



NC: 2026:KHC-D:14161  
MFA No. 101014 of 2017

CNR: KAHC020068642017

**IN THE HIGH COURT OF KARNATAKA AT DHARWAD**  
**DATED THIS THE 29<sup>TH</sup> DAY OF AUGUST 2026**  
**BEFORE**  
**THE HON'BLE MRS JUSTICE GEETHA K.B.**



MISCELLANEOUS FIRST APPEAL NO.101014 OF 2017 (MV-I)

**BETWEEN:**

GIRIDHAR NEELAKANT PAI  
AGE: 42 YEARS, OCC: BUSINESS,  
R/O: MADANAGERI, TQ: KUMATA,  
DIST: UTTARA KANNADA.

...APPELLANT

(BY SRI.J.S.SHETTY, ADVOCATE)

**AND:**

1. NEELAKANT NARAYAN PAI  
AGE: MAJOR, R/O: MATADKERI, MADANAGERI,  
TQ: KUMATA, DIST: UTTAR KANNADA.
2. UNITED INDIA INSURANCE COMPANY  
98 A, FIRST FLOOR, HULIDEVA COMPLEX,  
NEAR GOBBS HIGH SCHOOL, KUMTA,  
TQ: KUMTA, DIST: UTTAR KANNADA,  
BY ITS MANAGER.
3. NAGAPPA PUNDALIK PAI  
AGE: MAJOR, R/O: MADANAGERI,  
TQ: KUMATA, DIST: UTTARA KANNADA.

...RESPONDENTS

(BY SRI.VINAYKUMAR GANAPATHI, ADVOCATE FOR  
SRI.RAVI HEGDE, ADVOCATE FOR R1 AND R3;  
SMT.PREETI SHASHANK, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, AGAINST THE JUDGMENT AND AWARD DATED 28.11.2016 PASSED IN MVC NO.86/2011 ON THE FILE OF THE MEMBER, ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, KUMTA, DISMISSING THE PETITION FILED UNDER SECTION 166 OF THE MOTOR VEHICLES ACT AND ETC.





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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') by the appellant/claimant challenging the judgment and award dated 28.11.2016 in MVC No.86/2011 on the file of Additional M.A.C.T., Kumta (for short 'the Tribunal').

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

3. The claimant has filed the claim petition under Section 166 of the M.V. Act before the Tribunal claiming compensation of ₹15,00,000/- with interest in respect of the injuries sustained by him in the road traffic accident that has taken place on 15.09.2010 at about 01.30 a.m. on NH-17 Ankola-Kumta road when claimant was the pillion rider of motor cycle bearing Reg.No.KA-47/H-3116.



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4. It is the case of the claimant that he was the pillion rider of the offending motorcycle; respondent No.3 was its rider, who rode it rashly and negligently when they came near Shiroor Village; the rider i.e., respondent No.3 lost his control over the vehicle, it became turtle; hence the claimant sustained grievous injuries. Immediately, he was shifted to Government Hospital, Ankola. After taking first aid treatment, he was further shifted to Vivekananda Hospital, Hubballi, wherein he took treatment as inpatient for 20 days; he also took treatment at Hinduja Hospital. Hence, he claimed compensation to the injuries sustained by him under different heads.

5. Respondent No.1 is the owner, respondent No.3 is the alleged rider of the motorcycle and respondent No.2 is the insurance Company of the motorcycle.

6. After service of notice, respondent Nos.1 and 3 have filed their objection statement, wherein they have taken contention that on 15.09.2010 evening, respondent



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No.3 has taken the vehicle from the owner-respondent No.1 with his consent and had been from Madangeri to Ankola, wherein he performed his work, Ganapathi pooja, etc. and while coming back, he has taken claimant in the vehicle and when they came near Shiroor on National Highway, he lost his control over the vehicle and because of that, it became turtle and respondent No.3 had not sustained any injuries as he was wearing helmet, the claimant sustained injuries. Immediately respondent No.3 had been to bring the vehicle to take the claimant to the hospital; in the meanwhile the complainant had seen the claimant and took him to the hospital and then he lodged the complaint without knowing that who was riding the motorcycle. The charge-sheet is filed against respondent No.3. After trial, he was acquitted in the said case. Respondent Nos.1 and 3 have denied the contention taken by respondent No.2 in his objection statement that respondent No.3 is falsely implicated in the case. Hence, they have prayed for awarding suitable compensation



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amount to claimant and to dismiss the petition against respondent Nos.1 and 3 as the vehicle is validly insured with respondent No.2.

