



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 17TH DAY OF DECEMBER, 2025
PRESENT
THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.
MISCELLANEOUS FIRST APPEAL NO.102924/2017 (MV-D)
C/W
MISCELLANEOUS FIRST APPEAL NO. 103518 OF 2017

IN MFA NO.102924/2017
BETWEEN:

THE BRANCH MANAGER,
THE NEW INDIA ASSURANCE COMPANY LIMITED,
HANAMASHETTY BUILDING, GURUKUL ROAD,
VIJAYAPURA,
BY ITS DULY CONSTITUTED ATTORNEY.

...PETITIONER

(BY SRI G.N. RAICHUR, ADVOCATE.)

AND:

1. SMT. MEHADEVI W/O. RAMAPPA KALYANI,
AGE: 49 YEARS, OCC: HOUSEHOLD WORK
R/O: MAREGUDDI TQ. JAMKHANDI
DIST.BAGALKOT-587101.
2. RAVIKUMAR T. S/O. RAMCHANDRARAO
AGE: 46 YEARS, OCC: BUSINESS
R/O: 4-33-39 BIMANNAVARIPETH,
OPP MILK PROJECT, VIJAYAWADA 01
ANDHRA PRADESH.

...RESPONDENTS

(BY SRI SIDDAPPA S. SAJJAN, ADVOCATE FOR R1;
NOTICE SERVED TO R2.)



NC: 2025:KHC-D:18352-DB
MFA No. 102924 of 2017
C/W MFA No. 103518 of 2017

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 03.05.2017 PASSED IN MVC NO.276/2013 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL-VI, JAMKHANDI, BY EXONERATING THE APPELLANT INSURANCE COMPANY BY ALLOWING THIS APPEAL WITH COST IN THE ENDS OF JUSTICE AND EQUITY.

IN MFA NO.103518/2017
BETWEEN:

SMT. MAHADEVI W/O. RAMAPPA KALYANI
AGE: 49 YEARS, OCC: HOUSEHOLD,
R/O. MAREGUDDI, TQ. JAMKHANDI,
DIST. BAGALKOTE-587301.

...APPELLANT

(BY SRI SIDDAPPA S. SAJJAN, ADVOCATE.)

AND:

1. SRI RAVIKUMAR T. S/O. RAMCHANDRARAO
AGE: 46 YEARS, OCC: BUSINESS,
R/O: 4-33-39, BIMANNAVARIPETH,
OPP: MILK PROJECT, VIJAYAWADA-520013,
ANDHRA PRADESH.

2. THE BRANCH MANAGER
THE NEW INDIA ASSURANCE CO. LTD.,
HANAMASHETTY BUILDING,
GURUKUL ROAD, VIJAYAPURA-586101.

...RESPONDENTS

(BY SRI G.N. RAICHUR, ADVOCATE FOR R2;
R1- NOTICE DISPENSED WITH.)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO ENHANCE THE COMPENSATION AND AWARD COMPENSATION AS CLAIMED BY THE APPELLANT BY MODIFYING THE AWARD DATED



03.05.2017 PASSED IN MVC NO.276/2013 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND MEMBER, MOTOR ACCIDENT CLAIMS TRIBUNAL-VI, JAMKHANDI, IN THE INTEREST OF JUSTICE AND EQUITY.

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 MRS JUSTICE GEETHA K.B.)

These appeals are preferred under Section 173(1) of the Motor Vehicles Act, 1988, by the insurer and the unsatisfied claimant, respectively challenging the judgment and award passed in MVC No.276/2013, dated 03.05.2017, on the file of Additional Senior Civil Judge and Member, MACT-VI, Jamakhandi, (for short the 'Tribunal').

2. Parties would be referred with their ranks, as they were before the Tribunal for the sake of convenience and clarity.

3. The insurer has filed the appeal questioning saddling of liability upon insurance company alleging breach



of basic policy condition and the claimant has filed the appeal seeking enhancement of quantum of compensation.

