



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 27TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.100034 OF 2020 (MV-D)

BETWEEN:

1. NOOR JHON BEGUM W/O LATE MALLIK SAB,
AGE: 52 YEARS,
2. RESHMA BANU D/O LATE MALLIK SAB,
AGE: 31 YEARS,
3. DAVRUD S/O LATE MALLIK SAB
AGE: 29 YEARS, OCC: STUDENT,
4. IMRAN S/O LATE MALLIK SAB
AGE: 27 YEARS, OCC: STUDENT,
5. SALMABEE D/O LATE MALLIK SAB
AGE: 25 YEARS, OCC: STUDENT,

ALL ARE RESIDENTS OF GONABAVI VILLAGE,
RAYADURGA TALUK,
NOW RESIDING AT C.J. HALLI VILLAGE,
KUDLIGI TALUK, BALLARI DISTRICT.

...APPELLANTS

(BY SRI. AMARE GOUDA, ADVOCATE)

AND:

1. MOHAMED IMTIYAZ S/O MOHAMED KASSIM SAB
AGE: 57 YEARS, OCC: DRIVER OF LORRY
BEARING REGISTRATION NO.KA-16/B-2143,
R/O AZAD NAGAR, CHITRADURGA TOWN,
CHITRADURGA TALUK AND DISTRICT-560018.
2. RIYAZUDDIN S/O M.K. SIRAJUDDIN
AGE: 54 YEARS, OCC: OWNER OF THE LORRY
BEARING REGISTRATION NO.KA-16/B-2143,



NC: 2025:KHC-D:16551-DB
MFA No. 100034 of 2020

R/O : BADA MAKHAN HORPAT, CHITRADUGA TOWN,
CHITRADURGA TALUK AND DISTRICT-560018.

3. THE MANAGER,
RELIANCE GENERAL INSURANCE COMPANY LIMITED,
PARVATHI NAGAR, OPP: BALA RESIDENCE,
BY ITS BRANCH OFFICE, BALLARI-583101.
4. SHAIK USMAN SAB, S/O IMMAM SAB
AGE: 43 YEARS, OCC: DRIVER OF BOLERO VEHICLE
BEARING REGISTRATION KA-35/M-6133,
R/O CHALUVADIKERE, HOSAPETE TOWN,
HOSAPETE TALUK, BALLARI DISTRICT-583201.
5. SURYA NARAYANA BODA S/O BODA RAMAPPA,
AGE: 52 YEARS,
OCC: OWNER OF BOLERO VEHICLE
BEARING REGISTRATION NO.KA-35/M-6133,
R/O PATEL NAGAR, STATION ROAD, HOSAPETE TOWN,
HOSAPETE TOWN, HOSAPETE TALUK,
BALLARI DISTRICT-583201.
6. THE MANAGER, NEW INDIA ASSURANCE CO. LTD.,
BY ITS DIVISIONAL OFFICE, EDIGA COMPLEX,
BALLARI-583101.

...RESPONDENTS

(BY SRI. NAGARAJ C. KOLLOORI, ADVOCATE FOR R3;
SRI. SUBHASH J. BADDI, ADVOCATE FOR R6;
NOTICE TO R1,R2,R4 & R5-DISPENSED WITH)

THIS MFA IS FILED UNDER SEC.173(1) OF MOTOR VEHICLES
ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED 09.10.2017
PASSED IN MVC NO.493/2016 ON THE FILE OF THE SENIOR CIVIL
JUDGE-CUM-MOTOR ACCIDENT CLAIMS TRIBUNAL-VI, KUDLIGI,
PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION & ETC.

THIS MFA COMING ON FOR ORDERS, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.



ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

Though this appeal is listed for orders, it is taken up for final disposal, with the consent of learned counsel for both the parties.

2. The claimants are before this Court praying for enhancement of compensation, not being satisfied with the quantum of compensation awarded under judgment and award dated 09.10.2017 passed in MVC No.493/2016 on the file of learned Senior Civil Judge and Member, MACT-VI, Kudligi¹.

3. The claimants, who are the wife and children of the deceased Mallik Sab, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation for the accidental death of deceased Mallik Sab, that occurred on 18.11.2015 involving Lorry bearing registration No.KA-16/B-2143 and Mahindra Bolero bearing registration No.KA-35/M-6133. It is stated that the deceased was aged 54 years as on

¹ For short, 'Tribunal'



the date of accident and he was working as a Manager in Nasrulla Poultry Farm at Challikere, earning Rs.12,000/- per month.

