



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR
MISCELLANEOUS FIRST APPEAL No. 799 OF 2023 (MV)

BETWEEN:

THE MANAGER,
CHOLAMANDALAM M S GIC LTD.,
NEAR JAVAREGOWDA PARK 9TH MAIN
SARASWATHIPURAM MYSURU
NOW REP. BY THE
MANAGER
CHOLAMANDALAM M S GIC LTD.,
No.1/2, GOLDEN HEIGHTS
6TH FLOOR, 59TH C CROSS
4TH M BLOCK, RAJAJINAGAR
BANGALORE - 10

...APPELLANT

(BY SRI. MALLIKARJUNA REDDY N.A, ADVOCATE FOR
SRI. B. PRADEEP, ADVOCATE)

AND:

1. PUTTARAJAMMA
W/O. LATE CHALUVAIAH
AGED ABOUT 47 YEARS
2. YOGESHA
S/O. LATE CHALUVAIAH
AGED ABOUT 29 YEARS
3. AMBARISHA
S/O. LATE CHALUVAIAH
AGED ABOUT 27 YEARS.





R/AT YACHEGODANAHALLY
YELWALA HOBLI
MYSURU TALUK.

4. K. SOMANNA
S/O. KARINAYAKA
AGED ABOUT 32 YEARS
YACHEGODANAHALLY
YELWALA HOBLI
MYSURU TALUK
5. PRABHAKARA
S/O. KARINAYAKA
AGED ABOUT 31 YEARS
YACHEGONDANAHALLY
YELWALA HOBLI
MYSURU TALUK.

...RESPONDENTS

(BY SRI. S. MANOJ KUMAR, ADVOCATE FOR R1 TO R3.
SRI. D.S. MANJE GOWDA, ADVOCATE FOR R4 & R5)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 05.07.2022 PASSED IN MVC No. 893/2015 ON THE FILE OF THE JUDGE, ADDITIONAL COURT OF SMALL CAUSES, AS A PRESIDING OFFICER, MOTOR ACCIDENTS CLAIMS TRIBUNAL, MYSURU, AWARDED COMPENSATION OF RS.9,73,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL ITS ENTIRE REALIZATION.

THIS MFA, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR



ORAL JUDGMENT

This appeal is filed by the appellant/insurer challenging the judgment and award dated 05.07.2022 passed in MVC No.893/2015 by the Judge, Additional Court of Small Causes and MACT, Mysuru.

2. Respondent Nos.1 to 3/claimants made a claim petition praying to award compensation for the death of Chaluvaiah in a road traffic accident that occurred on 16.11.2014 contending that the accident occurred due to rash and negligent driving of the TATA Ace bearing Regn.No.KA-09-B-5127. The Tribunal recorded the evidence and appreciating the evidence on record awarded compensation under various heads as under:

Sl.no.	Heads	Amount in (Rs.)
01.	Loss of dependency (with future prospectus)	8,23,000.00
02.	Loss of estate	15,000.00
03.	Loss of consortium	1,20,000.00
04.	Funeral expenses	15,000.00
	Total	9,73,000.00



3. The Tribunal has also awarded interest @ 6% p.a. from the date of petition till realization and directed the appellant -insurer to pay the amount. The appellant-insurer challenging its liability to pay the award amount has filed the present appeal.

4. Heard the learned counsel for the appellant and learned counsel for respondent Nos.1 to 3 and learned counsel for respondent Nos.4 and 5.

5. Learned counsel for the appellant would contend that the deceased was unauthorized passenger in a goods vehicle and the policy does not cover carrying of unauthorized passengers. There was no permit to run the vehicle and the same can be seen in the charge sheet Ex.P8 wherein the owner/respondent No.5 has been charge sheeted for offence under Sections 3(1) r/w 181 of the Motor Vehicles Act for allowing the driver to drive the vehicle without permit. There is violation of policy conditions. At the most, the appellant has to pay the



award amount and recover the same from the owner of the vehicle. With this he prayed to allow the appeal.

6. Learned counsel for respondent Nos.1 to 3/claimants would contend that the deceased was an agriculturist and he was carrying vegetables in the goods vehicle of respondent Nos.4 and 5 and at that time, the accident occurred and he died in the accident. The deceased was traveling in the vehicle as owner of the goods as he was transporting vegetables grown in his land.

7. Learned counsel for respondent Nos.4 and 5 would contend that deceased was transporting his vegetables in the vehicle. The vehicle was insured with the appellant and the driver was possessing driving license at the time of accident.

8. Having heard the learned counsels, the Court has perused the judgment, award and trial Court records.



9. Ex.P8 is the charge sheet filed against respondent Nos.4 and 5. Respondent No.4 is the driver and respondent No.5 is the owner of the vehicle insured with the appellant. The charge sheet has been filed against respondent No.4 for the offence under Sections 279, 337, 338, 304A of IPC and Section 187, 3(1), 181, 66(1), 192(A) of the Motor Vehicles Act. The charge sheet has been filed against respondent No.5, owner of the vehicle for the offence under Section 5 r/w 180 of the Motor Vehicles Act. In column No.17 of the charge sheet it is stated that respondent No.4, driver drove the vehicle which was not having valid permit and caused the accident due to rash and negligent driving. The charge sheet has been filed against respondent No.5, owner of the vehicle for the offence under Section 5 r/w 180 of the Motor Vehicles Act. The said charge sheet has been filed against respondent No.5, the owner of the vehicle since he allowed his vehicle to run on the road without valid permit. Therefore, the very said aspect clearly establish that



vehicle of respondent No.5 was driven by respondent No.4 without valid permit. Therefore, there is violation of policy conditions and therefore, the appellant/insurer is not liable to pay the compensation to the claimants. Since there is violation of policy conditions, the appellant/insurer shall pay the compensation to the claimants and recover the same from respondent No.5, owner of the vehicle.

10. The contention of learned counsel for the appellant that the deceased was unauthorized passenger in a goods vehicle cannot be accepted since in Ex.P2, FIR it is stated that deceased was transporting vegetables grown in his land in the vehicle at the time of accident and as the owner of the said goods, he was traveling in the vehicle. Even PW.1 has stated the same in the evidence and the same has not been denied in the cross-examination. Considering the said aspect, the Tribunal has rightly held that deceased was traveling in the vehicle as owner of the goods along with the goods. In view of the above, the appellant/insurer shall pay the compensation



awarded by the Tribunal and recover the same from the owner of the vehicle i.e. respondent No.5.

11. In view of the above, the following:

ORDER

- (i) The appeal is allowed in part.
- (ii) The liability saddled by the Tribunal on the appellant/insurer to pay the compensation with interest, is set-aside.
- (iii) The appellant/insurer shall pay the compensation with interest and recover the same from the owner of vehicle i.e. respondent No.5.
- (iv) The other findings of the Tribunal shall remain undisturbed.
- (v) Office is directed to transmit the amount in deposit to the Tribunal.

**Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE**