



**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**

**DATED THIS THE 24<sup>TH</sup> 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.104100 OF 2023 (MV-D)  
C/W  
MISCELLANEOUS FIRST APPEAL NO.100886 OF 2024 (MV-D)

IN MFA NO.104100/2023

BETWEEN:

THE NATIONAL INSURANCE  
COMPANY LTD.,  
THROUGH ITS DIVISIONAL OFFICE,  
RAMADEV GALLI, BELAGAVI.  
NOW REPRESENTED BY ITS  
ASSISTANT MANAGER.

...APPELLANT

(BY SRI. RAJESH B. RAJANAL, ADVOCATE)

AND:

1. SRI. LAXMAN,  
S/O SHIDRAM GOLASANGI  
AGE. 58 YEARS, OCC. ENGINEER,  
R/O. MUGALAKHOD VILLAGE,  
TQ. RAIBAG, DIST. BELAGAVI,  
NOW AT ATHANI PWD QTR.  
TQ. ATHANI,  
DIST. BELAGAVI 591223.

CHANDRASHEKAR  
LAXMAN  
KATTIMANI

Digitally signed by  
CHANDRASHEKAR  
LAXMAN KATTIMANI  
Location: HIGH COURT  
OF KARNATAKA  
DHARWAD BENCH



2. SMT. RATNAVVA,  
W/O LAXMAN GOLASANGI,  
AGE. 51 YEARS,  
OCC. HOUSE HOLD WORK,  
R/O. MUGALAKHOD VILLAGE,  
TQ. RAIBAG, DIST. BELAGAVI.  
NOW AT ATHANI, PWD QTR.  
TQ. ATHANI, DIST. BELAGAVI 591223.

3. SRI. ARJUN,  
S/O BHAGAWANT PATIL,  
AGE. MAJOR, OCC. BUSINESS/  
OWNER OF VEHICLE,  
R/O. MAHAJAN COMPLEX ATHANI,  
TQ. ATHANI, DIST. BELAGAVI,  
KARNATAKA 591304.

...RESPONDENTS

(BY SRI. ASHOK A. NAIK, ADVOCATE FOR R1 & R2  
SRI. SHIVARAJ S. BALLOLI, ADVOCATE FOR R3)

THIS MFA IS FILED UNDER SEC.173(1) OF MOTOR VEHICLES ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED 16.05.2023 PASSED IN MVC NO.1672/2020 ON THE FILE OF THE SENIOR CIVIL JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL, RAIBAG, AWARDING COMPENSATION OF RS.15,18,300/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL ITS REALIZATION & ETC.

IN MFA NO.100886/2024

BETWEEN:

1. SRI. LAXMAN,  
S/O SHIDRAM GOLASANGI  
AGE. 59 YEARS, OCC. ENGINEER,  
R/O. MUGALAKHOD VILLAGE,  
TAL. RAIBAG, DIST. BELAGAVI.  
NOW AT ATHANI PWD QTR,



TAL. ATHANI, DIST. BELAGAVI 591304.

2. SMT. RATNAVVA,  
W/O LAXMAN GOLASANGI,  
AGE. 52 YEARS, OCC. HOUSE HOLD WORK,  
R/O. MUGALAKHOD VILLAGE,  
TAL. RAIBAG, DIST. BELAGAVI.  
NOW AT ATHANI PWD QTR,  
TAL. ATHANI, DIST. BELAGAVI 591304.

...APPELLANTS

(BY SRI. ASHOK A. NAIK, ADVOCATE)

AND:

1. SHRI. ARJUN, S/O BHAGAWANT PATIL  
AGE. MAJOR, OCC. BUSINESS/  
OWNER OF VEHICLE,  
R/O. MAHAJAN COMPLEX, ATHANI,  
TAL. ATHANI, DIST. BELAGAVI,  
KARNATAKA 591304.

2. THE NATIONAL INSURANCE  
COMPANY LTD.,  
THROUGH ITS DIVISIONAL OFFICE,  
RAMDEV GALLI, BELAGAVI 590001.

...RESPONDENTS

(BY SRI. RAJESH B. RAJANAL, ADVOCATE FOR R2)  
(NOTICE TO R1-HELD SUFFICIENT)

THIS MFA IS FILED UNDER SEC.173(1)OF MOTOR VEHICLES ACT, AGAINST THE JUDGMENT AND AWARD DATED 16.05.2023 PASSED IN MVC NO.1672/2020 ON THE FILE OF THE SENIOR CIVIL JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL, RAIBAG, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION & ETC.

THESE APPEALS 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)

Both, the insurer and the claimants are in appeal challenging the judgment and award, dated 16.05.2023, passed in M.V.C. No.1672/2020 by the Senior Civil Judge and Motor Accident Claims Tribunal, Raibag (for short, 'the Tribunal').

