



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 17TH 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.100621 OF 2023 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.101273 OF 2022 (MV-D)

IN MFA NO.100621/2023:

BETWEEN:

1. SMT. ANKAY MAREKKA @ MAREKKA
W/O LATE ANKAY GOPI @ R. GOPI
AGE. 35 YEARS, (WIFE OF DECEASED)
2. ANKAY GAYATRI @ GAYATHRI
D/O LATE ANKAY GOPI @ R. GOPI
AGE. 20 YEARS,
3. ANKAY SRAVANI @ SRAVANI
D/O LATE ANKAY GOPI @ R. GOPI
AGE. 19 YEARS,
4. MINOR ANKAY GURU PRASAD @
GURU PRASAD
S/O LATE ANKAY GOPI @ R. GOPI
AGE. 16 YEARS,
SINCE MINOR APPELLANT NO.4
REP. BY HIS MOTHER AND NATURAL
GUARDIAN
SMT. ANKAY MAREKKA @ MAREKKA
W/O LATE ANKAY GOPIE @ R. GOPI

RAKESH S
HARIHAR

Digitally signed by
RAKESH S HARIHAR
Location: High Court
of Karnataka,
Dharwad Bench



5. SMT. ANKAY PEDDAKKA @ PEDDAKKA
W/O LATE ANKAY ANJINEYA @
A. ANJINEYALU
AGE. 63 YEARS, (MOTHER OF THE DECEASED)
ALL ARE R/O GANGAVARAM-VILLAGE,
BELUGUPPA MANDAL,
ANANTHAPUR DISTRICT.
PRESENTLY R/O W.NO.9,
SREERAM TEMPLE,
BALLARI-TQ & DIST-583101.

...APPELLANTS

(BY SRI. MANJUNATHA G. PATIL, ADVOCATE)

AND:

1. B. SREENIVASA REDDY @ B. SRINIVASULU
S/O B OBULA REDDY @ OBI REDDY
AGE. 38 YEARS,
DRIVER OF THE DIWAKAR BUS
BEARING REG.NO.AP-02/TC-3969
R/O NO.3-57, O.C. COLONY,
NAKKALAPALLI-VILLAGE,
BELUGUPPA MANDAL,
ANANTHAPUR DISTRICT A.P-510001.
2. SMT. J.C. UMA REDDY @ UMA REDDY
FUTURU CHINNA
W/O J.C. PRABHAKAR REDDY
OWNER OF THE DIWAKAR BUS
BEARING REG.NO.AP-02/TC-3969,
R/O NO.15-1256, SANJEEVA NAGAR,
TADIPARTHI,
ANANTHAPUR DISTRICT A.P-510001.
3. M/S UNITED INDIA INSURANCE CO. LTD.,
BY ITS DIVISIONAL MANAGER, MAIN ROAD,
PARVATHI NAGAR, BALLARI-583101.

...RESPONDENTS

(BY SRI. S.S. KOLIWAD, ADVOCATE FOR R3)
(NOTICE TO R1 & R2-DISPENSED WITH)



THIS MFA IS FILED UNDER SECTION 173 (1) OF MOTOR VEHICLES ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED 15.11.2021 PASSED IN MVC NO.250/2019 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL NO.V AND I ADDITIONAL SENIOR CIVIL JUDGE, BALLARI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION & ETC.

IN MFA NO.101273/2022:

BETWEEN:

M/S UNITED INDIA INSURANCE CO., LTD,
DIVISIONAL MANAGER,
MAIN ROAD, PARVATHI NAGAR, BALLARI.
R/BY ITS AUTHORIZED SIGNATORY,
DIVISIONAL MANAGER.

...APPELLANT

(BY SRI. S.S. KOLIWAD, ADVOCATE)

AND:

1. SMT. ANKAY MAREKKA @ MAREKKA
W/O LATE, ANKAY GOPI @ R. GOPI,
AGE. 35 YEARS, OCC. HOUSE HOLD WORK,
2. ANKAY GAYATHRI @ GAYATHRI
D/O LATE. ANKAY GOPI @ R. GOPI,
AGE. 20 YEARS, OCC. STUDENT,
3. ANKAY SRAVANI @ SRVANI
D/O LATE. ANKAY GOPI @ R. GOPI,
AGE. 19 YEARS, OCC. STUDENT,
4. MINOR ANKAY GURU PRASAD @ GURU PRASAD
S/O LATE. ANKAY GOPI @ R. GOPI,
AGE. 16 YEARS, OCC. STUDENT,
RESPONDENT NO.4 IS SINCE MINOR
(R/BY THEIR MOTHER RESPONDENT NO.1
AND NATURAL GUARDIAN
SMT. ANKAY MAREKKA @ MAREKKA
W/O LATE ANKAY GOPI @ R. GOPI)



5. SMT. ANKAY PEDDAKKA @ PEDDAKKA
W/O LATE. ANKAY ANJINEYA @ A. ANJINEYALU
AGE. 63 YEARS, OCC. NIL,

ALL ARE RESIDENT: GANGAVARAM VILLAGE,
BELUGUPPA MANDAL, ANANTAPUR DISTRICT.
PRESENTLY RESIDING AT. WARD NO.9,
SREERAM TEMPLE, BALLARI TQ, DIST, PIN:

