



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 5TH DAY OF NOVEMBER, 2025

PRESENT

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

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO. 201039 OF 2024 (MV-D)

BETWEEN:

1. SMT. LAXMIBAI
W/O LATE VISHWANATH,
AGE; 48 YEARS,
OCC: HOUSEHOLD,
2. GANESH
S/O LATE VISHWANATH,
AGE; 23 YEARS,
OCC: HOUSEHOLD,
3. SAPNA
D/O LATE VISHWANATH,
AGE; 26 YEARS,
OCC: HOUSEHOLD,
4. SUNIL
S/O LATE VISHWANATH,
AGE; 27 YEARS,
OCC: HOUSEHOLD,
5. ANIL
S/O LATE VISHWANATH,
AGE; 32 YEARS,
OCC: HOUSEHOLD,



NC: 2025:KHC-K:6562-DB
MFA No. 201039 of 2024

ALL R/OF: H.NO.18-1-236,
CHIDRI BIDAR – 585 401.

...APPELLANTS

(BY SRI SANTOSH BIRADAR, ADVOCATE)

AND:

1. SYED NADEEM
S/O NAYEEMUDDIN,
AGE: MAJOR,
OCC: BUSINESS,
R/O: NEAR VALMIKI TEMPLE,
BHUNYAR (K) – 585 310.
TQ: JEWARGI,
DIST: KALABURAGI.
2. M/S IFFCO TOKIO GENERAL INSURANCE CO LTD.,
SERVICE OFFICE, 4TH AND 5TH FLOOR,
IFFCO TOWER, PLOT NO.3 SECTOR 29,
GURGAON 122 001. HARYANA STATE.

...RESPONDENTS

(BY SRI SUDARSHAN M., ADVOCATE FOR R2;
V/O DATED 15.04.2024 NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO ALLOW THE APPEAL, MODIFY THE IMPUGNED JUDGMENT AND AWARD DATED 01.09.2023 PASSED BY THE COURT OF ADDL. SENIOR CIVIL JUDGE AND JMFC AND MACT AT BIDAR IN MVC NO.147/2022 AND ENHANCE THE COMPENSATION AS PRAYED FOR IN THE INTEREST OF JUSTICE AND EQUITY.

THIS MFA, COMING ON FOR ADMISSION, 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 claimants challenging the judgment and award dated 01.09.2023 passed by the Addl. Senior Civil Judge & JMFC, Bidar in MVC No.147/2022.

2. Facts giving rise to the filing of this appeal briefly stated are that on 17.07.2021 at about 6.45 p.m., the deceased Vishwanath was proceeding on motorcycle bearing registration No.KA-29/J-6456 on Malkapur Ring road, near Narsimha Jharni, Bidar on the proper side of the road. At that time, the driver of the Car bearing registration No.KA-32-M/6811 came from Deva-Deva Vana side in a rash and negligent manner and violently dashed against the motorcycle of the deceased. As a result of the said accident, the deceased fell on the road, sustained



grievous head injuries, was hospitalized and subsequently succumbed to the injuries on 25.11.2021.

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 respondent No.2 appeared through counsel and filed written statement denying the averments made in the claim petition. The respondent No.1, despite service of notice, did not appear before the Tribunal and was placed ex-parte.

5. On the basis of the pleadings of the parties, the Claims Tribunal framed the issues and thereafter, recorded the evidence. The Tribunal, by impugned judgment and award has partly allowed the claim petition and held that the claimants are entitled to a compensation of Rs.26,21,849/- along with interest at the rate of 6% p.a. and directed the Insurance Company to deposit the compensation amount along with interest. Being aggrieved, the present appeal has been filed.



6. Sri. Santosh Biradar, learned counsel for the claimants has raised the following contentions:

a) Firstly, at the time of the accident, the deceased was working as a tailor, earning Rs.30,000/- per month. To prove the same, the claimants examined the employer of the deceased as PW.2. In his evidence, he has categorically stated that the deceased was working under him and that he was paying Rs.1,200/- per day for his work. The said evidence of PW.2 has not been challenged by the Insurance Company. In spite of this, the Tribunal has considered the notional income of the deceased as Rs.11,000/- which is on the lower side.

b) Secondly, as per the judgment of the Hon'ble Supreme Court in the case of **MAGMA GENERAL INSURANCE CO. LTD. -V- NANU RAM** [2018 ACJ 2782], each of the claimants is entitled to compensation of Rs.44,000/- under the head of 'loss of love and affection and consortium'. Hence, he sought for allowing the appeal.



