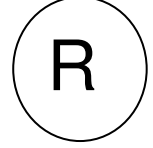




CNR: KAHC020015722016

NC: 2026:KHC-D:10894
MFA No. 101351 of 2016
C/W MFA No. 102208 of 2016

IN THE HIGH COURT OF KARNATAKA AT DHARWAD
DATED THIS THE 29TH DAY OF JULY 2026
BEFORE
THE HON'BLE MRS. JUSTICE GEETHA K.B.



MISCELLANEOUS FIRST APPEAL NO.101351 OF 2016 (MV-I)
C/W
MISCELLANEOUS FIRST APPEAL NO.102208 OF 2016

IN MFA NO.101351/2016:
BETWEEN:

K. VEERA NARAYANA SWAMY
S/O. LATE ULEPPA,
AGED ABOUT 49 YEARS,
PROPRIETOR OF M/S BALAJI POULTRY FARM,
WHOLE SALE BUSINESS,
R/O: ANDHRAL VILLAGE,
TQ. AND DIST. BALLARI -583101.

...APPELLANT

(BY SRI.Y.LAKSHMIKANT REDDY, ADVOCATE)

AND:

1. Y. YANKAPPA S/O. MAREPPA
AGED ABOUT 41 YEARS,
DRIVER OF THE EICHER VAN
BEARING REG.NO.KA-34/A-5516,
R/O: HOSADAROJI POST,
SANDUR POST, BALLARI DIST-538102.
2. T. SRINIVASULU S/O. T. NARASIMHULU
AGED ABOUT 42 YEARS,
OWNER OF THE EICHER VAN
BEARING NO.KA-34/A-5516,
R/O: PLOT NO.28/B,
D.NO.10, BOMMANAHAL ROAD,
ANDHRAL VILLAGE,
TQ. AND DIST. BALLARI -583110.





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3. THE BRANCH MANAGER
M/S RELIANCE GENERAL INSURANCE
COMPANY LTD., SLV TOWERS, MAIN ROAD,
PARVATHI NAGAR, BALLARI-538101,
VIDE POLICY BEARING
POLICY NO.1412722334000309,
VALID FROM 30/12/2012 TO 29/12/2013.

...RESPONDENTS

(BY SRI.PRASHANT S.KADADEVAR, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH;
NOTICE TO R3 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, 1988,
AGAINST THE JUDGMENT AND AWARD DATED 04.02.2016 PASSED
IN MVC NO.812/2013 ON THE FILE OF THE MEMBER, MOTOR
ACCIDENT CLAIMS TRIBUNAL-XII, BALLARI, PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT
OF COMPENSATION AND ETC.

IN MFA NO.102208/2016:
BETWEEN:

THE BRANCH MANAGER,
RELIANCE GENERAL INSURANCE COMPANY LIMITED,
SLV TOWERS MAIN ROAD, PARVATHI NAGAR
BALLARI, (POLICY CAR NO.1412722334000309
VALID UP TO 31.12.2012 TO 29.12.2013),
REPRESENTED BY ITS AUTHORISED SIGNATORY,
RELIANCE GENERAL INSURANCE COMPANY LIMITED,
EAST WING 5TH FLOOR, 28 CENTENARY BUILDING,
M.G.ROAD, BENGALURU.

...APPELLANT

(BY SRI.G.N.RAICHUR, ADVOCATE)



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AND:

1. K. VEERA NARAYANA SWAMY
S/O. LATE ULEPPA,
AGE: 46 YEARS, OCC: PROPRIETOR OF
M/S BALAJI POULTRY FARM
WHOLE SALE BUSINESS,
R/O: ANDHRAL VILLAGE,
TALUK AND DISTRICT- BALLARI.
2. Y. YANKAPPA S/O. MAREPPA,
AGE: 41 YEARS,
DRIVER OF THE EICHER VAN
BEARING REG NO.KA-34/A-5516,
R/O: HOSADAROJI POST
SANDUR POST, BALLARI DISTRICT.
3. T. SRINIVASULU S/O. T. NARASIMHULU,
AGE: 42 YEARS,
OWNER OF THE EICHER VAN
BEARING REG NO.KA-34/A-5516,
R/O: PLOT NO.28/B, D.NO.10,
BOMMANAHAL ROAD, ANDHRAL VILLAGE,
TALUK AND DIST. BALLARI.

...RESPONDENTS

(BY SRI.Y.LAKSHMIKANT REDDDY, ADVOCATE FOR R1;
SRI. PRASHANT KADADEVAR, ADVOCATE FOR R3;
SRI.B.SHARANABASAVA, ADVOCATE FOR R3;
NOTICE TO R2 STANDS DISMISSED AS ABATED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
1988, AGAINST THE JUDGMENT AND AWARD DATED 04.02.2016
PASSED IN MVC NO.812/2013 ON THE FILE OF MEMBER MOTOR
ACCIDENT CLAIMS TRIBUNAL-XII, BALLARI, AWARDING
COMPENSATION OF RS.4,51,000/- ALONG WITH INTEREST AT
THE RATE OF 7% P.A. FROM THE DATE OF PETITION TILL THE
DATE OF REALIZATION AND ETC.



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

CORAM: HON'BLE MRS JUSTICE GEETHA K.B.

ORAL JUDGMENT

MFA No.101351/2016 is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 (in short, 'M.V. Act') by the claimant not satisfied with the compensation amount awarded and MFA No.102208/2016 is filed by the insurer challenging the judgment and award dated 04.02.2016 in MVC No.812/2013 on the file of MACT-XII, Ballari (in short, 'Tribunal').

2. Parties would be referred with their ranks as they were before the Tribunal for sake of convenience and clarity.

3. The claimant has filed the claim petition under Section 166 of the M.V. Act claiming compensation of ₹5,90,000/- in respect of accidental death of 2,250 Broiler hens which were being transported in the Eicher Van bearing Reg.No.KA-34/A-5516 on 19.06.2013 at about



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04.00 a.m. near Ayyagaralapalli Village on Ayyagaralapalli to Settur road.

4. After service of notice respondent No.2 filed objections which were adopted by respondent No.1, wherein they have denied the entire averments made in the petition. Respondent No.3-insurer has filed written statement, wherein he has denied the averments made in the petition in *toto* and further took contention that the driver was not holding valid and effective driving licence to drive the motor vehicle. Lorry is goods carrying commercial vehicle. It took further contention that it will take all the defence available to the insurer under Section 170 of the M.V. Act. Hence, prayed for dismissal of the petition.

5. After framing issues, recording evidence, hearing arguments of both sides, the Tribunal came to the conclusion that claimant is entitled for total compensation

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of ₹4,51,000/- with interest at 7% per annum from date of petition till realization.

6. Said judgment and award is under challenge in these two appeals by the claimant and the insurer.

7. Heard arguments of both sides.

8. Learned counsel for appellant/insurer Sri G.N.Raichur would submit that the claimant has not produced any material before the Court to show that he has complied with Rule 74 of Karnataka Motor Vehicles Rules, 1989 that hens were being transported as per the provisions mentioned in Rule 74. Hens cannot be called as livestock. Further, the policy does not cover the goods mentioned in the claim petition. The quantum of compensation awarded by the Tribunal is exorbitant. No sufficient documents are produced to prove the loss of ₹4,50,000/-. Hence, prayed for allowing his appeal and to dismiss the appeal of claimant.



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9. Learned counsel for claimant, Sri Y.Lakshmikant Reddy would submit that claimant has produced all relevant materials to show that he was transporting Broiler hens of 2250 in numbers in the offending vehicle and it met with an accident on the way; it turtle and hens fall on the ground; on them, the vehicle turtle and thus 2000 of his hens were dead and 250 were taken away by the neighboring people. However, the Tribunal has not considered the transportation expenses and loss of business and mental agony suffered by the claimant. Hence, prayed for allowing his appeal and to dismiss the appeal of insurer.

10. Having heard arguments of both sides, verifying the appeal papers and Trial Court records, the points that arise for consideration are:

"1. Whether the insurer establishes that the hens being transported in the offending vehicle cannot be called as goods?"



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2. Whether there is any violation of Rule 74 of Karnataka Motor Vehicles Rules, 1989?

3. Whether the quantum of compensation requires modification?"

11. Finding on the above points are answered in
NEGATIVE for the following:

REASONS

12. The claimant took contention that he has purchased 2,250 Broiler hens on 18.06.2013 from Challakere Poultry Farm and was transporting the same to Tadapathri in the Eicher Van bearing No.KA-34/A-5516; on 19.06.2013 at 4.00 a.m. near Ayyagaralapalli Village on Ayyagaralapalli to Settur road, the vehicle met with an accident and 2,000 hens were dead, 250 hens were being taken away by the neighbors of said place.

13. To substantiate the above contention, claimant has produced police papers *i.e.* complaint, panchanama, charge-sheet and other documents. These documents



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reveal that the accident has taken place as alleged in the claim petition.

