HC-KAR

IN THE HIGH COURT OF KARNATAKA,

DHARWAD BENCH

DATED THIS THE 6TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR

MISCELLANEOUS FIRST APPEAL NO. 101319 OF 2024 (MV-I)

BETWEEN:

R. SHIVAMURTHI S/O BALACHANDRA,
AGE: MAJOR, OCC: OWNER OF TATA INDICA CAR,
R/O: HOUSE NO.39, NEAR ESHWAR TEMPLE,
DAVALATHPUR, TQ: SANDUR,
DIST: BALLARI-583 119.

... APPELLANT

(BY SRI. GIRISH V. BHAT, ADVOCATE)

AND:

1. SMT. SHIVAMMA W/O PAKKIRAPPA,
   AGE: 52 YEARS, OCC: LAUNDRY AND COOLIE,
   R/O: DANAPUR, TQ: HOSPET,
   DIST: BALLARI-583 201.

2. E. KENCHAPPA S/O BASAVARAJ,
   AGE: 37 YEARS, OCC: DRIVER OF TATA INDICA CAR,
   R/O: GANGAMMANAHALLI, TQ: KUDLIGI,
   DIST: BALLARI-583 135.

3. UNITED INDIA INSURANCE COMPANY LTD.,
   BY ITS BRANCH MANAGER, 2ND FLOOR,
   YALAMANCHALI COMPLEX,
   HOSPETE-583 201.

... RESPONDENTS

(BY SRI. N.R. KUPPELUR, ADVOCATE FOR R3;
R1 AND R2-SERVED AND UNREPRESENTED)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLE ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 18.06.2013 PASSED IN M.V.C. NO.294/2012 ON THE FILE OF THE LEARNED ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, HOSPET.

Digitally signed by MALLIKARJUN RUDRAYYA KALMATH
Location: HIGH COURT OF KARNATAKA DHARWAD BENCH

THIS APPEAL, COMING ON FOR HEARING-INTERLOCUTORY APPLICATION THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

ORAL JUDGMENT

(PER: THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR)

Though this appeal is listed for hearing on interlocutory application, with consent of learned counsel for the parties, it is taken up for final disposal.

2. This appeal is filed by the appellant/owner of the vehicle challenging the judgment and award dated 18.06.2013, passed by the learned Additional Senior Civil Judge and JMFC, Hospet, in MVC No.294/2012 (hereinafter referred to as the 'Trial Court'), questioning the liability fastened on him.

3. Brief facts leading to filing of this appeal are that on 22.06.2011, around 08.30 p.m., the injured - Smt.Shivamma W/o Pakkirappa was standing near Shetru Provision Store on the left side of the road on NH-13 at Galemmagudi, Hospet. At that time, a TATA Indica Car bearing Reg.No.KA-35/A-7790 came from Hospet side in a

rash and negligent manner and dashed to the injured. Due to which, the injured suffered grievous injuries. Thereafter, the injured was shifted to Government Hospital at Hospet for treatment. Hence filed the claim petition, seeking compensation.

4. The Tribunal while awarding compensation has fastened liability on the owner of TATA Indica Car bearing registration No.KA-35/A-7790, on the reason that, the badge issued to the driver of TATA Indica Car was not renewed and the vehicle is a Light Motor Vehicle (transport), but the driver was holding driving licence to drive Light Motor Vehicle (non-transport). Admittedly, the vehicle is a TATA Indica Car, which is Light Motor Vehicle (transport). The driver was holding driving licence to drive Light Motor Vehicle validity from 07.10.2006 to 06.10.2026. He has obtained endorsement of transport on 15.12.2007 and was valid up to 14.12.2010. The accident is caused on 22.06.2011. The trial Court has fastened liability on the owner of the car on the reason that as on

the date of accident, there is no endorsement of 'Transport' on the driving licence. Hence, the trial Court has fastened liability on the owner of TATA Indica Car.

5. The issue involved is squarely covered by the judgment of Hon'ble Supreme Court in the case of ***Mukund Dewangan vs. Oriental Insurance Company Limited, (2017) 14 Supreme Court Cases 663***. Admittedly, as on the date of accident, the driver was holding driving licence to drive Light Motor Vehicle (non-transport). Even the driver who is holding driving license to drive light motor vehicle (non-transport) can also drive light motor vehicle (transport). Therefore, as per the judgment of Hon'ble Supreme Court in the case of ***Mukund Dewangan*** (referred supra), the observation made by the trial Court is liable to be set-aside as there is no violation of conditions of insurance policy. Hence, the Insurance Company is liable to indemnify the claimant.

6. In the result, I proceed to pass the following:

ORDER

i) The appeal is ***allowed***.

ii) The judgment and award dated 18.06.2013, passed by the Additional Senior Civil Judge and JMFC, Hospet, in MVC No.294/2012, stands modified holding that the Insurance Company shall pay compensation to the claimant as awarded by the Trial Court.

iii) The Insurance Company shall deposit the awarded amount before the Trial Court within a period of eight weeks from the date of receipt of a copy of this judgment.

iv) If the owner has paid award amount or part thereof, the same shall be refunded to the appellant/owner of the car forthwith.

v) The amount deposited before this Court shall be transferred to the account of the appellant/owner.

vi) The appellant/owner shall pay interest on the compensation amount for the delayed period of 3134 days in filing the appeal and remaining compensation amount shall be paid by the insurance company.

vii) Send a copy of this judgment to the trial Court.

viii) No order as to costs.

ix) Draw award accordingly.

Sd/-
(HANCHATE SANJEEVKUMAR)
JUDGE

RKM
CT:BCK
LIST NO.: 1 SL NO.: 19