7. Respondent No.2 has filed objection statement to the claim petition, wherein it denied the claim petition averments in *toto* and further contended that initially the complaint was lodged stating that the claimant was the rider of the vehicle and only because he did not have valid driving license, respondent No.3 is falsely implicated in the case. Hence, prayed for dismissal of the petition.

8. After completion of pleadings, the Tribunal framed issues, recorded the evidence of both sides and after hearing arguments, concluded that the claimant failed to establish that he was pillion rider of the offending motorcycle as on the date of accident and thereby dismissed the claim petition.

9. Aggrieved by the said judgment of dismissal and award, the claimant is before this Court.



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10. Heard arguments of both sides.

11. Learned counsel for appellant-Sri J.S.Shetty would submit that the claimant has produced ample evidence before the Tribunal to show that he was pillion rider of the offending motorcycle. Respondent No.3 was the rider of the said vehicle; he was examined as R.W.2, who has categorically deposed before the Court that he was the rider of the motorcycle and withstood the cross-examination. Furthermore, the person who lodged the complaint is also examined before the Tribunal as R.W.3, who has also stated that why he initially narrated that claimant was the rider; thereafter, he gave further statement before the investigating officer that respondent No.3 was the rider. Thus, the claimant has established before the Tribunal that the claimant was only the pillion rider of the offending motorcycle and not the rider. However, the Tribunal has not properly appreciated this evidence and wrongly dismissed the claim petition.



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12. In this regard, learned counsel for the appellant places reliance on the judgment of the Hon'ble Apex Court in ***Suhagrani and Others vs. Manager, Cholamandalam MS General Insurance Company Limited*** reported in ***(2025) 10 SCC 241***.

13. Learned counsel for respondent No.2/insurance Company, Smt.Preeti Shashank would submit that the initial complaint clearly establishes that the claimant was rider of the motorcycle. The cross-examination of said complainant reveals that the claimant is a stranger to him. He was present in the hospital up to 03.30 - 04.00 a.m. on the date of accident. Respondent No.3 was not at all in the picture at the time of lodging the complaint. Only 1 month after the accident, respondent No.3 came into the picture. The evidence of the claimant coupled with the evidence of R.W.2 and R.W.3 and police records, clearly and categorically establishes that respondent No.3 is implicated only to provide compensation to the claimant



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because it is a fact that the claimant did not have any valid and effective driving licence to ride the motorcycle.

14. In this regard, learned counsel for respondent No.2 places reliance on the judgment of Hon'ble Apex Court in ***Oriental Insurance Company Limited vs. Premlata Shukla and Others*** in Civil Appeal No.2526/2007 (arising out of SLPC (C) No.2427/2006), judgment of Division Bench of this Court in ***Branch Manager Oriental Insurance Company Limited vs. Smt.Kempamma and Others*** in MFA No.9053/2007 dated 10.04.2014 and judgment of Co-ordinate Bench of this Court in ***Bajaj Allianz General Insurance Company Limited vs. B.C.Kumar and Another*** in MFA No.3475/2008 dated 30.06.2009.

15. Having heard arguments of both sides, verifying the appeal papers and Trial Court records, the point that arises for consideration is:



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*"Whether the claimant establishes that he was the pillion rider of the offending vehicle as on the date of accident?"*

16. Finding of this Court on the above point is in the **negative** for the following:

#### REASONS

17. The claim petition is filed contending that the claimant was pillion rider of the offending motorcycle at the time of the accident and he sustained grievous injuries in the said accident.

