IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 18TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCL. FIRST APPEAL NO.200242 OF 2020 (MV-I)

BETWEEN:

THE BRANCH MANAGER,
RELIANCE GNE. INS. CO. LTD.,
S.V. PATEL CHOWK, ASIAN PLAZA COMPLEX,
KALABURAGI,
(NOW REPRESENTED BY AUTHORIZED
SIGNATORY, HUBLI).

...APPELLANT

(BY SMT. PREETI PATIL MELKUNDI, ADVOCATE)

AND:

1. GURANNA S/O BHIMARAYA SWATI,
   AGE: 36 YEARS, OCC: GOVT. SERVANT,
   R/O H. NO. 4/4/11, KELAGERI ROAD,
   CHITTAPUR, TQ. CHITTAPUR,
   DIST. KALABURAGI-585 101.

2. AMBARISH S/O BASAWARAJ BANKUR,
   AGE: MAJOR, OCC: OWNER OF BAJAJ PULSAR
   MOTORCYLE NO.KA-50/U-5091, R/O NO.31,
   HESARAGATTA MAIN ROAD, LAKSHIMPURA,
   SRS FACTORY, SOMASHETTY HALLI,
   VIDYARANYAPURA,
   BANGALORE NORTH-560 097.

...RESPONDENTS

(BY SRI. BABU H. METAGUDDA, ADV. FOR R1;
NOTICE TO R2 D/W V/O DTD 18.03.2025)

Digitally signed by SHIVALEELA DATTATRAYA UDAGI
Location: HIGH COURT OF KARNATAKA

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO ALLOW THE ABOVE APPEAL BY SETTING ASIDE THE IMPUGNED JUDGMENT AND AWARD DATED 01.10.2019 IN MVC NO.1223/2015 PASSED BY THE PRL. SENIOR CIVIL JUDGE AND MACT AT KALABURGI.

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

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE C M JOSHI)

As per the memo filed by the learned counsel appearing for the appellant-Insurance Company, notice to respondent No.2 is dispensed with at their own risk.

Heard the learned counsel appearing for the appellant-Insurance Company and the learned counsel for the respondent No.1-petitioner.

2. The learned counsel appearing for the appellant submits that the Insurance Company is challenging the impugned judgment and award in MVC No.1223/2015 by

the learned Prl. Senior Civil Judge & MACT, Kalaburagi, on the ground that-

a) there is a delay of 6 days in filing the complaint;

b) that the respondent No.1, who was rider of motorcycle bearing No.KA-50/U-5091 was not having a valid driving licence at the time of the accident.

3. The petitioner-Guranna was travelling in a TATA Sumo on 24.06.2015 and since said vehicle had a mechanical fault, he called his brother to bring a bike. One Basavaraj came with a bike and while the petitioner and his brother were standing by the side of the road, the respondent-Ambarish came on the motorcycle and dashed to the petitioner and his brother resulting in the petitioner sustaining fractures like fracture of right tibia, fracture of right knee and head injury. He claimed compensation from the owner and insurer of the motorcycle. Petitioner contended that he was a government servant earning Rs.15,000/- per month and as such, he is entitled for

compensation from the respondents. The complaint was filed after 6 days by the brother of the petitioner stating that since he was engaged in treatment of the petitioner, he could not come and file any complaint to the jurisdictional police. After the FIR was registered by the police, investigation was conducted and charge-sheet has been filed against the rider of the motorcycle. The said charge-sheet does not disclose any offence under Section 3 read with 181 of the Motor Vehicles Act, regarding non-possession of the driving licence.

4. The respondent-Insurance Company resisted the petition contending that there is collusion between the owner of the motorcycle and the petitioner. *Inter alia* it is contended that there is compensation claimed is highly exorbitant, imaginary, etc.

5. After framing of the appropriate issues and recording of the evidence, the Tribunal held that there is nothing to show that there was collusion between the parties and the delay in filing the complaint is explained. It

also held that there is nothing on record to show that the rider of the motorcycle was not having any driving licence. Hence, it determined the compensation of Rs.1,87,300/- and allowed the petition.

6. The learned counsel appearing for the appellant-Insurance Company would submit that the delay of 6 days in filing the complaint has not been properly considered by the Tribunal and it failed to draw inferences about such delay. She submits that though the Insurance Company had taken up the contention that the rider was not having a valid driving licence, the Tribunal erroneously held that such contention has not been proved and therefore, there is need for indulgence by this Court.

7. The learned counsel appearing for the respondent No.1 has defended the impugned judgment by drawing attention of this Court at paragraph No.15 of the impugned judgment.

8. It is pertinent to note that the delay of 6 days in filing the complaint appears to have not been pressed before the Tribunal. Evidently the petitioner had suffered injuries like fracture and he was unable to move and as such, the contention of the complainant in the complaint that he was engaged in the treatment of the petitioner has to be upheld. Such contention mentioned in the complaint has not been rebutted by the appellant-Insurance Company by letting in any evidence. No other circumstances are available, which would show that the motorcycle has been falsely implicated in the accident. Absolutely there is no other reasons or circumstances, which would give impetus to the false implication of the motorcycle.

9. So far as the driving licence of the rider is concerned, the charge-sheet does not mentioned anything about non-possession of the valid driving licence. This aspect has been considered elaborately by the Tribunal at paragraph No.15 of the impugned judgment. It had

noticed that, the Insurance Company has not let in any evidence, which would rebut the contents of the charge-sheet. It also notices that the appellant-Insurance Company had not called upon the insured to furnish the driving licence of the rider. In the absence of any such effort on the part of the appellant-Insurance Company herein, the Tribunal came to conclusion that the contention of absence of a valid driving licence has not been proved.

10. In view of the above reasons, the appeal is bereft of any merits. Consequently, the appeal is dismissed at the stage of admission itself.

The amount in deposit, if any, be transmitted to the concerned Tribunal forthwith.

Sd/-
(C M JOSHI)
JUDGE

SDU
LIST NO.: 1 SL NO.: 15
CT: AK