

2022 PLRonline 0394 (Kar.)**KARNATAKA HIGH COURT**

JUSTICE HANCHATE SANJEEVKUMAR

A BANU PRAKASH v. THIMMA SETTY

M.F.A.No.4945/2014 (MV)

01.09.2022

Motor Vehicles Act, 1988 - Pay and Recover - Rights of the third party is statutorily protected as per sub-section(1) of Section 149 of the M.V.Act - Therefore, this right of the third party cannot be fluctuated or oscillated according to the conduct of the owner or any other parties. The owner may contest the claim petition or not, or may prefer an appeal or may not prefer appeal, that cannot decide the rights of third party. The principle of pay and recovery is a beneficial provision to the victims who are third parties. The motor vehicle Act is a beneficial legislation to the claimants being third party who are sufferers of the motor vehicle accident. They are not concerned with whether the owner has contested or not contested before the Tribunal or in the appeal. But the paramount thing is to be considered is the rights of the third parties are to be protected as per Statute. Therefore, just because the owner has contested the claim before the Tribunal or/and preferred appeal before this Court, that cannot affect rights of the third parties who are victims in the road traffic accident. Therefore, the principle that once the right is granted/protected unless there is express provision contrary to that, the rights of third parties are not affected in this regard. This Court cannot accept the contention of the Insurance Company as above stated. Therefore, this Court inclines to protect the rights of the claimants/third parties in the present case by applying principle of pay and recovery - Insurance Company has to satisfy the claim of third party at first instance and recover the same from the owner of offending. [Para 16, 17]

[2022-PLRonline-394-Kar.Download](#)