**MFA No.9447 of 2013**
**C/W**
**MFA CROB No.27 of 2014**

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

**DATED THIS THE 10TH DAY OF FEBRUARY, 2026**

**BEFORE**

**THE HON'BLE MRS. JUSTICE P SREE SUDHA**

**MFA NO.9447/2013(MV-I)**

**C/W**

**MFA .CROB.NO.27/2014(MV-I)**

**IN MFA NO.9447/2013:**

**BETWEEN:**

THE MANAGER,
ICICI LOMBARD GEN INS. CO. LTD.
1ST MAIN, SARASWATHI PURAM
MYSORE-576 001
NOW REPRESENTED BY ITS
LEGAL MANAGER,
ICICI LOMBARD GIC LTD.,
#89, II FLOOR, SVR COMPLEX,
HOSUR MAIN ROAD,
MADIVALA, BENGALURU-68.

...APPELLANT

(BY SRI. PRADEEP .B, ADVOCATE)

**AND:**

1. J. SUBRAMANYA,
   S/O LATE JAVAREGOWDA,
   NOW AGED ABOUT 54 YEARS,
   D.NO.21/1, N.M. ROAD,
   PANDAVPURA TOWN,
   PANDAVAPURA-571 434.

2. S.N. RAGHAVENDRA,
   S.N. NAGARAJU,
   D.NO.1850, CHANMUNDESWARI ROAD,

SRIRANGAPATNA TOWN,
SRIRANGAPATNA TALUK-571 438.

...RESPONDENTS

(BY SRI. V.N. MADHAVA REDDY, ADVOCATE FOR R1,
R2-SERVED)

THIS APPEAL IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:24.08.2013 PASSED IN MVC NO.607/2009 ON THE FILE OF THE SENIOR CIVIL JDUGE & JMFC, MACT, PANDAVAPURA, AWARDING COMPENSATION OF RS.82,800/- WITH INTEREST @ 6% P.A. FROM THE DATE OF PETITION TILL DEPOSIT.

**IN MFA .CROB.NO.27/2014:**

**BETWEEN:**

J. SUBRAMANYA,
S/O LATE JAVAREGOWDA,
NOW AGED ABOUT 55 YEARS,
D.NO.21/1, N.M. ROAD,
PANDAVPURA TOWN,
PANDAVPURA TALUK,
MANDYA DISTRICT-571 434

...CROSS OBJECTOR

(BY SRI. V.N. MADHAVA REDDY, ADVOCATE)

**AND:**

1. S.N. RAGHAVENDRA,
S/O S.N. NAGARAJU,
D.NO.1850,
CHANMUNDESWARI ROAD,
SRIRANGAPATNA TOWN,
SRIRANGAPATNA TALUK,
SRIRANGAPATNA TALUK-571 435.

2. MANAGER, ICICI LOMBARD
1$^{ST}$ MAIN, SARASWATHI PURAM
MYSORE-570 009

...RESPONDENTS

(BY SRI. PRADEEP .B, ADVOCATE)

THIS MFA CROB IN MFA NO.9447/2013 IS FILED U/O 41 RULE 22 OF CPC, AGAINST THE JUDGMENT AND AWARD DATED:24.08.2013 PASSED IN MVC NO.607/2009 ON THE FILE OF THE SENIOR CIVIL JUDGE & JMFC, MACT, PANDAVAPURA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS MFA AND MFA CROB HAVING BEEN HEARD AND RESERVED ON 22.01.2026 COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, ***P SREE SUDHA J.,*** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

**CAV JUDGMENT**

MFA No.9447/2013 is filed by the appellant/Insurance Company disputing the liability and MFA CROB No.27/2014 is filed by the petitioner/cross objector challenging the judgment and award dated 24.08.2013 passed in MVC No.607/2009 on the file of the Senior Civil Judge & JMFC, MACT, Pandavapura.

2. Heard the arguments of the learned counsel for the appellants and respondents. The ranks of the parties are retained as per tribunal for the sake of convenience.

