



IN THE HIGH COURT OF KARNATAKA AT DHARWAD
DATED THIS THE 18TH DAY OF JUNE 2026
BEFORE
THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.24075 OF 2013 (MV-I)

BETWEEN:

DIVISIONAL MANAGER RELIANCE GEN. INS. CO. LTD.,
ENVIRON TOWERS, NO.60/4, HOSUR MAIN ROAD,
ELECTRONIC CITY, BANGALORE,
NOW REPRESENTED BY ITS DEPUTY MANAGER
LEGAL CLAIMS, CTS 472-474,
V A KALBURGI SQUARE, DESAI CIRCLE,
DESHAPANDE NAGAR, HUBLI.

...APPELLANT

(BY SRI.NAGARAJ C.KOLLOORI, ADVOCATE)

AND:

SRI. SATISH S/O. BASAVARAJ KURUBAR
AGE: 28 YEARS, OCC: ADVOCATE,
R/O. NAREGAL, TQ: HANAGAL,
DIST: HAVERI.

...RESPONDENT

(BY SRI.R.H.ANGADI, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED 29-12-2012 PASSED
IN MVC NO.222/2010 ON THE FILE OF MEMBER, ADDL. MACT,
HANGAL, AWARDED THE COMPENSATION OF RS.2,20,000/- WITH
INTEREST AT THE RATE OF 6% P.A., FROM THE DATE OF PETITION
TILL THE DATE OF DEPOSIT.

THIS APPEAL COMING ON FOR FINAL HEARING THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS JUSTICE GEETHA K.B.





ORAL JUDGMENT

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 (for short 'M.V. Act') challenging the judgment and award dated 29.12.2012 passed in MVC No.222/2010 on the file of Additional Motor Accident Claims Tribunal, Hanagal (for short 'Tribunal') by the appellant-insurer being dissatisfied with the compensation awarded in favour of the claimant.

2. Parties would be referred with their ranks as they were before the Tribunal for the sake of convenience and clarity.

3. The case of the claimant before the Tribunal in nutshell is that the claimant has filed the claim petition under Section 166 of MV Act before the Tribunal contending that on 18.12.2009 at about 07.30 p.m., driver of Tata Indica car bearing No.KA-02/D-2375 drove the same rashly and negligently and caused to fall the car on road side canal and thereby caused the accident. Due to



the accident, the car is completely damaged. The claimant being owner of the car claimed compensation from respondent under different heads.

4. After service of notice, respondent filed its objection statement, wherein it denied the case of claimant in *toto* and further took specific contention that the vehicle in question is not insured by the claimant but, the policy was standing in the name of one Sahirabanu W/o Suban. It further took contention that the claimant has approached the wrong forum to redress the remedy, not approached the respondent prior to filing of the petition by issuing notice and not approached the Consumer Forum to redress his remedy for deficiency of service if any, and filing of the present petition is not maintainable in law. It has taken other objections and hence, prayed for dismissal of the petition.

5. After framing issues, recording evidence and hearing arguments, the Tribunal awarded the compensation of ₹2,20,000/- with interest at 6% per



annum against the respondent-insurer. Aggrieved by the same respondent-insurer is before this Court.

6. Heard arguments of both sides.

7. Learned counsel for appellant Sri.Nagaraj C. Kollori would submit that the policy was not issued in favour of claimant and it was standing in the name of erstwhile owner of the car in question. Furthermore, as per Sections 165 and 166 of MV Act, claimant being the owner of the car cannot file the case before MACT. Because, he cannot claim damages of his own vehicle insured with respondent. In this regard the appellant relies on the judgment of Co-ordinate bench of this Court in MFA No.100810/2014.

8. Learned counsel for respondent Sri. R.H.Angadi would submit that the respondent-insurer has not taken the specific plea before the Tribunal. The policy in question is not produced before the Tribunal. Under these



circumstances, the judgment and award passed by the Tribunal is proper.

9. Learned counsel for respondent would further submit that if for any reason, this Court has come to the conclusion that MACT has no jurisdiction to entertain the petition, then, liberty may be given to the claimant to approach proper forum by resolving limitation. Hence, prayed for dismissal of the petition.

10. Having heard arguments of both sides, verifying the appeal papers, the trial Court records, the point that arises for consideration is

“Whether MACT has jurisdiction to entertain the petition.”

11. The finding of this Court on the above point is in the **Negative** for the following:

REASONS

The claimant has filed the petition under Section 166 of the Motor Vehicles Act before the Tribunal, claiming



compensation for damages occurred to the car against his own insurer. Section 165 of the Motor Vehicles Act, 1988 reads as follows:

"165. Claims Tribunals.— (1) *A State Government may, by notification in the Official Gazette, constitute one or more Motor Accidents Claims Tribunals (hereafter in this Chapter referred to as Claims Tribunal) for such area as may be specified in the notification for the purpose of adjudicating upon claims for compensation in respect of accidents involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both.*

Explanation.—For the removal of doubts, it is hereby declared that the expression "claims for compensation in respect of accidents involving the death of or bodily injury to persons arising out of the use of motor vehicles" includes claims for compensation under section 164.

(2) *A Claims Tribunal shall consist of such number of members as the State Government may think fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof.*



(3) A person shall not be qualified for appointment as a member of a Claims Tribunal unless he—

(a) is, or has been, a Judge of a High Court, or

(b) is, or has been, a District Judge, or

(c) is qualified for appointment as a Judge of a High Court or as a District Judge.

(4) Where two or more Claims Tribunals are constituted for any area, the State Government, may by general or special order, regulate the distribution of business among them."

12. The plain reading of this section would indicate that the Tribunal can entertain the claim petitions filed under Section 166 only when there is third party liability in respect of damages.

13. Admittedly, in the present case the claimant is claiming compensation in respect of damages that occurred to his own car against his own insurance company. Even though, the car in question is insured with present appellant, but the policy was standing in the name of erstwhile owner. This point need not be discussed in



this case because this MACT has no jurisdiction to entertain the petition.

14. Learned counsel for claimant would submit that he was litigating before the Tribunal with bona fides, even though, it was not having jurisdiction. Hence, he may be permitted to file appropriate petition before the Consumer Forum.

15. In this regard Section 14 of the Limitation Act is to be read. It is extracted as follows.

"14. Exclusion of time of proceeding bona fide in Court without jurisdiction.-(1) *In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a Court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.*

(2) In computing the period of limitation for any application, the time during which the applicant



has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a Court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908, the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the Court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the Court or other cause of a like nature.

Explanation.—For the purposes of this section,—

(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;

(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;



(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.”

16. The claimant has to establish that he was prosecuting the case before MACT in good faith. Admittedly, claimant is an advocate by profession. Hence, it cannot be said that he was not having knowledge to file the case under Section 166 of MV Act, he cannot file petition for damages to his own car against his insurance company. Furthermore, initially the respondent has taken contention in the objection statement that the claimant has approached the wrong forum. Furthermore, specific suggestions are put to the claimant that this Court has no jurisdiction to entertain the petition. Hence, it cannot be said that claimant was not aware about this legal knowledge and he was prosecuting the petition before Tribunal with good faith. “A suggestion put to PW.1 before Tribunal, it is not true to suggest that this Tribunal has no jurisdiction to settle the alleged claim since, I have not



filed petition before Consumer Forum.” Thus, it cannot be said that claimant is prosecuting with good faith before the Tribunal. Even though, the Tribunal has allowed the petition, Tribunal has not verified Section 165 or Section 166 of Motor Vehicles Act. This being the point of Jurisdiction, appellant has properly raised this question before the Tribunal and also before this Court. Hence the contention of respondent cannot be accepted. Hence, this Court proceeds to pass the following:

ORDER

- i) Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is **allowed** by setting aside the judgment and award passed in MVC No.222/2010 dated 29.12.2012 on the file of Addl. MACT, Hangal.
- ii) Amount in deposit is to be refunded to the appellant on proper identification.



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iii) Send back the trial Court records.

iv) Draw award accordingly.

Sd/-
(GEETHA K.B.)
JUDGE

HMB
CT:VH
List No.: 1 Sl No.: 7