



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 641 OF 2022 (MV-D)

BETWEEN:

1. SRI. APPAJI
S/O BUTTAPPA @ GUTTAPPA
AGED ABOUT 48 YEARS,
2. SMT. REKHA C
W/O APPAJI
AGED ABOUT 39 YEARS

BOTH ARE R/AT NO.37/2
KRISHNA REDDY COMPLEX
IST CROSS, DEVASANDRA MAIN ROAD,
NANJAMMA LAYOUT, K.R. PURAM
BENGALURU - 560 048.

...APPELLANTS

(BY SRI. GURUDEV PRASAD K.T, ADVOCATE)

AND:

1. THE MANAGER
M/S SBI GENERAL INSURANCE CO. LTD.,
MOTOR CLAIMS HUB
NO.3/1, GROUND FLOOR,
RUKMINI TOWERS, NEAR SWATHI HOTEL
PLATFORM ROAD, SHESHADRIPURAM
BENGALURU - 560 026.

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by
SHARADAVANI
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Location: High
Court of
Karnataka





2. MR. SREENIVASA MOORTHY,
S/O VISWANATHA SARMA
NO.28, FLAT 112, NISH 7 APRTS,
1ST CROSS, ASHWATHNAGAR,
RMV 2ND STAGE,
BENGALURU - 560 094.

...RESPONDENTS

(BY SRI. PRADEEP B, ADVOCATE FOR R1;
SRI. GANESH BHAT Y.H, ADVOCATE FOR R2)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 10.05.2019 PASSED IN MVC NO.7098/2018 ON THE FILE OF THE XV ADDITIONAL SMALL CAUSES JUDGE AND XXIII ACMM, MEMBER, MACT, BENGALURU, (SCCH-19), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

This appeal is filed by the claimants being aggrieved by the judgment and award dated 10th May 2019, passed by the XV Additional Small Causes Judge and XXIII ACMM, MEMBER, MACT, BENGALURU, (SCCH-19) (for short



`Tribunal'), in MVC No.7098/2018, seeking enhancement of compensation.

Though this appeal is slated for admission, with the consent of both the sides, it is taken up for final disposal.

2. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3. The Brief facts of the case are that, on 24.10.2018, at about 8.10 p.m., while the deceased was proceeding as a pillion rider on a motorcycle bearing registration No.KA-53/EU-9803, he met with an accident by involvement of a car bearing registration No.KA-04/MP-1364. Due to the impact, the deceased sustained grievous injuries and while undergoing treatment, he succumbed to injuries on 09.11.2018. It is further contention of the appellants that the deceased was aged about 16 years and was studying in the 1st year PUC. The claimants have spent substantial amount towards treatment charges. With



these reasons, they prayed to award compensation of Rs.20,00,000/-.

4. Respondents denied petition averments and further contended that the rider of the motorcycle was responsible for the accident. They also disputed their liability to pay the compensation. With these reasons, prayed to dismiss the claim petition.

5. From the rival contentions of the parties, the Tribunal framed necessary issues, for its determination.

6. The claimants to prove their case examined one witness as PW-1 and marked 20 documents, as per Exs.P-1 to P-20. Respondents examined one witness as RW-1 and marked documents as Exs.R-1 to R-4.

7. The Tribunal after hearing both parties and appreciating the materials available on record, held that the accident occurred due to contributory negligence of rider of the motorcycle as well as the driver of the car and apportioned the negligence in the ratio of 10:90. The



Tribunal has assessed the age of the deceased as 16 years, the age of his youngest parent as 38 years, notional income as Rs.30,000/- per annum, applied the multiplier '15' and awarded the following amount of compensation:

Particulars	Amount in Rs.
Loss of dependency	4,50,000/-
Towards filial consortium	80,000/-
Towards medical expenses	4,81,299/-
Food and conveyance charges	13,000/-
Towards funeral and obsequies ceremonies	15,000/-
Towards loss of estate	15,000/-
<i>Total</i>	<i>10,54,299/-</i>

8. I have heard the arguments of learned counsel for the both sides.

9. The fact of the accident and death of said minor boy-Mr.Pavan Kumar A., is not in dispute. The said boy was undoubtedly aged about 16 years and he was an adolescent studying in the PUC 1st year. Therefore, the



principle of law laid down in the case of ***Kishan Gopal and Ors Vs. Lala and Ors***, in ***Civil Appeal No.7137/2013*** decided on ***26.08.2013***, cannot be applied to the facts of the present case.