4. On issuance of notice, respondents No.3 & 6-Insurance Companies appeared through their learned counsel, but only Respondent No.6-Insurance Company filed its statement of objections denying the allegations made in the claim petition. It was contended that due to negligent driving of driver of offending lorry, the accident took place. It further contended that the claimants are not dependents of the deceased Mallik Sab. Thus, prayed for dismissal of the claim petition.

5. Before the Tribunal, 1st claimant-wife of the deceased examined herself as PW1 apart from marking the documents as Exs.P1 to P8. Respondent No.6-Insurer examined its legal officer as RW1 and got marked two documents as Exs.R1 & R2. The Tribunal based on the material evidence on record awarded total compensation of Rs.4,46,000/- with interest at 6% per annum on the following heads:



Loss of Dependency	Rs.3,96,000/-
Funeral expenses	Rs. 10,000/-
Loss of love & affection	Rs. 10,000/-
Loss of estate	Rs. 10,000/-
Loss of consortium	Rs. 20,000/-
Total	Rs.4,46,000/-

6. While awarding the above compensation, Tribunal assessed income of the deceased at Rs.6,000/- per month, deducted 50% towards personal and living expenses of the deceased and applied multiplier of 11. The claimants not being satisfied with quantum of compensation awarded by Tribunal are before this Court praying for enhancement of compensation.

7. Heard Sri. M. Amaregouda, learned counsel for the appellants-claimants; Sri.Nagaraj C Kolloori, learned counsel for the respondent No.3-Insurer and Sri.Subhash J Baddi, learned counsel for respondent No.6-Insurer and perused the appeal papers.

8. Sri.M. Amaregouda, learned counsel for the appellants-claimants would submit that income of the deceased assessed by the Tribunal at Rs.6,000/- per month is on the lower side, inasmuch as deceased was working as



Manager in Nasrulla Poultry Farm and earning Rs.12,000/- per month. He further submitted that in the light of decision of the Hon'ble Apex Court in ***National Insurance Company Limited Vs. Pranay Sethi & Others***², the claimants would be entitled to an addition of 10% of the assessed income towards future prospects. It is his submission that the Tribunal committed a grave error in deducting 50% of the assessed income towards personal and living expenses of the deceased and it ought to have deducted 1/3rd of the assessed income. He submitted that as per decision of the Hon'ble Apex Court in ***Pranay Sethi*** (supra), the claimants would be entitled to Rs.16,500/- towards loss of estate and Rs.16,500/- towards funeral expenses including 10% escalation. Thus, he prays for allowing the appeal.

9. *Per contra*, Sri.Nagaraj C Kolloori and Sri Subhash J Baddi, learned counsel appearing for the respondents- Insurance Companies support the impugned judgment and award of the Tribunal and submit that the Tribunal is justified in deducting 50% of the assessed income towards personal

² AIR 2017 SC 5157



and living expenses of the deceased, since the 1st claimant-wife of the deceased is the only dependent of the deceased. Further, they submit that the Tribunal has rightly observed that no material is placed on record to prove that the claimants No.2 to 5 are legal heirs of the deceased. However, both learned counsel would fairly submit that the accident is of the year 2015 and hence, in terms of chart prepared by KSLSA, notional income of the deceased can be reassessed at Rs.8,000/- per month. Therefore, they submit that appropriate order be passed in the above appeal by modifying the impugned judgment and award of the Tribunal.

10. Having heard the learned counsel for the parties and on perusal of the appeal papers, the only point that would fall for consideration in this appeal is, *whether the claimants would be entitled for enhanced compensation?*

11. Our answer to the above point would be in the “**affirmative**” for the following reasons:

12. The occurrence of accident on 18.11.2015 involving Lorry bearing registration No.KA-16/B-2143 and



Mahindra Bolero bearing registration No.KA-35/M-6133 and resultant death of deceased Mallik Sab is not in dispute in this appeal. The claimants are in appeal praying for enhancement of compensation, not being satisfied with the quantum of compensation awarded by the Tribunal.

13. It is the contention of the appellants-claimants that notional income of the deceased assessed by the Tribunal at Rs.6,000/- per month is on the lower side. The claimants in order to prove the avocation and earning of the deceased have not produced any cogent or acceptable document. In the absence of any documentary evidence to establish the avocation and income of the deceased, this Court and Lok Adalath while settling the accidental claims of the year 2015, would normally assess notional income at Rs.8,000/- per month, taking note of the chart prepared by KSLSA based on various factors including the minimum wage fixed. Therefore, in the instant case also, in the absence of any corroborative document to establish the income of the deceased, we are of the opinion that it would be just and appropriate to determine



notional income of the deceased at Rs.8,000/- p.m., taking note of the income chart prepared by KSLSA and also the minimum wage fixed.

