



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE T.G. SHIVASHANKARE GOWDA

MISCELLANEOUS FIRST APPEAL NO. 6948 OF 2023 (MV-D)

BETWEEN:

1. SMT. ANITHA,
W/O LATE NAGARAJ. V,
AGED ABOUT 23YEARS,
2. N. ADITHYA,
S/O LATE NAGARAJ. V,
7 YEARS,
BEING MINOR
R/BY HER MOTHER
SMT. ANITHA W/O LATE NAGARAV ,
3. MUNIYAMMA,
W/O VENKATASWAMY,
AGED ABOUT 52 YEARS,
4. VENKATASWAMY,
S/O VENKATESHBOVI,
AGED ABOUT 62 YEARS,

ALL ARE R/AT NNAYAKANAHALLI VILLAGE,
MYGALAHATTI, KASABA HOBLI,
ARASIKERE TALUK,
PRESENTLY R/AT C/O S.J EREGOWDA,
SATHYAMANGALA EXTENSION
HASSAN 573 201.

Digitally signed by
PRAJWAL A.

Location: HIGH COURT
OF KARNATAKA

APPELLANTS

(BY SRI. SHARADAMBA A.R.,ADVOCATE)

AND:

1. SRI RAMESH B.M,
S/O MUNESH,
R/O BORANAKOPPALU VILLAGE,



KASABA HOBLI,
ARASIKERE TALUK,
HASSAN DISTRICT 573 201.

2. THE MANAGER,
CHOLAMANDALAM,
M.S INSURANCE COMPANY LTD.,
NO. 3196, INFRONT OF APMC YARD,
BH ROAD, ARASIKERE TOWN
R/BY
THE MANAGER CHOLAMANDALAM
MS INSURANCE COMPANY LTD.,
CIE CAUVERI COMPLEX,
BEHIND KADAMBA COPLEX LTD,
HASSAN 573 201.

RESPONDENTS

(BY SRI. B. PRADEEP.,ADVOCATE FOR R2;
V/O DTD 21.08.2024 NOTICE TO R1 IS DISPENCED WITH.)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 20.02.2023 PASSED IN MVC NO.
1201/2019 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE
AND ADDITIONAL M.A.C.T, HASSAN, PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION AND ETC,.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE T.G. SHIVASHANKARE GOWDA

ORAL JUDGMENT

The appeal is at the stage of admission, by consent of
both sides taken up for final disposal.



2. The petitioners are seeking enhancement of compensation.

3. For the sake of convenience, the parties herein are referred as per their ranking before the Tribunal.

4. Brief facts of the case are, husband of the petitioner No.1, father of petitioner No.2 and son of petitioner Nos.3 and 4 by name Nagaraj. V, the deceased, while riding the motor cycle bearing registration No. KA.13.TMP/2019/8389 on 10.07.2019 at 4:30 pm, near Hirehally village, Javagal Hobli, Autorickshaw bearing registration No. KA.13.B.5831 dashed against him, due to which he fell down and sustained injuries. He was shifted to Government hospital, Hassan where he succumbed to death. The petitioners seeking grant of compensation of ₹50,00,000/- have approached the Tribunal. The claim was opposed by the Insurance Company. After taking the evidence and hearing both the parties the Tribunal has assessed the compensation at ₹24,89,200/- with interest at



6% p.a,. Pleading inadequacy and seeking enhancement the petitioners are before this Court.

5. Heard the arguments of Smt. A.R. Sharadamba, learned counsel for the petitioners and Sri. B. Pradeep, learned counsel for the Insurance Company.

6. It is contended by the learned counsel for the petitioners that, the deceased was born on 23.01.1997 unfortunately they were unable to produce the proof of date of birth of the deceased before the Tribunal. On behalf of the Insurance Company, it is elicited from the mouth of petitioner No.1 that her husband was aged 32 years at the time of the accident and the same is considered by the Tribunal. The age mentioned in the postmortem report is not considered on the ground that petitioner No.1 has admitted the age of the deceased in the cross-examination, but it does not mean that the deceased was aged 32 years on the date of accident. Much apart, petitioner No.1 herself is aged 19 years and they are having three year old minor



son. Hence, the date of birth of the deceased is taken as 23.01.1997 and his age is to be taken of 23 years and applicable multiplier shall be '18' instead of '16' selected by the Tribunal.

7. Per contra, learned counsel for the Insurance Company has contended that the petitioners have not produced any documents in proof of the date of birth of the deceased. In the cross-examination, petitioner No.1 herself admitted the age of her husband as 32 years. The Tribunal has rightly assessed the notional income and taken age admitted by petitioner No.1 and assessed the compensation and he supported the impugned judgment.

8. I gave my anxious consideration to the arguments addressed by the learned counsels for both the parties and perused the records.

9. The accident is not in dispute. The Insurance Company has already satisfied the awarded passed by the



Tribunal. Hence, the only issue is regarding quantum of compensation.

10. As regarding income is concerned, the petitioners claim that the deceased is mason by profession. Since they have not produced any proof of income, he has to be treated as person with no proof of income. In the year 2019, a person with no proof of income will earn not less than ₹14,000/- p.m, hence, notional income of the deceased has to be taken at ₹14,000/- instead of ₹12,000/- p.m, taken by the Tribunal. For the age of the deceased future prospects of 40% has to be considered. There are four defendants in the family $\frac{1}{4}^{\text{th}}$ of his income has to be deducted towards his personal expenses. Then loss of dependency will be $\text{₹}14,000 + \text{₹}5,600(40\%) = \text{₹}19,600 - \text{₹}4,900 (\frac{1}{4}^{\text{th}}) = \text{₹}14,700 \times 12 \times 18 = \text{₹}31,75,200/-$.

11. As regarding conventional heads, loss of filial consortium to the wife, parental consortium to parents and loss of love and affection towards child at ₹44,000/- each



has to be assessed. Loss of estate and funeral expenses at ₹16,500/- each has to be considered. The compensation under conventional heads comes to ₹2,09,000/-. Total compensation comes to ₹33,84,200/- as against ₹24,89,200/- awarded by the Tribunal, thereby enhancement of ₹8,95,000/-. It is the just compensation that the petitioners are entitled to.

12. In view of the above, appeal merits consideration, in the result, the following:

ORDER

- i) The appeal is allowed in part;
- ii) The impugned judgment and award is modified;
- iii) The petitioner is entitled to enhanced compensation of ₹8,95,000/- with interest at 6% p.a, from the date of petition till the date of deposit, excluding interest of 117 days in belated filing the appeal;
- iv) The Insurance Company shall deposit the entire compensation with interest supra within eight



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

Sd/-
(T.G. SHIVASHANKARE GOWDA)
JUDGE

PNV
List No.: 2 SI No.: 38