10. Learned counsel for the appellants submits that the Hon'ble Apex Court in the case of ***Hitesh Nagjibhai Patel Vs. Bababhai Nagjibhai Rabari and Anr*** in ***Civil Appeal No.10278/2025 (arising out of SLP(C)No.14444/2025)***, has given guidelines to assess the compensation in case of the death of minor aged above 15 years. In such cases, income of minor shall be assessed as per Minimum Wages Act.

11. Learned counsel for respondent No.1-insurer submits that there are categories of employees whose minimum wages are mentioned in the table. The KSLSA, while assessing the national income, has taken into consideration the said chart and on that basis, has prepared the notional income chart. Therefore, the said



chart may be considered for assessment of the income. The said contention of the respondent is tenable. The accident occurred during the year 2018. Therefore, notional income is taken as Rs.12,500/- per month.

12. As per the law laid down in the case of ***National Insurance Company Limited Vs. Pranay Sethi & Others***¹ as well as ***Sarla Verma And Others Vs. Delhi Transport Corporation And Another***², the applicable multiplier is '18' and for that age of the deceased shall be taken into account and not youngest parent of deceased. 40% of his income has to be added towards future prospects. 50% of his income has to be deducted towards personal expenses and on that basis, the compensation is calculated under the head 'loss of dependency'.

13. The Tribunal has awarded amount of Rs.4,81,299/- towards medical expenses and it does not

¹ AIR 2017 SC 5157

² 2009 ACJ 1298



call for any interference. The claimants are also entitled to compensation under the conventional heads.

14. The Tribunal has awarded an amount of Rs.13,000/- towards food and conveyance charges. Since the injured died in the accident, the claimants are not entitled to the compensation under the said head. In reappraisal of the materials on record, the claimants are entitled to the following amount of compensation:

Particulars	Amount in Rs.
Loss of dependency (12,500+40% $\times$ 12 $\times$ 18 $\times$ 50%)	18,90,000/-
Towards filial consortium	80,000/-
Towards medical expenses	4,81,299/-
Towards funeral and obsequies ceremonies	15,000/-
Towards loss of estate	15,000/-
<i>Total</i>	<i>24,81,299/-</i>
<i>Amount awarded by the Tribunal after deducting 10%</i>	<i>9,49,000/-</i>
<i>Enhancement-</i>	<i>15,32,299/-</i>
<i>Rounded off-</i>	<i>15,33,000/-</i>



15. In the impugned judgment, the Tribunal held that the rider of the motorcycle was negligent and fixed his contributory negligence at 10%. Consequently, it was directed the insurer to pay 90% of the compensation. The said finding is erroneous on two grounds. Firstly, the owner and insurer of the said motorcycle are not parties to the proceedings. In the absence of said parties, assessment of the negligence on their part is not permissible. The Hon'ble Apex Court in the case of ***Khenyei Vs. New India Assurance Company Limited and Others***³, held that in the absence of the joint tortfeasor, the Tribunal or Court shall not assess the contributory negligence of the rider of such vehicle. Secondly, the deceased was a pillion rider, and the claimants are entitled to seek compensation from either of the joint tortfeasors. If, in an appropriate forum, the respondents are able to establish that the accident occurred due to the contributory negligence of the other

³ (2015) 9 SCC 273



joint tortfeasor, they may then have a right to recover the same from them. However, they are required to pay the entire amount to the claimants/third parties. Therefore, the Tribunal's findings in this regard cannot be sustained and are liable to be set aside.

16. The claimants are entitled to interest on the said amount at the rate of 6% per annum from the date of claim petition till its realisation.

17. In the result, I proceed to pass the following:

ORDER

i) The Appeal is ***allowed in part.***

ii) The judgment and award dated 10th May 2019, passed in MVC.No.7098/2018, by the XV Additional Small Causes Judge and XXIII ACMM, MEMBER, MACT, BENGALURU, (SCCH-19), stands modified;

iii) The claimants are entitled to enhanced compensation of Rs.15,33,000/-, with interest at the rate of 6% p.a. from the



date of petition till its realization, excluding delayed period of 201 days in filing the appeal.

iv) The respondent No.1 - Insurance Company shall deposit the amount within a period of six weeks from the date of award.

v) The remaining portion of the award is not disturbed.

vi) Draw award accordingly.

Registry is directed to send back the records along with a copy of this judgment to the concerned Tribunal.

Sd/-
(UMESH M ADIGA)
JUDGE

AMA
List No.: 1 Sl No.: 15