14. Further, the Tribunal committed an error in not adding 10% of the assessed income towards future prospects of the deceased. In the case of ***Pranay Sethi*** (supra), the Hon'ble Supreme Court has held that wherever the deceased was aged between 50 to 60 years and was not having permanent employment, the claimants would be entitled for addition of 10% of the assessed income towards future prospects. In the instant case, the deceased was aged 54 years. Therefore, the claimants would be entitled for addition of 10% of the assessed income towards future prospects.

15. The Tribunal observed that there is no material to prove that claimants No.2 to 5 are the legal heirs of the deceased. Taking into account that the 1st claimant-wife of the deceased is the only dependent of the deceased, the Tribunal deducted 50% of the assessed income towards personal and living expenses of the deceased. Learned



counsel for the appellants, today, has placed on record certain documents before this Court including Xerox copies of the Aadhar Card of the appellants No.2 to 5. Only on the basis of Xerox copies of Aadhar Card, we would not venture to find out as to whether the claimants No.2 to 5 are the legal heirs of the deceased. However, on going through the Xerox copies of Aadhar Card, it is seen that the claimants No.2 to 5 were not residing with the deceased as on the date of accident and they were all the residents of Andhra Pradesh and therefore, it cannot be said that the claimants No.2 to 5 were dependents of the deceased.

16. The Hon'ble Apex Court in the case of ***Sarla Verma & Others Vs. Delhi Transport Corporation & Another³***, has made it clear that wherever the deceased was married, deduction towards personal and living expenses of the deceased should be $1/3^{\text{rd}}$ where the number of dependents are 2 to 3, $1/4^{\text{th}}$ where number of dependents are 4 to 6 and $1/5^{\text{th}}$ where number of dependents exceeds 6. In the instant

³ 2009 ACJ 1298



case, the 1st claimant-wife is the only dependent of the deceased. Therefore, the Tribunal is justified in deducting 50% of the assessed income towards personal and living expenses of the deceased. There is no dispute with regard to age of the deceased as 54 years and applicable multiplier of 11. Accordingly, the claimants would be entitled to modified compensation on the head of loss of dependency as under:

$$\text{Rs.}8,000 + 10/100 \times 12 \times 11 \times \frac{1}{2} = \textbf{Rs.}5,80,800/-$$

17. It is well settled law that the 1st claimant being wife of the deceased would be entitled to **Rs.44,000/-** towards spousal consortium as held by the Hon'ble Apex Court in the case of **Magma General Insurance Company Ltd., Vs. Nanu Ram and Others**⁴ including 10% escalation. In terms of decision of the Hon'ble Apex Court in the case of **Pranay Sethi** (supra), the claimants would be entitled to **Rs.16,500/-** towards loss of estate, besides **Rs.16,500/-** towards transportation of dead body and funeral expenses including 10% escalation. Thus, claimants would be entitled for modified compensation on the following heads:

⁴ 2018 ACJ 2782



Sl. No.	Particulars	Amount
1.	Loss of dependency	Rs.5,80,800/-
2.	Loss of estate & Funeral expenses	Rs. 33,000/-
3.	Spousal Consortium	Rs. 44,000/-
	Total	Rs.6,57,800/-

18. Thus, the claimants would be entitled to total compensation of **Rs.6,57,800/-** as against Rs.4,46,000/- awarded by the Tribunal.

19. In the result, we proceed to pass the following:

ORDER

- a) The above appeal is ***allowed in part.***
- b) The impugned judgment and award of the Tribunal is modified to an extent that the claimants are entitled to total compensation **Rs.6,57,800/-** as against Rs.4,46,000/- awarded by the Tribunal.
- c) The enhanced compensation amount will bear interest at the rate of 6% per annum from the date of claim petition till date of realization, except for the delayed period of 705 days in preferring the appeal.
- d) The respondent-Insurance Company shall deposit the enhanced compensation amount with accrued interest before the



Tribunal within six weeks from the date of receipt of certified copy of this judgment.

- e) Apportionment, deposit & disbursement of the enhanced compensation shall be made as per the award of the Tribunal.
- f) Draw modified award accordingly.

**Sd/-
(S G PANDIT)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**

JTR,
CT:VP
LIST NO.: 1 SL NO.: 4