

(2013) 02 KAR CK 0039
In the Karnataka High Court
Case No : M.F.A. No. 12065 of 2007 (MV)

National Insurance Co. Ltd.

APPELLANT

Vs

Rajanna and B. Jayalakshamma

RESPONDENT

Date of Decision : 20-02-2013

Acts Referred:

Citation : (2013) 02 KAR CK 0039

Hon'ble Judges : S.N. Satyanarayana, J

Bench : Single Bench

Advocate : A.N. Krishnaswamy, for the Appellant; N.M. Prithviraj, for R1, for the Respondent

Final Decision : Allowed

Judgement

S.N. Satyanarayana, J.—The second respondent in MVC. No. 3282/2005 on the file of MACT, Bangalore has come up in this appeal against the judgment and award passed in yet another bogus claim. Brief facts leading to this appeal are that:

Claimant Rajanna pillion rider on TVS XL bearing Registration No. KA-08-H/6422 which was hit by car bearing Registration No. KA-01-Z/5089 on 4.5.2004 stated to have fell down from the scooter and sustained fracture to his right leg, right hand and other injuries. According to him, he was immediately shifted to SNR Hospital at Kolar where he was inpatient for 4 months underwent surgery and that he has spent Rs. 50,000/- towards treatment.

2. Material available on record would disclose that when the alleged accident took place, claimant Rajanna was taken to SNR Hospital by rider of the TVS motor cycle who is none other than his brother Manjunath who gave information to the Doctors at the time of admission to the effect that injuries suffered in a road traffic accident between his TVS XL motor cycle and Tata Sumo at about 10.15 a.m. on 4.5.2004 and the accident took place near Karinayakanahalli.

3. As could be seen from Ex.R. 1- complaint lodged by father of the injured/

claimant namely B. Narayanagowda, it is stated that the accident is caused by a TATA INDICA car bearing Registration No. KA-05-MA-2213. As could be seen from the subsequent insertion in Ex.R.11, there is yet another twist to this in the form of further statement said to have been given to the police by the rider of TVS XL on 1.6.2004 that is almost 18 days after the accident stating that the vehicle which caused the accident is neither Tata Sumo nor INDICA Car bearing Registration No. KA-05-MA-2213 but it is Maruthi Omni Van bearing Registration No. KA-01-Z-5089.

4. What is to be seen here is that Manjunath who took the injured Rajanna to the Hospital immediately after the accident had not fallen from the vehicle, he had not suffered any injuries, he was hale and healthy he was conscious and he had come directly from the place of the accident to the Hospital along with the injured. Information given to the police regarding the manner in which Rajanna suffered injuries by Manjunath is that in a road traffic accident involving TVS XL and Tata Sumo.

5. But subsequently there is insertion of Tata Indica car Registration No. KA-05-2213 at an unknown date, subsequent to 4.5.2004 in the same hand writing, in which complaint was prepared giving different reason for accident. Number of vehicle is indicated in such a way that it does not make any sense when it is read along with entire sentence which is recorded earlier. It is seen that Tata Indica Car number is inserted in some blank space which is available. Surprisingly, subsequent development of recording further statement on 1.6.2004 is for want of another reason for implicating one another vehicle bearing Registration No. KA-01-Z/5089 that is Maruthi Omni Van belonging to first respondent before Tribunal and insured with second respondent.

6. Now before going into injuries suffered by claimant and his entitlement regarding compensation and who should pay the compensation, this Court has to see whether the accident has really taken place as stated by the claimant and which vehicle has caused the accident. That is what essentially has to be decided because compensation decided by the Court has to be paid by person who caused the accident. Indeed the implanted vehicle is not the vehicle which caused the accident. Therefore, the question of looking into other things is inconsequential. What is to be essentially decided by this Court is the involvement of vehicle which caused the accident in the instant case. On going through the entire material available on record, it is clearly seen that there is an attempt on the part of the claimant, police, complainant and others to implicate vehicle belonging to first respondent and insured with second respondent as if said vehicle has caused the accident. Ex.R.13 is a letter dated 30.12.2006 from first respondent to second respondent which disclose that first respondent is a resident of Bangalore with their origin from Mysore.