6. B. SREENIVASA REDDY @ B. SRINIVASULU
S/O B. OBULA REDDY, @ OBI REDDY,
AGE. 38 YEARS,
OCC. DRIVER OF THE DIWAKAR BUS,
R/O NO.-3-57, O.C. COLONY,
NAKKALAPALLI VILLAGE,
BELUGUPPA MANDAL,
ANANTAPUR DIST. AP, PIN:

7. SMT. J.C UMA REDDY @ UMA
REDDY FUTURU CHINNA
W/O J.C. PRABHAKAR REDDY,
AGE. 48 YEARS, OCC. BUSINESS,
R/O. 15/1256, SANJEEVA NAGAR,
TADIPARTHRI, ANANTHAPURA DIST,
AP. PIN: 515001.
(OWNER OF THE DIWAKAR BUS
BEARING NO.AP-02/TC-3969)

...RESPONDENTS

(BY SRI. MANJUNATH G. PATIL, ADVOCATE FOR R1 TO R5)
(R4 IS MINOR R/BY R1) (NOTICE TO R6 IS SERVED)
(NOTICE TO R7 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173 (1) OF MOTOR
VEHICLES ACT, 1988, AGAINST THE JUDGMENT AND AWARD
DATED 15.11.2021 PASSED IN MVC NO.250/2019 ON THE
FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL-V AND I
ADDITIONAL SENIOR CIVIL JUDGE, BALLARI, AWARDING
COMPENSATION OF RS.29,26,835/- WITH INTEREST AT 9
PERCENT P.A. FROM THE DATE OF PETITION TILL ITS
REALIZATION & ETC.



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 MR. JUSTICE S G PANDIT)

Both the claimants and the insurer are in appeal questioning the judgment and award dated 15.11.2021 passed in M.V.C. No.250/2019 by the Motor Accident Claims Tribunal No.V and First Additional Senior Civil Judge, Ballari (for short, 'the 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 the higher side.

2. The parties would be referred to as they stood before the Tribunal.

3. The claimants - wife, daughters, son and mother of deceased Ankay Gopi @ R.Gopi, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation for the accidental death of Ankay Gopi @ R.Gopi, in a road traffic accident that took place on 17.01.2019



involving autorickshaw bearing registration No.AP-03/TJ-0343 and a bus bearing registration No.AP-02/TC-3969. It is stated that the deceased was owning an autorickshaw and he himself was driving the same from which he used to earn a sum of Rs.20,000/- per month. It is also stated that, in terms of Post-mortem Report, the deceased was aged 38 years. The respondent no.3 insurer appeared in pursuance to the notice issued by the Tribunal and filed its objection, whereas respondents No.1 and 2 did not appear and were placed *ex parte*.

4. The insurer contended that the driver of the offending vehicle had not possessed a valid and effective driving licence to drive the offending vehicle. Further, it is also contended that there is violation of terms and conditions of policy and insurer is not liable to pay the compensation.

5. Before the Tribunal, wife of the deceased examined herself as PW1 apart from marking the documents as Exs.P1 to P21. Respondents marked Insurance Policy as Ex.R1. The Tribunal based on the material on record, awarded total compensation of Rs.29,26,835/- on the following heads:



01	Loss of Dependency	Rs.26,71,200/-
02	Spousal consortium	Rs.40,000=00
03	Parental and filial Consortium	Rs.1,60,000=00
04	Loss of Estate	Rs.15,000/-
05	Fuenral expenses	Rs.15,000/-
06	Medical bills	Rs.25,635/-
Total		Rs.29,26,835/-

6. While awarding the above compensation, the Tribunal assessed monthly notional income of the deceased at Rs.13,250/-, added 40% of the said income towards future prospects, deducted 1/5th towards personal expenses of the deceased, and adopted a multiplier of 15 taking the age of the deceased as 38 years. Aggrieved by the judgment and award of the Tribunal, the insurer as well as the claimants are before this Court.

7. Heard the learned counsel Sri Manjunath G. Patil for the appellant as well as learned counsel Sri S.S. Koliwad for respondent-insurance Company and perused the appeal papers along with original records.

8. The learned counsel for the claimants would submit that the deceased was owning an auto-rickshaw and he was also possessing a driving licence. Therefore, the Tribunal ought to have assessed the income independently



and could not have taken notional income of Rs.13,250/-. Learned counsel would submit that when the deceased owned the auto-rickshaw and when he was self driving the auto-rickshaw, he would have earned more than Rs.13,250/- and hence, he prays for reassessment of the income of the deceased. Learned counsel further submits that the Tribunal has rightly taken the age of the deceased at 38 years and applied the multiplier of 15 taking note of Ex.P3 PM report. Learned counsel further submits that PM report clearly indicates the age of the deceased as 38 years.