2. The appeal in M.F.A. No.104100/2023 is filed by the insurer questioning the quantum of compensation and the contributory negligence, whereas M.F.A. No.100886/2024 is filed by the claimants seeking enhancement of the compensation awarded by the Tribunal and also challenging the finding of the Tribunal attributing negligence to the extent of 30% on the deceased.

3. For the sake of convenience, the parties will be referred to as per their rank before the Tribunal.

4. Heard Sri. Rajesh B.Rajanal, learned counsel appearing for the insurer and Sri. Ashok A. Naik, learned counsel appearing for the claimants. Perused the entire appeal papers.



5. The claimants – parents of one Premakumar Golasangi filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'MV Act', for short) claiming compensation for the accidental death of said Premakumar Golasangi in a road traffic accident that took place on 01.10.2020 involving motorcycle bearing registration No.KA-23/EQ-0680 and a tipper lorry bearing registration No.KA-23/A-7402. The claimants stated that the deceased was aged about 23 years as on the date of the accident; he was working as a businessman and an agriculturist, and used to earn Rs.15,000/- per month, and due to death of their son, they were unable to maintain themselves.

6. On issuance of notice, respondent No.2-insurer appeared before the Tribunal and filed its objection statement contending that the deceased was not possessing a valid driving licence as on the date of the accident and also that the motorcycle which the deceased was riding was not insured. It also stated that the accident occurred solely due to the negligence on the part of the deceased in riding the motor cycle. Thus, the insurer prayed for dismissal of the claim petition.



7. Before the Tribunal, claimant No.1 got examined himself as P.W.1, and produced and marked eight documents as Exs.P.1 to P.8. The respondents did not examine any witness nor produced any documentary evidence. The Tribunal, on examination of the material on record, awarded a total compensation of Rs.21,69,000/- on the following heads:

|    |                    |                    |
|----|--------------------|--------------------|
| 1. | Loss of dependency | 20,79,000/-        |
| 2. | Love and Affection | 60,000/-           |
| 3. | Loss of Estate     | 15,000/-           |
| 4. | Funeral expenses   | 15,000/-           |
|    | <b>Total</b>       | <b>21,69,000/-</b> |

The Tribunal while saddling the liability to pay the compensation, based on the evidence on record, came to the conclusion that the deceased had also contributed to the occurrence of the accident and thus, fixed the contributory negligence to an extent of 70% on the driver of the tipper lorry and 30% on the deceased who was riding the motorcycle.

8. The insurer is in appeal contending that the contributory negligence ought to have been fixed equally i.e., 50% each on the driver of the tipper lorry and the deceased, whereas the claimants are in appeal seeking enhancement of the



compensation as well as questioning 30% of contributory negligence saddled on the deceased.

9. Learned counsel appearing for the insurer would submit that the deceased, who was riding the motorcycle, came from behind and dashed the tipper lorry which was stationed on the left side of the road. Thus, he would submit that there was contributory negligence on the part of the deceased – rider of the motor cycle. Learned counsel would submit that, moreover, the deceased was not having a valid driving licence to ride the motor cycle and that the motorcycle which the deceased was riding was not insured under an insurance policy. Thus, the learned counsel would submit that the Tribunal assessing the material on record has come to the conclusion that the deceased also contributed to the occurrence of the accident. He would submit that the contributory negligence has to be assessed at 50% each on the driver of the tipper lorry as well as on the rider of the motor cycle i.e., the deceased. Thus, he prays for allowing the appeal filed by the insurer.

10. Learned counsel for claimant, Sri. Ashok A.Naik would submit that the accident occurred solely due to negligent



parking of the tipper lorry since the tipper lorry was parked not on the left side of the road but on the middle of the road without any parking lights. Therefore, learned counsel would submit that saddling of contributory negligence to an extent of 30% on the deceased rider of the motor cycle is wholly illegal and opposed to the material on record. Thus, learned counsel would request to set aside the finding recorded by the Tribunal with regard to saddling of 30% contributory negligence on the deceased.

11. Learned counsel for the claimants would further submit that the Tribunal committed a grave error in not granting proper compensation on the head of 'loss of filial consortium' and also in not granting escalation on the compensation awarded under the heads 'loss of filial consortium', 'loss of estate', and 'funeral expenses'. Thus, he would pray for allowing the appeal filed by the claimants.

12. Having heard the learned counsel for the parties and on perusal of the appeal papers, the following points arise for consideration:

- (i) Whether the Tribunal is justified in saddling 30% contributory negligence on the deceased



and 70% contributory negligence on the driver of the tipper lorry?