3. The injured claimant met with an accident on 30.08.2009 and he filed claim petition claiming compensation of Rs.20 lakhs. The Tribunal considering the entire evidence on record granted an amount of Rs.82,800/- with interest and the rate of 6% p.a. from date of petition till deposit.

4. Aggrieved by the said order owner and Insurance Company preferred appeal and mainly contended that as per the FIR dated 31.08.2009, respondent No.1 himself was accused in causing the accident. But he colluded with owner of the insured vehicle and falsely filed another complaint after lapse of 7 days from the date of accident. But the Tribunal ignored the fraud played by the respondent No.1 and fixed the liability against them. Appellant is not liable to pay the compensation, as respondent No.1 himself was accused. Later, he created a new story by colluding with the police and owner of the insurance vehicle and Police filed 'B' report on 09.01.2010. It was not considered by the Tribunal and it amounts to

miscarriage of justice. One J.Subramanya gave complaint on 31.08.2009 stating that he was riding motorcycle bearing Reg.No.KA-11-S-1158 along with suresh and the police filed charge sheet against S.Shivakumar who was no way concerned with the case. This shows that Suresh was not having valid driving licence as on the date of accident and hence Shivakumar was planted as the rider of the Insured Vehicle. The Apex Court in case of ***Oriental Insurance Co. Ltd. v. Premlata Shukla (2007 ACJ 1928,*)** held that the contents of FIR should be looked into. But the Tribunal committed an error in not noticing the ratio laid down by the Apex Court and thus requested this court to set aside the award.

5. MFA No.27/2014 is the cross-objections filed by the claimant in which they stated that they have examined PW2 and he assessed the disability as 47% to left leg, 22% to the right hand and 29% to the whole body. He was treated as inpatient from 30.08.2009 to 16.09.2009 and continued treatment as an outpatient for longer

period. As such, he was bed ridden for longer time and lost his income. But the Tribunal has not granted any amount under the head loss of income during treatment, on the ground that he is a Government Employee and applied for leave. But the fact remains that leave can be encashed at the end of the year. Further, he appointed one attender by name one Ananda and paid Rs.200/- per day. Though he is a resident of Pandavapura, he was treated at Mysore and spent substantial amount for transportation and other incidental expenses. But the said amount are not granted and thus requested for enhancement of the compensation.

6. The Manner of accident stated by the petitioner is that on 30.08.2009 at about 03.30 p.m. while he was going on motorcycle bearing Reg.No.KA-11-Q-1558 from Mysore to Pandavapura and reached near Hotel Mayura of Srirangapatna on Bangalore-Mysore road, Hero Honda motorcycle bearing Reg.No.KA-11-S-9918 came from Mysore side in a rash and negligent manner and dashed

his motorcylce. As a result, he fell down and sustained grevious injuries. He was working as a stenographer in the Office of Director, Karnataka and Engineer Research Station, K.R.Sagara, Srirangapatna and earning a salary of Rs. 19,500/- per month. He sustained injuries to his right shoulder and was unable to attend his work. According to him, accident occurred due to rash and negligent riding of motorcycle bearing Reg.No.KA-11-S-9918. Respondent No.1 is the owner and respondent No.2 is the injured. As such, they were jointly and severally liable to pay the compensation. Though notices were served upon respondent nos.1 and 2, R1 has not filed any objection. R2/Insurance Company, not admitted policy in respect of the vehicle bearing REg.No.KA-11-S-9918 for want of better particulars and more details in favour of respondent No.1 and it is stated that the driver of the said vehicle has no valid and effective driving license to drive the particular category of the vehicle and it amounts to breach of conditions of the policy.

7. The Insurance Company further stated that on 31.08.2009 complaint was given by J D subramanya S./o L Devegowda, stating that he was riding motorcycle bearing No.KA 11 S1158 and he is the owner of the motorcycle and accident occurred due to his rash and negligence on his part. Later he filed false case in collusion with all concerned and alleged that respondent no.1 is liable for accident.

