



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 24TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MFA CROSS OBJ NO.100106 OF 2023 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 101001 OF 2023 (MV-D)

IN MFA.CROB NO.100106/2023:

BETWEEN:

1. SMT. LATA W/O PARASAPPA PUJARI
AGE. 22 YEARS, OCC. HOUSEHOLD,
R/O KAMAKERI, TQ. RAMDURG, DIST. BELAGAVI 591114.
2. KUMARI. BAGIRATHI D/O PARASAPPA PUJARI
AGE. 03 YEARS, R/BY NATURAL GUARDIAN MOTHER I.E.
CROSS OBJECTOR NO.1-591114.

...CROSS OBJECTORS

(BY SRI. SANTOSH B. RAWOOT, ADVOCATE)

AND:

1. THE BRANCH MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED,
P.B. ROAD 57, VIKAS COMPLEX STATION ROAD,
HUBBALLI, NOW R/BY REGIONAL MANAGER -580009.
2. SMT. HULAGEVVA D/O DURGAPPA PUJARI
AGE. 46 YEARS, OCC. HOUSEHOLD WORK,
R/O RANJANAGI, POST. UTTUR,
TQ. MUDHOL, DIST. BAGALKOT 587313.
3. SHRI. NIRUPADI S/O HANUMANT MADIWATAR
AGE. 53 YEARS, OCC. AGRICULTURE,
R/O HIREKOPPA, TQ. RAMDURG,
DIST. BELAGAVI 591114.

...RESPONDENTS

(BY SRI. MADHUKESHWAR A. DESHPANDE, ADVOCATE FOR R1;
SRI. PAVAN DODDATTI, ADVOCATE FOR R2;
NOTICE TO R3-DISPENSED WITH)

CHANDRASHEKAR
LAXMAN
KATTIMANI

Digitally signed by
CHANDRASHEKAR
LAXMAN KATTIMANI
Location: HIGH COURT
OF KARNATAKA
DHARWAD BENCH



THIS MFA.CROB IN MFA NO.101001/2023 FILED UNDER ORDER 41 RULE 22 OF CPC., AGAINST THE JUDGMENT AND AWARD DATED 09.12.2022 PASSED IN MVC NO.378/2020 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL-XIV, MUDHOL, AWARDED COMPENSATION OF RS.22,44,468/- WITH INTEREST AT 9 PERCENT P.A. FROM THE DATE OF PETITION TILL ITS REALIZATION & ETC.

IN MFA NO. 101001/2023:

BETWEEN:

THE BRANCH MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED,
P.B. NO.57, VIKAS COMPLEX STATION ROAD,
HUBBALLI, NOW R/BY REGIONAL MANAGER.

...APPELLANT

(BY SRI. MADHUKESHWAR A. DESHPANDE, ADVOCATE)

AND:

1. SMT. HULAGEVVA D/O DURGAPPA PUJARI
AGE. 46 YEARS, OCC. HOUSEHOLD WORK,
R/O. RANJANAGI, POST UTTUR,
TALUK. MUDHOL, DIST. BAGALKOT 587313.
2. SMT. LATA W/O PARASAPPA PUJARI
AGE. 22 YEARS, OCC. HOUSEHOLD WORK,
R/O. KAMAKERI, TQ. RAMDURG, DIST. BELAGAVI 591114.
3. KUMARI BAGIRATHI D/O PARASAPPA PUJARI
AGE. 3 YEARS, R/BY NATURAL GUARDIAN
MOTHER I.E RESPONDENT NO.2.
4. SRI. NIRUPADI S/O HANUMANT MADIWALAR
AGE. 53 YEARS, OCC. AGRICULTURE,
R/O. HIREKOPPA, TQ. RAMDURG, DIST. BELAGAVI 591114.

...RESPONDENTS

(BY SRI. PAVAN B. DODDATTI, ADVOCATE FOR R1;
SRI. SANTOSH B. RAWOOT, ADVOCATE FOR C/R2 & R3;
SRI. D.M. MALLI, ADVOCATE FOR R4)

THIS MFA FILED UNDER SEC.173(1) OF MOTOR VEHICLES ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED 09.12.2022 PASSED IN MVC NO.378/2020 ON THE FILE OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL-XIV, MUDHOL, AWARDED COMPENSATION OF RS.22,44,468/- WITH INTEREST AT 9 PERCENT P.A. FROM THE DATE OF PETITION TILL ITS REALIZATION & ETC.



THE MFA CROB. & THE MFA, 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)

Though these appeal as well as cross objection are listed for admission, they are taken up for final disposal, with the consent of learned counsel for both the parties.

