



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 2ND 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.104897 OF 2024 (MV-D)

BETWEEN:

THE DIVISIONAL MANAGER,
UNITED INDIA INSURANCE
COMPANY LTD, ANKOLA ARCADE,
OPP. DISTRICT COURT,
P.B. ROAD, DHARWAD.
NOW REP. BY ITS
AUTHORIZED SIGNATORY.

...APPELLANT

(BY SRI. S.K. KAYAKAMATH, ADVOCATE)

AND:

1. SMT. MALINI MALLIKARJUN RAJASHEKHAR
W/O MAHADEVAPPA P.,
AGE. 47 YEARS, OCC. HOUSEWIFE,
R/O 56-201, SLV GRAND APARTMENT,
2ND FLOOR, 1 STAGE, 10TH A CROSS,
NEAR SHARAVATI HOTEL, A-SECTOR,
YELAHANKA NEW TOWN,
BANGALORE-560064.
2. SRI. ABHIGNYA M.,
D/O MALINI MALLIKARJUN RAJASHEKHAR



AGE. 09 YEARS, OCC. STUDENT,
R/O 56-201, SLV GRAND APARTMENT,
2ND FLOOR, 1ST STAGE, 10TH A CROSS,
NEAR SHARAVATI HOTEL, A-SECTOR,
YELAHANKA NEW TOWN,
BANGALORE-560064.
(SINCE MINOR REP. BY HER
NATURAL GUARDIAN MOTHER
RESPONDENT NO.1 i.e., SMT. MALINI)

3. SRI. M. PUTTAPPA
S/O LATE MAHADEVAPPA,
AGE. 80 YEARS, OCC. NIL,
R/O. #46 , 2ND CROSS,
RAMAKRISHNA NAGAR,
GOKUL ROAD, UDYAMNAGAR,
HUBBALLI-580023.
4. SMT. VIJAYA P,
W/O PUTTAPPA
AGE. 67 YEARS, OCC. HOUSEWIFE,
R/O. #46 YEARS, 2ND CROSS,
RAMAKRISHNA NAGAR, GOKUL ROAD,
UDYAMNAGAR, HUBBALLI-580023.
5. SRI. BRAJESH NANDKUMAR GANDHI
AGE. 36 YEARS, OCC. BUSINESS,
R/O #77, NEELAM BUNGALOW,
SIDDHANATHWADI, WAI,
TQ. WAI, DIST. SATARA,
MAHARASHTRA STATE 412803.

...RESPONDENTS

(BY SRI. ANJANEYA M., ADVOCATE FOR R1 TO R4)

THIS MFA IS FILED UNDER SEC.173(1) OF MV ACT, 1988,
PRAYING TO ALLOW THE APPEAL AS PRAYED FOR BY SETTING
ASIDE THE IMPUGNED JUDGMENT AND AWARD DATED
15.04.2024 PASSED BY THE II ADDITIONAL SENIOR CIVIL
JUDGE AND MACT, DHARWAD, IN MVC NO.81/2020, WITH COST
IN THE INTEREST OF JUSTICE AND EQUITY.



THIS MFA 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)

The insurer is in appeal under Section 173(1) of the Motor Vehicles Act, 1988, questioning the quantum of compensation awarded by the II Additional Senior Civil Judge and Motor Accident Claims Tribunal, Dharwad (for short, 'the Tribunal') under the judgment and award, dated 15.04.2024, passed in M.V.C. No.81/2020.

2. The claimants, being the wife, daughter and parents of the deceased Mahadevappa @ Madhu, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the MV Act') claiming compensation for the accidental death of Mahadevappa @ Madhu in a road traffic accident that occurred on 30.12.2019 involving a Tanker lorry bearing registration No.MH-11/AL-6687 and a car bearing registration No.KA-01/MJ-7702. The claimants stated that the deceased was aged 42 years



as on the date of the accident, and he was doing business of supplying Khadi and sand on commission basis and was earning a sum of Rs.1,00,000/- per month and was contributing his entire income towards maintenance of the family.