18. In this regard, the claimant places reliance on the police records. Initially, the complaint was lodged by R.W.3 on 15.09.2010 at 12.00 noon, and it was registered as Crime No.266/2010. In the complaint, it is stated that the complainant had been to Madangeri after completion of pooja; while coming back to his place, Ankola, on 15.09.2010 at 01.40 a.m. the rider of a two-wheeler came from Ankola side towards Kumta with great speed



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negligently, and because of the negligence and speed, the vehicle turned turtle on the road. Immediately, the complainant has stopped his vehicle by the side of the road, went near and found that the said rider had sustained injuries to his head and legs, and he was suffering from bleeding injuries. Then he enquired said person who told his name as Giridhar Neelakant Pai (the claimant), 36 year old, resident of Madanageri, Ankola; then he provided treatment, then called 108 Ambulance and in 108 Ambulance, he has sent the injured person to the hospital and then he verified about the turtle motorcycle; its Registration number was KA-47/H-3116 Honda Activa; it is further stated in the complaint that the accident has taken place due to negligent riding of the claimant and hence lodged the complaint by enquiring with the relatives of the claimant belatedly i.e. at 12.00 p.m. of the same day.

19. In this complaint, there is specific narration that the complainant had seen the claimant riding the



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motorcycle with rashness and negligence and he turned turtle the motorcycle and sustained injuries.

20. After lodging this complaint on 15.09.2010, the police officer commenced the investigation and conducted the investigation and then ultimately filed charge-sheet as per Ex.P.5, wherein he has filed the charge-sheet against respondent No.3 of present case. He has shown 12 witnesses in the charge-sheet.

21. Based on this charge-sheet, the claimant has filed the present claim petition contending that he is the pillion rider of the motorcycle.

22. After filing the case and after commencement of evidence of the claimant and almost 1-½ years after completion of his cross-examination, respondent Nos.1 and 3 have filed their application to permit them to file objection statement, which was allowed by the Tribunal by passing orders on I.A.No.5 on 13.04.2016 and then their objection statement was taken on record.



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23. Generally, in the objection statement by the owner or rider, they would deny the averments made in the petition. But in this case, they have filed the objection statement only to substantiate the claimant's contention, as is clear from the recitals of the objection statement stated above. They are denying the averments in the objection statement of respondent No.2-insurance Company and not the claim petition.

24. This complainant was examined as R.W.3. He was summoned on behalf of respondent No.1 & 3. In his affidavit evidence, he has stated that on 15.09.2010 at about 01.30 a.m. at Shiroor, he found the claimant of present case, who was suffering from injuries and in semi-consciousness state of mind because of the accidental injury suffered by him from Honda Activa Motorcycle No.KA-47/H-3116, and then he provided first-aid treatment and sent him in a 108 Ambulance to the hospital, and he thought that the claimant was the rider of the motorcycle and lodged the complaint. Afterwards, once



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he had been to Hubballi to bring articles to his shop, at that time he came to know that the claimant was taking treatment in Hubballi and went to see him and then came to know that the claimant was pillion rider and rider was respondent No.3, and hence gave further statement before the police. Based on this further statement of R.W.3, the charge-sheet is filed against respondent No.3.

25. In the cross-examination, this R.W.3 has deposed that he had not seen the claimant, his father or respondent No.3 earlier and they were not known to him and they were not his relatives and not from his place. But P.W.1 in his cross-examination has deposed that this R.W.3 is related to him from his mother's side; he has known him for several years and R.W.3 knew respondent No.3. Thus, the evidence of claimant and R.W.3 on this point is quite contradictory.

26. In cross-examination, R.W.3 deposed that about 25 days after lodging the complaint, he himself



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voluntarily went to the police station to give his further statement. The reason for giving such further statement is that when he had been to Hubballi, the injured person called him by phone and conveyed his thanks and before making such phone call, he was not told who the rider of the motorcycle was. Thus, he has given the further statement. Said further statement is marked as Ex.R.5 through R.W.2.

27. According to Ex.R.5, this complainant visited Vivekananda Hospital, Hubballi on 15.10.2010. In the further statement, it is stated that on 15.10.2010 the complainant had been to Hubballi to purchase things to his stationary shop wherein he came to know that the injured person-Giridhar Neelakant Pai was admitted to Vivekananda Hospital and then he went to said hospital to see the injured person; at that time injured person told him that he was only pillion rider and respondent No.3 was the rider of the motorcycle. Hence, he has given the said further statement.