7. He further state that he owned the vehicle which is said to have caused the accident. However according to him the said vehicle never went out of Bangalore and at no point of time the said Car was taken to the place where accident is said

to have taken place and it was never entrusted to a person by name Munikrishna and they do not know who the said Munikrishna was, who according to the police was the driver of the vehicle. Based on the said letter, investigation is conducted by the Insurance Company which disclosed initiation of proceedings against one Munikrishna as driver of the vehicle and the said person appearing before the criminal court in C.C. No. 293/2004 accepting his crime and paying the fine to the tune of Rs. 1,100/- which could be seen from the certified copy of the order sheet maintained in the said proceedings. Motor vehicle accident report as per Ex.P.R. 12 disclosed no damages to the aforesaid vehicle bearing Registration No. . KA-01-Z/5089.

8. Assuming for a moment that accident has taken place as stated in the claim petition by Maruthi Omni Van, the body of which is made of thin sheet of Tin, definitely the portion of the vehicle which has come in contact with scooter would be severely damaged. The damage would be either to bumper, head lights or to front portion of vehicle. In the instant case, there is no reference to any damage caused to the said vehicle. Whereas the manner in which the accident is said to have taken place and injuries suffered by the claimant would definitely indicate that there is no chance of said vehicle not being damaged at all. As stated by the claimant and his witnesses that is, his father and brother who have given statement before police and Hospital authorities respectively, TVS XL on which claimant was travelling as pillion was hit from its back side with such a force that claimant was thrown out of the motor cycle, yet the vehicle which hit the motor cycle from back side remains intact. This is yet another thing which is conveniently ignored by the Tribunal.

9. On going through the entire record, it is clearly seen that the manner in which the vehicle belonging to first respondent and insured with second respondent is implicated by the handy work of claimant, police, motor vehicle department officials and also to some extent, the Doctor and staff of SNR Hospital in allowing the MLC records to be tampered in the aforesaid manner which has resulted in a false claim being launched against respondent Nos. 1 and 2. When all these materials are available on record how the Presiding Officer of the Tribunal could turn a blind eye to this and proceed to accept the involvement of the Maruthi Van as vehicle causing the accident is another thing which baffles any person with common sense. It is also seen that the dishonesty of the Presiding Officer in deliberately ignoring the documents which are produced on behalf of respondent - Insurance Company which would disclose the fraud committed by claimants.

10. In fact it is rather painful to place on record this has been conduct of this officer viz., Smt. Uma Mathad. This Court has observed in several appeals that whenever this kind of fraudulent claim petitions come up before her, or may be she may selectively take up only such kind of claim petitions and allow them without looking into the record. It may not be out of place to mention that this is not the first time this type of judgment is rendered by this officer. This court on several earlier occasions has seen that wherever there is implication of vehicle

wherever there is manipulation of records, falsification of documents she has conveniently turned blind eye and has supported the perpetrators of fraudulent claim in supporting them with more generosity. Any further discussion on this aspect would be an exercise in futility except to state that entire judgment reeks of fraud, manipulation, suppression. Before it was only litigants, police and Doctors who were indulging in these things. Now Presiding Officer also join hands with them. In view of the above, the judgment impugned is required to be set aside. When admittedly entire evidence available on record discloses implication of vehicle, falsification of records and presentation of forged documents with sole intention of securing compensation which is conveniently ignored by the presiding officer of the Tribunal. In that view of the matter, the appeal deserves to be allowed by setting aside the judgment impugned.

11. In the result, the appeal filed by the Insurance Company is allowed. The judgment impugned is set aside. The claim petition is dismissed. Since the appeal filed by the Insurance Company is allowed, the amount in deposit before this Court is ordered to be released in favour of the Insurance Company. Registry is directed to place a copy of this judgment before the Administrative Judge under whose administrative jurisdiction the aforesaid Presiding Officer Smt. Uma Mathad is presently discharging her duties.