3. On issuance of notice, the owner of the tanker lorry remained absent and was placed ex parte, while the insurance company (respondent No.2 before the Tribunal) filed its statement of objections denying the petition averments and also the age, occupation, and income of the deceased. It further contended that the accident occurred due to negligent driving of the car and that the liability, if any, was subject to terms and conditions of the policy. Thus, the insurer sought for dismissal of the claim petition.

4. The claimants, in order to prove their case, examined claimant No.1 as P.W.1 and produced documents which were marked as Ex.P.1 to Ex.P.28. The insurance company did not lead any oral evidence; however, it marked copy of the insurance policy as Ex.R.1. The Tribunal, considering the evidence on record, awarded a total compensation of Rs.86,66,000/- in



favour of the claimants with interest at the rate of 6% per annum, on the following heads:

1)	Towards spousal, parental and filial consortium	Rs.	1,60,000.00
2)	Towards funeral and Loss of Estate	Rs.	30,000.00
3)	Enhancement of 10%	Rs.	19,000.00
4)	Towards loss of dependency	Rs.	84,56,238.00
	TOTAL	Rs.	86,65,238.00
	Rounded off	Rs.	86,66,000.00

While awarding the above compensation, the Tribunal has assessed the income of the deceased at Rs.53,691/-, added 25% towards 'future prospects', adopted multiplier '14' and deducted 1/4th of the assessed income towards personal expenses of the deceased. Aggrieved by the quantum of compensation awarded by the Tribunal, the insurer is in appeal.

5. Heard Sri. S.K.Kayamath, learned counsel for the appellant-insurance company and Sri. Anjaneya M., learned counsel for the respondents No.1 to 4. Perused the appeal papers including the records of the Tribunal.

6. Sri. S.K.Kayamath, learned counsel for the appellant-insurance company would submit that the Tribunal committed a grave error in assessing the income of the deceased at Rs.6,57,967/- per annum, the gross total income as reflected in



Ex.P.10 – the Income Tax Returns filed for the Assessment Year 2019-20. He further submits that the deceased was an income tax assessee; that the claimants themselves produced the income tax returns filed by the deceased for the Assessment Years 2017-18, 2018-19, 2019-20 i.e., Ex.P.8 to Ex.P.10; the gross total income earned by the deceased, as reflected in the income tax returns, is not fixed, but varies from one year to another, and resultantly, the income tax paid thereon also varies. Therefore, learned counsel for the appellant-insurer submits that the Tribunal ought to have considered the average of the gross total income earned by the deceased during three financial years preceding the date of his death, and ought to have considered and deducted the average income tax and the professional tax for the purpose of assessing the income of the deceased to award compensation towards 'loss of dependency'. Learned counsel would also submit that the Tribunal has rightly awarded the compensation under the conventional heads. Thus, learned counsel prays for allowing the appeal.

7. *Per contra*, Sri. Anjayneya M., learned counsel appearing for the respondents/claimants while supporting the



impugned judgment and award of the Tribunal, submits that the Tribunal has awarded just compensation which needs no interference. Thus, he prays for dismissal of the appeal.

8. Having heard the learned counsel for the parties and on perusal of the appeal papers, the points that would arise for consideration in this appeal are:

- i) *Whether the Tribunal is justified in considering the gross total income of Rs.6,57,967/- per annum based on Ex.P.10 in order to determine the income of the deceased?*
- ii) *Whether quantum of compensation awarded by the Tribunal requires modification?*

9. The answers to the above points would be in the "negative" and "affirmative" respectively for the following reasons:

- (a) The occurrence of the accident that took place on 30.12.2019 involving a Tanker lorry bearing registration No.MH-11/AL-6687 and a car bearing registration No.KA-01/MJ-7702, and the resultant death of Mahadevappa @ Madhu is not in dispute in this appeal. The insurer is in



appeal questioning the quantum of compensation awarded by the Tribunal.

