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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3<sup>RD</sup> DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

**MISCELLANEOUS FIRST APPEAL NO. 4090/2016 (MV-I)****BETWEEN:**

THE ORIENTAL INSURANCE CO. LTD.,  
CBO-9, NO.1 & 2, 2<sup>ND</sup> FLOOR, 1<sup>ST</sup> CROSS,  
SIDDAPURA OPP.9<sup>TH</sup> CROSS  
WILSON GARDEN, HOSUR ROAD,  
BANGALORE-560 027.

REP. BY T.P. HUB, REGIONAL OFFICE,  
LEO SHOPPING COMPLEX,  
NO.44/45, RESIDENCY ROAD,  
BANGALORE-560 025.  
BY ITS DULY CONSTITUTED ATTORNEY.

...APPELLANT

(BY SRI RAVISHANKAR C.R., ADVOCATE)

**AND:**

1. SRI PRATIK KUMAR TRIPATHY,  
AGED ABOUT 33 YEARS,  
S/O SRI NABAGHARA TRIPATHY,  
R/O NO.102, PLOT NO.3683,  
8<sup>TH</sup> CROSS, 13<sup>TH</sup> 'D' MAIN ROAD,  
HAL STAGE, DOOPANAHALLI,  
BANGALORE-560 008.

2. SRI JAYARAMA REDDY, MAJOR  
S/O SRI NARAYANASWAMY,  
R/A NO.1043, 7<sup>TH</sup> MAIN ROAD,  
1<sup>ST</sup> BLOCK, KORAMANGALA,  
BANGALORE-560 034.

...RESPONDENTS

(BY SRI CHANDAN B.K., ADVOCATE FOR  
SRI B.SIDDESWARA, ADVOCATE FOR R1;  
SRI K.T.GURUPRASAD, ADVOCATE FOR R2)





NC: 2025:KHC:23882  
MFA No. 4090 of 2016

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 04.04.2016 PASSED IN MVC NO.3755/2014 ON THE FILE OF THE XVI ADDITIONAL JUDGE, COURT OF SMALL CAUSES, MACT BANGALORE, AWARDED THE COMPENSATION OF RS.2,59,000/- WITH INTEREST @9% PER ANNUM FROM THE DATE OF PETITION TILL THE DATE OF PAYMENT.

THIS APPEAL IS COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

### **ORAL JUDGMENT**

This appeal is filed by the Insurer (respondent No.2) against the judgment and award dated 04.04.2016 passed by the XVI Additional judge, Court of Small Causes and MACT (SCCH-14) (for short "the Tribunal"), in MVC No.3755/2014 challenging its liability to pay the compensation awarded to the claimant.

2. For the sake of convenience, the parties are referred to as per the ranking before the Tribunal.

3. The brief facts of the case of the both parties are as under:



It is the case of the claimant that on 01.07.2014 at about 11:00 P.M., while he was traveling on a motorcycle from Koramangala to Doopanahalli, he met with an accident near the Domlur flyover due to rash and negligent driving of the motorcycle bearing registration No.KA-01-EV-6999 by its rider. As a result, he sustained grievous injuries and was admitted to Manipal Hospital as an in-patient from 01.07.2014 to 06.07.2014. He underwent surgery and implants were fixed. He incurred substantial medical expenses amounting to Rs.5 lakhs. He further contended that he was aged about 30 years and was an employee of MTS SW3, a private firm, and earning Rs.1,05,833/- per month as salary. He has suffered permanent disability. Due to the same, he lost his job and lost his earnings. With these reasons, he prayed to award compensation of Rs.10 Lakhs.

4. Respondent No.1 is the owner and respondent No.2 is the Insurer of the offending vehicle. Respondent No.1, in his written statement, has admitted the ownership



of the vehicle and contended that it was insured with respondent No.2-Insurer and the rider of the motorcycle was holding valid licence and denied other averments made in the claim petition.

5. Respondent No.2 admitted the policy of insurance, but denied the averments made in the claim petition. It also denied its liability to pay compensation, contending that liability is restricted to the terms and conditions of the policy of insurance and further stated that the rider of the motorcycle was under the influence of alcohol (drink and drive). With these reasons, it prays for dismissal of the claim petition.

6. On the basis of rival contentions, the Tribunal framed necessary issues.

7. The claimant to prove his claim, has examined two witnesses as PW.1 and PW.2 and marked Exhibits P1 to P19. Respondent No.2 examined one witness as RW.1 and got marked Exhibit R1 to R7.



8. The Tribunal, after hearing both the parties, held that the accident took place due to rash and negligent riding of the offending vehicle and awarded total compensation of Rs.2,59,000/- with interest at 9% p.a., and directed the respondents No.1 and 2 to pay compensation amount jointly and severally.

9. Being aggrieved by the said award, respondent No.2-Insurer has preferred this appeal on the grounds mentioned in the appeal memo.

10. Having heard the arguments of the learned counsel for the appellant and learned counsel for respondent No.1, the following questions arise for consideration:

*"(i) Whether the Tribunal was justified in directing respondent No.2-Insurer to pay the compensation?*

*(ii) What order?"*

11. I answer the above points partly in affirmative for the following:



### **REASONS**

12. The occurrence of accident, injuries sustained by the claimant are not seriously disputed. The Tribunal, after assessment of the evidence, held issue no.1 in favour of the claimant. It is not under challenge and therefore, there is no need to reconsider the same.

13. The main contention of the Insurer is that the rider of the motorcycle was under the influence of alcohol and it was a drunk and drive case and under such circumstances, the Insurer is not liable to pay compensation. He fairly submitted that under Section 147 of Motor Vehicles Act, 1988, the Insurer cannot dispute its liability, if the accident was caused due to drunk and drive. Although the Act does not explicitly state that, if a person drives under the influence of alcohol, in a rash and negligent manner, then it is the fault of the owner of the vehicle for entrusting the vehicle to such a person, who has no control over himself. In such circumstances, the



owner of the vehicle should be held liable for payment of compensation.

14. The fact that the rider of the motorcycle was chargesheeted for the offences punishable under Section 185 of the MV Act is not disputed.

15. Section 185 of the MV Act reads as under:

*"185. Driving by a drunken person or by a person under the influence of drugs- Whoever, while driving, or attempting to drive, a motor vehicle,-*

- a) has, in his blood, alcohol exceeding 30 mg per 100 ml. of blood detected in a test by a breath analyzer or in any other test including a laboratory test, or*
- b) is under this influence of a drug to such an extent as to be incapable of exercising proper control over the vehicle shall be punishable for the first offence with imprisonment for a term which may extend to six months, or with fine of ten thousand rupees, or with both and for a second or subsequent offence, with imprisonment for a term which may extend to two years, or with*



*fine of fifteen thousand rupees, or with both".*

16. Appellant-Insurer has taken pain in proving the fact that the rider of the motorcycle was under the influence of the liquor. Ex.R2 and R3 supports his version. The Report from the Manipal Hospital (Ex.R7) shows the result of the blood sample of the rider of the motorcycle contains alcohol at 126 mg/dl per 100 units of blood. Therefore, as per the provisions of Section 185(a), it should not exceed 30 mg/dl. It indicates that the rider of the motorcycle was under high influence of alcohol.

17. Drunk and drive is a social crime. The act of driving a vehicle after consuming alcohol, often merely for personal enjoyment, not only endangers the life of the driver but also poses a significant threat to pedestrians and other users of the road. Drivers who choose to drink and drive for their own pleasure create dangerous conditions on public roads. If we consider daily news



reports, it appears that drunk driving has become almost a trend or a fashion.

18. Government spends a lot of money to create awareness not to "drink and drive", but the drunkards follow in its breach. For their self enjoyment, they drink and drive the vehicles on the public road, that itself causes endanger to the safety of users of the road. It may lead to loss of life, loss of limb or permanent disabilities to innocent users of the road, if such drunkards causes accidents. Such reckless behavior burdens the health care systems, legal institutions and public resources.

