

**(2014) 12 KAR CK 0132**  
**In the Karnataka High Court**  
**Case No : MFA Nos. 30438 and 30455/2012 (MV)**

Dhanraj

APPELLANT

Vs

Nagnath

RESPONDENT

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**Date of Decision :** 09-12-2014

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Section 30

**Citation :** (2014) 12 KAR CK 0132

**Hon'ble Judges :** A.V. Chandrashekara, J

**Bench :** Single Bench

**Advocate :** Santosh Biradar, Advocate for the Appellant; K.M. Ghate and Sudarshan M, Advocate for the Respondent

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## Judgement

A.V. Chandrashekara, J.—Both these appeals have arisen out of the common judgment passed in MVC Nos. 393/2010 and 394/2010, which were pending on the file of 2nd Additional MACT and District Judge at Bidar.

2. The appellants are the claimants in the above two cases. The 1st respondent is the owner of the offending vehicle and the 2nd respondent is the insurer of the offending vehicle. The claim petitions have been allowed in part only against the owner and dismissed against the Insurance Company. The main reason for dismissing the petitions against the Insurance Company is that no evidence has been placed on record to show that the offending vehicle in question had valid permit issued by the State Road Transport Authority as on the date of the accident.

3. Perused the records and the grounds urged in the appeals memo.

4. Heard learned counsel for the parties.

5. The tribunal, relying on the decision of the Apex Court in the case of National Insurance Co. Ltd. Vs. Challa Bharathamma and Others, , has held that the insurer is not liable to pay the compensation to the injured as the vehicle in question did not have a valid permit as on the date of the accident.

6. Admittedly, the accident took place on 08.03.2010 and the evidence placed on record does not disclose anything about the permit being valid as on the date of the accident. The notarized copy of the permit relating to the offending vehicle discloses that the permit had been renewed up to only 26.06.2008. Just because the owner or the claimants did not produce any documents in this regard, the tribunal could not have dismissed petitions against the insurance company.

7. The duty of the tribunal is to see that the road accident victims are suitably compensated with just compensation. In this regard, the tribunal was expected to take necessary steps to indemnify the injured and wherever fault found, the tribunal is always expected to get necessary materials by calling upon the State Road Transport Authority, Bangalore to furnish the information as to whether the permit being of the vehicle bearing No. KA-38/1704 had been renewed and whether it was valid as on the date of the accident. In the light of the notarized copy of the permit made available on record, the Court could not have mechanically dismissed the petitions against the insurer.

8. While taking into consideration the provision of Section 30 of CPC, the Hon'ble Supreme Court in the case of A. Shanmugam Vs. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam Represented by Its President etc., , has held that the provisions of Section 30 of CPC are very rarely pressed into service by judicial officers or judges and Section 30 empowers the Court to order of discovery. It also further empowers the Court to pass a such order as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence. It is also specifically held that the duty of the Court is to find out the truth. It is further held that the truth being the cherished ideal and ethos of India, pursuit of truth should be the guiding star. In paragraph No. 29 of the said decision, it is further held that ensuring discovery and production of document and proper admission/denial is imperative for deciding civil cases in a proper perspective.

9. In this view of the matter, the tribunal should have made an honest effort to get the necessary documents from the concerned Road Transport Authorities to know about the validity of the permit of the offending vehicle in question. In the light of such step being not taken by the tribunal and the accident victims have to be compensated with just compensation, the matter will have to be reconsider afresh. Hence the matter needs to be remitted to the MACT.

## ORDER

The appeal is allowed. The matter is remitted back to the tribunal for reconsideration. The judgment and award passed in both cases bearing MVC Nos. 393/2010 & 394/2010 is set aside. The parties shall appear before the tribunal on 12.01.2015 without fail and the tribunal to keep in mind the observations made by this Court and dispose of the case within three months thereafter.

Liberty is given to the parties to produce additional evidence, if any, and assist the tribunal.

It is made clear that since the entire award is set aside, the tribunal is at liberty to reconsider the matter afresh on all counts including the quantum of compensation under different heads.