



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 4TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO.200744 OF 2019 (MV-D)

BETWEEN:

THE DIVISIONAL MANAGER,
THE CHOLAMANDALAM M.S.
GEN. INS. CO. LTD.,
2ND FLOOR, DARE HOUSE,
2 NSC BOSE ROAD, CHENNAI – 600 001.
NOW REPRESENTED BY
CHOLA MS GEN. INSURANCE COMPANY LIMITED,
THROUGH DIVISIONAL MANAGER,
UNIT NO.4, 9TH FLOOR, LEVEL-06,
GOLDEN HEIGHTS COMPLEX,
59TH C CROSS, INDUSTRIAL SUBURB,
RAJAJI NAGAR, 4TH MAIN,
BENGALURU – 560 010.

...APPELLANT

(BY SRI MANJUNATH MALLAYYA SHETTY, ADVOCATE)

AND:

1. RAMACHANDRA
S/O NARAYAN CHAVAN,
AGE: 43 YEARS,
OCC: AGRICULTURE,



2. PUSHPA
W/O RAMCHANDRA CHAVAN,
AGE: 40 YEARS,
OCC: HOUSEHOLD,

BOTH R/O: GANDHI NAGAR,
VIJAYAPURA – 586 101.
3. HANMANT
S/O TUKARAM SHELAKA,
AGE: 43 YEARS,
OCC: BUSINESS,
R/O: A/P SHIVE MALA MALKHAMBI,
TQ: MALSHIRAS,
DIST: SOLAPUR,
MAHARASTRA STATE – 413 112.

...RESPONDENTS

(BY SRI KOUJALAGI C.L., ADVOCATE FOR R1 AND R2;
NOTICE TO R3 SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE
MOTOR VEHICLES ACT, PRAYING TO SET ASIDE THE
JUDGMENT AND AWARD DATED 1ST DAY OF JANUARY, 2019
PASSED BY THE I ADDITIONAL SENIOR CIVIL JUDGE AND
MACT-VI AT VIJAYPURA IN M.V.C. NO.1287/2016 AND TO
MODIFY THE COMPENSATION AWARDED, IN THE INTEREST OF
JUSTICE AND EQUITY.

THIS MFA, COMING ON FOR HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD
AND
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD)

This appeal under Section 173(1) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act', for short) has been filed by the Insurance Company challenging the judgment and award dated 01.01.2019 passed by the I Additional Senior Civil Judge and Member MACT-VI, Vijayapur in MVC No.1287/2016.

2. Facts giving rise to the filing of the appeal briefly stated are that on 25.07.2016 at about 7:30 PM when the deceased Pandurang and Akash were proceeding from their house to land by walk on the side of the road, on Pune-Temburni Service Road, at that time, one Truck bearing Reg.No.MH-12/GT-1818 came in a rash and negligent manner, driven by its driver and dashed to the deceased and said Akash, as a result, both fell down and sustained fatal injuries and deceased Pandurang succumbed to the injuries.



3. The claimants filed a petition under Section 166 of the Act seeking compensation for the death of the deceased along with interest.

4. Upon service of notice, the respondents appeared through counsel and filed their separate written statements denying the averments made in the claim petition.

5. On the basis of the pleadings of the parties, the Claims Tribunal framed the issues and thereafter, recorded the evidence. The Tribunal, by the impugned judgment and award has partly allowed the claim petition and held that the claimants are entitled to a compensation of Rs.30,54,000/- along with interest at the rate of 9% p.a. and directed respondent No.2-Insurance Company to deposit the compensation amount along with interest. Being aggrieved, the present appeal has been filed by the Insurance Company.

6. The learned counsel for the Insurance Company has raised the following contentions:



- a) Firstly, although the claimants claim that the deceased was earning Rs.20,000/- per month, except producing Ex.P7 and P8 and evidence of PW.3, they have not produced any bank statement to show that the deceased was getting monthly salary of Rs.20,000/-.
- b) Secondly, on appreciation of oral and documentary evidence and considering the age and avocation of the deceased, the overall compensation awarded by the Tribunal is on the higher side.
- c) Thirdly, in respect of liability, he contended that the driver of the offending vehicle was holding a light motor vehicle driving licence with 'Transport' endorsement, while he was driving a heavy motor vehicle. Since the driver of the offending vehicle was not holding a driving licence to drive the heavy motor vehicle and since the insured has violated the policy conditions, the Insurance Company is not liable to pay any compensation. Therefore, he contended that the Tribunal has erred in holding that Insurance Company is liable to pay the compensation.



d) Lastly, in light of the Division Bench decision of this Court in the case of ***Ms.Joyeeta Bose And Others –V- Venkateshan.V And Others*** (MFA 5896/2018 AND *Connected Matters Disposed Of On 24.8.2020*), the rate of interest awarded by the Tribunal at 9% p.a. on the compensation amount is on the higher side. With the above contentions, the learned counsel sought to allow the appeal.

7. On the other hand, the learned counsel for the claimants has raised the following contentions:

a) Firstly, the claimants assert that the deceased was aged about 22 years at the time of the accident and had a monthly income of Rs.20,000/- by working as Manager in Jai Hanuman Hotel. The claimants have also examined the employer as PW.3. Considering the same, the Tribunal has rightly assessed the monthly income of the deceased.

b) Secondly, the Tribunal has rightly considered future prospects and applied the multiplier and rightly deducted 50% towards his personal expenses.



c) Thirdly, even though this Court held that driver of the offending vehicle was not having a valid and effective driving licence, in respect of claimant is concerned, the Insurance Company has to pay the compensation amount with liberty to recover the same from the owner of the offending vehicle.

d) Fourthly, as per the judgment of the Hon'ble Supreme Court in the case of ***Magma General Insurance Company Limited vs. Nanu Ram and others, 2018 ACJ 2782***, each of the claimants is entitled to compensation of Rs.40,000/- under the head of 'loss of love and affection and consortium'.

e) Lastly, considering the age and avocation of the deceased, the overall compensation awarded by the Tribunal is just and reasonable and therefore, he sought for dismissal of the appeal.

8. Heard the learned counsel for the parties and perused the judgment and award of the Tribunal.



9. It is not in dispute that deceased Pandurang died in the road traffic accident occurred on 25.07.2016 due to rash and negligent driving of the offending vehicle by its driver.

10. The claimants claim that the deceased was earning Rs.20,000/- per month and they have produced the salary certificate issued by the employer as per Exs.P7 and P8 and also examined the employer as PW.3, but they have not produced the bank statement to show that he was getting monthly salary of Rs.20,000/-. Considering the evidence of PW.3 and considering the age and avocation of the deceased, we are of the opinion that monthly income of the deceased has to be assessed at Rs.12,000/- per month. The Tribunal has rightly added 40% of the income towards future prospects. The multiplier also correctly applied i.e., '18' to the age group of 22 years of the deceased. Since deceased was a bachelor at the time of accident, the Tribunal has rightly deducted 50% towards his personal expenses. Thus, the



claimants are entitled to compensation of Rs.18,14,400/- (Rs.16800*12*18*50%) on account of 'loss of dependency'.

11. In addition, the claimants are entitled to compensation of Rs.15,000/- on account of 'loss of estate' and compensation of Rs.15,000/- on account of 'funeral expenses'.

12. In view of the law laid down by the Supreme Court in the case of '**Magma General Insurance Co. Ltd.,**' (supra), claimant Nos.1 and 2, parents of the deceased are entitled for compensation of Rs.40,000/- each under the head of 'loss of filial consortium'.

13. In respect of liability is concerned, it is not in dispute that driver of the offending vehicle was having a driving licence to drive a transport vehicle. It was issued on 07.07.2014 and valid till 06.07.2017 for transport vehicle. In view of considering the judgment of this Court in the case of **Bibi Khuteja and Another vs. Dawood Husen and Another [2018 ACJ 786]**, the Tribunal has



rightly held that driver of the offending vehicle was having a valid and effective driving licence to drive a transport vehicle and rightly fixed the liability on the Insurance Company.

14. Thus, the claimants are entitled to the following compensation:

Compensation under different Heads	Amount in (Rs.)
Loss of dependency	18,14,400
Funeral expenses	15,000
Loss of estate	15,000
Loss of Filial consortium	80,000
Total	19,24,400

15. In the result, the following order is passed:

ORDER

- a) The appeal is **allowed in part.**
- b) The judgment of the Claims Tribunal is modified.



- c) The claimants are entitled to a total compensation of Rs.19,24,400/- as against Rs.30,54,000/- awarded by the Tribunal.
- d) Following the judgment of the Division Bench of this Court in the case of '**Ms.Joyeeta Bose**' (supra), the compensation shall carry interest at 6% p.a.
- e) The Insurance Company is directed to deposit the compensation amount along with interest at 6% p.a. from the date of filing of the claim petition till the date of realization, within a period of six weeks from the date of receipt of a copy of this judgment.
- f) The apportionment, deposit and release of amount shall be made in accordance with the terms of the award of the Tribunal.

Sd/-
(H.T.NARENDRA PRASAD)
JUDGE

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE