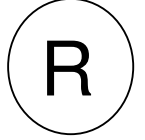




CNR: KAHC030070722023

NC: 2026:KHC-K:8970
MFA No. 202713 of 2023



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 1ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE K V ARAVIND

MISCL. FIRST APPEAL NO. 202713 OF 2023 (MV-I)

BETWEEN:

THE DIVISIONAL MANAGER,
NATIONAL INS. CO. LTD.,
2ND FLOOR D. NO. 8-10-135/1 1A,
VEERABHADRESHWARA CHAMBERS,
OPP. NEHRU STADIUM, BIDAR-585401,
(NOW REPRESENTED BY AUTHORIZED SIGNATORY,
STATION ROAD, KALABURAGI).

...APPELLANT

(BY SMT. PREETI PATIL MELKUNDI, ADVOCATE)

AND:

1. VISHWANATH
S/O SANJAYKUMAR BELURE,
AGE: 34 YEARS, OCC: PRIVATE SERVICE IN
KORED INFRATECH PVT. LTD., AT HYDERABAD,
NOW NIL,
R/AT DHARMPETH, MANTHAL,
TQ. BASAVAKALYAN, DIST. BIDAR- 585401.
2. SHIVAKUMAR S/O VEERANNA UMARGE,
AGED: MAJOR, OCC: BUSINESS AND OWNER
OF MARUTI SWIFT CAR,
R/AT VILLAGE MANTHAL, TQ. BASAVAKALYAN,
DIST. BIDAR- 585401.

...RESPONDENTS

(BY SRI BASAVARAJ R. MATH, ADVOCATE FOR R1;
R2 SERVED AND UNREPRESENTED)





CNR: KAHC030070722023

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MFA No. 202713 of 2023

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, PRAYING TO CALL FOR THE RECORDS AND ALLOW THE ABOVE APPEAL BY SETTING ASIDE THE IMPUGNED JUDGMENT AND AWARD DATED 11.04.2023 IN MVC NO.87/2019 PASSED BY THE II ADDL. DISTRICT AND SESSIONS COURT AND ADDL. MACT BIDAR, SITTING AT BASAVAKALYAN.

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

CORAM: HON'BLE MR. JUSTICE K V ARAVIND

ORAL JUDGMENT

Heard Smt. Preeti Patil Melkundi, learned counsel for the insurer, and Sri. Basavaraj R. Math, learned counsel for the claimant.

2. This appeal is by the insurer, denying liability on the ground of false implication of the vehicle, against the judgment and award in MVC No.87/2019 dated 11.04.2023 passed by the II Additional District and Sessions Judge and Additional MACT, Bidar (for short, 'the Tribunal').

3. The claimant filed a petition seeking compensation for the accidental injuries suffered in the accident that occurred on 22.09.2018, involving motorcycle bearing No. KA-56-J-1132 and car bearing No. KA-56-M-0335. The insurer filed its



CNR: KAHC030070722023

objections, denying the petition averments and also alleging false implication of the vehicle in collusion with the police and the owner of the vehicle to make wrongful gain by claiming compensation.

3.1 The Tribunal, considering the evidence on record, held that the accident was caused due to the involvement of the insured vehicle and directed the insurer to pay the compensation.

4. Learned counsel appearing for the insurer submits that, as per Ex.P7, the date of the accident is 18.09.2018, and that the accident occurred under the influence of alcohol and was due to self-harming. In support of the said submission, reliance is placed on Ex.R1, the clinical notes issued by Shendiya Hospital and Research Center, Omerga.

4.1 The learned counsel further submits that the claimant, at the time of the accident, was riding the motorcycle under the influence of alcohol and contributed to the negligence resulting in the accident. It is submitted that, though the vehicle was surrendered on 06.10.2018 as per Ex.R7, the stamp paper for



NC: 2026:KHC-K:8970
MFA No. 202713 of 2023

CNR: KAHC030070722023

the indemnity bond was purchased on 04.10.2018, and that the vehicle was deliberately and falsely implicated in collusion.

4.2 The learned counsel further submits that thereafter, even the treating hospital assisted the claimant in falsifying the medical records, which stands proved by the admissions of PW2, the doctor. It is submitted that the Tribunal, without considering the above aspects, incorrectly held the insurer liable to pay the compensation.

5. Learned counsel appearing for the claimant submits that the accident took place on 22.09.2018 at 10.00 p.m. The claimant was admittedly admitted to Shendiya Hospital and Research Center, Omerga, where the MLC was reported on 23.09.2018 to the jurisdictional police, Omerga. Thereafter, as per Ex.P16(a), along with the statement of the injured, Ex.P2 and P2(a), dated 23.09.2018, the same was transferred to the jurisdictional police, Basavakalyan, wherein the FIR was registered on 30.09.2018, involving the offending car. When the car was involved for the first time on 22.09.2018, the car number was not registered.



