

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF NOVEMBER, 2016

BEFORE:

THE HON'BLE MR. JUSTICE B.MANO HAR

MFA.NO.10380/2012 (MV)

BETWEEN:

SRI KARIYAPPA
S/O.HANUMAIAH,
AGED ABOAUT 42 YEARS,
SORALAMAVU VILLAGE,
ANDANAKERE HOBLI,
CHIKKANAYAKANAHALLI TALUK,
TUMKUR DISTRICT – 572 214.

NOW RESIDING AT
C/O DODDARANGAPPA,
JYOTHINAGAR, SIRA – 572 137,
TUMKUR DISTRICT.

... APPELLANT

(BY SRI.V.B.SIDDARAMAIAH, ADV.)

AND:

PUTTARANGAPPA
S/O SHANKARAPPA,
PURADAKATTE,
HANDANAKERE HOBLI,
CHIKKANAYAKANAHALLI TALUK,
TUMKUR DISTRICT – 572 214.

... RESPONDENT

(BY SMT.INDUMATHI.S.R., ADV.)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 27.02.2012 PASSED IN MVC NO.944/2010 ON THE FILE OF THE SENIOR CIVIL JUDGE, ADDITIONAL MACT, SIRA, DISMISSING THE CLAIM PETITION FOR COMPENSATION.

THIS APPEAL COMING ON FOR HEARING THIS DAY, THE COURT DELIVERED THE FOLLOWING: -

J U D G M E N T

The claimant filed this appeal challenging the legality and correctness of the judgment and award dated 27th February 2012 made in MVC No.944/2010 passed by the Additional Motor Accident Claims Tribunal, Sira (hereinafter referred to as 'the Tribunal' for short) dismissing the claim petition filed him.

2. The appellant herein filed a claim petition contending that on 25-8-2008 at about 6.30 p.m., while he was proceeding on his motor cycle bearing Registration No.MES 2695 on Panchanahalli-Madal Road near Hosahalli Bricks Factory, a motor cycle bearing Registration No.KA-06/E-9845

ridden by its rider in a rash and negligent manner came from opposite direction and dashed against the motorcycle of the claimant. Due to that, the claimant fell down and sustained various fractured injuries all over the body. He has taken treatment by spending more than Rs.2.00 lakhs. Prior to the accident by doing agricultural work and also stone braking work, he was earning more than Rs.10,000/- p.m. At the time of accident, he was aged about 40 years. Hence sought for compensation of Rs.10,00,000/-.

3. In response to the notice issued by the Tribunal, the respondent entered appearance and denied the involvement of his motor cycle. He has also contended that his motorcycle has not met with an accident, whereas on 25-8-2008, the motorcycle bearing Registration No.KA-01/L-6955 belonging to Kittanakere Postman Basavaraju met with accident. The accident was caused by one Umesh who was working in the Tractor belonging to Basvaraju. At the time of accident, the

said Basavaraju was a pillion rider in the motorcycle. Hence sought for dismissal of the claim petition.

4. On the basis of pleadings of the parties, the Tribunal framed necessary issues.

5. The claimant got himself examined as P.W.1 to prove his case and also examined the doctor who treated the claimant as P.W.2 and got marked the documents as Ex.P1 to Ex.P11. On behalf of the respondent, he got himself examined as R.W.1 and he also examined one of the witnesses as R.W.2 and also got marked a document as Ex.R1.

6. The Tribunal, after appreciating the oral and documentary evidence let in by the parties held that the claimant sustained injuries in the road traffic accident occurred on 25-8-2008. However, the vehicle belonging to the respondent was not involved in the accident. One Hanumanthappa son of Thimmaiah filed a complaint 62 days

after the accident i.e. on 27-10-2008. The complaint filed by Hanumanthappa runs contrary to the evidence of the claimant. In the complaint, Hanumanthappa has clearly stated that he was the pillion rider in the motorbike of the claimant, which met with an accident on 25-08-2008. He has clearly stated that the motorcycle belonging to Basavaraju dashed against the motorcycle of the claimant, the claimant sustained injuries in the accident, but he has not sustained any injuries. In the criminal case, one Prasanna of Madarahalli was the eye-witness has deposed that motorcycle belonging to Basavaraju ridden by Umesh dashed against the motorcycle of the claimant. The Tribunal taking into consideration all these aspects of the matter dismissed the claim petition, holding that the vehicle belonging to the respondent is not involved in the accident. Being aggrieved by the judgment and award passed by the Tribunal, the appellant has filed this appeal.

7. Sri.V.B.Siddaramaiah, learned counsel appearing for the appellant reiterated the contentions taken before the Tribunal and contended that the judgment and award passed by the Tribunal is contrary to law.

8. Smt.Indumathi S.R., learned counsel appearing for the respondent argued in support of the judgment and award passed by the Tribunal.

9. Having heard the learned counsel for the parties, the only issue that arise for consideration in this appeal is -

Whether the judgment and award passed by the Tribunal requires any interference by this Court?

10. The appellant filed a claim petition contending that while he was proceeding in his motorcycle bearing Registration No. KA-06/E-9845 ridden by the respondent in a rash and negligent manner dashed against the motorcycle of the claimant and he has sustained three fractured injuries.

One Hanumanthappa son of Thimmaiah lodged a complaint before the jurisdictional police on 27-10-2008 regarding occurrence of the accident. In the complaint, Hanumanthappa has clearly stated that while he was traveling as a pillion rider in the motorcycle of the claimant, the motorcycle belonging to Basavaraju ridden by Umesh dashed against the motorcycle of the claimant. The claimant has sustained injuries and villagers shifted the injured to the hospital. However, he has not sustained any injury. In the criminal case registered against the respondent, one Prasanna of Madarahalli was examined. In the examination-in-chief he has clearly stated that as on the date of accident, Umesh was riding the motorbike which belonged to Basavaraju and Basavaraju was the pillion rider in the his motorcycle. The claimant has not lodged any complaint before the jurisdictional police, but only 62 days after the occurrence of the accident, complaint has been lodged by Hanumanthappa. The evidence given by P.W.1 runs contrary to the complaint lodged and also evidence of Prasanna who

was examined as eye-witness to the accident. No independent witness has been examined nor any material has been produced to show that the claimant has sustained injuries due to the rash and negligent riding of the respondent herein. In order to get compensation from the insurance company, the vehicle belonging to the respondent was falsely implicated. The Tribunal, after appreciating the entire oral and documentary evidence dismissed the claim petition. I find no infirmity or irregularity in the judgment and award passed by the Tribunal. Accordingly, the appeal is dismissed.

***Sd/-
JUDGE***

mpk/-*