2. The insurer is in appeal in MFA No.101001/2023 challenging the liability saddled on it as well as quantum of compensation, whereas, the claimants are in cross objection in MFA Crob No.100106/2023 praying for enhancement of compensation, not being satisfied with the quantum of compensation awarded under judgment and award dated 09.12.2022 passed in MVC No.378/2020 on the file of Member, MACT-XIV, Mudhol (for short, 'Tribunal').

3. The claimant, mother of the deceased Parasappa Pujari, filed a claim petition under Section 166



of the Motor Vehicles Act, 1988 before the Tribunal seeking compensation for the accidental death of one Parasappa Pujari, that took place on 20.03.2020 involving two motorcycles bearing registration No.KA-48/EA-3940 & KA-69/E-4048. It is stated that the deceased was aged about 27 years as on the date of the accident and was doing agricultural work, earning a sum Rs.12,000/- per month.

4. On service of notice, the respondents appeared before the Tribunal through their respective counsels and filed statement of objections denying the entire claim petition averments. Respondent No.4-Insurer contended that the accident occurred due to sole negligence of deceased rider of motorcycle in question. It was further contended that respondent No.3 entrusted his motorcycle to the rider, who was not having valid and effective driving license. It was further contended that the deceased-rider was also not having valid and effective driving license as



on the date of accident. Thus, sought for dismissal of the claim petition.

5. Before the Tribunal, the claimant, who is none other than mother of the deceased, examined herself as PW1 apart from marking the documents as Exs.P1 to P7. The respondent-insurer examined its Administrative Officer as RW1 and marked ten documents as Exs.R1 to R10. The Tribunal on scrutiny of entire material on record awarded a total compensation of Rs.22,44,468/- with interest at 9% per annum from the date of petition till the date of realization on the following heads:

Loss of dependency	Rs.20,94,468/-
Loss of consortium	Rs. 40,000/-
Loss of estate	Rs. 15,000/-
Transportation & funeral expenses	Rs. 15,000/-
Loss of love and affection	Rs. 80,000/-

Total	Rs.22,44,468/-
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6. While awarding the above compensation, the Tribunal assessed notional income of the deceased at Rs.11,000/- per month, applied multiplier of 17, deducted $1/3^{\text{rd}}$ towards personal expenses of the deceased and added 40% of the assessed income of the deceased



towards future prospects. The insurer is in appeal challenging the liability as well as quantum of compensation, whereas the claimants are in cross objection praying for enhancement of compensation, not being satisfied with the quantum of compensation awarded by the Tribunal.

7. Heard the learned counsel Sri.Madhukeshwar Deshpande for the appellant-Insurer, learned counsel Sri. Santosh B Rawoot for the cross objectors-claimants and perused the appeal papers including original records of the Tribunal.

8. Sri. Madhukeshwar Deshpande, learned counsel for the appellant-Insurer in support of his appeal strenuously contended that the Tribunal without taking note that the rider of the motorcycle bearing registration No.KA-69/E-4048 was not having valid and effective driving license as on the date of accident, erroneously saddled the entire liability on the insurer to satisfy the



award. Thus, he prays to fasten the entire liability on the owner of the offending motorcycle.

9. As regards the quantum of compensation awarded by the Tribunal, Sri.Madhukeshwar Deshpande submits that the quantum of compensation awarded by the Tribunal is just and proper, which needs no interference. He further submits that the Tribunal could not have granted 9% interest on the compensation amount and he prays for reducing the same from 9% to 6% per annum. Thus, he prays for allowing the appeal filed by the Insurer and seeks to dismiss the cross-objection filed by the claimants.

10. *Per contra*, Sri.Santosh B Rawoot, learned counsel for the cross-objectors/claimants would contend that notional income of the deceased assessed by the Tribunal at Rs.11,000/- per month is on the lower side, as the notional income fixed by KSLSA for the accident of the year 2020 is Rs.13,750/- per month. Thus, learned



counsel prays for allowing the cross-objection filed by the claimants by enhancing the compensation.

11. Having heard the learned counsel for both the parties and on perusal of the appeal papers along with original records, the following points would arise for our consideration:

- a) Whether the liability saddled on the Insurer is proper and correct?
- b) Whether the claimants would be entitled to enhanced compensation?

12. Our answer to the above points would be in the "negative" and "affirmative" respectively for the following reasons:

13. The occurrence of the accident on 20.03.2020 involving two motorcycles bearing registration No.KA-48/EA-3940 & KA-69/E-4048, resultant death of the deceased Parasappa Pujari is not in dispute. The Insurer is in appeal questioning the liability as well as quantum of compensation granted, whereas the claimants are in cross objection seeking enhancement of compensation.