19. Under such circumstances, the vehicle owner cannot claim that the vehicle was insured and that, under Section 147 of the Motor Vehicles Act, the insurer is bound to indemnify their liability. Contract of insurance impliedly includes trust and fidelity. If Courts or Tribunals award compensation in 'drink and drive' cases solely on the ground that such a defense is not available to the insurer under Section 147 of the Motor Vehicles Act, it amounts to



an injustice to other users of public roads. Such decisions may inadvertently encourage vehicle owners or drivers to engage in the dangerous practice of drinking and driving a vehicle in public places. In these circumstances, it is both just and necessary to absolve the insurer from liability, making the driver and/or owner solely responsible for paying compensation.

20. In the case of ***Jyothimani Mary Regina and another vs. The Manager, ICICI Lombard General Insurance Co.Ltd. and another,*** in MFA.No.6922/2014, decided on 19.06.2025, this Bench held that in the case of drunk and drive, the owner of the vehicle is liable to pay compensation. However, the Insurer is responsible to satisfy third party liability and it is at liberty to recover the same from the owner of the vehicle. Similar view is also expressed by the Madras High Court in the case of ***Bhuvaneswari vs. M/s. BVM Storage Solutions Pvt.Ltd. and another,*** (CMA No.3392/2024 decided on 22.01.2025). In that case also, the Insurance Company



was directed to pay the compensation to the third party and liberty was given to it to recover the same from the owner of the vehicle, in a `drink and drive case'.

21. In the similar facts and circumstance, the Kerala High Court in the case of ***Muhammed Rashid @ Rashid vs. Girivasan E.K.*** (MACA No.616/2018 decided on 30.01.2023) reported in ***2023 LiveLaw (Ker) 52***, is also of the similar view. It has held that in the case of drink and drive, the owner of the vehicle is liable to pay the compensation and the Insurer shall pay the compensation to the third party and recover the same from the owner of the vehicle.

22. Telangana High Court, in the case of ***Naveetha Rao Takkallapally vs. Manegalla Laxmi*** (MACMA Nos.303 and 304 of 2023 decided on 12.12.2023), relying on the judgment of other High Courts taken a view that in the case of `drink and drive', the owner of the vehicle is liable to pay the compensation and the Insurer shall pay



the compensation to the third party and recover the same from the owner of the vehicle.

23. In the present case also, the rider of the motorcycle was under the high influence of alcohol. Therefore, it is the liability of the owner to pay the compensation. Since the policy of the insurance is not in dispute, it is the duty of the Insurer to satisfy the claim of third party and it is at liberty to recover the same from the owner of the vehicle.

The Central and State Government shall think in this respect and shall make necessary amendments in the Motor vehicle Act, 1988 and Rules framed in this regard by the State.

24. Learned counsel for the appellant-Insurer has also challenged the amount awarded by the Tribunal. Considering the nature of injuries sustained by the claimant as well as the other materials on record, the compensation awarded by the Tribunal is just and reasonable. Therefore, it does not call for any interference.



25. For the aforesaid reasons, I proceed to pass the following:

**ORDER**

- i) The appeal is ***allowed in part.***
- ii) The judgment and award dated 04.04.2016 passed by the XVI Additional judge, Court of Small Causes and MACT (SCCH-14) in MVC No.3755/2014 stands modified.
- iii) The amount awarded by the Tribunal shall be paid by respondent No.2- Insurer with interest @ 6% per annum from the date of petition till its realization and it is at liberty to recover the same from the owner of the vehicle in an appropriate proceedings, in accordance with law.
- iv) Respondent No.2 shall deposit the said amount within a period of six weeks from the date of award.
- v) Other part of the order is not disturbed.



- vi) Whatever amount deposited by the appellant shall be transmitted to the Tribunal for disbursement.
- vii) No order as to costs.
- viii) Draw award accordingly.

Registry is directed to send back the records along with a copy of this judgment to the concerned Tribunal.

Sd/-  
**(UMESH M ADIGA)**  
**JUDGE**