9. Per contra, Sri S.S. Koliwad, learned counsel for respondent Insurance Company would submit that there are five dependents and the proper multiplier would be $\frac{1}{4}$ and not $\frac{1}{5}^{\text{th}}$ as adopted by the Tribunal. Further, learned counsel would also submit that the age of the deceased in-terms of driving licence and Aadhar card is 46 years and appropriate multiplier would be '13'. He submits that Tribunal erroneously looking to PM report Ex.P3 assessed the age of the deceased at 38 years and applied multiplier of 15. Learned counsel would also submit that since the age of the



deceased is 46 years, the Tribunal committed grave error in awarding 40% of assessed income toward future prospects. He submits that if the deceased was aged above 40 years, the claimant would be entitled for only 25% of the assessed income towards future prospects. Learned counsel would submit that Tribunal granted 9% interest which is on the higher side. Thus, learned counsel prays for allowing the appeal.

10. Having heard the learned counsel for the parties and on perusal of the entire appeal papers including the original records of the Tribunal, the following points would arise for our consideration:

- i) Whether the Tribunal is justified in determining the age of the deceased at 38 years looking to Ex.P3 PM report.
- ii) Whether the claimants would be entitled for 40% of the assessed income towards future prospects?
- iii) Whether the claimants would be entitled for enhanced compensation?



11. Our answer to the point No.(i) to (iii) is in the "negative".

12. The occurrence of accident on 17.1.2019 involving autorickshaw bearing registration No.AP-03/TJ-0343 and a bus bearing registration No.AP-02/TC-3969 is not in dispute and the death of the husband of the first claimant is also not in dispute. The claimants are before this Court praying for enhancement of compensation, whereas, the insurer is before this Court questioning the quantum of compensation awarded.

13. There are five dependents to deceased i.e. wife, two daughters, son and mother. For 5 dependents the appropriate deduction would be $\frac{1}{4}$ and not $\frac{1}{5}$. Therefore, appropriate deduction would be $\frac{1}{4}$. The age of the deceased is taken at 38 years placing reliance on Ex.P3-PM report. When the driving licence and Aadhar card Exs.P15 and P21 respectively are on record, the Tribunal committed a grave error in looking to PM report. The driving licence and Aadhar card would indicate the date of birth and in terms of Ex.P15-D.L and Ex.P21 Aadhar card, the deceased was aged



46 years. Therefore, it would be appropriate to take the age as indicated in DL and Adhar card at Exs.P15 and P21. Thus, the age of the deceased is taken at 46 years. Appropriate multiplier for age of 46 years would be 13. The Tribunal committed a grave error in taking 15 as multiplier. Since the age of the deceased is more than 46 years, the claimant would be entitled for having 25% of the assessed income towards future prospects as per the dictum of the Hon'ble Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi & Others¹***. Accordingly, claimants would be entitled for 25% of the assessed income towards future prospects. The Tribunal has granted interest at 9% p.a. from the date of filing the claim petition till the compensation is deposited.

14. In the facts and circumstances of the case, we are not inclined to reduce the rate of interest.

15. The learned counsel for the claimant would submit that notional income assessed by the Tribunal at Rs.13,250/- is on the lower side and prays to reassess the

¹ 2017(16) SCC 680



income of the deceased on the higher side by looking into DL at Ex.P21. Further learned counsel for the appellants submitted that deceased owned an auto-rickshaw. The claimants have not placed on record any material to indicate that deceased was owning the auto-rickshaw. However, the claimants have placed on record Ex.P21 driving licence. No other document is placed on record to establish the income of the deceased. In the absence of document to establish the ownership of the auto and in the absence of any other material to establish the income of the deceased, the Tribunal is justified in assessing the notional income at Rs.13,250/- in terms of the chart of KSLSA. The same needs no interference.

16. Thus, the claimants would be entitled to modified compensation as under:

Particulars	Amount
Loss of dependency ($13250 + 25\% = 3313 =$ $16563 - 1/4 = 4141$ $= 12,422 \times 12 \times 13$)	19,37,832/-
Loss of consortium with escalation (Rs.44000x5)	Rs. 1,76,000/-
Loss of estate with escalation	Rs. 16,500/-



Funeral expenses with escalation	Rs. 16,500/-
Medical Bills	Rs. 25,635
TOTAL	Rs.21,72,467/-

17. The claimants would be entitled for reduced compensation of Rs.21,72,467/- is against Rs.29,86,835/- awarded by the Tribunal.

18. For the reasons recorded above, we proceed to pass the following:

ORDER

- a) The appeal filed by the insurer is *allowed, whereas, appeal filed by claimants is dismissed.*
- b) Registry is directed to transmit the compensation amount deposited before this Court to the Tribunal.
- c) The Tribunal shall release the compensation amount entitled by the claimants and in excess if any



shall be refunded to the Insurance company.

d) The apportionment, disbursement and deposit of the enhanced compensation shall be made as per award of the Tribunal.

e) Draw modified award accordingly.

f) No order as to costs.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

KMS,VMB, CT:VP
LIST NO.: 1 SL NO.: 41