



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19th DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 8584 OF 2017 (WC)

BETWEEN:

THE HEAD MASTER
BALMI PRIMARY SCHOOL
THENKULIPADY, GURUPURA POST,
MANGALURU TALUK, D.K. DISTRICT-574 145.

...APPELLANT

(BY SRI. M.E. NAGESH, ADVOCATE)

AND:

1. MRS. MARIYAMMA
W/O LATE BADRUDDIN,
AGED ABOUT 25 YEARS
2. FATHIMATH THOHIRA (MINOR)
D/O LATE BADRUDDIN.
3. AYISHATHUL RAMUL (MINOR)
D/O LATE BADRUDDIN,
AGED ABOUT 6 YEARS

RESPONDENTS NO.1 TO 3 ARE
PERMANENT RESIDENTS OF
MATADAGUDDE HOUSE
SUTE MULLOOR VILLAGE, GURUPURA POST
MANGALURU TALUK AND D.K. DISTRICT

(RESPONDENTS NO.2 AND 3 ARE MINORS
AND ARE BEING REPRESENTED BY THEIR
MOTHER AND LEGAL GUARDIAN NO.1 ABOVE)

4. MR. HASANABBA
S/O LATE UTHTHABBA BEARY

(VIDE ORDER DATED 16.10.2024, THE RESPONDENT
NO.4 IS DELETED)

5. MRS. AISAMMA
W/O HASANABBA

(VIDE ORDER DATED 16.10.2024, THE RESPONDENT
NO.5 IS DELETED)

6. BAJAJ ALLIANZ GENERAL INSURANCE
CO. LTD.,
GE PLAZA, YENWADA,
PUNE-411 006
REPRESENTED BY ITS MANAGER.

...RESPONDENTS

(BY SRI. DHANANJAY KUMAR, ADVOCATE FOR R1;
SRI. O. MAHESH, ADVOCATE FOR R6;
V/O DATED 16.01.2023, NOTICE TO R2 & R3 IS D/W;
V/O DATED 16.10.2024 DECEASED R4 AND R5
ARE DELETED)

THIS MFA IS FILED U/S 30(1) OF WORKMEN'S
COMPENSATION ACT AGAINST THE JUDGMENT AND AWARD
DATED 24.01.2015 PASSED IN ECA NO.1/2014 ON THE FILE OF
THE PRINCIPAL SENIOR CIVIL JUDGE AND COMMISSIONER
FOR EMPLOYEES COMPENSATION, MANGALORE, AWARDED
COMPENSATION OF Rs.5,38,200/- WITH INTEREST @ 12% P.A.
FROM THE DATE OF ACCIDENT i.e., 14.08.2008 TILL
REALIZATION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR
JUDGMENT ON 27.11.2025 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 by the Head Master of the school/owner of the vehicle to set aside the judgment and award dated 24.01.2015 passed by the Principal Senior Civil Judge and Commissioner for Employees Compensation at Mangalore in ECA.No.01/2014 (for short 'the Commissioner/Authority').

2. The claimants have filed the petition under Section 10 of the Employees Compensation Act, 1923 ('the ECA' for short) for grant of Rs.13,00,000/- along with interest at 12% per annum on the account of the death of the driver of the school bus during the course of his employment.

3. The brief facts of the case are that:

The petitioners/claimants contend that deceased Badruddin, S/o Hasanabba, husband of claimant No.1, was employed as the driver of the school bus bearing Registration No.KA-37/3493 belonging to respondent

No.1/Head Master of the school/owner of the vehicle. On 14.08.2008, at about 8.00 a.m., while driving the school bus from Balma English Medium School, Thenkulipady, Mangalore to Ulaibettu to pick up school children. While returning from Ulaibettu to Balma English Medium School at about 9.00 a.m. during the rainy season when the roadside ditch was filled with flood water, the bus fell into the Palguni river near a hotel belonging to one Krishnayya at Ulaibettu School.