- (ii) Whether the claimants would be entitled for enhancement of compensation?

13. Our answer to the above points would be in the affirmative, for the following reasons:

- (a) The accident in question that took place on 01.10.2020 involving motorcycle bearing registration No.KA-23/EQ-0680 and a tipper lorry bearing registration No.KA-23/A-7402 and the resultant death of Premakumar Golasangi is not in dispute in this appeal. It is also not in dispute that the deceased, who had no valid driving licence, riding the motorcycle came from behind and dashed to the stationary tipper lorry. It is also not in dispute that the motorcycle which the deceased was riding was not insured. The Tribunal on appreciating the evidence on record, came to the conclusion that the tipper lorry was parked on the road without any indicator for having parked the tipper on the road. Thus, The Tribunal came to the conclusion that there is negligence on the driver of the tipper lorry. The accident



had occurred in the night at 8.00 p.m. It has also come on record that the rider of the motorcycle (deceased) was riding the motorcycle in a rash and negligent manner that too without having a valid driving licence as on the date of the accident. The Tribunal placing reliance on a judgment of this Court in ***New India Assurance Company Ltd. Vs. Yousuf Basha and another***<sup>1</sup>, has rightly saddled 30% contributory negligence on the rider of the motorcycle i.e., the deceased, and 70% on the driver of the tipper lorry, which needs no interference.

- (b) The Tribunal, considering the chart prepared by the Karnataka State Legal Services Authority, and the accident having taken place in the year 2020, has rightly assessed the notional income of the deceased at Rs.13,750/- per month. The Tribunal has rightly added 40% of the assessed income towards 'future prospects', adopted correct multiplier '18' having regard to age of the deceased, rightly deducted 50% towards personal expenses of the deceased since the deceased was a bachelor, and has awarded

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<sup>1</sup> 2015 Kant.MAC 244



compensation of Rs.20,79,000/- under the head 'loss of dependency', which needs no interference.

(c) Though the Tribunal has awarded a sum of Rs.60,000/- towards 'love and affection', in view of the decision of ***Magma General Insurance Company Ltd., Vs. Nanu Ram and Others***<sup>2</sup>, the Tribunal has erred in not awarding Rs.40,000/-each to the parents of the deceased towards 'loss of filial consortium'. Hence, the claimants are entitled to a sum of Rs.40,000/- each towards 'loss of filial consortium' with 10% escalation on the said amount, as against Rs.60,000/- awarded by the Tribunal.

(d) The Tribunal has rightly awarded Rs.15,000/- each under the heads 'loss of estate' and 'funeral expenses'. However, the Tribunal has not given the escalation of 10% and hence, the claimants would also be entitled to escalation at 10% on the heads 'loss of estate' and 'funeral expenses'.

14. Thus, the claimants would be entitled for modified compensation as under:

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<sup>2</sup> 2018 ACJ 2782



|    |                           |                    |
|----|---------------------------|--------------------|
| 1. | Loss of dependency        | 20,79,000/-        |
| 2. | Loss of filial consortium | 88,000/-           |
| 3. | Loss of Estate            | 16,500/-           |
| 4. | Funeral expenses          | 16,500/-           |
|    | <b>Total</b>              | <b>22,00,000/-</b> |

Thus, the claimants would be entitled to total compensation of Rs.22,00,000/- as against Rs.21,69,000/- awarded by the Tribunal. The enhanced compensation shall carry interest at the rate of 6% per annum.

In view of the above, we pass the following:

**ORDER**

- (i) M.F.A. No.104100/2023 filed by the insurance company is dismissed.
- (ii) M.F.A. No.100886/2024 filed by the claimants is allowed in part.
- (iii) The judgment and award, dated 16.05.2023, passed in M.V.C. No.1672/2020 by the Senior Civil Judge and Motor Accident Claims Tribunal, Raibag, is modified to the extent of holding that the claimants would be entitled to total compensation of Rs.22,00,000/- as against Rs.21,69,000/- awarded by the Tribunal. The enhanced compensation shall carry interest at the rate of 6% per annum from the date of claim petition till the date of realization.



- (iv) The judgment and award of the Tribunal with regard to fixing contributory negligence to the extent of 70% on the driver of the tipper lorry and 30% on the rider of the motorcycle i.e., the deceased is affirmed.
- (v) The appellant-Insurance Company shall deposit the compensation amount to the extent of liability saddled on it, with accrued interest before the Tribunal within six weeks from the date of receipt of certified copy of this judgment.
- (vi) Draw modified award accordingly.

The amount in deposit before this Court be transmitted to Tribunal forthwith.

Pending interlocutory applications, if any, stand disposed of as not surviving for consideration.

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

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