NC: 2026:KHC-K:8970
MFA No. 202713 of 2023

CNR: KAHC030070722023

5.1 It is submitted that Ex.P7 is not a reliable document in view of the other medical records of the same hospital, establishing the date of the accident as 22.09.2018 and the treatment of the claimant from 23.09.2018 to 03.10.2018. It is submitted that Ex.R1 itself establishes the date of the accident as 22.09.2018 involving the motorcycle.

5.2 It is further submitted that the dates mentioned in Ex.P7 and Ex.P8 cannot be inferred as establishing planned implication of the vehicle. In view of the FIR having been registered four days before the purchase of the stamp paper, it is submitted that there is no evidence on record to prove that the claimant was under the influence of alcohol at the time of the accident.

6. Considered the submissions made by learned counsel for the parties and perused the records.

7. The main contention of the insurer is based on Ex.P7. Though Ex.P7 records the history of a road traffic accident on 18.09.2018, there is no corroborative evidence to prove the same. However, Ex.P9, Ex.R1, Ex.P16-MLC report, Ex.P16(a)-



NC: 2026:KHC-K:8970
MFA No. 202713 of 2023

CNR: KAHC030070722023

letter of Omerga Police to Basavakalyan Police, the statement of the claimant as per Ex.P2(a), and Ex.P1-FIR would conclusively prove the date of the accident as 22.09.2018. The purchase of the stamp paper on 04.10.2018, when the vehicle was seized on 06.10.2018 for execution of the indemnity bond, is of no assistance when the insured vehicle was stated to be involved on 22.09.2018. It is also the case of the claimant that the driver of the car attended to his medical needs by admitting him to the hospital. The possibility of purchase of the stamp paper, perhaps on legal advice, in anticipation of the requirement of surrendering the vehicle for inspection, cannot be brushed aside. In the light of the above, the Tribunal is justified in holding the date of the accident as 22.09.2018 and the involvement of the insured vehicle.

8. The medical records are corroborated by the evidence of PW2. Though the insurer cross-examined PW2, his evidence remained unshaken. The recording of the history of the accident as a fall from the motorcycle cannot be inferred as a self-fall from the motorcycle when it is the case that the insured car dashed against the claimant. In such



CNR: KAHC030070722023

circumstances, it would be stated only as a fall from the motorcycle. The doctor, while recording the brief history, may not be required to record the details which would be relevant for a legal dispute. When a patient is taken to the doctor, the concentration would be on the treatment and not on recording the detailed reasoning or history of the accident. The brief history is only for record purposes. In that view, the fall from the motorcycle cannot be inferred as a self-fall.

9. Now, coming to the other issue raised by the learned counsel for the insurer that the claimant was under the influence of alcohol at the time of the accident, Ex.R1 records that the claimant was under the influence of alcohol when admitted to the hospital on 23.09.2018 at about 12:05 a.m. The treating doctor has been examined as PW2. In the cross-examination, PW2 has categorically admitted that the claimant was under the influence of alcohol when brought to the hospital with a history of fall from the motorcycle on the Hyderabad-Mumbai Highway. The submission of the learned counsel for the claimant to brush aside the influence of alcohol with reference to Ex.R3, showing the blood pressure of the claimant at about



CNR: KAHC030070722023

12:10 a.m. on 23.09.2018 as being low, and the contention that a person under the influence of alcohol would have higher blood pressure, cannot be accepted in the absence of any expert evidence.

10. Riding a motorcycle under the influence of alcohol is an offence. When a person uses a vehicle under the influence of alcohol, he not only poses himself to risk but also exposes other road users, the public, and society at large to risk. When the claimant himself has violated the mandate of law and files a claim petition, the established principle of liberal interpretation of a benevolent enactment cannot be stretched to cover such cases. In the era of increasing human population, vehicle population, and road congestion, vehicle users should exhibit obedience to the law and concern for fellow road users. If liberal interpretation is extended to a person who comes before the Tribunal claiming compensation, it would add a premium to the violation and would result in the breakdown of the road discipline, maintenance of law and order. When such instances are noticed by the Court, the same is to be viewed and handled strictly.



CNR: KAHC030070722023

11. In that view, in the facts of the present case, this Court is of the view that not less than 30% of the negligence is to be attributed to the claimant, who suffered accidental injuries under the influence of alcohol.

12. In the light of the above, the following:

ORDER

- I. The appeal is ***allowed in part.***
- II. The judgment and award in MVC No.87/2019 dated 11.04.2023 passed by the II Additional District and Sessions Judge and Additional MACT, Bidar, stand ***modified.***
- III. The insurer is directed to deposit 70% of the compensation awarded by the Tribunal with applicable interest, within eight weeks from the date of uploading of this judgment.
- IV. The claimant is held to have contributed negligence to the extent of 30% on account of riding the motorcycle under the influence of alcohol.



CNR: KAHC030070722023

NC: 2026:KHC-K:8970
MFA No. 202713 of 2023

- V. The amount in deposit shall be transferred to the Tribunal.
- VI. All other conditions as ordered by the Tribunal, are maintained.
- VII. Draw the modified award accordingly.
- VIII. No order as to costs.

Sd/-
(K V ARAVIND)
JUDGE

KJJ,MSR
List No.: 1 Sl No.: 14
CT:PK