7. Per contra, Sri. Sudarshan M, learned counsel appearing for the Insurance Company has raised the following counter contentions:

a) Firstly, although the claimants claim that the deceased was earning Rs.30,000/- per month, but they have not produced any bank statement as supporting documents to substantiate their claim. They have examined employer of the deceased as PW.2. Therefore, the Tribunal has correctly assessed the notional income of the deceased as Rs.11,000/- per month.

b) Secondly, considering the age and avocation of the deceased, the overall compensation awarded by the Tribunal is just and reasonable. Hence, 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 Vishwanath died in the road traffic accident occurred on 17.07.2021 due to rash



and negligent driving of the offending car bearing registration No.KA-32-M/6811.

10. The claimants claim that deceased was earning Rs.30,000/- per month working as a tailor under PW.2. But they failed to produce the supporting documents to substantiate their claim. To prove the salary of the deceased, the claimants have also examined the employer of the deceased as PW.2. PW-2 has categorically stated the following, and the relevant portion of his evidence extracted below:

"One witness by name Veershetty examined as PW-2 and he deposed that, the claimants who are wife and children of deceased Vishwanath S/o Anneppa. He is the proprietor of M/S Esquire Mens Wear Gandhi Gunj Road Bidar and he is running his Tailoring shop since 15 years and said deceased was proficient Tailor and working under him as Tailor for stitching mens wear since 3-4 year prior to his death in road accident on 15.07.2021. He used to pay stitching charges at the fixed rate and the deceased was stitching mens wear and earning about 1000/- 1200/- per day for his work. He produced document



Salary certificate of deceased Vishwanath as per Ex.P19 and he identified his signature on Ex.19(a). This witness not cross examined by the respondent No.2."

11. The said evidence of PW.2 has not been challenged by the Insurance Company. Considering the evidence of PW.2 and PW.1, and taking into account the age and avocation of the deceased, we are of the opinion that the monthly income of the deceased can be assessed as Rs.20,000/- per month. The Tribunal has rightly added 25% of the income of the deceased towards future prospects and correctly applied multiplier of '14' and deducted 1/4th of the income towards personal expenses. Thus, the claimants are entitled to compensation of **Rs.31,50,000/-** ($\text{Rs.20,000} + 25\% \times 12 \times 14 \times 3/4$) on account of loss of dependency.

12. In addition, the claimants are entitled to compensation of **Rs.16,500/-** on account of 'loss of estate' and compensation of **Rs.16,500/-** on account of 'funeral expenses'.



13. In view of the law laid down by the Supreme Court in the case of '**MAGMA GENERAL INSURANCE**' (supra), claimant No.1-wife of the deceased is entitled for compensation of Rs.**44,000/-** under the head of 'loss of spousal consortium'. Claimant Nos.2 to 5-children of the deceased are entitled for compensation of Rs.**44,000/-** each under the head of 'loss for parental consortium'.

14. The compensation of Rs.**7,74,433/-** awarded by the Tribunal under the head of 'medical bills' is based on the medical bills produced by the claimants and also, food and nourishment, conveyance and attendant charges Rs.10,000/- are deemed just and reasonable.

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

Compensation under different Heads	Amount in (Rs.)
Loss of dependency	3,150,000
Funeral expenses	16,500
Loss of estate	16,500



Loss of spousal consortium	44,000
Loss of Parental consortium	176,000
Medical expenses	774,433
food and nourishment, conveyance and attendant charges	10,000
Total	41,87,433

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

ORDER

- i) The appeal is **allowed in part.**
- ii) The judgment of the Claims Tribunal is modified.
- iii) The claimants are entitled to a total compensation of **Rs.41,87,433/-** as against Rs.26,21,849/- awarded by the Tribunal.
- iv) 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.

- v) 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**

SHS
List No.: 1 Sl No.: 58