



NC: 2024:KHC-D:1259
MFA No. 23428 of 2011
C/W MFA No. 23430 of 2011

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH
DATED THIS THE 19TH DAY OF JANUARY, 2024
BEFORE
THE HON'BLE MR JUSTICE V.SRISHANANDA
MISCELLANEOUS FIRST APPEAL NO. 23428 OF 2011 (MV)
C/W
MISCELLANEOUS FIRST APPEAL NO. 23430 OF 2011



IN MFA NO.23428 OF 2011:

BETWEEN:

THE DIVISIONAL MANAGER,
THE NEW INDIA ASSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, CLUB ROAD, BELGAUM,
REPRESENTED BY ITS ASST. MANAGER,
REGIONAL OFFICE, TP-HUB, II FLOOR,
SRINATH COMPLEX, NEW COTTON MARKET,
HUBLI-580029.

...APPELLANT

(BY SRI. G.N.RAICHUR, ADVOCATE)

AND:

...RESPONDENTS

(BY SRI.HARISH S.MAIGUR, ADVOCATE FOR R1;
NOTICE TO R2 IS SERVED)

THIS MFA IS FILED U/SEC.173(1) OF THE MOTOR VEHICLE
ACT, AGAINST THE JUDGMENT AND AWARD DATED 25-05-2011
PASSED IN MVC NO.1662/2006 ON THE FILE OF THE I-ADDL.
SENIOR CIVIL JUDGE AND MEMBER, MACT, BELGAUM, AWARDING





NC: 2024:KHC-D:1259
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C/W MFA No. 23430 of 2011

THE COMPENSATION OF RS.61,040/- WITH INTEREST AT THE RATE OF 9% P.A., FROM THE DATE OF PETITION TILL REALISATION.

IN MFA NO.23430 OF 2011:

BETWEEN:

THE DIVISIONAL MANAGER,
THE NEW INDIA ASSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE, CLUB ROAD, BELGAUM,
REPRESENTED BY ITS ASST. MANAGER,
REGIONAL OFFICE, TP-HUB, II FLOOR,
SRINATH COMPLEX, NEW COTTON MARKET,
HUBLI-580029.

...APPELLANT

(BY SRI. G.N.RAICHUR, ADVOCATE)

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(BY SRI.HARISH S.MAIGUR, ADVOCATE FOR R1;
NOTICE TO R2 IS SERVED)

THIS MFA IS FILED U/SEC.173(1) OF THE MOTOR VEHICLE ACT, AGAINST THE JUDGMENT AND AWARD DATED 25-05-2011 PASSED IN MVC NO.1661/2006 ON THE FILE OF THE I-ADDL. SENIOR CIVIL JUDGE AND MEMBER, MACT, BELGAUM, AWARDDING THE COMPENSATION OF RS.44,880/- WITH INTEREST AT THE RATE OF 9% P.A., FROM THE DATE OF PETITION TILL REALISATION.

THESE APPEALS ARE COMING ON FOR HEARING, THIS DAY, THE COURT DELIVERED THE FOLLOWING:



JUDGMENT

Heard Shri. G. N. Raichur, learned counsel for the appellant-Insurance Company and Shri. Harish S. Maigur, learned counsel for respondent No.1.

2. These two appeals are arising out of the judgment and award passed in MVC Nos.1661/2006 and 1662/2006 dated 25.05.2011 on the file of I Additional Senior Civil Judge and Motor Accident Claims Tribunal, Belagavi.

3. Facts which are utmost necessary for disposal of the present appeals are as under:

3.1. In respect of a road traffic accident that has occurred on 11.01.2006, involving a tractor and two trailers bearing registration No.MXV-5429-MH-09/U-1499/1501 (for short 'T.T. Unit') near Stavanidhi cross on NH-4 Nippani at about 11.30 a.m., when the T.T. Unit moving from Munvalli to Chinchawad.

3.2. The inmates of the T.T. Unit including goats and other pet animals got hurt and two of the goats died in the said road accident on account of rash and negligent driving of the driver of the T.T. Unit.



4. Complaint came to be lodged wherein the aforesaid facts were mentioned and the police after thorough investigation filed the charge sheet against the driver of the T.T. Unit.

5. The claim petition was resisted by the Insurance Company by filing necessary written statement.

6. The Tribunal after raising necessary issues, considered the oral and documentary evidence placed on record on behalf of the parties, allowed the claim petitions in part in a sum of Rs.44,880/- in respect of claim in MVC No.1661/2006 and Rs.61,040/- in respect of claim in MVC No.1662/2006 and held the liability on the Insurance Company.