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28. Thus, according to this further statement on 15.09.2010, R.W.3 had gone to the Vivekananda Hospital, Hubballi to see the claimant and at that time came to know that the claimant was the pillion rider.

29. The discharge summary of Vivekananda Hospital is produced by the claimant, which is marked as Ex.P.191. According to this document, the claimant was admitted to the said hospital on 15.09.2010 at 08.00 a.m. and discharged from the said hospital on 04.10.2010 at 03.30 p.m. Thus, as on 15.10.2010, this claimant was not at all admitted in Vivekananda Hospital. Thus, there was no occasion for R.W.2 to go to the said hospital on 15.10.2010 and enquire about the claimant and then give further statement as per Ex.R.5.

30. According to the cross-examination of the claimant, he did not have valid and effective driving licence to ride the motorcycle. However, respondent No.3 possessed licence to ride two-wheeler, three-wheeler and



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four- wheeler. According to him, on the next day of Ganapathi Chauthi Festival, he had gone to Ankola to see Ganapathi and he left his house at Madankeri at about 04.30 p.m.; he was waiting at Ankola bus stand at about 08.30 p.m. and afterwards to come back to Madankeri. However, he knew very well that there is no bus or tempo after 07.00 p.m. between Ankola, Kumta and Honnavara and there will not be any local buses from Gokarna or to Madangeri. He knew that no non-stop bus would stop at Madangeri. He was aware about all these facts before he went to see Ganapathi in Ankola. But he had decided to return to Ankola the same day. He knows how to ride two-wheeler even though he does not possess a license to drive two-wheeler.

31. Claimant denied the suggestion that because he did not have driving licence to drive the motorcycle, respondent No.3 is implicated in the case only to get compensation from respondent No.2. According to him at the time of lodging the complaint, R.W.3 did not know who



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was riding the motorcycle. But as discussed above, the complaint averments show that the complainant had seen the accident and only afterwards he lodged the complaint.

32. R.W.2 is the alleged rider of the motorcycle. He completely supports the claimant's case in his evidence. In the cross-examination of R.W.2 by the learned counsel for the claimant, he has deposed that while coming back from Ankola at about 12.30 midnight or 1.00 a.m., the claimant became the pillion rider of the motorcycle and the accident took place near Shiroor; at that time he was the rider of the motorcycle. Immediately after the accident, he went in a lorry to his village to make facility to bring the vehicle to take the claimant to the hospital. According to him, claimant had lost consciousness and was lying on that spot. According to him, he laid down the claimant by the side of the road and he was showing signals to the vehicles which were going in that road and then took lift from one lorry wherein only driver and cleaner were there, but he did not make any effort to take the claimant in that



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lorry to the hospital because it did occur to him at that time.

33. The above evidence of R.W.2 is very strange. When R.W.2 knew the claimant very well and taking the claimant as pillion rider in the motorcycle belonging to the father of claimant-respondent No.1, it is strange behaviour to leave the unconscious claimant by the side of the road and then go to his village to make arrangements to bring vehicle; this is not an acceptable theory. No prudent man would act in that way.

34. R.W.2 has deposed that he had never met R.W.3. According to him, on the same day of accident, after he returned to his village, about 30 - 45 minutes later, he came back to the spot, but the claimant was not there and on that night itself, he had been to Government Hospital, Ankola and the claimant was in unconscious state in that hospital, but nobody from the side of claimant was in the said hospital and police also had not come.



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According to R.W.3, he had taken claimant to the Government Hospital, Ankola and was there in the said hospital up to 03.30 - 04.00 a.m.; none of the relatives or persons belonging to the claimant came to said hospital. According to him, in the morning hours, the claimant became conscious a little and was in a position to talk and at that time, he enquired with claimant that who the rider was and how the accident had taken place, but his talk was not clear because there was injury to his tongue and thus, he lodged complaint that the claimant was the rider of the motorcycle. There is no consonance between the evidence of R.W.2 and R.W.3 on this point.

