



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 19<sup>TH</sup> DAY OF DECEMBER, 2025**

**BEFORE**

**THE HON'BLE DR. JUSTICE K.MANMADHA RAO**

**MISCELLANEOUS FIRST APPEAL NO. 6475 OF 2018 (MV-D)**

**BETWEEN:**

THE NEW INDIA ASSURANCE CO., LTD.,  
P.B.NO.315-2915, 11<sup>TH</sup> FLOOR,  
JLB ROAD  
CHAMUNDIPURAM, MYSORE  
REPRESENTED BY T.P. CLAIMS HUB  
MAHALAKSHMI CHAMBERS NO.9,  
2<sup>ND</sup> FLOOR, M.G. ROAD  
BANGALORE-560 001  
REPRESENT BY ITS MANAGER.

...APPELLANT

(BY SRI. RAVISHANKAR C.R., ADVOCATE)

**AND:**

1. SMT. INDRAMMA  
AGED ABOUT 50 YEARS,  
W/O LATE KRISHNEGOWDA
2. SMT. RADHAMANI  
AGED ABOUT 28 YEARS,  
D/O LATE KRISHNEGOWDA

BOTH ARE RESIDING AT  
PAMPINA HOSAHALLI VILLGE  
BELAGOLA HOBLI  
SRIRANGAPATNA TALUK  
MANDYA DISTRICT-571 410.

...RESPONDENTS

(V/O DATED 13.10.2025, NOTICE TO R1 & R2  
ARE HELD SUFFICIENT)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 28.02.2018 PASSED IN MVC NO.915/2016 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE, MACT, SRIRANGAPATNA, AWARDED COMPENSATION OF RS.2,36,000/- WITH INTEREST AT 9% P.A. FROM THE DATE OF FILING OF PETITION TILL THE DATE OF DEPOSIT.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 01.12.2025 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

**CAV JUDGMENT**

This appeal is filed under Section 173(1) of Motor Vehicles Act, 1988 (hereinafter referred to as 'MV Act') by the Insurance Company challenging by the Judgment and Award dated 28.02.2018 passed by the Court of Addl. Senior Civil Judge and MACT, Srirangapatna in MVC No.915/2016.

Facts giving rise to the filing of the appeal briefly stated are as under:

3. On 07.07.2016 at about 1.15 p.m., on T.Narasipura road, when son of petitioner No.1-Vijaykumar.K was returning to his village from M.M.Hill on his motor bike bearing No.KA-09-6388 along with his friend Shivanna as pillion rider, suddenly a dog came on the road and deceased lost control over the bike and caused the accident. As a result, deceased along with pillion rider fell down with bike and both of them sustained injuries and shifted to hospital at Mysore. As deceased sustained head injuries, he was taken to NIMHANS at Bangalore and treated there. Further, he was taken to Aditya Hospital, Mysore for further and continuity treatment. Deceased Vijayakumar succumbed to the injuries while taking treatment in the hospital. Post mortem was done at K.R.Hospital, Mysore.

4. After the accident, a case in Cr.No.190/2016 was registered by T.Narasipura Police. It is observed by the Tribunal that the respondent is the insurer of the offending motor bike bearing No.KA-09-6388 and the policy was in force as on the date of accident and it is a Package Policy.

Further, the deceased was having valid and effective driving licence.

5. 1<sup>st</sup> Petitioner is the mother and Petitioner No.2 is the sister of the deceased Vijaykumar. They filed a claim petition claiming compensation of Rs.30,20,000/-.

6. In response to Court notice, the respondent appeared before the Tribunal and filed written statement inter alia admitting the fact that it is the insurer of the offending vehicle and policy was in force. Respondent contended that its liability is strictly in terms and conditions of the policy.

7. The petitioners have examined P.W.1 and got marked documents Ex.P1 to Ex.P8. Respondent has examined one witness as D.W.1 and got marked documents Ex.R1 to Ex.R7. The Tribunal framed issues and has partly allowed the claim petition granting a compensation of Rs.2,36,000/- with interest at the rate of 9% p.a., from the date of petition till realization and

respondent-Insurance Company was directed to deposit the said amount with interest.

8. Learned counsel for the appellant-Insurance Company submitted that the petitioners have filed the petition under Section 163(A) of M.V.Act. This section is a special provision for those whose income is up to Rs.40,000/- per annum. In this case, the petitioners have claimed more than Rs.40,000/- per annum and petitioners cannot scale down income of deceased to claim benefit under this section. Hence, it contended that the respondent is not liable to pay any compensation. The respondent submits that the deceased was the owner cum rider of the Bajaj Pulsar Motor cycle No.KA-09-EY-6388 and is not a third party. It is further contended that due to his own negligence and self fall the alleged accident has occurred and he is the tortfeasor. Therefore, the police have filed a charge sheet against the deceased K.Vijayakumar. The respondent submits that, as per Sec.158(6) of M.V Act 1988, it is the mandatory duty of the concerned police station to forward all the relevant

documents to the concerned insurer within 30 days from the date of the information, but the Mysore south Police station failed to forward the documents and not complied with the statutory demand. Hence, the petition is not maintainable.

