R. VIJAPUR, ADVOCATE
FOR R1 TO R3; SRI I. R. BIRADAR & SRI G.G.CHAGASHETTY,
ADVOCATE FOR R4) THIS MISCELLANEOUS FIRST APPEAL IS
FILED UNDER SECTION 173(1) OF THE M.V. ACT 1988, PRAYING TO
SET ASIDE THE JUDGMENT AND AWARD DATED 22.09.2022 IN
MVC NO.247/2019 PASSED BY THE ADDL. SENIOR CIVIL JUDGE &
MEMBER MACT-XIV, BASAVANA BAGEWADI, BY ALLOWING THE
ABOVE APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY. THIS
APPEAL COMING ON FOR ADMISSION, THIS DAY,

JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ AND

HON'BLE MRS. JUSTICE K S HEMALEKHA

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ORAL JUDGMENT

(PER: HON'BLE MR.JUSTICE MOHAMMAD NAWAZ) We have heard the learned
counsel for the appellant and the learned counsel for the respondents and perused

the materials on record.

2. The Insurer is in appeal, challenging the

judgment and award dated 22.09.2022 passed by the

Court of Additional Senior Civil Judge and Member M.A.C.T.XIV, Basavana Bagewadi in M.V.C.No.247/2019, wherein a total compensation of Rs.19,23,600/- is awarded to the claimants with interest at 6% p.a., from the date of petition till its realization.

3. The respondents/claimant Nos.1 to 3 are the

parents and brother of the deceased by name Hanamant, who died in a motor accident on 22.08.2018 while he was proceeding on a motorcycle bearing Registration No.KA- 28/L-5400 from his native Solawadagi to Huvinahipparagi. It is the case of the claimants that when the deceased was on Basavana Bagewadi - Muddebihal road, near Bykod

-4- village cross, a Tata Ace Goods vehicle bearing Registration No.KA-28/C-2343 came from opposite direction, driven by its driver in a very high speed and in a rash and negligent manner and hit against the motorcycle on which the deceased was proceeding, due to which he sustained injuries all over his body and died in the hospital while undergoing treatment.

4. It is vehemently contended by the learned counsel for the appellant that on the date of accident, the

vehicle bearing Registration No.KA-28/C-2343, which caused the accident did not have registration certificate and the fitness certificate, thereby the owner of the vehicle has allowed to use the said vehicle in violation of

the terms and conditions of the insurance policy, therefore, the appellant is not liable to satisfy the award. It is also contended by the learned counsel that the driver of the vehicle in question was not holding a valid or effective driving licence at the time of accident, which was overlooked by the Tribunal and erroneously

passed the

-5- award fixing the liability on the appellant to pay compensation.

5. It is his further contention that the Tribunal

having allowed the application filed under Section 170 of Motor Vehicles Act, ought to have held that in view of the violation of the terms and conditions of the insurance policy, it is the owner who is responsible to indemnify the claimants, he has therefore sought to allow the appeal.

6. Per contra, learned counsels appearing for the respondents would contend that as per Ex.R1, it is evident that the date of registration of the vehicle is 15.04.2015 and therefore, the vehicle was a new vehicle and considering the date of accident, it cannot be said that it

was not fit to ply on the road. Further, drawing the attention of the Court to Ex.R.3, they contended that the driver was holding a valid driving licence to drive the vehicle and therefore, the Tribunal having considered the material on record has awarded just compensation, holding the appellant herein liable to pay the same. They -6- contended that the Act being a beneficial legislation, no interference is called for. Accordingly, sought to dismiss the appeal.

7. The accident in question involving a Tata Ace

bearing Registration No.KA-28/C-2343, resulting in the death of one Sri Hanamant S/o Mudakappa Natikar, on 22.08.2018 is not seriously disputed. It is the contention of the learned counsel for the appellant that as per Ex.R.1, the registration and fitness was valid only upto 20.06.2018 and therefore, there was no registration certificate in respect of the vehicle and that the driver of the vehicle was not holding a valid driving licence at the time of accident.

8. As per Ex.R.1, the date of registration of the vehicle is 15.04.2015 wherein, it is seen that the tax is

paid upto 12.04.2030. The accident took place on 22.08.2018. In view of the same, we are unable to accept the contention of the learned counsel for the

appellant that the vehicle was not fit to ply on the road as on the date of -7-

accident. There is no material on record to show that subsequently the registration certificate was cancelled. Further, as per Ex.R.2, policy certificate was obtained in respect of the vehicle which was valid from 09.06.2018 to 08.06.2019 and therefore, there was a valid insurance policy covering the vehicle as on the date of accident.

9. As per Ex.R.3, the driver of the vehicle was holding a driving licence to drive non-transport vehicle

which was valid from 23.10.2010 to 22.10.2030. Considering that the unladen weight of the vehicle is 805 kilograms, the driver was holding a valid driving licence to drive the vehicle in question.

10. In light of the above discussion, the appeal fails and accordingly dismissed.
Sd/- (MOHAMMAD NAWAZ) JUDGE Sd/- (K S HEMALEKHA) JUDGE THM,BL
List No.: 1 Sl No.: 27:CT:NI

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