14. It is the contention of the Insurer that the rider of the motorcycle bearing reg.No.KA-69/E-4048 was not having valid and effective driving license as on the date of the accident and therefore, the insurer is not liable to pay compensation. It is an admitted fact that the rider of the offending motorcycle was not having valid and effective driving license as on the date of the accident. However, the Tribunal committed an error in saddling the entire liability on the insurer to satisfy the award. The Full Bench of this Court in the case of ***New India Assurance Co. Ltd. Vs. Yallavva & Another*¹**, has held that, in an accidental claim for compensation, where the driver/rider of the offending vehicle was not holding a valid and effective driving licence as on the date of the accident, it is a case of "Pay and Recover", i.e., the insurance company shall pay the compensation to the claimants, at the first instance, with liberty to recover the same from the owner of the vehicle. In the instant case also, in terms of the

¹ 2020 (2) KCCR 1405



aforesaid decision of the Full Bench of this Court, it is for the insurance company to satisfy the claim at the first instance and thereafter it would be at liberty to recover the same from the owner of the motorcycle bearing reg.No.KA-69/E-4048.

15. As regards the quantum of compensation, the Tribunal has assessed notional income of the deceased at Rs.11,000/- per month. The claimants in order to prove the avocation and earning of the deceased have not produced any cogent or acceptable document. In the absence of any documentary evidence to establish the avocation and income of the deceased, this Court and Lok Adalath while settling the accidental claims of the year 2020, would normally assess notional income at Rs.13,750/- per month, taking note of the income chart prepared by KSLSA based on various factors including the minimum wage fixed. Therefore, in the instant case also, in the absence of any corroborative document to establish the income of the deceased, we are of the opinion that it



would be just and appropriate for us to determine notional income of the deceased at Rs.13,750/- p.m., taking note of the income chart prepared by KSLSA and also the minimum wage fixed.

16. There is no dispute with regard to age of the deceased at 27 years, applicable multiplier of 17, addition of 40% of the assessed income towards future prospects and the deduction of $1/3^{\text{rd}}$ towards personal and living expenses of the deceased, as there are three dependents. Accordingly, the claimants would be entitled to modified compensation on the head of loss of dependency at **Rs.26,18,000/-** (Rs.13,750 + $40/100 \times 12 \times 17 \times 2/3$).

17. It is well settled law that each claimants would be entitled to **Rs.44,000/-** towards loss of consortium as held by the Hon'ble Apex Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram & Others²**, including 10% escalation. In terms of decision of the Hon'ble Apex Court in the case of **National Insurance**

² 2018 ACJ 2782



Company Limited Vs. Pranay Sethi & Others³, the claimants would be entitled to ***Rs.16,500/-*** towards loss of estate and ***Rs.16,500/-*** towards transportation of dead body and funeral expenses including 10% escalation. Thus, the claimants would be entitled for modified compensation on the following heads:

Sl. No.	Particulars	Amount
1.	Loss of dependency	Rs.26,18,000/-
2.	Loss of estate & Funeral expenses	Rs. 33,000/-
3.	Loss of Consortium (Rs.44,000/- each)	Rs. 1,32,000/-
	Total	Rs.27,83,000/-

18. The Tribunal committed an error in awarding rate of interest at 9% per annum, which is on the higher side. Taking note of the present rate of Bank interest, we are inclined to reduce the rate of interest on the compensation amount from 9% awarded by the Tribunal to 6% per annum.

19. Thus, the claimants would be entitled to a total compensation of **Rs.27,83,000/-** as against

³ AIR 2017 SC 5157



Rs.22,44,468/- awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till date of realization.

20. In the result, we proceed to pass the following:

ORDER

- a) Appeal as well as cross objection are ***allowed in part.***
- b) The impugned judgment and award of the Tribunal is modified holding that the claimants would be entitled to total compensation of **Rs.27,83,000/-** as against Rs.22,44,468/- awarded by the Tribunal.
- c) The entire compensation amount shall carry interest at the rate of 6% per annum from the date of petition till date of realization.
- d) The respondent/insurer is directed to pay compensation to the claimants at the first instance and thereafter recover the same from the owner of the offending motorcycle bearing reg.No.KA-69/E-4048.



- e) The respondent-Insurance Company shall deposit the entire compensation amount with accrued interest before the Tribunal within four weeks from the date of receipt of certified copy of this judgment.
- f) Apportionment, deposit & disbursement shall be made as per the award of the Tribunal.
- g) The amount in deposit, if any, be transmitted to the concerned Tribunal forthwith along with TCR.
- h) Draw modified award accordingly.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE