HC-KAR

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 29TH DAY OF OCTOBER 2025

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BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

MISCELLANEOUS FIRST APPEAL NO. 103215 OF 2014 (MV)

C/W

MISCELLANEOUS FIRST APPEAL NO. 103214 OF 2014

IN M.F.A.NO.103215/2014

BETWEEN:

SHRI PANDURANG S/O. TUKARAM SHIVANE,
AGE ABOUT 46 YEARS, OCC: MILITARY SERVICE,
R/O. BLOCK NO.49/3, MILITARY QUARTERS,
NEAR GLOBE THEATRE, CAMP, BELGAUM,
TALUK AND DISTRICT: BELGAUM-590001.

...APPELLANT

(BY SMT. SOUBHAGYA VAKKUND, ADVOCATE FOR
SRI. Y. LAKSHMIKANT REDDY, ADVOCATE)

AND:

1. DURDUNDI MALAGOUDA PATIL,
AGE: MAJOR, OCC: AGRICULTURE,
R/O. KADALAGE, TAL: GANDHINGLAJ,
DISTRICT: KOLHAPUR (MAHARASTRA-416502),
(OWNER OF MH-09/TC-240)
SINCE DECEASED REPRESENTED BY HIS LR/S

1A. MALAGOUDA S/O. DURDUNDI PATIL,
AGED ABOUT 45 YEARS,
R/O. KADALAGE, GADHINGALJ TALUK,
KOLHAPUR DISTRICT, MAHARASHTRA STATE.

(1A IMPLEADED IN VIEW OF
THE IA 3/2018 BEING
ALLOWED BY ORDER DATED 22.09.2021)

2. RELIANCE GENERAL INSURANCE CO. LTD.,
570, RECTIFIER HOUSE NIGAM CROSS ROAD,
WADALA (W) MUMBAI-400 031.

…RESPONDENTS

(BY SRI. SURESH S. GUNDI, ADVOCATE FOR R2;
NOTICE TO R1(A) IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 10.09.2014 PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL-BELGAUM IN M.V.C. NO.1798/2013 BY ENHANCING THE COMPENSATION TO THE APPELLANT AND PASS SUCH OTHER ORDER OR ORDERS AS THIS HON'BLE COURT DEEMS FIT IN THE CIRCUMSTANCES IN THE INTEREST OF JUSTICE AND EQUITY.

IN M.F.A.NO.103214/2014

BETWEEN:

SMT. MANGAL W/O. PANDURANG SHIVANE,
AGE ABOUT 39 YEARS, OCC: HOUSEHOLD,
R/O. BLOCK NO.49/3, MILITARY QUARTERS,
NEAR GLOBE THEATRE, CAMP, BELGAUM,
TALUK AND DISTRICT: BELGAUM-590001.

…APPELLANT

(BY SMT. SOUBHAGYA VAKKUND, ADVOCATE FOR
SRI. Y. LAKSHMIKANT REDDY, ADVOCATE)

AND:

1. DURDUNDI MALAGOUDA PATIL,
AGE: MAJOR, OCC: AGRICULTURE,
R/O. KADALAGE, TAL: GANDHINGLAJ,

DISTRICT: KOLHAPUR (MAHARASTRA-416502),
(OWNER OF MH-09/TC-240)
SINCE DECEASED REPRESENTED BY HIS LR/S

1A. MALAGOUDA S/O. DURDUNDI PATIL,
AGED ABOUT 45 YEARS,
R/O. KADALAGE, GADHINGALJ TALUK,
KOLHAPUR DISTRICT, MAHARASHTRA STATE.

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NOTICE TO R1(A) IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 10.09.2014 PASSED BY THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL-BELGAUM IN M.V.C. NO.1710/2013 BY ENHANCING THE COMPENSATION TO THE APPELLANT AND PASS SUCH OTHER ORDER OR ORDERS AS THIS HON'BLE COURT DEEMS FIT IN THE CIRCUMSTANCES IN THE INTEREST OF JUSTICE AND EQUITY.

THESE APPEALS COMING ON FOR ADMISSION THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

(PER: THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA)

1. These two appeals are the outcome of the common order that is rendered by the Additional Motor Accident Claims Tribunal, Belgaum (hereinafter referred to as 'the Tribunal', for brevity) in MVC No.1710/2013 and MVC No.1798/2013 dated 10.09.2014. The appellant in MFA No.103214/2014 is the claimant in MVC No.1710/2013 and likewise, the appellant in MFA No.103215/2014 is the claimant in MVC No.1798/2013.