- (b) The deceased, as claimed by the claimants, was a businessman and an income tax assessee. The claimants in order to prove the income earned by the deceased Mahadevappa @ Madhu, produced the income tax returns at Ex.P.7 to Ex.P.10. A perusal of Exs.P.8 to P.10 – the income tax returns filed for the Assessment Years 2017-18, 2018-19 and 2019-20 respectively, reflects the gross total income earned by the deceased during the three years preceding the date of death, which are in a sum of Rs.6,71,400/- (as per Ex.P.8), Rs.5,00,000/- (as per Ex.P.9), and Rs.6,57,967/- (as per Ex.P.10). From Exs.P.8 to P.10, it could also be seen that the gross total income of the deceased was not fixed, and it varied from one year to another. Likewise, the income tax paid thereon also varied from one assessment year to another i.e., Rs.31,347/- (as per Ex.P.8), Rs.2,580 (as per Ex.P.9), and Rs.13,672/- (as per Ex.P.10).



- (c) The Tribunal ought to have taken the average gross total income earned by the deceased between 2016-17 and 2018-19, and deducted the income tax on an average of three assessment years, instead of taking the gross total income as reflected in Ex.P.10, the ITR for the Assessment Year 2019-20, and deducting the income tax as shown therein for the purpose of determining the income of the deceased. The average gross total income of the deceased, considering the gross total income for the preceding three years and dividing the same by three, would be Rs.6,09,789/- per annum. The average income tax and professional tax (Rs.2,400/- per annum) for the three years preceding the date of death of deceased would be Rs.18,266/-. On deducting the average of the income tax and professional tax of Rs.18,266/- from average gross total income of Rs.6,09,789/-, we arrive at Rs.5,91,523/- per annum being the income of the deceased for determination of compensation towards 'loss of dependency'.
- (d) Having determined the income of the deceased at Rs.5,91,523/- per annum, considering the other factors such



as adding 25% of the assessed income towards 'future prospects', multiplier '14', and deducting $\frac{1}{4}^{\text{th}}$ of the assessed income towards personal expenses of the deceased which are rightly adopted by the Tribunal, the compensation to which the claimants would be entitled to under the head 'loss of dependency' would be Rs.77,63,739/- instead of Rs.84,56,238/- awarded by the Tribunal.

(e) The Tribunal has rightly awarded compensation of Rs.1,60,000/- to the claimants towards 'loss of consortium, filial consortium and parental consortium', and Rs.15,000/- each under the heads 'loss of estate' and 'funeral expenses' with escalation of 10% on the above conventional heads, which needs no interference.

(f) The claimants would be entitled for modified compensation on the following heads:

1)	Towards spousal, parental and filial consortium	Rs.	1,60,000/-
2)	Towards funeral and Loss of Estate	Rs.	30,000/-
3)	Enhancement of 10%	Rs.	19,000/-
4)	Towards loss of dependency	Rs.	77,63,739/-
	TOTAL	Rs.	79,72,739/-



Thus, the claimants/respondents No.1 to 4 herein would be entitled to total compensation of Rs.79,72,739/- instead of Rs.86,66,000/- as awarded by the Tribunal with interest at the rate of 6% per annum from the date of claim petition till the date of realization.

10. In the result, we pass the following:

ORDER

- a) The above appeal is allowed in part.
- b) The judgment and award, dated 15.04.2024, passed in MVC No.81/2020 by the II Additional Senior Civil Judge and Motor Accident Claims Tribunal, Dharwad, is hereby modified to the extent of holding that the respondents/claimants are entitled to a total compensation of Rs.79,72,739/- instead of Rs.86,66,000/- as awarded by the Tribunal with interest at the rate of 6% per annum from the date of claim petition till the date of realization.
- c) The order of Tribunal with regard to apportionment and deposit of the compensation remains unaltered.
- d) The appellant-Insurance Company shall deposit the compensation amount with accrued interest before



the Tribunal within six weeks from the date of receipt of certified copy of this judgment.

e) Draw modified award accordingly.

Records of the Tribunal together with the amount in deposit before this Court be transmitted to Tribunal forthwith.

No order as to costs.

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

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

KMS, CT:VP
LIST NO.: 1 SL NO.: 5