35. According to R.W.2, he filed the objection statement before commencement of evidence of claimant, but the same is contrary to the Court records. As discussed above, about 1.5 years after the completion of evidence of claimant, this objection statement was filed and accepted by the Court. These facts establish that R.W.2 and R.W.3 are not deposing the truth.



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36. According to the claimant, respondent No.3 is from their village and he knows him very well. R.W.3 is related to him through his mother, but the evidence of R.W.3 is quite contrary to the same as discussed above.

37. If really as deposed by R.W.2 and stated by claimant, R.W.2 was rider of the motorcycle and claimant was its pillion rider and the vehicle was turtle on the road; definitely R.W.2 would also have sustained some injuries, but according to him, no such injuries were caused to him. In the cross-examination, he has deposed that only a minor injury sustained by him and he has not taken treatment for those injuries. This is also not acceptable.

38. Merely because charge-sheet is filed against respondent No.3 stating that he is the rider of the motorcycle, it cannot be accepted as true until and unless it is established by claimant.

39. In this regard, this Court places reliance on the co-ordinate bench of this Court in the case of **Umakant**



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***Ranappa Bosle v. Rachappa Veerupaxappa Marihal,***

based on the judgment of the Hon'ble Apex Court held that if charge-sheet is to be accepted without proof, then the entire process of recording evidence of adjudication would become redundant. They are to be accepted to believe as *prima facie* case. But, when suspicion arises, then the Tribunal has to investigate the matter and the claimant has to prove the case. The relevant paragraph Nos.35 and 36 are as below:-

*"35. The main contention of the claimant that once the police file a charge sheet, the Tribunal cannot go beyond the contents of the charge sheet and question whether the accident occurred or whether the alleged vehicle was involved. This contention is untenable. The recording of the evidence. Production of documents and hearing both sides and assigning reasons to answer each issues, even in a summary trial before the Tribunal, is not a formality. If a charge sheet is to be accepted without proof, then the entire process of evidence recording and adjudication would become redundant. They are to be accepted to believe as prima facie case. If doubt arises as in the present case. The Tribunal has to*



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*investigate truth in the said case to decide whether such accident occurred due to involvement of vehicle.*

*36. In cases where doubts arise regarding the genuineness of the charge sheet, it is a duty of claimant to prove that the accident occurred with the involvement of the offending vehicle and that he sustained injuries as a result. The burden of proof on issue No.1 always lie with the claimant. The fundamental principle of proving a fact remains with the person who asserts a fact. Therefore, the said contention is not acceptable."*

40. In the said case, it is held that mere filing of charge-sheet would not prove the case as narrated in the charge-sheet. It is the initial burden of claimant to establish that the accident has taken place as narrated in the claim petition. The facts narrated in the charge-sheet cannot be gospel truth.

41. In the present case, even though respondent No.3 himself came forward to give evidence and complainant was examined as R.W.3 and not as the claimant's witness shows that there is clear collusion in



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between claimant, respondent Nos.1, 3 and complainant to manipulate the case.

42. Even though in the case of present nature, claimant has to establish the factum of accident only with the principle of preponderance of probability and not the strict proof of beyond reasonable doubt as required in criminal cases. However, even though the claimant is not supposed to establish his case beyond reasonable doubt, there shall not be any suspicion about the case of the claimant as arose in the present case.

43. Claimant places reliance on FIR, complaint and spot panchanama to say that the accident has taken place on 15.09.2010 at about 01.30 a.m., wherein he sustained injuries. However, he is not relying on these documents to say who the rider of the offending motorcycle was. In this regard, learned counsel for respondent No.2 places reliance on the judgment of the Hon'ble Apex Court in ***Oriental insurance Company Ltd. Vs. Premlata***



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***Shukla and others*** reported in **2009 (1) SCC (CRI) 204**

at paragraph No.12, which reads as follows:

*"12. In Narbada Devi (supra) whereupon reliance has been placed, this Court held that contents of a document are not automatically proved only because the same is marked as an Exhibit. There is no dispute with regard to the said legal proposition."*

44. In the instant case also, when the claimant places reliance on FIR, complaint and police papers to prove the accident; he cannot deny the averments in those records regarding the rider of the vehicle.