4. As a result, Badruddin sustained grievous injuries and succumbed to the same during the course of his employment. The claimants have sought compensation contending that respondent No.1 being the owner of the vehicle and respondent No.2/Insurance Company being the insurer are jointly and severally liable to pay the same.

5. Upon service of notice, respondents No.1 and 2 appeared and filed separate written statements before the earlier Commissioner and after transfer of the case the owner of the vehicle remained absent. The respondent

No.1 admitted ownership of the bus and employment of the deceased as driver and contended that the vehicle was insured with respondent No.2 without violation of policy conditions.

6. The insurer denied the employment of the deceased, the death occurred during the course of employment, and also the age, occupation and income of the deceased, while admitting issuance of the insurance policy subject to its terms and conditions. The insurer further contended that the deceased did not possess a valid and effective driving licence as on the date of accident alleging that the claim amount is exorbitant.

7. Based on the pleadings, the Commissioner framed issues. In order to substantiate the case of the claimants claimant No.1 got herself examined as PW-1 and got marked documents as per Ex.P1 to P9. On the other hand respondent No.1 got himself as RW-1 and other witnesses as RW2 and RW3, and got marked documents at Ex.R1 to R4.

8. The Commissioner, upon appreciation of the oral and documentary evidence, held that insurer had successfully established violation of policy conditions by proving that the deceased driver was not holding a valid and effective driving licence to drive the transport vehicle as on the date of the accident, the transport licence was expired on 17.06.2008 i.e., prior to the accident dated 14.08.2008 and further dismissed the claim against the respondent No.2-Insurance Company by fastening sole liability on the owner of the vehicle and awarded Rs. Rs.5,38,200/- with interest at 12% per annum from the date of accident i.e., 14.08.2008, with apportionment.

9. The learned counsel for the appellant-owner of the vehicle would contend that the respondents herein instituted claim petition before the Commissioner, Mangaluru, claiming damages for the death of children and injuries as well as a claim under the Workmen's Compensation Act, seeking substantial compensation with interest. The Commissioner fastened liability on the

Insurance Company and held liable to pay the compensation to the claimants.

10. It is further contended that the appellant had entrusted all the matters related to the school to its counsel to look into the matters. The Commissioner fastened liability on the insurer-respondent No.6 herein. However, appellant *bona fide* believed that the insurer would comply with and abide by the order of the Commissioner. On account of this *bona fide* belief, the appellant failed to appear before the Commissioner after transfer of the case pursuant to the Government notification dated 23.01.2014 issued by the Government of Karnataka in No.LD 159 LET 2013, and hence remained *ex-parte*.

11. The appellant further contends that, notwithstanding the earlier pleadings wherein it was specifically asserted that the deceased was employed as a driver and that the vehicle was duly insured under a valid policy, the Insurance Company raised a contention disputing the qualification of the deceased to drive a

transport vehicle. Solely on the basis of such contention of the insurer and without proper consideration of the appellant's earlier pleadings and the insurer's liability under the policy, the learned Commissioner fastened the liability on the Insurance Company.

12. The learned counsel appearing for the appellant has raised following substantial questions of law for the consideration of this Court:

- A. *Whether the learned Judge has committed an error by holding that the vehicle KA-37/3493 which is a school bus having the seating capacity of 12+1, the laden weight of it is only 5,300 Kg and the driver requires an endorsement in the DL issued to drive Light Motor Transport Vehicle.*
- B. *Whether the Licence issued to drive Light Motor Vehicle, which was valid upto 17.08.2022 was an effective and valid Driving Licence to drive the vehicle have the seating capacity of 12 + 1 with the laden weight was only 5,300 kgs.*
- C. *Whether the Insurance Company was right in not disclosing the disposal of MVC 1270-1272/2008, 1323-1325/2008 and MVC 1637-1640/2008 were filed under the Motor Vehicles Act before the MACT in Mangalore and held on 10.02.2012 that*

the Insurance Company has to pay the compensation in respect of the accident in question.

- D. Whether the Insurance Company was right in not disclosing the petition filed by the appellant before the District Consumer Forum wherein the Forum held that the Insurance Company has to pay the damages, despite the similar objections filed by the Insurance Company.*
- E. Whether the compensation awarded by the Commissioner/learned Judge is in consonance with the provisions of Workmens Compensation Act.*
- F. Whether the Judgment and Order passed by the Commissioner/Judge is opposed to law, probabilities of the case and evidence on record.*
- G. Whether the Judgment of the Hon'ble Supreme Court in Mukund Devagan case reported in AIR 2017 SC page 3668 would be applicable to this case.*
- H. Whether the compensation awarded is excess and the interest of 12% is excess.*

13. The learned counsel for the appellant owner of the vehicle relied on the judgment of this Court dated 30.08.2019 in the case of **The Senior Manager Bajaj**

Alianz General Insurance Company Limited v. P Adam Ismail and others passed in MFA No.3962/2012 and connected matters.

14. The learned counsel appearing for the Insurance Company has placed reliance on the judgment of the Apex Court in the case of ***Mukund Dewangan v. Oriental Insurance Company Limited*** reported in ***(2017) 14 SCC 663*** which states that a driver holding a licence to drive a Light Motor Vehicle (LMV) does not require a separate endorsement to drive a transport vehicle whose gross vehicle weight does not exceed 7,500 kg; such licence covers the entire LMV class.

15. Heard learned counsel appearing for the appellant, counsel appearing for Respondent No.1 and perused the material on record along with impugned Judgment passed by the Principal Senior Civil Judge and Commissioner for Employee's Compensation, Mangalore.

16. In the facts and circumstances of the case, it would be relevant to refer to ***Beli Ram v. Rajinder***

Kumar and another reported in **AIR 2020 SC 4453**,

relevant paragraphs are extracted hereunder:

15. *We are conscious of the fact that in the present case the beneficiary is the driver himself who was negligent but then we are not dealing with a claim under the MV Act but under the Compensation Act, which provides for immediate succor, not really based on a fault theory with a limited compensation as specified being paid. We are, thus, in the present proceedings not required to decide the share of the burden between the appellant as the owner and the first respondent as the driver as may happen in a proceeding under the MV Act.*

20. *The learned Judge in National Insurance Co. Ltd. v. Hem Raj [National Insurance Co. Ltd. v. Hem Raj, 2011 SCC OnLine HP 4735 : 2012 ACJ 1891 (authored by Deepak Gupta, J., as he then was)] debated the question of the consequences of the MV Act being a beneficial piece of legislation. Thus, if two interpretations were possible, it was opined that the one which is in favour of the claimants should be given, but violence should not be done to the clear and plain language of the statute. Thus, while protecting the rights of the claimants by asking the insurance company to deposit the amount, the recovery of the same from the insured would follow as the sympathy can only be for the victim of the accident. The right which has to be protected, is of the victim and not the owner of the vehicle. It was, thus,*

observed in para 18 as under : (Hem Raj case [National Insurance Co. Ltd. v. Hem Raj, 2011 SCC OnLine HP 4735 : 2012 ACJ 1891 (authored by Deepak Gupta, J., as he then was)] , SCC OnLine HP)

"18. When an employer employs a driver, it is his duty to check that the driver is duly licensed to drive the vehicle. Section 5 of the Motor Vehicles Act provides that no owner or person incharge of a motor vehicle shall cause or permit any person to drive the vehicle if he does not fulfil the requirements of Sections 3 and 4 of the Motor Vehicles Act. The owner must show that he has verified the licence. He must also take reasonable care to see that his employee gets his licence renewed within time. In my opinion, it is no defence for the owner to plead that he forgot that the driving licence of his employee had to be renewed. A person when he hands his motor vehicle to a driver owes some responsibility to society at large. Lives of innocent people are put to risk in case the vehicle is handed over to a person not duly licensed. Therefore, there must be some evidence to show that the owner had either checked the driving licence or had given instructions to his driver to get his driving licence renewed on expiry thereof. In the present case, no such evidence has been led. In view of the above discussion, I am clearly of the view that there was a breach of the terms of the policy and the Insurance Company could not have been held liable to satisfy the claim."

