IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 20TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

CIVIL REVISION PETITION NO.100155 OF 2025

BETWEEN:

THE DIVISIONAL MANAGER,
THE NEW INDIA ASSURANCE CO.LTD.,
CLUB ROAD, BELAGAVI-590001,
POLICY ISSUING BRANCH TILAKWADI,
MICRO OFFICE NO.106, 1ST FLOOR,
KRISH PRIDE, OPPOSITE CONGRESS WELL,
TILAKWADI, BELAGAVI,
TQ. AND DIST. BELAGAVI-590006,
NOW R/BY THE ITS AUTHORIZED SIGNATORY

...PETITIONER

(BY SRI. S.K. KAYAKMATH, ADVOCATE AND
SRI. SUBHASH J. BADDI, ADVOCATE)

AND:

SRI. UMAR FAROOQUE @ FAROOQ HAROON SHAPURI
AGE. 55 YEARS, OCC. TAILORING (PRESENT NIL),
R/O. H.NO.15, NEW GANDHI NAGAR,
BELAGAVI-590016,
PRESENT R/O. C/O. MEHBOOBI NANDUKAR,
H.NO. 1067, 10TH CROSS, SUNERI GALLI,
SHAHU NAGAR, BELAGAVI-590016.

...RESPONDENTS

(BY SRI. HARISH S. MAIGUR, ADVOCATE)

THIS CRP IS FILED UNDER SEC.115 OF CPC, 1908 PRAYING TO SET ASIDE THE ORDER PASSED BY THE VI ADDL. DISTRICT AND SESSIONS JUDGE, BELAGAVI IN MVC NO.2374/2023 DATED 21.06.2025 ON I.A.NO.I IN THE INTEREST OF JUSTICE AND EQUITY & ETC.

THIS CRP HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 04.02.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV ORDER

The present CRP is filed seeking to set aside the order dated 21.06.2025 on I.A. No.1 in MVC No.2374/2023, on the file of the VI Additional District and Sessions Judge, Belagavi (hereinafter referred to as 'the Tribunal' for short).

2. The petitioner herein-Insurance Company is the respondent before the Tribunal and respondent No.1 herein is the petitioner/claimant No.1 before the Tribunal.

3. For convenience of reference, the parties are referred as arrayed before this Court.

4. The facts leading to filing of this petition are that:-

On 08.04.2023, respondent No.1/claimant allegedly sustained severe injuries when he lost control of his motorcycle, abruptly applied brakes, skidded, and fell on the road along with his wife. Based on this incident, he filed a claim petition seeking compensation against the petitioner–Insurance company asserting that he had obtained a package motor insurance policy with an additional premium covering a Personal Accident (PA) risk of Rs.15 lakh for himself as owner-driver. Pursuant thereto, the petitioner filed I.A. No.1 under Order VII Rule 11 read with

Section 151 of the CPC, before the Tribunal seeking rejection of the claim petition as barred by law.

5. The insurance policy placed on record expressly stipulates that claims arising under the Personal Accident (PA) cover are not adjudicable by the Tribunal, as such disputes constitute a private contractual matter between the insured and insurer, to be resolved independently and not before the Tribunal. Despite this clear contractual bar and legal position, the Tribunal erroneously rejected the petitioner's application in I.A. No.1 without proper appreciation on its merits.

6. The learned counsel for the petitioner/Insurance company would submit that the Tribunal lacked jurisdiction to entertain the claim since the Tribunal, constituted under the Motor Vehicles Act, 1988 ('the MV Act' for short), is empowered only to adjudicate third-party claims, whereas the claimant is the registered owner-cum-rider of the very vehicle and therefore not a "third party". His claim under the Personal Accident (PA) cover is purely contractual and not maintainable before the Tribunal under Sections 166 or 163-A of the MV Act, but lies only before a Civil Court or Consumer Forum.

7. Further, the Insurance Company, relying on Rule 253 of the Karnataka Motor Vehicles Rules, contends that the Tribunal is vested with powers of a Civil Court, including the inherent power under Section 151 of the CPC and by necessary implication, the power to reject a claim at the threshold under Order VII Rule 11 of the CPC when the claim is *ex facie* barred by law. Rule 253(1) is illustrative and not exhaustive, while Rule 253(2) confers wide discretion to exercise all powers of the Civil Court necessary for discharge of its functions. The failure of the Tribunal to exercise this jurisdiction, despite a clear legal bar apparent from the pleadings, amounts to a jurisdictional error warranting interference by this Court under Article 227 of the Constitution of India which mandate rejection of legally barred or illusory claims at the threshold to prevent abuse of process.

8. It is also argued that an owner or insured of a vehicle is not a "third party" under the MV Act and therefore cannot maintain a claim under Section 166 of the MV Act before the Tribunal for his own injuries. The Apex Court clarified that the owner-cum-driver is not a third party and that the limited direction to pay under personal accident cover was an exercise of

its plenary powers, not recognition of jurisdiction of the Tribunal over contractual PA claims.

9. It is argued that in the present case, the respondent/claimant has improperly invoked Section 166 of the MV Act by relying on Personal Accident (PA) cover, which is purely contractual and governed by Regulation 15 of the IRDAI (Protection of Policyholders' Interests) Regulations, 2017, requiring claims to be processed as per policy procedure, not before the Tribunal. Since Section 166 of the MV Act is confined to statutory third-party claims and the respondent/claimant is the tortfeasor as well as the claimant, the petition is barred by law, discloses no triable cause of action before the Tribunal, and ought to have been rejected under Order VII Rule 11(d) of the CPC.

10. In support of the contentions, learned counsel for the petitioner-Insurance Company has placed on the following judgments:-

- ***Madanuri Sri Rama Chandra Murthy v. Syed Jalal*** *reported in* ***2017 (13) SCC 174;***
- ***Rajendra Bajoria v. Hemant Kumar Jalan*** *reported in* ***(2022) 12 SCC 641***

- ***Ramisetty Venkatanna & Ors. v. Nasyam Jamal Saheb & Ors*** *reported in* ***2023(159)ALR 232***
- ***Oriental Insurance Co. Ltd. v. Sunita Rathi and Ors.*** *reported in* ***AIR 1997 SC 4228***
- ***Oriental Insurance Co. Ltd. v. Kempamani & Ors.*** *reported in* ***2004 ACJ 808***
- ***Sangeetha and Ors. v. Krishna Chari and Ors,*** *reported in* ***2020 ACJ 61***
- ***National Insurance Co. Ltd. v. Laxmi Narain Dhut*** *reported in* ***(2007) 3 SCC 700***
- ***National Insurance Co. Ltd. v. Ashalata Bhowmik*** *reported in* ***(2018) 9 SCC 801***

11. On the other hand, learned counsel appearing for the respondent/claimant contended that the claim petition is maintainable before the Tribunal, not as a third-party statutory claim under Section 166 of the MV Act, but for the limited purpose of enforcing the Personal Accident (PA) cover forming part of the admitted package policy for which additional premium was duly paid by the claimant. It is submitted that once the insurer has accepted premium towards PA cover for the owner-cum-driver, a corresponding obligation to indemnify within the terms and limits of the policy arises, and the Tribunal is

competent to examine such entitlement incidentally while dealing with a motor accident claim.

12. It is further contended that the respondent is not seeking tortious damages against the insurer, but is only seeking assessment and award of compensation strictly restricted to the contractual PA coverage under the policy, and therefore the claim cannot be thrown out at the threshold as being barred by law. It is thus urged that the question is not one of jurisdictional bar, but of extent of liability, which requires adjudication on evidence regarding the policy terms, nature of injuries, and coverage limits. Hence, rejection of application under Order VII Rule 11 of the CPC is wholly unwarranted.