4. Claimant has filed the claim petition under Section 166 of Motor Vehicles Act, 1988 (for short, 'the Act'), seeking compensation for the death of her son- Chandrasekhar in a motor vehicle accident that had taken place on 16.04.2013 at about 02.50 p.m. on Jamkhandi-Banahatti PWD road in front of Town Police Station, Jamkhandi, involving motorcycle bearing registration No.KA-48/E-5114 and truck bearing registration No.AP-16/TT-3236.

5. The case of claimant in a nutshell is that, when the son of claimant was proceeding towards A.G.Desai Circle on his motorcycle bearing registration No.KA-48/E-5114 in front of Jamakhandi Town Police Station, the driver of truck bearing No.AP-16/TT-3236 drove it rashly and negligently without applying brake and blow the horn and dashed the motorcycle from hind side and



thereby caused the accident. Due to the accident, son of claimant sustained grievous injuries and while on the way to hospital, he succumbed to those injuries. Claimant further contended that her son was aged about 29 years, doing petty business in Mareguddi village and earning ₹10,000/- per month.

6. After service of notice, respondent No.2, the insurer appeared through its counsel and filed objection statement wherein it denied the accident involving the offending vehicle, negligence on the part of driver of the truck and denied all its liability. The insurance Company further took contention that the truck in question had no valid fitness certificate as on the date of accident. The driver was not having valid and effective driving license. The owner and insurer of the motorcycle are also proper and necessary parties to the petition. Hence, prayed for dismissal of the petition. It also took contention that it will take all the contentions that are available under Section 170



of the Act, if the owner colluded with the petitioner and remain uncontested.

7. On behalf of claimant, claimant was examined as PW.1 apart from marking Exs.P.1 to P.7 before the tribunal and on behalf of respondent No.2, its Administrative Officer was examined as RW.1 apart from marking Exs.R.1 and R.2.

8. After recording evidence of both sides and hearing arguments of both sides, the Tribunal has passed the judgment and award, awarding total compensation of ₹6,32,000/- with interest at 9% per annum from the date of petition till its deposit and saddling liability on the insurance holding that the insurer failed to produce evidence to show the owner had knowledge or consented to drive the truck in question.

9. Aggrieved by the same, the insurer has filed appeal on the ground that the driver of the truck in question was in intoxicated state of mind at the time of alleged



accident and charge sheet is filed against him alleging the offence under Section 185 of the Act, which itself establish the intoxication against the driver and owner has knowledge about it; hence the basic condition of the insurance policy was violated by the owner and hence, it is not liable to pay compensation.

10. On the other hand, the claimant has filed appeal praying for enhancement of compensation on the ground that the compensation awarded by the Tribunal is incorrect, the income of the deceased was not taken properly and compensation under other conventional heads were not awarded properly. Hence, prayed for allowing the appeal filed by claimant and for dismissal of the appeal filed by the insurer.

11. Heard Sri G.N.Raichur, learned counsel for the insurance company and Sri Siddappa Sajjan, learned counsel for the claimant and perused the appeal papers along with records of the Tribunal.



12. Learned counsel for insurance Company Sri G.N.Raichur would submit that the driver of the vehicle was in intoxicated state at the time of accident and charge sheet against him was filed under Section 185 of the Act. The Tribunal has not considered this plea in a proper manner and not appreciated the condition No.2(c) of the insurance policy in a proper manner. Hence, prayed for exonerating the insurance Company from payment of compensation.

13. Learned counsel for insurance Company also submits that the sketch and panchanama would reveal that there is negligence on the part of rider of the motorcycle in causing the accident. Hence, there is contributory negligence on the part of deceased in causing the accident.

14. Learned counsel for claimant Sri Siddappa Sajjan would submit that the income of deceased was taken at ₹6,000/- per month by the Tribunal. However, the accident had taken place in the year 2013 and thus as per the chart



prepared by the Karnataka State Legal Service Authority for settlement of cases before Lok Adalath, it ought to have been taken at ₹7,000/- per month and future prospects are to be added to decide the income of deceased. He would further submit that on conventional heads also proper compensation is not awarded. Hence, prayed for enhancement of compensation. He would further submit that, it is only because of the negligence of the driver of truck, the accident had taken place and there was no negligence on the part of deceased. He would further submit that the respondents had not let in any evidence and not produced any certificate to show that the driver of truck was in intoxicated state of mind at the time of causing the accident. Hence, prayed for dismissal of appeal filed by the insurer and to allow the appeal of claimant.

15. Having heard arguments of both sides and verifying the appeal papers along with the Tribunal records, the points that would arise for consideration are as under:



i) Whether the insurer establishes that the driver of the truck was driving the Truck in intoxicated state of mind with the knowledge or consent of the insured/owner and thereby violates the basic condition of policy?

ii) Whether claimant is entitled for enhanced compensation?

16. Our finding on the above points is in negative and affirmative, respectively for the following:

REASONS

17. The date, place and time of accident is not in dispute. The death of son of claimant-Chandrasekhar in a motor vehicle accident that had taken place on 16.04.2013 at about 02.50 p.m. on Jamkhandi-Banahatti PWD road in front of Town Police Station, Jamkhandi, involving motorcycle bearing registration No.KA-48/E-5114 and truck bearing registration No.AP-16/TT-3236 is an admitted fact.

18. The spot sketch annexed to spot panchanama as per Ex.P.3 would reveal that the accident has taken place



about 03 feet from northern side towards southern side of the road. Thus, the accident was not taken place in the middle of the road as alleged by the learned counsel for insurer. There is no material produced by the insurer to prove the contributory negligence on the part of deceased in causing the accident, except making said allegation.

19. One more contention raised by the insurer is that the driver of the truck was in intoxicated state of mind at the time of accident. In this regard, he mainly relies upon the averments made in FIR and filing of charge-sheet against accused alleging the offence under Section 185 of the Act.

20. Section 185 of the Act is a penal provision for a drunken person or by a person under the influence of drugs driving the vehicle on road.

21. No document is produced before the Tribunal or before this Court to show that the driver was examined by the competent Medical Officer immediately after the



accident and a Certificate was issued in that regard to show that he was in intoxicated state of mind at the time of causing the accident. In the absence of such material, only by verifying the charge-sheet averments, it cannot be said that the insurer is able to establish that the driver of the truck was in intoxicated state of mind at the time of driving the truck. To the court query to the learned counsel for insurer as to whether any piece of document is appended to charge sheet to establish intoxication state of driver, learned counsel for insurer has no answer.

22. In this record reliance is placed on the judgment of Hon'ble Apex Court in the case of **Mathew Alexander vs. Mohammed Shafi and another, reported in (2023) 13 SCC 510**, wherein at paragraph No.11 it is held as under:

"11. Insofar as the claim petition filed by the appellant herein is concerned, alleged negligence on the part of the driver of the tanker lorry and pickup van in causing the accident has to be proved. That is a matter which has to be considered on the basis of preponderance of the



possibilities and not on the basis of proof beyond reasonable doubt. It is left to the parties in the claim petitions filed by the appellant herein or other claimants to let in their respective evidence and the burden is on them to prove negligence on the part of the driver of the Alto car, the tanker lorry or pickup van, as the case may be, in causing the accident. In such an event, the claim petition would be considered on its own merits. It is needless to observe that if the proof of negligence on the part of the drivers of the three vehicles is not established then, in that event, the claim petition will be disposed of accordingly."

23. Thus, mere filing of charge sheet cannot be a ground to say that the driver was in intoxicated state of mind. Said driver was not examined or as stated above, no Certificate is produced to prove the same. Only after establishing the said fact, the question of knowledge or consent of the insured/owner would arise.

24. Furthermore, except putting some suggestions to claimant, which were not admitted by her, nothing was elicited in her evidence to substantiate the above fact. Except the oral evidence of Administrative Officer, who has



no personal knowledge, no admissible evidence is produced by the insurer to say that the driver was driving the truck by consuming alcohol and was in intoxicated state of mind and it was in the knowledge/consent of the insured/owner. Under these circumstances, the insurer failed to establish this contention. The insurer has taken a frivolous plea of contributory negligence on the part of rider of the motorcycle and another frivolous plea of intoxicated state of mind of driver of the truck with knowledge/consent of the insured/owner without establishing any of those facts. Hence, the appeal of insurer is liable to be dismissed with costs of ₹25,000/-.

25. As far as quantum of compensation is concerned, admittedly the accident has taken place in the year 2013. According to claimant, her son was running a petty shop and earning ₹10,000/- per month. But no document is produced to establish it. When no document is produced to prove the actual income of the deceased, the notional income chart prepared by the Karnataka State Legal Service



Authority for settlement of cases before Lok ADalath is to be considered. According to it, for the year 2013, the notional income of deceased is to be taken at ₹7,000/- per month. But the Tribunal has taken only ₹6,000/- per month, which is on lower side.

26. The deceased left behind his only mother and he was a bachelor. Hence relying upon ***Sarla Verma (Smt) and others vs. Delhi Transport Corporation and another, reported in (2009) 6 Supreme Court Cases 121***, 50% of his income is to be deducted towards his personal expenses.

27. Relying upon ***National Insurance Company Limited vs. Pranay Sethi and others, reported in (2017) 16 Supreme Court Cases 680***, 40% of future prospects is to be added to the income of deceased as deceased was aged about 29 years as on the date of accident. The relevant multiplier is 17. Accordingly the amount of



compensation to be awarded under the head loss of dependency would be:

$$₹7,000 + 40\% \text{ minus } 50\% \times 12 \times 17 = ₹9,99,600/-.$$

28. As far as compensation under the conventional head- filial consortium, relying on the ***Pranay Sethi's case (supra)*** and ***Magma General Insurance Co. Ltd., vs. Nanu Ram and others, reported in (2018) 18 Supreme Court Cases 130***, the claimant is entitled for compensation of ₹44,000/- including escalation charges instead of ₹10,000/-. Likewise, claimant is entitled for compensation of ₹16,500/- each towards funeral expenses and loss of estate instead of ₹10,000/- only awarded by the Tribunal for funeral expenses. Thus, the claimant is entitled for total compensation of ₹10,76,600/- as against ₹6,32,000/- awarded by the Tribunal.

29. Further, the interest awarded by the Tribunal on compensation amount at 9% p.a. is exorbitant. Hence, the same is scaled down to 6% p.a.



30. In view of the above discussion, we pass the following:

ORDER

i) The appeal filed by the insurer in MFA No.102924/2017 is dismissed with costs of Rs.25,000/-;

ii) The appeal filed by the claimant in MFA No.103518/2017 is allowed in part;

iii) The judgment and award in MVC No.276/2013, dated 03.05.2017, on the file of Additional Senior Civil Judge and Member, MACT-VI, Jamakhandi, is modified;

iv) The claimant is entitled for total compensation of ₹10,76,600/- as against ₹6,32,000/- awarded by the Tribunal along with interest at the rate of 6% p.a. from the date of petition till the date of realization;

v) The respondent No.2-Insurance Company shall deposit compensation amount with interest within a period



NC: 2025:KHC-D:18352-DB
MFA No. 102924 of 2017
C/W MFA No. 103518 of 2017

of eight weeks from the date of receipt of a copy of this judgment;

vi) Draw modified award accordingly.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

MRK
CT-CMU
LIST NO.: 1 SL NO.: 8