



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 4TH 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. 104712 OF 2023 (MV-D)
C/W
MISCELLANEOUS FIRST APPEAL NO. 101238 OF 2024

IN M.F.A.NO.104712/2023
BETWEEN:

RELIANCE GENERAL INSURANCE COMPANY LTD.,
POLICY ISSUING OFFICE, 4TH FLOOR,
"CHINNTAMANI AVENUE"
NEXT TO VEERAVANI INDUSTRIAL ESTATE,
WEST EXPRESS HIGHWAY EAST MUMBAI,
MAHARASHTRA-400063,
THROUGH ITS DIVISIONAL MANAGER,
DIVISIONAL OFFICE,
RELIANCE GENERAL INSURANCE COMPANY LTD.,
CTS NO.474 V.A.KALABURGI SQUARE,
DESHAPANDE NAGAR, DESAI CROSS,
HUBBALLI-580020.
REPRESENTED BY ITS AUTHORIZED SIGNATORY.
(INSURER OF HYUNDAI MAGMA CAR BEARING
NO.M.H.-03/BE-3860 UNDER COVER NOTE NO.
R31082017038 VALID FROM 01-09-2020
TO 31-08-2021

...APPELLANT

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



NC: 2025:KHC-D:17345-DB
MFA No. 104712 of 2023
C/W MFA No. 101238 of 2024

AND:

1. SMT. KAMLAMMA @ KAMALAVVA
D/O. YALLAVVA HOSAMANI,
AGE: 62 YEARS, OCC: HOUSEHOLD WORK,
R/O. SHIROL, TQ: MUDHOL-587313,
DIST: BAGALKOT NOW AT SHRI MALLIKARUN
NIVAS DR. MAHISHI ROAD,
GAVALI GALLI 3RD CROSS MALMADDI,
DHARWAD-580009.

SINCE DECEASED BY HER LRS.
AMENDMENT CARRIED OUT
AS PER ORDER DATED 04.04.2025.

- 1(A) KADAPPA KAMALAVVA HOSAMANI,
AGE: 48 YEARS, OCC: COOLIE,
R/O. SHIROL, TQ: MUDHOL, DIST: BAGALKOT.
- 1(B) SUREKHA W/O. PARMESWAR GANI,
AGE: 39 YEARS, OCC: HOUSEHOLD,
R/O. SHIROL, TQ: MUDHOL, DIST: BAGALKOT.
- 1(C) SHIVANAND KAMALAVVA HOSAMANI,
AGE: 37 YEARS, OCC: COOLIE,
R/O. SHIROL, TQ: MUDHOL, DIST: BAGALKOT.
- 1(D) KUMARI LAXITA KAMALAVVA HOSAMANI,
AGE: 36 YEARS, OCC: COOLIE,
R/O. SHIROL, TQ: MUDHOL, DIST: BAGALKOT.
2. KUMARI LAXMI
D/O. KAMLAMMA @ KAMALAVVA HOSAMANI,
AGE: 32 YEARS, OCC: NIL,
R/O. SHIROL, TQ: MUCHOL-587313,
DIST: BAGALKOT NOW AT



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SHRI MALLIKARUN NIVAS DR. MAHISH ROAD,
GAVALI GALLI, 3RD CROSS, MALMADDI,
DHARWAD-580009.

3. SHRI KIRAN S/O. NAMDEV PATIL,
AGE: 47 YEARS, OCC: BUSINESS,
R/O. H.NO.81 STERI GALLI,
BADAS INAM BELAVATTI,
TQ: & DIST: BELAGAVI-591108.

(OWNER OF HYNDAI MAGMA CAR
BEARING NO. MH-03/BE-3860)

4. SHRI SHIVARAJ S/O. RAJENDRA TUNGAL,
AGE ABOUT 29 YEARS, OCC: BUSINESS,
R/O. UGAR KHURD, TQ: KAGWAD,
DIST: BELAGAVI-590023.

5. MR. PRAVEEN S/O. SHANTAPPA HOSMANI,
AGE: 30 YEARS, OCC: BUSINESS
R/O. UGAR KHURD, TQ: KAGWAD,
DIST: BELAGAVI-590023.

(POLICY HOLDER OF MARUTI ALTO
CAR NO.MH-09/BB-1883)

6. HDFC ERGO GENERAL INSURANCE COMPANY LTD.,
THROUGH ITS BRANCH MANAGER,
(LEGAL DEPARTMENT)
1ST FLOOR, VEERUPAXA KRUPA,
OPP. KIMS MAIN GATE, P.B. ROAD,
VIDYA NAGAR, HUBBALLI-580021.
(INSURER OF MARUTI ALTO CAR NO.MH-09/BB-1883
UNDER POLICY NO.2319100960800700000
VALID FROM 08-01-2021 TO 07-01-2022

...RESPONDENTS



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C/W MFA No. 101238 of 2024

(BY SRI. HANUMANTH R. LATHUR, ADVOCATE
FOR R1(A-D) & R2;
SMT. ROOPA S. BELLIKATTI, ADVOCATE FOR R4-5;
SRI. IRANAGOUDA K. KABBUR, ADVOCATE FOR R6;
NOTICE TO R3 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT PRAYING TO CALL FOR THE RECORDS AND HEAR THE PARTIES AND MODIFY THE JUDGMENT AND AWARD DATED 01.09.2023 BY THE COURT OF III ADDITIONAL SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, DHARWAD, IN MVC NO.576/2021 BY EXONERATING THE APPELLANT INSURANCE COMPANY FROM LIABILITY AND REDUCING THE COMPENSATION BY ACCEPTING THE GROUNDS MADE OUT IN THE GROUNDS OF APPEAL BY ALLOWING THIS APPEAL WITH COST IN THE ENDS OF JUSTICE AND EQUITY.

IN M.F.A.NO.101238/2024
BETWEEN:

SMT. KAMALAMMA @ KAMALAVVA,
D/O. YALLAVVA HOSAMANI,

CLAIMANT NO-1 OF M.V.C. 576/2021
DIED BEFORE JUDGMENT
HENCE SHE IS R/BY HER LRS-

1. KADAPPA S/O. KAMALAVVA HOSAMANI,
AGE: 48 YEARS, OCC: COOLIE,
R/O. SHIROL, NOW AT PUSHPARAJ CHOWK,
SANGLI-416406 TQ & DIST: SANGLI.
2. SMT. SUREKHA W/O. PARAMESHWAR GANI,
AGE: 39 YEARS, OCC: HOUSEHOLD WORK,
R/O. HUNASHIKATTI, TQ: JAMAKHANDI-587313,
DIST: BAGALKOT.



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3. SHIVANAND S/O. KAMALAVVA HOSAMANI,
AGE: 37 YEARS, OCC: PVT. WROK,
R/O. SHIROL, NOW AT SHAKTI NAGAR,
DHARWAD – 580001,
TQ: AND DIST: DHARWAD.
4. LAXMI D/O. KAMALAWVA HOSAMANI,
AGE: 32 YEARS, OCC: NILL,
R/O. SHIROL, TQ: MUDHOL, DIST: BAGALKOT.
NOW AT SHRI MALLIKARUN NIVAS,
MAHISHI ROAD, GAVALI GALLI,
3RD CROSS, MALMADDI, DHARWAD – 580001,
TQ: AND DIST: DHARWAD.

...APPELLANTS

(BY SRI. HANAMANT R. LATUR, ADVOCATE)

AND:

1. SHRI KIRAN S/O. NAMADEV PATIL,
AGE: 48 YEARS, OCC: BUSINESS,
H.NO.81, STER GALLI,
BADAS INAM, BELAVATTI,
TQ: AND DIST: BELAGAVI-591108.
2. RELIANCE GENERAL INSURANCE COMPANY LTD.,
POLICY ISSUING OFFICE, 4TH FLOOR,
"CHINTAMANI AVENUE"
NEXT TO VEERAVANI INDUSTRIAL ESTATE WEST,
EXPRESS HIGHWAY EAST MUMBAI,
MAHARASHTRA-400063,
THROUGH ITS DIVISIONAL MANAGER,
DIVISIONAL OFFICE,
RELIANCE GENERAL INSURANCE COMPANY LTD.,
CTS NO.474 V.A.KALBURGI SQUARE,
DESHPANDE NAGAR, DESAI CROSS,
HUBBALLI-580020, DIST: DHARWAD.



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3. SHRI SHIVARAJ S/O. RAJENSRA TUNGAL,
AGE ABOUT 27 YEARS, OCC: BUSINESS,
R/O. UGAR KHURD, TQ: KAGWAD,
DIST: BELAGAVI-591316.
4. MR. PRAVEEN S/O. SHANTAPPA HOSAMANI,
AGE: 28 YEARS, OCC: BUSINESS,
R/O. UGAR KHURD-591316,
TQ: KAGWAD, DIST: BELAGAVI.
5. HDFC ERGO GENERAL INSURANCE COMPNAY LTD.,
THROUGH ITS BRANCH MANAGER,
(LEGAL DEPARTMENT)
1ST FLOOR, VEERAPAX KRUPA,
OPP. KIMS MAIN GATE, P.B. ROAD,
VIDYA NAGAR, HUBBALLI-580021,
TQ: HUBBALLI, DIST: DHARWAD.

...RESPONDENTS

(BY SRI. G.N. RAICHUR, ADVOCATE FOR R2;
SRI. IRANAGOUDA K. KABBUR, ADVOCATE FOR R6;
NOTICE TO R1, 3 TO 5 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173 (1) OF MOTOR VEHICLES ACT, 1988 PRAYING TO ENHANCE THE COMPENSATION BY MODIFYING THE JUDGMENT AND AWARD PASSED BY THE III ADDITIONAL SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, DHARWAD IN MVC NO.576/2021 DATED 01.09.2023, 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.)

Both these appeals are filed challenging the judgment and award dated 01.09.2023 passed in MVC No.576/2021 on the file of III Additional Senior Civil Judge and Additional MACT, Dharwad (for short, 'Tribunal').

2. MFA No.104712/2023 is filed by the insurer challenging negligence and quantum of compensation and MFA No.101238/2024 is filed by the claimants praying for enhancement of compensation under Section 173(1) of Motor Vehicles Act, 1988 (for short, 'Act').

3. The parties would be referred with their rankings as they were before the Tribunal for convenience and clarity.

4. The claimants who are the mother and unmarried sister of deceased Mahadev have filed the claim petition in



respect of accidental death of Mahadev that had taken place on 03.04.2021 at 01.35 p.m. involving car bearing Reg.No.MH-09/BB-1883 and car bearing Reg.No.MH-03/BE-3860 at Ankola-Yallapur road.

5. The case of claimants is that deceased Mahadev was driving the car bearing No.MH-09/BB-1883 and was coming from Dharmastala towards Ankola with his colleagues in that car; at that time, the car bearing No.MH-03/BE-3860 came from opposite side, dashed against the car and caused the accident, which resulted in the death of Mahadev. It is the contention of claimants that deceased was aged about 26 years, a bright student and was pursuing his PhD, after completion of his Post-graduation in English; he was also teaching English grammar classes and earning ₹.30,000/- per month.

6. It is further contended that the deceased has also passed SET exam, which is a qualifying exam to get appointment at Government Degree College or any Aided



Degree College. He was also having agricultural lands and hence claimed compensation.

7. On receipt of notice, respondent No.2 appeared through its counsel and filed objection statement, wherein it contended that the accident happened due to rash and negligent driving of the deceased and thus it is not liable to pay compensation. There is no negligence on the driver of car bearing No.MH-03/BE-3860-respondent No.1; further he has violated the insurance policy conditions and driver drove the vehicle carelessly without having effective driving licence. Hence, prayed for dismissal of petition.

8. Respondents No.3 and 4 being the RC holder of car and policy holder of car respectively have admitted the contention taken in the petition and they contended that their vehicle is validly insured with respondent No.5 and hence, prayed for dismissal of the petition.

9. Respondent No.5 appeared through its counsel and filed objection statement, wherein it has taken



contention that the car bearing No.MH-09/BB-1883 was duly insured with it as on the date of accident. Respondents No.3 and 4 have violated the policy conditions and not informed about the accident. There was no negligence on the part of deceased and thus it is not liable to pay compensation.

10. On behalf of claimants, claimant No.2 was examined as P.W.1 apart from examining two witnesses as P.W.2 and P.W.3 and got marked Exs.P.1 to P.44 before the Tribunal. On behalf of respondents, R.W.1 and R.W.2 are examined apart from marking Exs.R.1 to R.3 before the Tribunal.

11. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that the accident happened due to rash and negligent driving of the driver of car bearing No.MH-03/BE-3860 and saddled the entire liability on respondent No.2 holding that claimants are entitled for compensation of



₹.57,89,000/- by taking the income of deceased at ₹.40,000/- per month.

12. Aggrieved by the same, the appellant-insurer of the offending vehicle has filed the appeal and being not satisfied with the compensation awarded by the Tribunal, claimant No.2 and as claimant No.1 was no more, her legal representatives together have filed the appeal.

13. Heard arguments of both sides.

14. Learned counsel for appellant-insurer Sri G.N.Raichur would submit that as per the spot sketch, there is contributory negligence on the part of deceased in driving the car bearing Reg.No.MH-09/BB-1883 and it is not being considered by the Tribunal. He would further submit that even though some documents are produced before the Tribunal to show that the deceased has completed his Master's Degree in English Literature and was teaching grammar to the students and also pursuing his PhD, there was no permanent employment to the deceased as on the



date of accident. Hence, taking his income at ₹.40,000/- per month by the Tribunal is excessive. Hence, prayed for its reduction.

15. Learned counsel for insurer would further submit that the Tribunal has passed the award on behalf of dead claimant. The judgment was passed on 01.09.2023, whereas first claimant died much earlier to it i.e., on 25.06.2023. Hence, the judgment is bad in law.

16. Learned counsel for claimants, Sri Hanumanth R Latur would submit that deceased has completed his PhD degree as per the affidavit evidence of P.W.3 under whom deceased was pursuing his PhD. He was having bright future. The deceased was taking grammar tuition classes along with P.W.2 and getting ₹.14,000/- per month. He was also having agricultural properties. Further, the deceased has completed KSET. Considering these things, the Tribunal ought to have taken the income of the deceased at ₹.50,000/- per month, but the income taken by Tribunal at



₹.40,000/- is on lower side. Hence, prayed for allowing his appeal and to dismiss the appeal of the insurer.

17. Having heard the arguments of both sides and upon verifying the appeal papers of both cases and trial court records, the points that would arise for consideration are:

"1. Whether there is negligence on the part of driver of car bearing No.MH-09/BB-1883 and thus there is contributory negligence on the part of deceased in causing the accident?

2. Whether there shall be modification on the judgment and award passed by the Tribunal."

18. Our finding on point No.1 is in **negative** and point No.2 is in **affirmative** for the following reasons:

19. The death of son of claimant No.1-Mahadev in the road traffic accident that had taken place on 03.04.2021 involving Maruti Alto Car bearing No.MH-09/BB-1883 and car bearing No.MH-03/BE-3860 is not in dispute. The age



and educational qualifications of the deceased are not in dispute. The Only point raised by the insurer is that there is contributory negligence on the part of deceased in causing the accident.

20. On perusal of Exs.P.4 and P.5-spot panchanama and spot sketch, they establish that the accident has taken place in the middle of the road. It is not in dispute that deceased was coming from Dharmasthala to Ankola and the offending vehicle was going from Ankola towards Yallapura. The accident took place at 8 feet from left side of the road from Ankola to Yallapur. The offending vehicle has taken 16 feet of its right side. Thus, it has come to the extreme right side and dashed against the car in which deceased was driving. Thus, there is no negligence on the part of deceased, but it is the negligence on the part of offending vehicle. Hence, the argument of learned counsel for insurer on this point is not acceptable one.



21. As far as income of the deceased is concerned, several documents are produced before the Tribunal to show the educational qualification of the deceased. They are his marks cards from 5th standard onwards. His Post-graduation marks card in English Literature and PhD Entrance examination provisional registration certificate issued by Karnataka University and the eligibility certificate issued by Mysore University are produced as per Exs.P.14 to P.22, P.31, P.32, P.33 and P.37. They reveal that the deceased was a bright student and has scored very good marks in his exams. He was qualified for PhD.

22. P.W.3, under whom this deceased was pursuing his PhD, in her affidavit evidence has stated that the deceased has completed PhD. However, in the cross-examination, she categorically admitted that he has not completed his PhD. Thus, he was only pursuing PhD and not completed it.



23. P.W.2 has stated that he and deceased were running English grammar tuition classes and deceased was getting income of ₹.14,000/- per month. The deceased was aged about 26 years as on the date of accident by verifying his SSLC marks card by the Tribunal which is correct. Hence, relevant multiplier to be adopted is 17.

