



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 19TH 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.100858 OF 2022 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.103047 OF 2022

IN MFA NO.100858/2022

BETWEEN:

THE LEGAL CLAIM MANAGER
IFFCO-TOKIO, GENERAL INSURANCE CO. LTD.,
SUDEV PLAZA, 3RD FLOOR, OPP. LAXMI TEMPLE,
DAJIBANPETH, HUBBALLI-580020,
NOW REPRESENTED BY ITS
AUTHORISED SIGNATORY.

...APPELLANT

(BY SRI SUBHASH J. BADDI, ADVOCATE)

AND:

1. SMT. LAXMAVVA W/O. GUDDAPPA HAVERI,
AGE. 46 YEARS, OCC. HOUSEHOLD WORK
2. SRI. GUDDAPPA S/O. SHIVAPPA HAVERI
AGED ABOUT 52 YEARS, OCC. COOLIE WORK
3. KUM. GOURAMMA D/O. GUDDAPPA HAVERI
AGED ABOUT 22 YEARS, OCC. STUDENT,



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4. KUM. ROOPA D/O. GUDDAPPA HAVERI
AGED ABOUT 20 YEARS, OCC. STUDENT
ALL ARE R/O. TIMMENAHALLI VILLAGE,
TQ. BYADAGI, DIST. HAVERI-581128.
5. SRI ANWAR SAB S/O. MASJIDSAB NALABAND
AGE. MAJOR, OCC. BUSINESS
R/O. TAF NAGAR, TQ. RANEBENNUR
DIST. HAVERI-581115.

...RESPONDENTS

(BY SRI NAGARAJ J. APPANNAVAR, ADVOCATE FOR R1 TO R4;
SRI PRUTVI K.S. ADVOCATE FOR R5)

THIS MFA FILED U/S.173 (1) OF MOTOR VEHICLES ACT,
PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED
29.10.2021 PASSED IN MVC NO.1001/2017 ON THE FILE OF THE
SENIOR CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS,
BYADAGI, WITH COST IN THE INTEREST OF JUSTICE AND
EQUITY.

IN MFA NO.103047/2022
BETWEEN:

1. SMT. LAXMAVVA W/O. GUDDAPPA HAVERI
AGE. 46 YEARS, OCC. HOUSEHOLD WORK,
2. SHRI GUDDAPPA S/O. SHIVAPPA HAVERI
AGE. 52 YEARS, OCC. COOLIE WORK,
3. KUM. GOURAMMA D/O. GUDDAPPA HAVERI
AGE. 22 YEARS, OCC. STUDENT,
4. KUM. ROOPA D/O. GUDDAPPA HAVERI
AGE. 20 YEARS, OCC. STUDENT,
ALL ARE R/O. TIMMENAHALLI VILLAGE,
TQ. BYADAGI, DIST. HAVERI-581106.

...APPELLANTS

(BY SRI. NAGARAJ J. APPANNANAVAR, ADVOCATE)



AND:

1. SHRI ANWAR SAB S/O. MAJIDSAB NALABAND
AGE. 40 YEARS, OCC. BUSINESS,
R/O. RAF NAGAR, RANEBENNUR
TQ. RANEBENNUR, DIST. HAVERI-581115

(OWNER OF THE TATA ACE VEHICLE
BEARING ITS REG.NO.KA-27/A-4016)

2. THE LEGAL CLAIMS MANAGER
IFFCO-TOKIOT GENERAL INSURANCE CO.LTD.,
SUDEV PLAZA 3RD FLOOR, OPP. LAXMI TEMPLE,
DAJIBANPETH, HUBLI-580028.

...RESPONDENTS

(BY SRI PRUTHVI K.S. ADVOCATE FOR 1;
SRI SUBHASH J. BADDI, ADVOCATE FOR R2)

THIS MFA FILED U/S.173 (1) OF MOTOR VEHICLES ACT,
PRAYING TO MODIFY BY ENHANCING THE JUDGMENT AND
AWARD DATED 29.10.2021 PASSED IN MVC NO.1001/2017 ON
THE FILE OF THE SENIOR CIVIL JUDGE AND JUDICIAL
MAGISTRATE FIRST CLASS, BYADAGI, WITH COST IN THE
INTEREST OF JUSTICE AND EQUITY.