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22. *When we turn to the facts of the present case there is almost an identical situation where the appellant has permitted to let the first respondent driver drive the truck with an expired licence for almost three (3) years. It is clearly a case of lack of reasonable care to see that the employee gets his licence renewed, further, if the original licence is verified, certainly the employer would know when the licence expires. And here it was a commercial vehicle being a truck. The appellant has to, thus, bear responsibility and consequent liability of permitting the driver to drive with an expired licence over a period of three (3) years. The only thing we note is that fortunately there has been no accident with a third party claimant but the person who has caused the sufferance and sufferer are one and the same person i.e. the first respondent driver. We are, however, dealing with the determination under the Compensation Act and those provisions are for the benefit of the workmen like the first respondent, even though he may be at fault, by determining a small amount payable to provide succor at the relevant stage when the larger issues could be debated in other proceedings.*

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24. *We are not aware whether any other proceedings have been initiated or not, at least, none that have been brought to our notice. The aforesaid findings of the initial lack of care by the first respondent in not renewing the driving licence*

would be present, but the lack of care of the appellant as the employer would also arise. We have penned down the aforesaid views as such a situation is quite likely to arise in proceedings under the MV Act where a third party is claiming the amount. Proceedings here being under the Compensation Act, the consequences are not flowing to the first respondent as the initial negligent person.

17. In light of the decision of **Beli Ram's** case *supra*, and upon careful consideration of the materials placed on record, this Court is of the considered opinion that respondent No.2-Insurance Company has successfully established the violation of the policy conditions. Though R.W.2 was subjected to an elaborate cross-examination, nothing has been elicited to discredit his testimony. In his cross-examination, R.W.2 has categorically denied that Baddruddin was holding a valid and effective driving licence to drive the school bus bearing registration No.KA-37/3493 as on the date of the accident, the unladen weight of the said vehicle being below 7,500 kgs. Though a suggestion was put to RW.2 that the deceased was holding a valid and effective driving

licence, the claimants have failed to produce any documentary evidence in support of the same.

18. Therefore, the reliance placed on ***Beli Ram's*** case does not enure to the benefit of the appellant-owner of the vehicle. On the contrary, the said decision reinforces the principle that the employer bears the responsibility to ensure that the driver holds a valid and effective driving licence and that failure thereof constitutes a clear breach of policy conditions absolving the insurer of liability.

19. It is further observed that RW.3, the Law Officer of the Insurance Company, has also unequivocally deposed that the driver of the offending vehicle was not holding a valid and effective driving licence to drive the said vehicle at the time of accident. Even during the course of his cross-examination, RW.3 has consistently maintained his stand and no material has been brought on record to disbelieve his evidence.

20. It is also observed that the Commissioner further relying upon the Full Bench decision of this Court in

Smt. Kavitha Dilip Patil v. Ananda Gnanu Patil reported in **2004(2) Kar.L.J. 569 (FB)** and the decision of the Apex Court in **Saberabini Yakubhai Shaikh v. National Insurance Co. Ltd.** reported in **AIR 2014 SC 1393**, has rightly held that the insurer was entitled to avoid liability under Section 149(2) of the Motor Vehicles Act, and dismissed the claim against respondent No.2, fastened sole liability on respondent No.1-owner of the bus bearing No.KA-37/3493, and awarded compensation of Rs.5,38,200/- with interest at 12% per annum from the date of accident till realization.

21. In view of the foregoing discussions, this Court finds no infirmity in the findings recorded by the authority and the same warrants no interference. Accordingly, the judgment and award passed by the Authority is hereby confirmed.

22. In the result, this Court proceeds to pass the following:-

ORDER

(i) Appeal stands **dismissed**.

(ii) The Judgment and Award dated 24.01.2015 in ECA No.01/2014 passed by the Principal Senior Civil Judge and Commissioner for Employees Compensation at Mangalore is hereby affirmed.

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

BNV