24. Further, the Tribunal by relying upon the judgment of Hon'ble Apex Court in the case fo ***S.Vasanthi and Another vs. M/s Adhiparasakthi Engineering College and Another, Aadhi Parashathi. Adiparashakthi Engineering College and Another AIR*** reported in ***2022 SC 5051*** has taken the income of deceased at ₹.40,000/-. The relevant portion of the said judgment is extracted as follows:

"12. Thus, we find that the compensation to be paid on account of the death of decease S. Sathiyarayan ought to be worked out by enhancing his monthly income to Rs.30,000/-. However, we find that, since he was the only child of the appellants, in view of paragraphs (31) and (32) of the judgment in the case of Sarla Varma (Smt.) and Others v. Delhi Transport Corporation and Another², as upheld by a Constitution Bench decision in the case of National Insurance Company Limited v. Pranay Sethi and



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Others³, 50% of the amount would have to be deducted as personal and living expenses. We further find that, insofar as the loss of consortium is concerned, an amount of Rs.40,000/- will have to be awarded. The compensation on account of the death of the deceased S. Sathiyarayan is, therefore, being reassessed as under:

Sr. No.	Heads	Calculation
1.	Income	Rs. 30,000/- per month
2.	40% to be added to Future Prospects	30,000/- + 12,000/- = Rs.42,000/- per month
3.	1/2 deducted towards personal expenses	42,000/2 = Rs.21,000/-
4.	Yearly Income [(Sl. No.2 Sl. No.3) x 12]	21,000 x 12 = Rs.2,52,000/-
5.	Compensation after Multiplier	2,52,000 x 18 = Rs.45,36,000/-
6.	Conventional Head (Funeral Expense and Loss of Estate)	Rs.30,000/-
7.	Loss of Consortium	Rs.40,000/-
8.	Transportation Expenses	Rs.5,000/-
	• Total Compensation Awarded (5+6+7+8)	Rs.46,11,000/-
	• Enhanced amount of Compensation from MACT (Rs.	46,11,000 + 7,48,052 = Rs.38,62,948/-



	7,48,052/-)	
•	Enhanced amount of Compensation from HC (Rs.16,27,000/-)	46,11,000- 16,27,000=Rs.29,84,000/-

25. The Tribunal though relied upon the judgment in **S.Vasanthi's** case cited supra, has not properly examined the income considered by the Hon'ble Apex Court. In that case, the deceased had completed his engineering course. In the instant case, even though the deceased has completed his eligibility criteria to take exam for PSI and KSET exam and was bright student, it is to be noted here that he was not having any permanent job. He was only giving tuition along with P.W.2 and earning ₹.14,000/- per month. Under these circumstances, taking ₹.40,000/- per month as his income by the Tribunal is erroneous, which needs interference. Thus, by placing reliance on **S.Vasanthi's** case cited supra, the income of deceased is to be taken at ₹.30,000/- per month.



26. The claimants are his mother and unmarried sister. His mother also died during pendency of claim petition. Anyway 50% of income of deceased should be deducted towards his personal expenses as he was bachelor and as he was not having permanent job, 40% towards future prospects is to be added. Thus, the claimants are entitled for the following compensation under the head loss of dependency:

$$\begin{aligned} & ₹.42,000/- \text{ (} ₹.30,000 + 40\% \text{)} \times 12 \times 17 \times 50\% = \\ & ₹.42,84,000/- \end{aligned}$$

27. In other heads, the Tribunal has awarded ₹.16,500/- each towards funeral expenses and loss of estate; ₹.44,000/- towards loss of parental consortium to the claimants. The same needs no interference. Thus, the claimants are entitled for total compensation of ₹.43,61,000/-.

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



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ORDER

i) The appeal filed by the insurer in MFA No.104712/2023 is allowed in part;

ii) The appeal filed by the claimants in MFA No.101238/2024 is dismissed;

iii) The judgment and award dated 01.09.2023 passed in MVC No.576/2021 on the file of III Additional Senior Civil Judge and Additional MACT, Dharwad is modified;

iv) The claimants are entitled for total compensation of ₹.43,61,000/- instead of ₹.57,89,000/- 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



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with interest within a period 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

sh
CT-MCK
List No.: 1 Sl No.: 49