13. In support of the contentions, learned counsel appearing for the respondent/claimant has placed reliance on the following judgments:-

- ***National Insurance Co. Ltd., v. Ashalata Bhowmik and others reported in (2018) 9 SCC 801;***

8. This Court in Oriental Insurance Co. Ltd. v. Jhuma Saha [Oriental Insurance Co. Ltd. v. Jhuma Saha, (2007) 9 SCC 263 : (2007) 3 SCC (Cri) 443] , was considering a similar case where the owner himself was driving the vehicle which due to his negligence dashed with a tree on the roadside as a result of which he died. The Court held that *the claim petition filed by his legal representatives was not maintainable. It was held thus: (SCC p. 265, paras 10-11)*

> *"10. The deceased was the owner of the vehicle. For the reasons stated in the claim petition or otherwise, he himself was to be blamed for the accident. The accident did not involve motor vehicle other than the one which he was driving. The question which arises for consideration is that the deceased himself being negligent, the claim petition under Section 166 of the Motor Vehicles Act, 1988 would be maintainable.*
>
> *11. Liability of the insurer Company is to the extent of indemnification of the insured against the respondent or an injured person, a third person or in respect of damages of property. Thus, if the insured cannot be fastened with any liability under the provisions of the Motor Vehicles Act, the question of the insurer being liable to indemnify the insured, therefore, does not arise."*

9. Therefore, the High Court was not justified in directing the appellant insurer to pay the compensation determined by the Tribunal. Since the indemnification extended to personal accident of the deceased is limited to Rs.2,00,000 under the contract of insurance, the respondents are entitled for the said amount towards compensation. Hence, the appellant is directed to deposit the said sum of Rs.2,00,000 with interest @ 9 per cent p.a. from the date of the claim petition till the date of deposit with the Tribunal within a period of four weeks from today.

10. The appeal is allowed in the aforesaid terms without any order as to costs.

- ***The IFFCO Tokio General Insurance Company v. Dhani Devi and others*** *by order dated* ***15.03.2011*** *in* ***CMPMO No.437/2010,*** *passed by* ***the high Court of Himachal Pradesh, Shimla;***

- ***The United India Insurance Co. Ltd., v. Mohan s/o. Maruti Andhare by order dated 21.06.2021 passed in MFA No.24391/2013 c/w. MFA No.24676/2013 (MV);***

- ***Sangeetha and others v. Krishna Chari and others reported in 2020 ACJ 61.***

14. Heard learned counsel appearing on either side and perused the materials on record.

15. Upon careful consideration of the rival submissions and the materials placed on record, this Court finds that the impugned order declining rejection of the claim petition at the threshold does not suffer from any jurisdictional error warranting interference under Section 115 of the CPC or Article 227 of the Constitution of India. The claim petition, on a plain reading, is founded on the existence of a valid package policy with an additional premium towards Personal Accident cover for the owner-cum-driver. Whether such cover is contractual or statutory, and the extent to which the claimant is entitled to indemnification there under, are matters which require adjudication on evidence and cannot be said to be *ex facie* barred by law so as to attract Order VII Rule 11(d) of the CPC.

The power of rejection at the threshold is drastic and can be exercised only when the bar of law is apparent on the face of the pleadings, which is not the position in the present case.

16. This Court is persuaded by the ratio in ***Ashalata Bhowmik's*** *case (supra)* relied upon by the respondent, wherein the Apex Court, while holding that an owner-cum-driver is not a "third party" for the purpose of Section 166 of the MV Act, nevertheless recognised the insurer's liability to satisfy a claim to the limited extent of the Personal Accident cover under the contract of insurance. Similarly, it was held that claim under Section 166 of the MV Act may not lie against the insurer for the insured's own negligence; the contractual personal accident benefit remains enforceable. These authorities indicate that the Tribunal is not denuded of jurisdiction to examine a claim relatable to PA cover; rather, it is required to mould relief in accordance with the terms of the policy. Other decisions relied upon by the counsel for the respondent/claimant also support the view that questions touching the scope of PA cover and entitlement there under are matters for adjudication and not for summary rejection.

17. In that view of the matter, the Tribunal was justified in holding that the issue of maintainability and the extent of liability under the Personal Accident cover cannot be decided without trial. The petitioner-insurer will have full opportunity to contest liability, prove policy terms, and urge all available defences before the Tribunal. Interference at this stage would amount to foreclosing a *bona fide* claim without adjudication on merits. Accordingly, no material irregularity, or jurisdictional infirmity is made out in the impugned order.

18. In view of the foregoing discussions, this Court proceeds to pass the following:-

ORDER

The present petition is ***dismissed***, leaving all contentions of both parties open to be urged before the Tribunal in accordance with law.

Sd/-
(DR. K.MANMADHA RAO)
JUDGE

RSH, CT:VP