



**IN THE HIGH COURT OF KARNATAKA,
KALABURAGI BENCH**

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DATED THIS THE 6TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE P SREE SUDHA

MISCL. FIRST APPEAL NO. 200941 OF 2019 (MV-I)

BETWEEN:

SURESH S/O. MAHADEV VATHAR,
AGE: 47 YEARS, OCC: OWNER-CUM-DRIVER OF
AUTO RICKSHAW,
R/O JUMANAL, TQ: & DIST: VIJAYAPURA-586101.

...APPELLANT

(BY SRI. SANGANAGOUDA V BIRADAR, ADVOCATE)

AND:

1. SIDDARAMA
S/O. DUNDAPPA VARVATE,
AGED ABOUT 44 YEARS, OCC: BUSINESS,
R/O AT POST NADANI TQ: SOUTH SOLAPUR,
DIST: SOLAPUR-413001.

2. THE BRANCH MANAGER
ICICI LOMBARD GENERAL INSURANCE CO.LTD.
OPP. GOVT. POLYTECHNIC COLLEGE,
BAGALKOT ROAD, VIJAYAPURA-586101.

...RESPONDENTS

(BY SRI. MANJUNATH MALLAYYA SHETTY, ADV. FOR R2;
V/O. DTD 21.03.2025, NOTICE TO R1 IS HELD SUFFICIENT)

THIS MFA IS FILED U/S. 173(1) OF MV ACT, PRAYING TO
ALLOW THE APPEAL BY SETTING ASIDE THE IMPUGNED
JUDGMENT AND AWARD DATED 26.09.2018 PASSED BY THE
LEARNED II ADDL.DIST.JUDGE AND MACT-III, VIJAYAPUR IN





MVC NO.742/2014 AND PASS REASONABLE AWARD. ALTERNATIVELY THE HON'BLE COURT MAY KINDLY BE PLEASED TO REMAND THE MATTER TO THE LEARNED TRIBUNAL FOR A FRESH TRIAL PROVIDING OPPORTUNITY TO LEAD THE FURTHER EVIDENCE OF APPELLANT IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 14.10.2025 AND COMING ON FOR 'PRONOUNCEMENT OF JUDGMENT', THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MRS JUSTICE P SREE SUDHA

CAV JUDGMENT

Heard the arguments of both sides.

2. This appeal is filed against the award of the Tribunal in MVC No.742/2014 dated 26.09.2018 passed by the Motor Accident Claims Tribunal – III, Vijayapura.

3. The facts of the case are that, on 22.12.2013 at about 7.00 p.m., near Vaishnavi Petrol Pump on NH-13, at that time rider of the Motor Cycle bearing No.MH-13-BK-7672 came in high speed and in rash and negligent manner in a wrong side and dashed to the appellant. Due to which, the appellant sustained fracture injuries and immediately admitted to Wachche Hosital, Solapur for treatment.



4. Injured/claimant filed a claim petition claiming compensation of Rs.10,00,000/-. The Tribunal after considering entire evidence on record dismissed the claim petition.

5. Aggrieved by the said award, this appeal is preferred in which it is contented that, the Tribunal dismissed the petition without appreciating the material on record properly and it was observed that, the Tribunal has erroneously stated there was no proper explanation by the appellant to condone the delay of 24 days in filing the complaint and thus, requested this Court to set aside the judgment of the Tribunal and to allow the appeal.

6. Respondent No.1 remained ex-parte before the Tribunal after receiving the notice.

7. Learned counsel for the Insurance Company has filed a written statement by contending that, the policy was not in existence and the owner of the motorcycle has not intimated about the accident to the Company. It is further contended that, there is no jurisdiction to entertain the appeal, as the appellant is resident of Maharashtra and the accident took place



at Maharashtra and hence, it is required to deny all other aspects. It is further stated that, the complaint was lodged by the rider of the motorcycle after 24 days of the accident and the owner is in collusion with appellant and the police authority planted insured vehicle to claim the compensation wrongfully. It is further stated that, FIR was registered as per MLC No.699/2014, but in the injury certificate, MLC number is shown as '16'. It is further contended that, in the complaint, the date of accident is shown as 23.01.2013 and the rider of the motorcycle has no valid driving licence at the time of accident. Thus, considering all these aspects, requested for dismissal of the appeal.

8. The appellant has examined PW1 to PW3 and marked documents as Ex.P1 to Ex.P71.

9. The Insurance company examined RW1 and RW2 and the document was examined as Ex.R1. The Court witness was examined as CW1 and Ex.C1 is the signature of CW1.

10. On perusal of the facts of the case, the appellant met with an accident on 22.12.2013, but the complaint was given on 15.01.2014 under Ex.P1 and there is an inordinate



delay of 24 days and no reasons are assigned for the said delay in giving the complaint. In the complaint, it was stated that, it was registered as per MLC No.699/2014, but in the injury certificate i.e., Ex.P3, MLC number is shown as '16' and in the complaint, the date of accident is shown as 23.01.2013. In the spot panchanama i.e., Ex.P2, the date of accident is shown as 03.01.2014 and in the charge sheet i.e. Ex.65, it was shown as 22.12.2014. Further, PW3 in his evidence has stated that, by mistake, in the FIR, the date of accident is written as 23.01.2013 instead of 22.12.2013 and it is written wrongly by oversight. In the case sheet too, the date of accident is shown as 22.12.2013. Hence, there are so many discrepancies in the material documents regarding the date of accident and the witnesses simply stated that it was a mistake or oversight. Considering the above said aspects, the said explanation cannot be accepted.

11. On perusal of the witnesses, MLC number was not shown properly and PW3 in his cross-examination has admitted that that MLC No.16 is not for the year 2013. Further he has further stated that, in the presence of Head Constable (H.C)



No.1179 by name S. Y. Chavan, the complaint is prepared and CW1 also stated that he is the H.C. Buckle No.1197, who registered the case as per MLC No. 699/2014. But the copy of the said complaint is not filed before the Court.

12. Further, the Motor vehicle (MV) report of the offending vehicle is not produced before the Court and no explanation is given for the same. The Tribunal has rightly contended that, if the delay in filing the complaint is explained properly, then only it is acceptable one, hence, it is not fatal to the case of the appellant. In this case, the delay is not at all explained and injured not filed any certified copies of FIR complaint, spot panchanama, MV report, injury certificate and the charge sheet before the Court. As such, the Tribunal has rightly observed that the possibility of planting or involving the motorcycle No.MH-13-BK-7672 cannot be ruled out and accordingly, the Tribunal has rightly dismissed the petition.

13. In a citation reported in **(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).

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.

Hence, in view of the above said extracted citation, it is for the appellant to prove that he met with an accident and he has to give the complaint in time and basing on the investigation, the chargesheet is to be filed. Accordingly, it is for him to prove the involvement of the vehicle and the existence of the policy as on the date of accident. In the present case, there is inordinate delay of 24 days and it is not



explained by the appellant properly and there are so many discrepancies in the material documents as stated above. Therefore, it is a clear case of false implication of the vehicle and the Tribunal has rightly assessed the entire evidence on record and dismissed the award.

14. In the result, this Court finds no reason to interfere with the order of the Tribunal and accordingly, this appeal is ***dismissed*** by confirming the award of the Tribunal.

sd/-
(P SREE SUDHA)
JUDGE

THM
List No.: 1 Sl No.: 1
CT:RJ