THESE APPEALS, COMING ON FOR ADMISSION, 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 MRS JUSTICE GEETHA K.B.)

The insurer and claimants are in appeal questioning the judgment and award dated 29.10.2021 in M.V.C. No.1001/2017 on the file of Senior Civil Judge and J.M.F.C., Byadagi (for short' Tribunal'). The claimants are in appeal not being satisfied with the quantum of compensation awarded whereas the insurer is in appeal contending that the compensation awarded by the tribunal is on higher side and also challenges the liability of the insurer.

2. Parties would be referred with their ranks, as they were before the Tribunal.

3. The claimants being the parents and unmarried sisters of deceased Sridhar have filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') claiming compensation for the accidental death of son of claimant Nos.1 and 2 in a road traffic accident that had taken place on 15.03.2017 at about 17.30 hours near



Karekatte on Yerekuppi-Saravand road involving the Tata Ace vehicle bearing registration No.KA-27/A-4016 and motorcycle bearing registration No.KA-27/EJ-2362. It is stated in the claim petition that the deceased has completed II PUC and ITI in Electrician course. At the time of accident, he was aged about 22 years, working at Kudremukh Iron and Ore Company Limited at Ranebennur and Mangaluru and he was getting salary of Rs.15,000/- per month. The deceased was very talented and skilled technician in his job and was having bright future in his avocation. Hence, prayed for compensation.

4. On receipt of notice, first respondent-owner of the Tata Ace appeared through his counsel and filed his detailed objection wherein he denied the entire averments made in the petition and further contended that his vehicle was validly insured with second respondent as on the date of accident and policy was in force and hence second respondent is liable to pay compensation to petitioners, if the Court comes to the conclusion that the respondents are



liable to pay compensation. He further contended that the accident happened due to rash and negligent riding of motorcycle by deceased Sridhar and not due to the driving of driver of Tata Ace vehicle. Hence, prayed for dismissal of the petition.

5. Second respondent-insurer appeared through its counsel and filed its objection statement, wherein it denied the entire averments made in the petition and further contended that the driver of Tata Ace has willfully driven the said vehicle and was not having valid and effective driving license to drive the Light Goods vehicle as on the date of accident. Hence, without knowing the driving and without obtaining license from the licensing authority he has driven the vehicle. Hence, violated the provisions of the Act. Hence respondent-insurance Company is not liable to pay compensation. It further took contention that the rider and owner of two wheeler bearing registration No.KA-27/EJ-2362 are not made as parties to the petition and thus the claim petition is not maintainable for non-joinder of



necessary parties. Hence prayed for dismissal of the petition.

6. On behalf of claimants, first claimant was examined as PW1, apart from marking Exs.P.1 to P.43 and closed their side before the Tribunal. On behalf of respondents, respondents examined RW.1 and RW.2 apart from marking Exs.R.1 to R.8 and closed their side before the Tribunal.

7. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that petitioners are entitled for compensation of Rs.22,30,000/- with interest at 9% per annum under following different heads:-

1.	Love and Affection	2,00,000/-
2.	Loss of dependency	20,16,000/-
3.	Funeral, obsequies and transportation expenses	14,000/-
Total		22,30,000/-

8. While awarding the aforesaid compensation, the Tribunal held that the monthly income of deceased at



Rs.14,000/-, applied the relevant multiplier - 18 and deducted the 1/3 of his income towards his personal expenses.

9. Aggrieved by the said judgment and award of the Tribunal, the insurer as well as the claimants is before this Court.

10. Heard the learned counsel for appellant Sri Subhash J. Baddi, learned counsel for Respondent Nos.1 to 4 Sri Nagaraj J. Appannavar and learned counsel for respondent No.5 Sri Pruthivi K.S., and perused the appeal papers along with original records of the Tribunal.

11. The learned counsel for claimants would submit that the deceased was having a bright future as he completed his II PUC and ITI in Electrician course, was already appointed and working at Kudremukh Iron and Ore Co. Ltd., at Ranebennur and also at Mangaluru. Thus, the salary income taken by the Tribunal at Rs.14,000/- is incorrect. In this regard he relied upon the judgment of Co-



ordinate Bench of this Court in MFA No.102220/2020 c/w MFA No.102048/2020 dated 17.07.2023. He would further submit that the compensation under the head parental consortium was not granted to the claimant Nos. 1 and 2 as per the Judgment of Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi & Others¹***. He would further submit that loss towards estate is not given and expenses towards funeral and obsequies ceremonies given by the Tribunal is on lower side. Hence prayed for enhancement of compensation.

12. Learned counsel for respondents No.1 to 4 Sri.Nagaraj J. Appannavar would submit that there was no effective and valid driving license to the rider of motorcycle who died in the accident and he was not wearing helmet and because of that, head injury was caused to him. Hence, there is contributory negligence on the part of deceased. He further would submit that there was no fitness certificate to the Tata Ace vehicle at the time of accident and thus insurer

¹ (2017) 16 SCC 680



is not liable to pay compensation. He would further submit that under the head loss of love and affection, the Tribunal has granted Compensation of Rs.2,00,000/- which is on higher side and claimant Nos.3 and 4 are not entitled for compensation. Further the rate of interest awarded by the Tribunal is on higher side i.e., at 9% instead of 6%. He would further submit that admittedly at the time of accident, the deceased was getting salary of Rs.6,879/- as he was doing apprenticeship. Hence, the Tribunal ought not to have taken the income of the deceased at Rs.14,000/- per month. At the most, it could have taken the income of deceased at Rs.10,250/-, the notional income fixed by Karnataka State Legal Services Authority guidelines for Lok-adalat. Hence, prayed for modification of the judgment and award and to exonerate the insurer from the liability.

13. Having heard the arguments of both sides and verifying the appeal papers and also records of the Tribunal, the points that would arise for our consideration are:



- 1) Whether Tribunal is justified in determining the income of deceased at Rs.14,000/- per month?
- 2) Whether the claimants would be entitled for 40% income towards future prospects?
- 3) Whether claimants would be entitled for enhanced compensation?
- 4) Whether insurer is to be exonerated for want of fitness certificate?
- 5) Whether there was contributory negligence on the part of deceased in riding the motor vehicle.

14. Findings on the above points are as under for the following reasons:-

- 1) In the Affirmative;
- 2) In the Affirmative;
- 3) In the Affirmative;
- 4) In the Negative;
- 5) In the Negative;



15. There is no serious dispute regarding the date, month, year, place of accident and the nature of accident that had taken place. It is a fact that deceased was not possessing driving license to ride motorcycle at the time of accident. Ex.P.27 reveals that deceased was appointed as a Trade Apprentice/Electrician at Kudremukh Iron and Ore Co. Ltd., at Ranebennur and also at Mangaluru, as per appointment letter dated 17.12.2016. The SSLC marks card, ITI marks card and other educational documents of deceased are produced. They reveal that deceased has completed his ITI (Electrical) and was having bright future. Considering it, the income of deceased taken at Rs. 14,000/- by the Tribunal is proper and it requires no interference. However, while assessing the loss of dependency, the Tribunal erred in deducting $1/3^{\text{rd}}$ of his income towards his personal expenses instead of deducting 50% as he was a bachelor and left behind his parents and sisters and they were wholly depending upon him as per ***Sarala Verma(Smt) and others Vs. Delhi Transport***



Corporation and another² case. Hence, we are of the opinion that 50% of the income of deceased is to be deducted towards his personal expenses. Relying on **Pranay Sethi's** case 40% of the income is to be added towards future prospects because deceased was not having fixed avocation. Thus the claimant Nos.1 and 2 being parents of the deceased are entitled for compensation of Rs.21,16,800/-(14,000+ 40%/2X12X18).

16. Granting compensation under the head of loss of love and affection at Rs. 2,00,000/- by the Tribunal is on higher side. As per **Pranay Sethi's** case and **Magma General Insurance Company Ltd.,** claimant Nos.1 & 2 are entitled for Rs.40,000/- plus 10% escalation charges i.e. 44,000/- each totally Rs.88,000/- under the head loss of parental consortium. Further, claimants No.3 & 4 are not entitled for compensation.

² (2009) 6 SCC 121



17. As far as loss towards Estate, the Tribunal has not granted any compensation. Under said head, claimants are entitled for Rs.15,000 /- + 10% escalation charges i.e., Rs.16,500/-.

18. Likewise under the head of Funeral, obsequies and transportation expenses, the Tribunal has granted compensation of only Rs.14,000/- instead of granting Rs.15,000/- + 10% escalation charges i.e. Rs.16,500/-. Thus, claimants are entitled for compensation under following heads.

1.	Parental consortium	88,000/-
2.	Loss of dependency	21,16,800/-
3.	Loss of Estate	16,500/-
3.	Funeral, obsequies and transportation expenses	16,500/-
Total		22,37,800/-

19. The learned counsel for insurer vehemently submitted his arguments that there is contributory negligence on the part of rider of the motorcycle by not wearing helmet and not possessing driving license. However the complaint and panchanama do not reveal that the rider



of the motorcycle was not wearing helmet at the time of accident. Merely because the rider of the motorcycle was not having driving license, it cannot be said that there is contributory negligence on his part in causing the accident.

20. The panchanamma and spot sketch as per Exs.P.6 and P.7 reveals that the motorcycle rider was riding the motorcycle on left side of the road whereas Tata Ace vehicle came on right side and dashed against the deceased and hence it cannot be said that there is contributory negligence on the part of deceased in causing the accident.

21. The learned counsel for insurer vehemently submitted his arguments that there was no fitness certificate to the Tata Ace vehicle and thus, there is violation of terms and conditions of Insurance policy and thus, it is not liable to pay compensation.

22. In this regard, the co-ordinate bench of this court in MFA 102220/2020 c/w MFA NO.102048/2020 held at paragraph No.15 as follows:



*"15. Possessing valid Fitness Certificate or not, is not a valid defence available under the provisions of MV Act to deny its liability by the insurer. In an identical fact situation, a co-ordinate Bench of this Court in the case of **Oriental Insurance Co. Ltd. Vs. Kumara & Others²**, on considering the provisions of Sections 56(1), 66(1) and 84(A) of the MV Act has specifically held that even if there is no valid fitness certificate as on the date of the accident, it is not a defence available for the insurance company and it is not the condition which is mentioned in the policy, but it is only an offence under the MV Act and the insurer cannot escape from the liability. Thus, the contention of the insurer that as there was no valid fitness certificate as on the date of the accident, the insurance company is not liable to pay compensation is liable to be rejected and accordingly, it is rejected."*

23. Even in the instant case also, merely because there is no fitness certificate to the vehicle which caused the accident, it cannot be said that the insurer is not liable to pay compensation. Hence, the contention of insurer on this point is rejected.

24. The Tribunal while awarding compensation has granted the rate of interest at 9% per annum. Taking note of the present day's bank rate of interest, we are inclined to reduce the rate of interest on the compensation amount from 9% to 6% per annum. Thus, the claimants would be



entitled for total compensation of Rs. **22,37,800/-** as against Rs.**22,30,000/-** awarded by the Tribunal with interest at 6% per annum from the date of petition till date of realization.

25. In the result, we proceed to pass the following order:

ORDER

- 1) Both the appeals are allowed in part.
- 2) The impugned judgment and award of the Tribunal is modified to an extent that claimant Nos.1 and 2 are entitled for total compensation of Rs. **22,37,800/-** as against Rs.**22,30,000/-** awarded by the Tribunal.
- 3) The entire compensation amount will carry interest at 6% per annum from the date of claim petition till its realization.
- 4) The appellant-Insurer in MFA No.100858/2022 shall deposit the entire compensation amount with accrued interest before the Tribunal within a period of 8



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

- 5) The amount in deposit if any, be transmitted to the Tribunal forthwith along with original records.
- 6) Claimant Nos.1 & 2 are entitled for compensation at 70% and 30% respectively.
- 7) Deposit and disbursement shall be made as per the Award of the Tribunal.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

HMB
CT-CMU
LIST NO.: 1 SL NO.: 38