7. Being aggrieved by the same, the Insurance Company is in appeal challenging the liability of the Insurance Company as admittedly there is a violation of Rule 74 of the Karnataka Motor Vehicles Rules, 1989 (for short the 'K.M.V. Rules') in prohibiting the transportation of the animals in the T.T. Unit.

8. Shri. G. N. Raichur, learned Counsel for the appellant-Insurance Company also contended that the unloaded weight of two trailers exceeded 7,500 k.g. and therefore, the



Insurance Company cannot be held liable for the compensation awarded by the Tribunal and sought for allowing the appeals.

9. *Per contra*, Shri. Harish S. Maigur, learned counsel for respondent No.1-claimant supported the impugned judgment and contended that the labourer moved for harvesting the sugarcane crop and they were moving in groups along with their belongings because they will have to stayed in the sugarcane lands at that juncture, necessarily they may have to take their belongings and pet animals with them and therefore, being the rustic villagers they were allowed to travel in the trailer along with their belongings and pet animals. For contending out of the said aspect of the matter, the Insurance Company cannot avoid the liability and sought dismissal of the appeal.

10. In view of the rival contentions of parties, this Court perused the material on record meticulously.

11. In order to appreciate the arguments put forth on behalf of the Insurance Company, it is necessary to culled out Rule 74 of K.M.V. Rules, which reads as under:

"74. Carriage of animals in goods vehicle.-(1)
No cattle shall be carried in a goods vehicle in a public place unless:-



(A) in the case of goat, sheep, deer or pig -

(i) a minimum floor space of 0.2 square meter per head of such cattle is provided in the vehicles;

(ii) proper arrangements for ventilation are made; and

(iii) it carried in a double decked goods vehicle.-

(a) The upper deck flooring is covered with metal sheets with a minimum height of 7.62 cms. raised on all four sides so as to prevent the animal waste matter such as urine, litter, etc., falling on the animals on the lower deck;

(b) Proper arrangements for drainage are made on each floor;

(c) Wooden battens are provided on each floor, to prevent slipping of hoofs of the animals.

(B) in the case of any other cattle,-

(i) a minimum floor space of 2m x 1m per head of cattle and half of such floor space for a young one of cattle which is weaned is provided in the vehicle;

(ii) The lead body of the vehicle is constructed of strong wooden planks or of iron sheets with a minimum height of 1.5 meters measured from the floor of the vehicle on all sides and the back;



- (iii) floor battans are provided to prevent slipping of hoofs;*
- (iv) every projection likely to cause suffering to an animal is removal; and*
- (v) The cattle are properly secured by ropes tied to the sides of the vehicle.*

Explanation.-"Cattle" for the purpose of this sub-rule includes goat, sheep, buffalo, bull, ox, cow, deer, pony, mule, ass, pig or the young ones thereof.

(2) No animal belonging to or intended for a circus, menagerie or zoo shall be carried in a goods vehicle in a public place unless,-

- (i) in the case of wild or ferocious animal, a suitable cage, either separate from or integral with the lead body of the vehicle used of sufficient strength to contain the animal securely at all times is provided; and*
- (ii) reasonable floor space for each animal is provided in the vehicle.*

(3) No goods vehicle when carrying any cattle or any animal shall be driver at a speed in excess of 24 kms. Per hour."

12. On bare perusal of the above provision, it is crystal clear that the owner or driver of the T.T. Unit could not have carried the animals even though they are pet animals in the trailer along with the persons who are being transported for the purpose of harvesting the sugarcane crops. Therefore, there is



a clear violation of the policy conditions by the owner and driver of the T.T.Unit.

13. But, while so appreciating the arguments put forth on behalf of the Insurance Company, this Court cannot lose sight of the fact that two goats were died and two persons were injured who are the inmates of T.T. Unit and they are the claimants. They have been awarded in a sum of Rs.39,880/- each.

14. They are the rustic villagers and when they move in groups for harvesting the sugarcane crop, entire family members will be moving to the sugarcane land along with their pet animals, as nobody would be available in the home-front to lookafter them. As such they are to be carried along with the family members.

15. Further, material on record shows that the unloaded weight of two trailers is 7,500/- k.g. Therefore, the arguments for avoiding the liability on behalf of the Insurance Company cannot be countenanced in law.

16. Having said so, ends of justice would be met by directing the Insurance Company to pay the adjudged compensation at the first instance and permit the Insurance



Company to recover the same from the owner of the T.T. Unit in the same proceedings.

17. Hence, the following order is passed:

ORDER

(i) Appeals are allowed in part.

(ii) While maintaining the quantum of compensation awarded by the Tribunal, the Insurance Company is directed to pay the adjudged compensation at the first instance and recover the same from the owner of the T.T. Unit in the very same proceedings.

(iii) Amount in deposit shall be transmitted to the Tribunal for disbursement in accordance with law.

Sd/-
JUDGE