

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.3655 OF 2019 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 419 OF 2020 (MV-D)

IN MFA No. 3655/2019

BETWEEN:

NATIONAL INSURANCE COMPANY LIMITED
NO.1576,
1ST FLOOR, V V ROAD,
MANDYA-571 401.

ALSO AT THE NATIONAL INSURANCE
COMPANY LIMITED
REGIONAL OFFICE:144,
SUBHARAM COMPLEX,
M.G. ROAD,
BENGALURU – 560 001
NOW REPRESENTED BY
ASST. LEGAL MANAGER

...APPELLANT

(BY SRI. ASHOK N PATIL, ADVOCATE)

AND:

1. H S ANITHA
W/O LATE KANTARAJU
AGED ABOUT 33 YEARS
2. CHANDAN H K
S/O LATE KANTHARAJU
AGED ABOUT 14 YEARS

3. VARUN K H
S/O LATE KANTARAJU
AGED ABOUT 12 YEARS
4. NANJAPPA
S/O LATE BALAGALLAIAH
AGED ABOUT 68 YEARS
5. KEMPAMMA
W/O NANJAPPA
AGED ABOUT 58 YEARS

(RESPONDENT NO.2 AND 3 ARE
MINORS, REP. BY THEIR MOTHER
AS NATURAL GUARDIAN H.S. ANITHA
W/O LATE KANTARAJU)

ALL ARE R/O HARALAKERE VILLAGE
DEVALAPURA HOBLI,
NAGAMANGALA TALUK-571 435.

6. CHALUVARAJU
S/O NARAYANAPPA
HALTI VILLAGE,
KASABA HOBLI,
NAGAMANGALA TALUK
MANDYA DISTRICT-571 435.
7. NARAYANA
S/O LATE VYKUNTAIAH
HALTI VILLAGE,
KASABA HOBLI,
NAGAMANGALA TALUK
MANDYA DISTRICT-571 435.

...RESPONDENTS

(BY SRI. A.K.BHAT, ADVOCATE FOR
SRI K.A.CHANDRASHEKARA, ADVOCATE FOR R-1 TO R-5;
R6 AND R7 ARE SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO
ALLOW THIS APPEAL AND CONSEQUENTLY SET ASIDE
JUDGMENT AND AWARD DATED 13.11.2018 PASSED BY THE

COURT OF SENIOR CIVIL JUDGE AND MACT, AT
NAGAMANGALA, IN MVC NO.17/2011, IN THE INTEREST OF
JUSTICE AND EQUITY.

IN MFA NO. 419/2020

BETWEEN:

1. H.S. ANITHA
W/O LATE KANTARAJU
AGED ABOUT 34 YEARS,
2. CHANDAN H K
S/O LATE KANTARAJU
AGED ABOUT 15 YEARS,
3. VARUN H K
S/O LATE KANTARAJU
AGED ABOUT 13 YEARS,
4. NANJAPPA
S/O LATE BALAGALLAIAH
AGED ABOUT 69 YEARS,
5. KEMPAMMA
W/O NANJAPPA
AGED ABOUT 59 YEARS,

SINCE THE APPELLANT NOS.2 AND 3 ARE
MINORS, REPRESENTED BY THEIR MOTHER
AND NATURAL GUARDIAN
SMT H S ANITHA
W/O LATE KANTARAJU
THE APPELLANT NO.1 HEREIN

ALL ARE R/AT
HARALAKERE VILLAGE,
DEVALAPURA HOBLI

NAGAMANGALA TALUK
MANDYA DISTRICT-571432

...APPELLANTS

(BY SRI. A.K.BHAT, ADVOCATE FOR
SRI CHANDRASHEKARA K A., ADVOCATE)

AND:

1. CHALUVARAJU
S/O NARAYANAPPA
HALTI VILLAGE KASABA HOBLI
NAGAMANGALA TALUK
MANDYA DISTRICT-571 432
2. NARAYANA
S/O LATE VYKUNTAIAH
HALTI VILLAGE KASABA HOBLI
NAGAMANGALA TALUK
MANDYA DISTRICT-577202
3. NATIONAL INSURANCE CO. LTD
NO.1576 1ST FLOOR, V V ROAD,
MANDYA P F NO.54
(POLICY NO.200240/30/09/63)
REPRESENTED BY ITS MANAGER

...RESPONDENTS

(BY SRI. ASHOK N PATIL AND
SRI B.A.RAMAKRISHNA, ADVOCATE FOR R3;
NOTICE TO R1 & R2 IS D/W, V/O DTD:15.7.2022)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO
CALL FOR RECORDS IN MVC NO.17/2011 ON THE FILE OF THE
LEARNED SENIOR CIVIL JUDGE AND MACT AT NAGAMANGALA
AND MODIFY THE JUDGMENT AND AWARD DATED 13.11.2018
AND AWARD THE COMPENSATION AS CLAIMED IN THE CLAIM
PETITION AND ETC.

THESE APPEALS HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 11.12.2025 AND COMING ON FOR
PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED
THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

These appeals are filed by the Insurance Company and the claimants respectively under Section 173(1) of Motor Vehicles Act, 1988 (hereinafter referred to as 'MV Act' for short), challenging the judgment and award passed in MVC No.17/2011 dated 13.11.2018 by the Senior Civil Judge and MACT, Nagamangala. The Insurance Company has challenged the negligence attributed on the part of the driver of the offending vehicle and claimants are seeking for enhancement of compensation respectively.

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

3. The brief facts of the case are that on 26.07.2010, at about 7.30 p.m., when deceased Sri.Kantharaju and Sri.Rukmangada were going on a Motor cycle (unregistered) towards Haralakere village, when they reached near the land of Jalaiah a Mahindra Tractor bearing Reg.No.KA-11-T-6670/6671 being driven in a rash

and negligent manner came from opposite side and hit the motor cycle. Due to the said accident, deceased Sri.Kantaraju who was traveling as a pillion rider fell down and sustained grievous injuries and was shifted to General Hospital at Nagamangala. Later, he was shifted to Government Hospital at Mandya and then to Nimhans and Sharavathi at Bengaluru. Deceased was taking treatment as an inpatient but succumbed to the injuries on 22.12.2010. Therefore, the claimants have filed claim petition under Section 166 of the Motor Vehicles Act, seeking compensation.

4. Upon service of notice, the respondents have appeared through their respective counsel and filed their separate written statement. Respondent Nos.1 & 2 in their written statement has contended that the deceased is alleged to have contributed to the accident and the respondent No.2 has insured the vehicle with respondent No.3 and sought for dismissal of the claim petition. Respondent No.3 in its written statement has contended that the accident has caused due to negligence on the part

of the rider of the motor cycle and the petition was bad for non joinder of necessary parties. The motor cycle was purchased on 22.01.2010 and the accident had occurred on 26.07.2010 and the vehicle till then was never registered with any RTO. Sri.Rukmangada was riding the motor cycle with two other pillion riders. It has contended that driver of the Tractor was not possessing valid and effective driving licence at the time of accident. Hence, sought for dismissal of the claim petition.

5. On the basis of the pleadings of the parties, the Tribunal framed issues and recorded the evidence. The claimants have examined four witnesses as PWs-1 to 4 and got marked documents at Exs.P1 to P-11. The respondents have examined three witnesses as RWs-1 to 3 and got marked documents at Exs.R.1 to R.3.

6. After hearing the parties and on perusal of the documents, the Tribunal has allowed the petition in part and awarded compensation of Rs.11,86,024/- with interest at the rate of 6% per annum from the date of petition till realization.

7. Heard learned counsel appearing for the parties and perused the material on record.

8. Learned counsel for the Insurance Company submitted that the judgment and award of the Tribunal is contrary to the documents and evidence on record and the Tribunal has erred in fastening the liability at the rate of 70:30 on the insurer and the claimant respectively, the Tribunal ought to have fixed the liability in the ratio of 50% each as there were three persons riding on the motor cycle at the time of the accident. The Tribunal has also erred in taking the income of the deceased at Rs.8,000/- per month without any proof of income as the accident is of the year 2010. Hence, the Tribunal has awarded exorbitant compensation under all conventional heads. Therefore, on these grounds, prays for interference with the judgment and award passed by the Tribunal by allowing the appeal.

9. On the other hand, learned counsel for the claimants submits that the occurrence of accident and

death of said Kantharaju is not in dispute. Therefore, there is no need to reconsider the same. He has also contended that the Tribunal has erred in attributing 30% contributory negligence on the part of the deceased. He has submitted that the Tribunal has not properly appreciated the oral and documentary evidence on record. He further submits that amount of compensation awarded under the conventional heads is on the lower side. It is also contended that the Tribunal committed an error in not adding 40% of future prospects to the notional income without considering or appreciating the law laid down by the Apex Court in the case of ***National Insurance Company Limited vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680***. It is also contended by him that the Tribunal has failed to consider the law laid down by the Apex Court in the case of ***Magma General Insurance Company Limited vs. Nanu Ram & Others*** reported in ***(2018) 18 SCC 130*** and reiterated by the Division Bench of this Court in M.F.A.No.1100/2019 & connected matters disposed of on 12.06.2019 in awarding

compensation towards 'loss of consortium'. He therefore requests this Court to enhance the compensation by modifying the impugned judgment and award passed by the Tribunal. Therefore, prayed to allow the appeal and enhance the compensation.

