



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. 103929 OF 2015 (MV-I)

BETWEEN:

1. SMT. SUMA W/O. LATE V.DURGESH @ DURGANNA
AGED ABOUT 32 YEARS, OCC: HOUSEWIFE
R/O: SUGGENAHALLI VILLAGE,
TQ: HOSAPETE TALUK, DIST: BELLARI DIST.
2. MINOR V. AKASH
S/O. LATE V. DURGESH @ DURGANNA
AGED ABOUT 7 YEARS
SINCE MINOR REPRESENTED BY NATURAL MOTHER
SMT. SUMA W/O. LATE V. DURGESH @ DURGANNA
AGED ABOUT 32 YEARS, OCC: HOUSEWIFE
R/O: SUGGENAHALLI VILLAGE,
TQ: HOSAPETE, DIST: BELLARI DIST.
3. MINOR HINDU D/O. LATE V. DURGESH @ DURGANNA
AGED ABOUT 5 YEARS
SINCE MINOR REPRESENTED BY NATURAL MOTHER
SMT. SUMA W/O. LATE V. DURGESH @ DURGANNA
AGED ABOUT 32 YEARS, OCC: HOUSEWIFE,
R/O: SUGGENAHALLI VILLAGE,
TQ: HOSAPETE, DIST: BELLARI DISTRICT.

...APPELLANTS

(BY SRI. Y. LAKSHMIKANT REDDY, ADVOCATE)



AND:

1. V. YERRISWAMY S/O. V. YANKOBA
AGED ABOUT 23 YEARS
OWNER CUM RIDER OF THE MOTOR CYCLE
BEARING REGN. NO.KA-35/X-3901,
R/O: HOSA DAROJI VILLAGE,
SANDUR TALUK, DIST: BELLARI DIST.
2. THE DIVISIONAL MANAGER
M/S NATIONAL INSURANCE COMPANY LIMITED
PARAVATHI NAGAR, BELLARI DIST.
3. SMT. DURGAMMA W/O. LATE DURUGJAPPA
AGED ABOUT 65 YEARS
R/O: SUGGENAHALLI VILLAGE,
TQ: HOSAPETE, DIST: BELLARI DIST.

...RESPONDENTS

(NOTICE TO R1 AND R3 DISPENSED WITH V/O. DATED:
10.07.2019;
SRI. MADHUKESHWAR A. DESHPANDE, ADVOCATE FOR R2 (VC))

THIS MFA IS FILED U/S.173(1) OF MOTOR VEHICLES ACT,
PARRYING TO MODIFY THE JUDGMENT & AWARD
DATED:22.07.2015, PASSED IN MVC.NO.207/2015 ON THE FILE
OF THE III MOTOR ACCIDENT CLAIMS TRIBUNAL, AT BALLARI,
PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION
AND SEEKING ENHANCEMENT OF COMPENSATION.

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.)

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988, praying for enhancement of compensation by the claimants unsatisfied by the judgment and award passed in MVC No.207/2015 dated 22.07.2015 on the file of the III Motor Accident Claims Tribunal, Ballari, (for short, 'the Tribunal').

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

3. The case of claimants before trial Court in nutshell is that on 21.01.2015, the deceased-V. Durgesh @ Duruganna, along with respondent No.1, was proceeding in motorcycle bearing registration No.KA-35/X-3901 from Kurugodu towards Suggenahalli Village at about 05.59 p.m. near Kampli Kurugodu road; at that time, respondent No.1 rode the same rashly and negligently, lost his control over the vehicle and dashed to the stone and thereby fall down;



due to which V. Durgesh @ Duruganna fall down, sustained severe injuries and died at the spot. They would further contend that deceased was aged about 37 years, working as private conductor and earning ₹.15,000/- per month. The appellants being his wife, minor children and mother have lost the earning member of their family. Hence, prayed for compensation under different heads.

4. On service of notice, respondent No.1 appeared through his counsel, but not filed his objection statement. Respondent No.2-Insurance Company appeared through his counsel and filed the objection statement, wherein he has denied the contention of petitioner in toto and took all the relevant defence available to the insurer and owner. Hence, prayed for dismissal of the petition.

5. On behalf of claimants, claimant No.1 was examined as P.W.1 apart from marking Exs.P.1 to P.11 and closed their side. On behalf of respondents no evidence is let in except marking Exs.R.1-copy of policy. After recording



evidence of both sides and hearing arguments of both sides, the Tribunal has awarded total compensation of ₹.7,90,000/- under following different heads:-

1.	Loss of dependency	Rs.7,20,000-00
2.	Transportation of dead body and funeral expenses	Rs. 20,000-00
3.	Loss of consortium to the 1 st petitioner	Rs. 25,000-00
4.	Loss of estate	Rs. 25,000-00
Total		Rs.7,90,000-00

6. Aggrieved by the same, the claimants-appellants have filed this appeal praying for enhanced compensation under different heads.

7. Learned counsel for appellants Sri Y. Lakshmikant Reddy would submit that the Tribunal has not made calculation of income of the deceased as per KSLSA guideless to decide the dependency and also not added the future prospects as awarded in the cases of ***National Insurance Company Limited Vs. Pranay Sethi & Others***¹

¹ 2017(16) SCC 680



Magma General Insurance Company Limited Vs. Nanu Ram & Others² and also not awarded the compensation towards consortium to petitioner No.2 to 4.

8. Learned counsel for respondent No.2 Sri Madhukeshwar A Deshpande would submit that the compensation awarded by the Tribunal is proper and hence, pray for dismissal of the appeal.

9. Having heard the arguments of both sides and verifying the records, the only point that arises for consideration is "Whether appellants-claimants are entitled for enhanced compensation?"

10. My answer to the above point is in "affirmative" for the following reasons:-

11. The date, time and place of accident is not in dispute. The age of deceased was 37 years as deposed by the claimant No.1. But, as per PM report, his age was 35

² (2018) 18 SCC 130



years and hence, the Tribunal has taken the age of the deceased at 35 years, which is proper.

12. No documentary evidence is produced to prove the actual income of deceased at the time of accident. Under those circumstances, the guidelines given by KSLSA for Lok Adalath to be considered. The accident occurred in the year 2015. Hence, the notional income of deceased is taken at ₹.8,000/- per month.

13. As per the guidelines given by Hon'ble Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi & Others***³, 40% of the income of deceased is to be added towards future prospects which is at ₹.3,200/-. Thus, the monthly income of the deceased would be 11,200. He left behind 4 dependents. Hence, relying upon the judgment of the Hon'ble Supreme Court in the case of ***Sarla Verma and Others Vs. Delhi Transport***

³ 2017(16) SCC 680



Corporation and Another⁴, one fourth of his income is to be deducted towards his personal expenses which would be ₹.2,800/-. After deducting it, his monthly income would be ₹.8,400/- and it is to be multiplied by '12' and '16' as his age was 35 years as on the date of accident. It would amount to ₹.16,12,800/-. Hence, the income towards loss of dependency would be ₹.16,12,800/- instead of ₹.7,20,000/- taken by the tribunal.

14. As far as transportation of dead body and funeral expenses, ₹.15,000/- along with 10% escalation charges is to be taken according to the **Pranay Sethi's** case cited supra, i.e. ₹.16,500/- instead of ₹.20,000/- granted by the Tribunal. As far as loss of estate ₹.15,000/- along with 10% escalation charges is to be taken according to the **Pranay Sethi's** case cited supra, i.e. ₹.16,500/- instead of ₹.25,000/- granted by the Tribunal. As far as loss of consortium is concerned, the Tribunal has awarded only ₹.25,000/- to first petitioner. But all the petitioners are

⁴ (2009) 6 SCC 121



entitled for compensation under the head loss of spousal consortium to claimant No.1, parental consortium to claimant Nos.2 and 3 and filial consortium to claimant No.4 i.e. ₹.44,000/- each (including 10% escalation) so in total ₹.1,76,000/-. So the total compensation would be ₹.18,21,800/- under following heads:

1.	Loss of dependency	₹.16,12,800/-
2.	Transportation of dead body and funeral expenses	₹.16,500/-
3.	Loss of consortium to petitioner No.1 to 4 (40,000X4=1,60,000)	₹.1,76,000/-
4.	Loss of estate	₹.16,500/-
	Total	₹.18,21,800/-

15. For the reasons stated above, I proceed to pass the following:

ORDER

- a) The appeal filed by the claimants is ***allowed in part.***
- b) The impugned judgment and award of the Tribunal is modified holding that the claimants are entitled to modified compensation of ₹.18,21,800/- as



against ₹.7,90,000/- awarded by the Tribunal.

- c) The enhanced compensation amount shall carry interest at the rate of 6% per annum from the date of petition till realization.
- d) The respondent/insurance company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of eight weeks from the date of receipt of certified copy of this judgment.
- e) The apportionment, disbursement and deposit of the enhanced compensation shall be made as per award of the Tribunal.
- f) Draw modified award accordingly.
- g) No order as to costs.

Sd/-
(GEETHA K.B.)
JUDGE

VMB
CT-CMU
LIST NO.: 1 SL NO.: 29