

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31<sup>ST</sup> DAY OF MARCH 2021

BEFORE

THE HON'BLE MR. JUSTICE H. T. NARENDRA PRASAD

**MFA No.1074 OF 2014(MV)**

BETWEEN:

THE DIVISIONAL MANAGER  
THE ORIENTAL INSURANCE CO.LTD,,  
DO.II, SARASWATHIPURAM, NO.2911,  
NEAR MUSLIM HOSTEL COMPLEX,  
FIRE BRIGADE, MYSORE,  
NOW REPRESENTED BY ITS,  
REGIONAL MANAGER,  
LEO SHOPPING COMPLEX,  
44/45 RESIDENCY ROAD,  
BANGALORE-560 001.

...APPELLANT

(BY SMT. HARINI SHIVANANDA, ADV.)

AND

1. SMT. USHA  
36 YEARS,  
W/O SRI.VENKATACHALAI AH,  
R/A.RAILWAY STATION ROAD,  
SHIVAPURA, MADDUR TOWN,  
MANDYA DISTRICT-571428.
2. THE HEAD MASTER

CAMBRIDGE CONVENT,  
1ST CROSS, SRI.M.V.NAGAR,  
MADDUR, MANDYA DISTRICT.

...RESPONDENTS

(BY R1 AND R2 ARE SERVED  
AND UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:06.11.2013 PASSED IN MVC NO.739/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE & MACT, MADDUR, AWARDED COMPENSATION OF SUM OF RS.1,14,00/- IS AWARDED TO THE PETITIONER FOR PERSONAL INJURIES SUSTAINED BY HER IN A ROAD TRAFFIC ACCIDENT WITH INTEREST AT 6% P.A. FROM THE DATE OF PETITION TILL REALISATION.

THIS MFA COMING ON FOR ADMISSION, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

### **JUDGMENT**

This appeal under Section 173(1) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act', for short) has been filed by the Insurance Company

being aggrieved by the judgment dated 6.11.2013 passed by the Motor Accident Claims Tribunal.

2. Facts giving rise to the filing of the appeal briefly stated are that on 21.2.2012, the claimant was proceeding by walk near Herbal Beauty Prlour, Old MC Road, Maddur, at that time, school maxi cab bearing No.KA-11-7587 being driven by its driver at a high speed and in a rash and negligent manner, dashed to the vehicle of the claimant. As a result of the aforesaid accident, the claimant sustained grievous injuries and was hospitalized.

3. The claimant filed a petition under Section 166 of the Act seeking compensation. It was pleaded that he spent huge amount towards medical expenses, conveyance, etc. It was further pleaded that the accident occurred purely on account of the

rash and negligent driving of the offending vehicle by its driver.

4. On service of notice, the respondents appeared through counsel and filed written statements in which the averments made in the petition were denied.

5. On the basis of the pleadings of the parties, the Claims Tribunal framed the issues and thereafter recorded the evidence. The claimant himself was examined as PW-1 and got exhibited documents namely Ex.P1 to Ex.P10. On behalf of the respondents, one witness was examined as RW-1 and got exhibited documents namely Ex.R1 to Ex.R2. The Claims Tribunal, by the impugned judgment, inter alia, held that the accident took place on account of rash and negligent driving of the offending vehicle by its driver, as a result of which, the claimant sustained

injuries. The Tribunal further held that the claimant is entitled to a compensation of Rs.1,14,000/- along with interest at the rate of 6% p.a. and directed the Insurance Company to deposit the compensation amount along with interest. Being aggrieved, this appeal has been filed.

6. The learned counsel for the Insurance Company has contended that the driver of the offending vehicle was not having valid driving licence as on the date of the accident. Since the insured has violated the policy conditions, the Tribunal has rightly exonerated the Insurance Company from liability. But however the Tribunal has directed the Insurance Company to pay compensation and later to recover the same from the owner of the offending vehicle.

7. Respondents are served and unrepresented.

8. Heard the learned counsel for the appellant and perused the records.

9. It is not in dispute that the accident has occurred due to rash and negligent driving of the offending vehicle by its driver.

It is also not in dispute that the driver of the offending vehicle was not having valid driving licence as on the date of the accident. As per the law laid down by the Hon'ble Supreme Court in the case of **PAPPU AND ORS. V. VINOD KUMAR LAMBA AND ANR. [AIR 2018 SC 592]** and in view of Full Bench decision of this Court in the case of '**NEW INDIA ASSURANCE CO. LTD. BIJAPUR vs. YALLAVVA AND ANOTHER'** ILR 2020 Kar.2239, even if the driver of the offending vehicle was not possessing valid driving licence as on the date of accident, the Insurance Company is liable to pay compensation to the claimant at the first instance, with liberty to

recover the same from the owner of the offending vehicle.

10. In view of the above, the Tribunal has rightly directed the Insurance Company to pay compensation to the claimant with liberty to recover the same from the owner of the offending vehicle. There is no error in the said finding of the Tribunal. Hence, I am declined to interfere with the finding of the Tribunal.

11. Accordingly, the appeal is **dismissed**.

The amount in deposit before this court is ordered to be transferred to the Tribunal forthwith.

**Sd/-  
JUDGE**

DM