10. Learned counsel for the claimants have relied upon the following judgments:-

- 1. Karnataka State Road Transport Corporation, by its Managing Director vs. Arun @ Aravind and others reported in ILR 2004 KAR 26;*
- 2. Sushma vs. Nitin Ganapati Rangole and others reported in 2024 ACJ 2161;*
- 3. National Insurance Company Limited vs. Pranay Sethi and others reported in AIR 2017 SC 5157;*

11. It is contended that the deceased was doing Agriculture and Milk Vending business and was earning a sum of Rs.18,000/- per month. The accident has taken place in the year 2010 and as per the chart prepared by the Karnataka State Legal Services Authority, income of the deceased is taken at Rs.5,500/- per month. As the

deceased was aged 34 years as on the date of accident, 40% has to be added to the income of the deceased towards future prospects as per ***Pranay sethi supra***. The multiplier applicable is '16'. Since there are five claimants, $\frac{1}{4}^{\text{th}}$ of his income has to be deducted towards personal expenses. Accordingly, on re-determination of the 'loss of dependency', the same works out to be:

$$5,500 + 40\% \times 12 \times 16 \times \frac{3}{4} = \mathbf{Rs.11,08,800/-}$$

12. The Tribunal has awarded compensation towards 'loss of consortium' and 'loss of love and affection' to the appellants at Rs.1,30,000/- which is in meager. Hence, a sum of Rs.40,000/- each is awarded for five dependants. Therefore, the appellants/claimants are entitled for a sum of **Rs.2,00,000/-**.

13. Compensation of a sum of Rs.15,000/- is awarded towards 'loss of estate' and Rs.15,000/- is awarded towards 'funeral expenses and transportation of dead body'.

14. The Tribunal has awarded a sum of **Rs.51,720/-** towards 'medical expenses', which is just and reasonable.

15. Thus, the total compensation re-determined by this Court under various heads are as follows:

1.	Loss of Dependency	Rs.	11,08,800/-
2.	Loss of consortium/love and affection	Rs.	2,00,000/-
3.	Toward funeral expenses and transportation of dead body	Rs.	15,000/-
4.	Loss of estate	Rs.	15,000/-
5.	Medical expenses	Rs.	51,720/-
	TOTAL	Rs.	13,90,520/-

16. The appellants – claimants are entitled for total compensation of **Rs.13,90,520/-** along with interest at the rate of 6% per annum.

17. The Tribunal has come to the conclusion that the deceased is guilty of contributory negligence to the extent of 30%. The said finding being based on correct appreciation of material on record, the same does not

warrant interference by this Court. Thus, 30% of the total compensation amount comes to Rs.4,17,156/-. Thus, deducting the same with the amount of Rs.13,90,520/-, the appellants – claimants would be entitled to total compensation of **Rs.9,73,364/-** (Rs.13,90,520/- - Rs.4,17,156/-) rounded off to **Rs.9,74,000/-** along with interest at the rate of 6% per annum.

18. Accordingly, I proceed to pass the following:

ORDER

- i. MFA No.3655/2019 filed by the Insurance Company is hereby ***allowed in part.***
- ii. MFA No.419/2020 filed by the claimants is ***dismissed.***
- iii. The judgment and award passed by the Tribunal in MVC No.17/2011 dated 13.11.2018 by the Senior Civil Judge & MACT, at Nagamangala is hereby ***modified*** and the claimants are entitled for total compensation of **Rs.9,74,000/-** along with interest @ 6% p.a., from the date of petition till its realization.
- iv. The compensation amount along with accrued interest if any, shall be deposited by the Insurance Company, within eight weeks from the date of filing of the petition till realization;

- v. The claimants are not entitled for interest for the delayed period of 314 days in filing the MFA No.419/2020.
- vi. Apportionment of compensation shall be as per the judgment and award of the Tribunal.
- vii. The amount in deposit is ordered to be transferred to the Tribunal forthwith, along with TCR and a certified copy of this judgment.
- viii. No order as to costs.

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

MH/BNV