



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 10TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 100835 OF 2014 (MV)

BETWEEN:

1. SMT. SHASHIKALA W/O. ASHOK
@ BASAVARAJ KARIGAR @ KURUGUND,
AGE: 35 YEARS, OCC: HOUSEHOLD WORK
R/O. DESHANUR CHAWL,
BAILHONGAL, DIST: BELGAUM-591102.
2. KUMAR VINOD S/O. ASHOK
@ BASAVARAJ KARIGAR @ KURUGUND
AGE: 17 YEARS, OCC: STUDENT
3. KUMAR VIJAY S/O. ASHOK
@ BASAVARAJ KARIGAR @ KURUGUND
AGE: 15 YEARS, OCC: STUDENT
(APPELLANT NO.2 AND 3 MINORS, REPRESENTED BY
M/G APPELLANT NO.1 SMT. SHASHIKALA W/O.
ASHOK @ BASAVARAJ KARIGAR @ KURUGUND,
R/O. DESHANUR CHAWL,
BAILHONGAL DIST: BELGAUM

...APPELLANTS

(BY MISS. VINUTA M. KHANNAUR, ADVOCATE FOR SRI. M.M.
KHANNUR AND S.G. BUDAYYANAVARMATH AND KUM. S.H.
DODDAMANI, ADVOCATES)



AND:

1. SHRI VENKATARAMANA S/O. RAMAIAH N.
AGE: MAJOR, OCC: BUSINESS
R/O. 13/28, RAMAKRISHNAPPA BLOCK, 1ST CROSS,
MUNIREDDPALYA, J.C. NAGAR,
BANGALORE-560006.
2. THE GENERAL MANAGER/ MANAGER LEGAL
HDFC ERGO GENERAL INSURANCE CO. LTD.,
1ST FLOOR, VEERUPAX KRUPA,
OPP: KIMS HOSPITAL,
MAIN GATE, HUBLI-580020, DIST: DHARWAD.

...RESPONDENTS

(NOTICE TO R1 IS DISPENSED WITH V/O. DATED:02.03.2015;
SRI. S.K. KAYAKAMATH, ADVOCATE FOR R2 (VC))

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR
VEHICLES ACT, 1988 PRAYING TO MODIFY THE JUDGMENT AND
AWARD DATED 16.11.2013 IN M.V.C NO.799/2012 PASSED BY
THE COURT OF SENIOR CIVIL JUDGE, ASSISTANT SESSIONS
JUDGE AND ADDL. M.A.C.T BAILHONGAL AT: BAILHONGAL, AND
AWARD THE COMPENSATION AS CLAIMED IN THE CLAIM
PETITION, IN THE INTEREST OF JUSTICE AND EQUITY.

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



ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

Heard the arguments of learned counsel Miss Vinuta M Khannur for Sri M.M.Khannur for the appellants and learned counsel Sri S.K.Kayakamath for respondent No.2.

2. Claimants/appellants have filed this appeal under Section 173(1) of the Motor Vehicles Act, 1988 praying for enhancement of compensation under different heads by challenging the judgment and award passed in MVC No.799/2012 dated 16.11.2013 on the file of Senior Civil Judge, Assistant Sessions Judge and Additional MACT, Bailhongal (for short, 'the Tribunal').

3. The parties would be referred to as per their ranks before the Tribunal, for the sake of convenience and clarity.

4. The claimants have filed the petition under S.166 of MV Act, 1988 praying for compensation in view of death



of Ashok @ basavaraj that had taken place in road traffic accident before the Tribunal.

5. Brief facts of the case are that the accident happened on 29.11.2011 at 11.00 a.m. on Bengaluru-Hosur road, NH-7 Chandapur service road in front of Chektra Hospital, Chandapur village when deceased Ashok @ Basavaraj S/o Bhimappa Karigar @ Kurugund was riding his bicycle; at that time Bajaj Pulsor motorcycle bearing Reg.No.KA-04/HC-6251 came from opposite direction and hit the bicycle, which caused the accident and it resulted in grievous injuries to the deceased. Immediately after the accident he was shifted to the NIMHANS, Bengaluru, wherein he succumbed to injuries on 03.12.2011. Claimants are his wife and minor children and were entirely depending upon the deceased. In view of the accident, they lost the only bread earner of the family. Hence, they filed claim petition claiming compensation under different heads.



6. On service of notice, respondent No.2-insurer appeared through its counsel and filed objection statement and taken all the defence available to the owner and insurer. Hence, prayed for dismissal of the claim petition.

7. On behalf of claimants, claimant No.1 was examined as PW.1 apart from marking Exs.P.1 to P.19 and closed their side. On behalf of respondents, no evidence was let in.