9. Further, learned counsel for the Insurance Company has denied the age, occupation, monthly income of the petitioner, the place of occurrence, date and time of the accident. It has also denied injuries sustained to the deceased and the amount spent by the petitioners for the treatment and other expenses. The respondent denied the nature of the accident.

10. Learned counsel for the appellant-Insurance Company has relied upon the following Judgment of the Hon'ble Apex Court:

***Oriental Insurance Co Ltd v Sunita Rathi,  
reported in 1998 ACJ 121***

*3. It follows that the insurer cannot be held liable on the basis of the above policy in the present case and, therefore, the liability has to be of the owner of the vehicle. However, we find that the High Court, without assigning any reason, has simply assumed that the owner of the vehicle was not liable and that the insurer alone was liable in the present case. This*

*conclusion, reached by the High Court, is clearly erroneous. The liability of the insurer arises only when the liability of the insured has been upheld for the purpose of indemnifying the insured under the contract of insurance. There is, thus, a basic fallacy in the conclusion reached by the High Court on this point.*

*4. The question now is of the final order to make in the present case. We find that the insurer has made the payment to the claimants in the present case in satisfaction of the entire claim and it has been fairly stated by the insurer that this appeal was filed only for getting a decision on this point pertaining to its liability in such a situation. In the circumstances of the case, we deem it fit to say that the amount already paid by the insurer to the claimants is not required to be refunded by the claimants to the insurer.*

*5. For the aforesaid reasons, the appeal is allowed. The judgments of the High Court and Tribunal are set aside. However, as indicated earlier, the claimants are not required to refund the amount already paid to them by the insurer.*

11. Heard the learned counsel for the appellant-Insurance Company.

12. Vide Order dated 13.10.2025, notice to respondents/claimants is held sufficient. They have not appeared before the Court.

13. The respondent being insurer of offending vehicle cannot escape its liability under Section 163(A) of M.V Act. At this stage, it is useful to refer a decision reported in **(2014) 1 SCC 680 : (2014) 1 SCC (Civ) 642 : 2013**

**SCC OnLine SC 975 page 685** between **United India Insurance Co. Ltd. v. Sunil Kumar**, the Honble Apex court at Para 13 has held as under:

*13. We are, therefore, of the view that liability to make compensation under Section 163-A is on the principle of no fault and, therefore, the question as to who is at fault is immaterial and foreign to an enquiry under Section 163-A. Section 163-A does not make any provision for apportionment of the liability. If the owner of the vehicle or the insurance company is permitted to prove contributory negligence or default or wrongful act on the part of the victim or claimant, naturally it would defeat the very object and purpose of Section 163-A of the Act. The legislature never wanted the claimant to plead or establish negligence on the part of the owner or the driver. Once it is established that death or permanent disablement occurred during the course of the user of the vehicle and the vehicle is insured, the insurance company or MVC.915/2016 the owner, as the case may be, shall be liable to pay the compensation, which is a statutory obligation.*

*Similarly, in another decision reported in **ILR 2008 KAR 1249 M/s Oriental Insurance Co. Ltd., V/s Smt.Salma and others** the Hon'ble Court has held that a petition u/s 163A of the Act is maintainable even in case where negligence is on the part of the victim.*

*In the decision reported in 2004 ACJ 934 Deepal Girish Bai Soni and others V/s United India Insurance company Ltd it is held as under:*

*We may notice that, Sec.167 of the Act provides that, where death of, or bodily injury to, any person gives rise to claim of compensation under the Act and also under the Workmen's Compensation Act, 1923, he cannot claim compensation under both the Acts. The M.V. Act contains different expressions as, for example, 'under the provision of the Act', or 'any other law or otherwise'. In Section 163-A, the expression "notwithstanding anything contained in this Act or in any other law for the time being in force" has been used, which goes to show that Parliament intended to insert a non obstante clause of wide nature which would mean that the provisions of*

*Sec.163-A would apply despite the contrary provisions existing in the said Act or any other law for the time being in force. Sec.163-A of the Act covers cases where even negligence is on the part of the victim. It is by way of an exception to Section 166 and the concept of social justice has been duly taken care of."*

*Hon'ble Supreme Court also opined that, no question as to who is at fault arises under Section 163A of the Act. Only use of the vehicle and accident occurred in the course of the user of the vehicle insured itself is sufficient to grant the relief u/s 163A of M.V.Act.*

*By considering all these rulings as well as the other documents produced by the petitioner i.e., inquest mahazar report which got marked as Ex.P.4 this court is of the opinion that the deceased died due to the accidental injuries. Keeping in mind the principles as laid by the Honble courts the contention of the respondent does not hold water. By considering the overall materials available on record I am of the opinion that petitioner has proved that when deceased Vijayakumara was proceeding on his Bajaj Pulsar Motor bike bearing No.KA-09-EY-6388 on 06.07.2016 at about 1.50 P.M. near Mooguru village, on T.Narasipura – Kollegala main road met with accident when he tried to avoid the dog and the deceased lost his control over the bike.*

*It is the case of the petitioners that petitioner No.1 is the mother and petitioner No.2 is the sister of the deceased K.Vijayakumar. The respondent has denied the relationship of the petitioners with the deceased. PW.1 in his evidence has produced Ex.P.8 Genealogical tree relating to the petitioner and his family. It reflects that, the 1st petitioner is the mother and 2nd petitioner is the daughter of deceased and they are the legal heirs of the deceased K.Vijayakumar. As against the evidence, the respondent has not adduced any contra evidence to deny the relationship of the petitioners. Except a bare denial in the written statement, absolutely there are no materials to support the version of the respondent. Therefore, in the absence of sufficient materials the contention of the respondent cannot be accepted.*

14. In view of the above circumstances, the respondents are the legal heirs of the owner of the vehicle. In such case, the owner would not himself be a recipient of compensation as the liability to pay the same is on him. This proposition of law is apparently clear on reading Section 163(A) of the M.V.Act. Accordingly, the legal representatives of the deceased who have stepped into the shoes of the owner could not have claimed compensation under Section 163(A) of the M.V.Act. At this juncture, it would be relevant to refer to the Judgment of Hon'ble Apex Court in ***Ningamma and another v United India Insurance Company Limited*** reported in **(2009) 13 SCC 710** maintainability of the claim by the owner under Section 163(A) of the M.V.Act. Relevant paragraphs No.22 to 25 are extracted hereunder:

*22. In a case wherein the victim died or where he was permanently disabled due to an accident arising out of the aforesaid motor vehicle in that event the liability to make payment of the compensation is on the insurance company or the owner, as the case may be as provided under Section 163-A. But if it is proved that the driver is the owner of the motor vehicle, in that case the owner could not himself be a recipient of compensation as the liability to pay the same is on him. This proposition is absolutely clear on a reading of Section 163-A of the MVA. Accordingly, the legal representatives of the deceased who have stepped into the shoes of the owner*

*of the motor vehicle could not have claimed compensation under Section 163-A of the MVA.*

*23. When we apply the said principle into the facts of the present case we are of the view that the claimants were not entitled to claim compensation under Section 163-A of the MVA and to that extent the High Court was justified in coming to the conclusion that the said provision is not applicable to the facts and circumstances of the present case.*

*24. However, the question remains as to whether an application for demand of compensation could have been made by the legal representatives of the deceased as provided in Section 166 of the MVA. The said provision specifically provides that an application for compensation arising out of an accident of the nature specified in sub-section (1) of Section 165 may be made by the person who has sustained the injury; or by the owner of the property; or where death has resulted from the accident, by all or any of the legal representatives of the deceased; or by any agent duly authorised by the C person injured or all or any of the legal representatives of the deceased, as the case may be.*

*25. When an application of the aforesaid nature claiming compensation under the provisions of Section 166 is received, the Tribunal is required to hold an enquiry into the claim and then proceed to make an award which, however, would be subject to the provisions of Section 162, by determining the amount of compensation, which is found to be just. Person or persons who made claim for compensation would thereafter be paid such amount. When such a claim is made by the legal representatives of the deceased, it has to be proved that the deceased was not himself responsible for the accident by his rash and negligent driving. It would also be necessary to prove that the deceased would be covered under the policy so as to make the insurance company liable to make the payment to the heirs.*

15. In view of relying on the above Judgment and further it is observed that the Tribunal rightly determined

the amount of compensation by considering all the relevant judgments. The Tribunal shall hold an enquiry into the claim and then proceed to make an award which, however, would be subject to the provisions of Section 163(A) and 166 of M.V.Act by determining the amount of compensation, which is found to be just.

16. In view of the above reasons, this Court is not inclined to interfere in the grounds of appeal. The Tribunal has rightly awarded the compensation which is found to be just.

17. Accordingly, the appeal is ***dismissed*** and the impugned Judgment 28.02.2018 passed by the Court of Addl. Senior Civil Judge and MACT, Srirangapatna in MVC No.915/2016, is hereby confirmed.

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

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