45. The judgment of the Hon'ble Apex Court relied by the learned counsel for the appellant in ***Suhagrani's case*** cited supra at paragraph No.12, held as follows:

*"12. The jurisdictional police who had recorded the statement (Ext. D-1) of PW 2 was not examined. No attempts have been made by the insurer of the offending vehicle to prove the contents of Ext. D-1. This is yet another reason as to why the findings recorded by the High Court in*



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*this regard cannot be sustained. The fact that the jurisdictional police had conducted investigation and recorded the statement of various persons during course of investigation had resulted in filing of the charge-sheet against the driver of the offending vehicle which is not in dispute has been completely ignored by the High Court and it has proceeded to doubt the very occurrence of the accident, by ignoring the vital evidence available on record. No reason has been assigned by the High Court as to why the said evidence was being brushed aside or not taken into consideration."*

46. In the aforesaid case, the Tribunal has allowed the claim petition by giving some reasons which were not accepted by the High Court and it was reversed by the High Court holding that the claimant failed to prove the accident as narrated by him.

47. In the instant case, as discussed above, the case of the claimant was not at all accepted by the Tribunal by giving cogent reasons, which is under challenge in this appeal. Thus, the facts and circumstances of present case and the case relied by the appellant are entirely different.



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Under these circumstances, placing reliance on Ex.R.5 is also not proper. In this case, there are proper reasons to disbelieve the case of the claimant. For the sake of convenience, those reasons are reiterated as follows:

- I. Complaint is lodged stating the name and address of the claimant and that he was the rider of the motorcycle, by enquiring claimant, because the complainant did not know the claimant before lodging the complaint.
- II. About 1 month afterwards, the complainant gave further statement before the Investigating Officer that he came to know that the claimant was only pillion rider because he met the claimant at the Vivekananda Hospital; but as on the alleged date of R.W.3 meeting claimant in the hospital, claimant was not at all admitted in said hospital.



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III. R.W.2 i.e., the alleged rider came into the picture only about 1 month after the accident. Till then the claimant was the suspected rider of the motorcycle.

IV. It is a fact that the claimant did not possess driving licence to ride the motorcycle, whereas respondent No.3 possessed one. Respondent No.3 is from the same village of claimant.

V. The cross-examination of the claimant establishes that his affidavit evidence does not inspire confidence that he became the pillion rider of the motorcycle in the midnight and he was not the rider.

VI. R.W.2 left the claimant in the middle of the road and went to his village in a lorry which is also strange behaviour and not acceptable.



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48. For the above reasons, this Court does not believe the statement of claimant that he was only pillion rider. On the other hand, the facts established before the Tribunal are that the claimant, in collusion with his own father (respondent No.1) and respondent No.3-the person of his village and R.W.3, the complainant manipulated the case as if he is pillion rider, even though he was the rider of the motorcycle.

49. Thus, apparently a fraud has been committed by the claimant in collusion with respondent Nos.1, 3 and R.W.3 solely to obtain compensation from respondent No.2-insurance Company. Thus, this Court holds that the appeal is to be dismissed by imposing heavy costs and a direction is to be issued to the State Police Authorities to investigate the matter in an appropriate manner. Hence, this Court passes the following:



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## ORDER

- i) The appeal is ***dismissed*** with costs of ₹10,000/-.
- ii) The aforesaid costs shall be deposited before the Advocates' Library Fund, High Court of Karnataka, Dharwad Bench, Dharwad within one month.
- iii) The Inspector General of Police, Western Range, Mangalore is directed to investigate the matter afresh by constituting a Special Investigation Team (SIT) and submit its report within the period of three months.
- iv) Send a copy of this judgment to Inspector General of Police, Western Range, Mangalore for compliance.

Sd/-  
(GEETHA K.B.)  
JUDGE

SH upto para 32  
SSP from 33-end  
CT:VH  
List No.: 2 Sl No.: 5