8. After recording evidence of both sides and hearing the arguments of both sides, the Tribunal came to the conclusion that accident happened due to rash and negligent driving of the riding of the Bajaj Pulsor motorcycle bearing Reg.No.KA-04/HC-6251 and because of that, the deceased died. The Tribunal has passed the judgment by awarding total compensation of Rs.12,46,080/- under the following heads:

1.	Loss of dependency	Rs.11,86,080/-
2.	Loss of estate	Rs.15,000/-



3.	Loss of love and affection	Rs.15,000/-
4.	Loss of Consortium	Rs.15,000/-
4.	Funeral and obsequies	Rs.15,000/-
	Total	Rs.12,46,080/-

9. Not satisfied with the said amount, the appellants/claimants have filed this appeal praying for enhancement of compensation.

10. Learned counsel Miss Vinuta M Khannur for the appellants would submit that the Tribunal has not made calculation properly and not awarded compensation properly under different heads, as per the guidelines given by the Hon'ble Apex Court in the case of **National Insurance Company Limited vs. Pranay Sethi and Others** reported in **(2017) 16 SCC 680** and **Magma General Insurance Co. Limited Vs. Nanu Ram alias Chuhru Ram and Others** reported in **ACJ 2018 2782**. Hence, prayed for enhancement of compensation.



11. Learned counsel for respondent No.2-insurer Sri S.K.Kayakamath would fairly submit that there was improper calculation by the Tribunal and further submit that the Tribunal has taken future prospects at 30%, which ought to have been taken at 25% as per ***Pranay Sethi's*** case, because job of the deceased was only security person in private concern and it is not a permanent job.

12. Having heard the arguments of both sides and on verifying the appeal papers, the only point that would arise for consideration is, "*Whether claimants are entitled for enhanced compensation?*"

13. Answer to the above point would be in the "**affirmative**" for the following reasons:

14. The admitted facts are that the accident happened on 29.11.2011 at 11.00 a.m. in between bicycle being rode by the deceased Ashok @ Basavaraj S/o Bhimappa Karigar @ Kurugund and the two wheeler motorcycle bearing Reg.No.KA-04/HC-6251 being rode by



the first respondent. Because of the said accident occurred on 29.11.2011, on 03.12.2011 i.e., within four days of the accident, Ashok @ Basavaraj succumbed to injuries at NIMHANS, Bengaluru and thus the accident and death of Ashok was proved.

15. The only point for consideration is whether the compensation awarded by the Tribunal under different heads is proper. The Tribunal has taken the income of the deceased at ₹.9,300/- per month basing his salary slip at Ex.P.11. As per ***Pranay Sethi's*** case cited supra 25% of his income is to be added towards future prospects as the age of the deceased was 43 years at the time of accident and he was not having permanent job. If said 25% is added to his salary of Rs.9,300/-, then the total would be ₹.11,625/-.

16. There were three dependants on the deceased. Thus, relying on the judgment of Hon'ble Apex Court in the case of ***Sarla Verma and Others vs. Delhi Transport Corporation and Another*** reported in ***(2009) 6 SCC 121***,



1/3rd of his income is to be deducted towards his personal and living expenses i.e. ₹.3,875/-. Thus, the income of the deceased would be ₹.7,750/- per month. The proper multiplier would be 14. Hence, the compensation under the head loss of dependency would be ₹.13,02,000/- (₹.7,750 x 12 x 14).

17. As far as other heads are concerned i.e., loss of estate and funeral expenses, the Tribunal has awarded compensation of ₹.15,000/- each; whereas according to the ***Pranay Sethi's*** case cited supra, 10% escalation is to be added. Thus, the claimants are entitled for compensation at ₹.16,500/- under the heads loss of estate and funeral expenses.

18. As far as awarding compensation under the head loss of love and affection at ₹.15,000/- would not come into effect because as per the judgments in ***Pranay Sethi*** and ***Magma's case*** cited supra, each claimants are entitled for



₹.44,000/- each, towards loss of different types of consortium including 10% escalation.

19. Thus, the claimants are entitled total compensation at ₹.14,67,000/- as against ₹.12,46,080/- awarded by the Tribunal as under:

Sl. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Loss of dependency	₹.11,86,080/-	₹.13,02,000/-
2	Loss of estate	₹.15,000/-	₹.16,500/-
3	Loss of love and affection	₹.15,000/-	--
4	Loss of consortium	₹.15,000/-	₹.1,32,000/-
5	Funeral and obsequies	₹.15,000/-	₹.16,500/-
	Total	₹.12,46,080/-	₹.14,67,000/-

20. In view of the aforesaid discussion, I pass the following:



ORDER

- a. Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is allowed by modifying the judgment and award passed in MVC No.799/2012 dated 16.11.2013 on the file of Senior Civil Judge, Assistant Sessions Judge and Additional MACT, Bailhongal.
- b. Claimants are entitled for total compensation at ₹.14,67,000/- as against ₹.12,46,080/- awarded by the Tribunal.
- c. The compensation shall carry interest at the rate of 6% per annum from the date of petition till the date of disbursement of compensation.
- d. Respondent No.2 shall deposit the compensation amount within eight weeks from the date of receipt of a certified copy of this order.



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e. As far as disbursement and allotment to each claimants by the Tribunal is concerned, the same is unaltered.

Sd/-
(GEETHA K.B.)
JUDGE

SH, CT-CMU
LIST NO.: 1 SL NO.: 12