2. The appellant in MFA No.103214/2014 is none other than the wife of the appellant in MFA No.103215/2014. Both the claimants filed separate claim petitions projecting that, on 17.02.2013, while they were proceeding on a motorcycle bearing registration No.MH-09/AH-8312, and while the

husband was riding the motorcycle, a TVS motorcycle bearing registration No.MH-09/TC-240, which was driven by its rider in a rash and negligent manner, hit their motorcycle, due to which they fell down and sustained injuries. Both the claim petitions were dismissed by the Tribunal, giving a finding that they failed to discharge their burden that they were injured in a road traffic accident.

3. Heard Ms.Soubhagya, who represents Sri.Y. Lakshmikant Reddy, learned counsel on record for the appellants in both the cases as well as Sri.Suresh S. Gundi, learned counsel for respondent No.2 in both the cases.

4. Learned counsel for the appellants submits that, immediately after the accident, the appellants were shifted to hospital for treatment. The wound certificates produced, i.e., Exhibits P7 and P10 reveals the nature of injuries they sustained. As they were

getting treated and were attending one another, they could not concentrate on lodging complaint to police immediately. A complaint was given to the police on 01.03.2013 basing on which a case was registered by police. Police investigated into the case and filed charge sheet also against the rider of the offending vehicle. But without considering all these facts, the Tribunal simply dismissed the claim petitions only on the ground that there is delay in giving complaint to police. Submitting that delay in lodging complaint to police cannot form a ground for dismissal of the claim petition, learned counsel for the appellants relied upon the decision of the Hon'ble Apex Court in the case of *Ravi vs. Badrinarayan and Others*[1], wherein the Hon'ble Supreme Court at paragraphs 20 to 23 of the judgment held as under:

> *"20. It is well settled that delay in lodging F.I.R. cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to*

[1] 2011 ACJ 911

the police station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the F.I.R. with the police. Delay in lodging the F.I.R. thus, cannot be the ground to deny justify to the victim. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so the contents of the F.I.R. should also be scrutinized more carefully. If court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the F.I.R., the claim case cannot be dismissed merely on that ground.

21. The purpose of lodging the F.I.R. in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of F.I.R. certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of F.I.R. is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of F.I.R. Unless kith and kin of the victim are able to regain a certain level of tranquillity of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the F.I.R. assumes much more

significance than delay in lodging thereof supported by cogent reasons.

22. In the case in hand, the Claims Tribunal as well as the High Court, committed grave error in not appreciating the mental agony through which Suresh was passing, whose son was severely injured.

23. In the light of the aforesaid discussion, we are of the considered opinion that the M.A.C.T. as well as High Court committed error in coming to the conclusion that lodging the F.I.R. belatedly would result in dismissal of the claim petition."

5. The submission that is made by learned counsel for respondent No.2, on the other hand, is that there is no intimation even from hospital authorities regarding the alleged accident. Learned counsel submits that, even the claimants did not choose to give complaint to police immediately after the accident or soon thereafter. Therefore, the Tribunal rightly dismissed the claim petitions.

6. A perusal of Exhibit P7 - wound certificate and Exhibit P10 - wound certificate clearly goes to show a mention of 'Road Traffic Accident (RTA)'. For reasons best

known, the hospital authorities did not give intimation to police. Failure on their part to give intimation to police should not affect the chances of the claimants getting compensated in motor accident claims.

7. The decision that is relied upon by learned counsel for the appellants clearly states that delay in lodging the complaint cannot be a ground to doubt the claimant's case.

8. One should remember that law has not fixed any time limit for lodging complaint to police. Whether delay in setting the law into motion is fatal or not depends upon the facts and circumstances of each case. Courts have to look whether the de facto complainant has utilized the time to give wings to his imagination, to wreck vengeance against his opponents, for discussions and deliberations, to settle scores or to prepare grounds for false claim. In case none of these exist and where the delay is due to genuine cause coupled sometimes with inability to approach police

immediately, then such delay cannot come in the way of victim to get justice.

9. Therefore, this Court is unable to agree with the findings of the Tribunal that the claim petitions are not maintainable. Hence, this Court considers it desirable to set aside the impugned orders. Thus, the following order:

ORDER

i. Both the appeals are allowed.

ii. The common order rendered by the Additional Motor Accident Claims Tribunal, Belgaum in MVC No.1710/2013 and MVC No.1798/2013 dated 10.09.2014 is set aside.

iii. The Tribunal is directed to restore both the cases on file, to appreciate the evidence that is brought on record in the light of the findings given by this Court and decide the matters afresh on merits.

Sd/-
(CHILLAKUR SUMALATHA)
JUDGE

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List No.: 1 Sl No.: 77