8. On 31.08.2009, police filed case against respondent. RW1 is the legal manager of the company and RW2 is the investigator of the company, they also filed Ex. R1 to Ex. R10. Ex.R1 is the complaint filed by the J.Subramanya, son of Devegowda on 31.08.2009 regarding the accident occurred on 30.08.2009 at about 03.00 p.m., in which it was stated that the petitioner along with one S.Suresh was proceeding on his bike near the house belonging to one Dr.Bandigowda and due to his rash and negligent driving sustained injuries. The police registered the FIR and after investigation of the matter,

Sreerangapatna Police Station filed B report and contented that J.Subramanya has filed complaint only with an intention to get wrongful gain from the Insurance Company. However, Tribunal observed that whether B report was accepted or rejected, Insurance Company has not produced any relevant documents. B report is marked as Ex. R3. In the cross-examination of RW1, he admitted that on 31.08.2009 police filed B report, regarding complaint lodged by one J.Subramanya. Insurance company has not challenged the B report till today. Insurance company gave complaint on 03.01.2012 and contended that the petitioner filed a false case against respondent No.1 Ex. R1 to R5 are the documents produced by them. B report is not challenged by D.Subramanya and Insurance Company. The Charge sheet is filed under Ex.P9, against accused by name S.Shivakumar, son of late Shivanna. In Ex.P2, the name of the complainant is H.P.Karunakara, who is near relative to the petitioner. He stated that on 30.08.2009 at about 03.30 one Shivakumar was riding the motorbike in a rash and negligent manner and caused accident. As a result, petitioner sustained injuries. As per the relevant documents petitioner was admitted on 30.8.2009 discharged on 16.09.2009 from KR Hospital. The complaintant gave complaint on 06.09.2009. Even at that time, petitioner was admitted in the hospital. Ex.P1 to Ex. P98 are the documents filed and even in Ex.P.89 case sheets also it is clearly noted that with the history of road traffic accident. P.W.1 was met with an accident due to the rash and negligent driving on the part of the rider of the Hero Honda Motor cycle bearing Reg.No.KA-11-S-0018. With the above discussion tribunal held that the accident occurred due to the rash and negligence of the riding of the motorbike.

9. Further, it was also observed that at Ex.R6/the copy of the policy relating to the motor bike bearing Registration No.KA-11-S-0018 it shows that respondent No.1 is the owner of the vehicle & the validity of the policy commenced from 25.11.2008 and its validity up to

14.11.2009 mid night. The accident took place on 30.08.2009. The Policy was in force as on the date of the accident. It is further stated that according to insurance company, R1 has no valid and effective driving license and insurance company not complied Section 3 of IMV Act and they have not issued any notice to R1 with a direction to produce necessary DL before this court. Insurance company failed to prove that R1 violated the terms and conditions of the policy and held respondent Nos.1 and 2 jointly and severally liable to pay the compensation. Further, Insurance company gave complaint against S.N.Raghavendra the owner of the motorcycle bearing number KA-11-S-0018, accused Raghavendra for creating bogus and concocted documents to wrongfully gain monetary benefit and for playing fraud against the company. In the said complaint, it was stated that Mr.Subramanya filed case against their company (ICICI Lombar General insurance Company Ltd.,) in MVC 607/2001, before M.A.C.T, Mandya, colluding with the owner of a vehicle, S.N.Raghavendra, accused and driver, Shivakumar. Further, it was mentioned that the petitioner was travelling in motor cycle bearing Reg.No.KA-11-Q-1558 and the driver of the motor cycle bearing Reg.No.KA-11-S-9918, came in a rash and negligent manner and dashed the motorcycle, in which petitioner was proceeding and further stated that the FIR was registered against Shivakumar the driver of motor cycle bearing No.KA-11-S-0018 which was coming in a rash and negligent manner and hit the insured vehicle. As per the complaint and the FIR, Sivakumar was riding the said motorcycle. As per Section 158, (6) of the MV Act police officers shall forward all relevant documents to the insurer within 30 days and they failed to do so. They also filed the copy of the FIR and complaint copy, charge sheet and copy of the petition. Even in this case, Insurance Company examined RW1 and filed the relevant documents before this court. Insurance company relied upon the citation in ***(2009) KACJ 500*** in case of ***2009) 1 KACJ 500*** between ***Veerappa and Another Vs. Siddappa and Another*** it was held as follows:

> *" The experience has shown that this branch of law is slowly getting into the hands of unscrupulous people who are making a mockery of judicial process. A disturbing tread of unholy alliance among the police, the doctors, the lawyers and some times even the Insurance Company, to siphorn out the public money, and make an unlawful gain is fast emerging. It is also gaining respectability and persons who indulge in such practices are acclaimed as most successful in their respective profession. This is a dangerous trend, if unchecked would undermine the judicial process. As the existing law is inadequate to check this malady, the Courts not only have to be careful in adjudicating such claims but also find ways to prevent such abuse They have to balance the interest of these accident victims and their legal heirs on one side, by giving them just compensation at the earliest, thus giving effect to the mandate of the parliament, and on the other hand, to see that the very process is not abused and exploited by a handful of persons, who have attained specialization in this field, to make personal gains at the cost of the exchequer. An onerous responsibility lies on the*

> *Courts. Therefore, it is imperative that a strong message is to be sent to the abusers of the judicial process to discourage them from indulging in such practices as well as the consequences of such abuse may result in foisting the liability exclusively on the insured-owner of the vehicle. (Para 16).*
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> *19. It is once again made clear that notwithstanding the vehicle of the 1st respondent was insured with the 2nd respondent, the insurance company is not liable to indemnify the insured as we have recorded a finding that it was not involved in the accident. Therefore, there is no third party liability on the part of the insurance company to pay compensation to the claimants. This amount is awarded in order to see that in future such false defences are not filed before Court, judicial process is not abused. Therefore, it is only the 1st respondent/owner who is liable to pay the aforesaid amount. Ordered accordingly.*

10. Basing on the above citation though it is a beneficial legislation, it is for the court to see that there is any abuse of process or implication of vehicle to gain wrongfully. Admittedly petitioner filed two complaints, in

the initial complaint, he stated that accident occurred only due to negligence of motorcycle bearing number KA-11-Q-1558 in which he was travelling as a passenger. But later he implicated another vehicle KA-11-S-9918 and they filed policy of KA-11-S-0018 and accident occurred on 30.08.2009. Initial complaint was given on 31.08.2009 and CC No. 411 of 2009 was also registered based on said complaint and another complaint was given on 06.08.2009 against insured vehicle KA-11-S-0018. In the initial complaint, it was stated that one Suresh was proceeding on his motorbike and later it was stated that S.Shivakumar was rider of the motorbike. Insurance company examined the legal manager and investigator of the company and contended that the second complaint was given after 7 days and it was registered as CC No.411/2009 in Crl.No.423/2009. Further, the Police also filed B report against the complainant, but he gave complaint to gain wrongfully from the insurance company and it is marked as Ex.R3. In the judgment, the second complaint in Ex.R4 was shown as dated 03.01.2012. The charge sheet is filed against Shivakumar, son of Shivanna under Ex.P2. As per Ex.P2, the name of the complainant is H.P.Karunakara who is the relative of the petitioner. All these facts clearly shows that though appellant stated that as per relevant documents, he met with a road accident, there is implication of another vehicle which is having insurance to gain wrongfully. It is a clear case of implication of another vehicle which is having insurance to gain wrongfully, done in collusion with the owner of the vehicle i.e., respondent No.1. Therefore, this court finds it reasonable to exonerate Insurance Company from paying the liability and only owner of the vehicle is liable to pay the compensation.

11. The Tribunal granted Rs.79,850/- compensation along with interest at the rate of 6% p.a., from the date of petition till the date of deposit.

12. However, in MFA CROB.No.27/2024 filed by the claimant for enhancement it is contended that as per

Ex.P6/IMV Report, petitioner sustained Fracture of both bone, left leg at Ex.P8 and operated and external fixation was put at the time of the treatment. Injury No.1 is diagnosed as the grievous in nature. He was aged 51 years on the date of accident and admitted from 30.8.2009 to 16.09.2009 as an inpatient for a period of 18 days. Tribunal granted Rs.40,000 for pain, shock and agony. Though he stated that he incurred Rs.1,00,000/- medical expenses, as per relevant documents under Ex.P.15 to P.58, tribunal granted only Rs.12,800/- towards medical expenses. The petitioner was hospitalized as an inpatient for 18 days. As Petitioner was government employee no amount was granted under the head loss of future earning capacity. PW2 doctor assessed stated that petitioner sustained grievous injuries and assessed the disability for left leg at 47%. The petitioner was earning salary of Rs.19,729/- as per Ex.P87. The medical evidence shows that the petitioner disability to the left leg is 27%. The disability of right hand is 22%. The disability of the whole body is 29%. The Tribunal observed that the injury sustained by him will not affect his working style. As such, he is not entitled to any compensation under the head 'Loss of future earning capacity. Admittedly he was continuing to work as a Stenographer even after he was sustained injuries in the accident. But he has not received salary for the period from 31.08.2008 to 11.02.2010. Ex.P87 is the details regarding the leave period in which there was no salary paid to the injured.

13. Considering the occupation of the petitioner, his nature of work and the injuries sustained by the petitioner, disability assessed by the doctor and the period of hospitalisation and other relevant factors, this court finds it reasonable to grant an amount **Rs.75,000/-** pain and suffering, **Rs.30,000/-** towards loss of amenities, **Rs.40,000/-** is granted towards transportation, extra nourishment and attendant charges. The amount granted towards the medical expenses for an amount of **Rs.12,800/-** is hereby confirmed. The petitioner is also

entitled for the remuneration for the period when he was not paid salary i.e,. from 31.08.2009 to 11.02.2010 for a period of 5 months and 10 days to a total of **Rs.1,05,221/-** (Rs.19,729/- * 5 months and 10 days) towards loss of income during laid up period. Further**,** Respondent No.2/the Insurance Company is exonerated from paying the liability, as it is a clear case of implication of vehicle and played fraud upon the court and owner of the vehicle is liable to pay the compensation.

6. Thus in all, components awarded by this court are as below,

| **Sl.Nos.** | Particulars | Amount in Rs. |
|---|---|---|
| 1 | Pain and suffering | 75,000 |
| 2 | Loss of amenities | 30,000 |
| 3 | Transportation, extra nourishment and attendant charges. | 40,000 |
| 5 | Loss of income during laid down period | 1,05,221 |
| 6 | Future medical expenses | 12,800 |
| | **Total** | **2,63,021** |

Hence, the compensation granted by tribunal is enhanced from Rs.79,850/- to **Rs.2,63,021**/- along with interest at the rate of 6% p.a.

7. In the result, the following order is passed:

**ORDER**

i. Both appeals are ***allowed*** .

ii. The judgment and award dated 24.08.2013 passed in MVC No.607/2009 on the file of the Senior Civil Judge & JMFC, MACT, Pandavapura, is modified.

iii. The claimant is entitled to a sum of **Rs.2,63,021/-** along with interest at the rate of 6% p.a., from the date of petition till the date of realization, instead of Rs.79,850/- granted by the tribunal.

iv. Owner of the vehicle/Respondent No.1 is liable to pay the entire compensation and he is directed to deposit the compensation amount along with interest at 6% p.a., within one month from the date of this order.

v. On such deposit, claimant is permitted to withdraw the entire amount along with interest accrued on the same.

vi. Insurance Company is exonerated from paying the liability.

vii. The amount already deposited by the Insurance Company shall be refunded.

**Sd/-**
**(P SREE SUDHA)**
**JUDGE**

AKV
CT:NR