14. To show that claimant was the owner of the Broiler hens, which were being transported in the offending vehicle, he relies upon Ex.P.5-invoice issued in the letter head of 'Suguna Foods Ltd.' to the customer by name Balaji Poultry Farm i.e. the poultry of claimant. In this document, it is mentioned that there were totally 180 cages and number of birds is shown as 2250. The claimant has produced Ex.P.6-his bank statement to show that he has paid ₹4,50,584.40 towards purchase of these Broiler hens and it is being transported in the offending vehicle and its number is also mentioned in Ex.P.6. Invoice No.592 is also mentioned here.

15. Claimant has also produced Ex.P.7-license issued by the competent authority to run poultry farm in Ballari from 03.09.2007 until it is cancelled. These documents clearly establish that the claimant was the

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purchaser of 2,250 Broiler hens and was transporting the same to his place of business and on the way, the vehicle met with an accident.

16. In the charge-sheet, it is mentioned that the accident has taken place between near Ayyagaralapalli Village on Ayyagaralapalli to Settur road and the Broiler hens in the vehicle were died and front portion of the vehicle was damaged. Under these circumstances, the submission of learned counsel for insurer that there is no report from the Veterinary doctor cannot be accepted because there is clear mention in the charge-sheet about death of Broiler hens and it is being deposed by claimant in his affidavit evidence.

17. As per Rule 74 of the Karnataka Motor Vehicles Rules, 1989 while transporting the cattle in a goods vehicle in a public place, some conditions are to be fulfilled and the carriage shall contain some basic arrangements for transportation of cattle. In Explanation to this Rule,



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'cattle' means Goat, Sheep, Buffalo, Bull, Ox, Cow, Deer, Horse, Pony, Mule, Ass, Pig or the young ones thereof. This definition does not include hen.

18. The Section 2(13) of Motor Vehicles Act, 1988 defines 'goods', which includes livestock.

19. Learned counsel for insurer would vehemently submit that hen cannot be called as livestock. However, said argument cannot be accepted because livestock means the animals which are having life. Livestock means and includes hens. Hence, the hen is considered as livestock. Hence, this Court holds that it is established that the claimant was transporting his hens in the offending vehicle from Challakere to Tadapathri.

20. Ex.R.1 is the policy. In the policy under the head 'limits of liability', it is held that the policy is including death of or bodily injury to any person so far as it is necessary to meet the requirements of Motor Vehicles Act and policy i.e. damage to property other than property



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belonging to the insured or held in trust or in custody of control of the insured up to the limits of ₹7.5 lakhs.

21. Admittedly, claimant is not the owner of the lorry and he was only transporting his livestock in the goods vehicle from one place to another and thus damage to his property is covered under the insurance policy. Hence, this Court holds that the claimant is entitled for actual damages he suffered in the accident.

22. In this regard, in his affidavit evidence he has specifically stated that he sustained loss of ₹4,50,000/- towards the cost of Broiler hens. The Tribunal considering the bill and other factors has awarded ₹1,000/- additional compensation i.e. ₹4,51,000/-, which needs no interference. The compensation awarded by Tribunal is just and reasonable.

23. As far as rate of interest is concerned, the Tribunal has awarded 7% which is to be reduced to 6%.



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In view of the aforesaid discussion, this Court passes the following:

ORDER

- a) MFA No.101351/2016 filed under Section 173(1) of the Motor Vehicles Act, 1988 by the claimant is ***dismissed.***
- b) MFA No.102208/2016 filed Section 173(1) of the Motor Vehicles Act, 1988 by the insurer is ***allowed in part.***
- c) Judgment and award dated 04.02.2016 in MVC No.812/2013 on the file of MACT-XII, Ballari is modified only to the extent of rate of interest awarded by the Tribunal at 7% and it shall be at 6%.
- d) Except the interest portion awarded by the Tribunal, the other portion of the judgment and award is unaltered.
- e) The respondent-insurer shall deposit the compensation amount with accrued interest before the Tribunal within a period of 8 weeks



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from the date of receipt of certified copy of this judgment.

- f) No Order as to costs.
- g) Draw modified decree accordingly.
- h) Amount in deposit, if any, is ordered to be transmitted to the Tribunal forthwith.
- i) Registry to transmit the TCR to the Tribunal forthwith.

Sd/-
(GEETHA K.B.)
JUDGE

SH
CT:VH
List No.: 1 Sl No.: 17