



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAMACHANDRA D. HUDDAR
MISCELLANEOUS FIRST APPEAL NO.3965 OF 2020(MV-D)
BETWEEN:

1. SRI. PUTTASWAMY,
S/O LATE BORAIAH,
AGED ABOUT 54 YEARS,
2. SMT. MANJULA @ MANJU,
W/O PUTTASWAMY,
AGED ABOUT 44 YEARS,
3. PREMA H.P.,
D/O PUTTASWAMY,
AGED ABOUT 25 YEARS,
ALL ARE R/AT HEANDYAPANAHALLI VILLAGE,
KODIHALLI HOBLI, KANAKAPURA TALUK,
RAMANGARA DSITRICT – 562 117.

...APPELLANTS

(BY SMT.NITYA V., ADVOCATE FOR
SRI. PRAKASH M.H., ADVOCATE)

AND:

1. RELIANCE GEN. INS. CO. LTD.,
OFFICE AT 2ND FLOOR, SM TOWERS,
11TH MAIN ROAD, 3RD BLOCK,
JAYANAGAR,
BANGALORE – 560 011.
REP. BY ITS MANAGER.



2. MOHAMMED SULAIMAN S,
S/O SULTAN R.M.,
MAJOR,
R/AT NO.44/3, 2ND MAIN ROAD,
2ND CROSS, LIC COLONY,
3RD BLOCK EAST, JAYANAGAR,
BANGALORE – 560 011.

...RESPONDENTS

(BY SRI.D.VIJAYAKUMAR, ADVOCATE FOR R1;
NOTICE TO R2 IS DISPENSED WITH VIDE ORDER
DATED 04.08.2025)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 03.02.2020 PASSED IN MVC NO.6795/2018 ON THE FILE OF THE III ADDITIONAL JUDGE AND MEMBER, MACT, COURT OF SMALL CAUSES, BENGALURU SCCH-18, 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 RAMACHANDRA D. HUDDAR

ORAL JUDGMENT

The appellants/claimants being dissatisfied by the common judgment and award dated 03.02.2020 passed in MVC No.6795/2018 by the III Additional Judge and Member, MACT, Court of Small Causes, Bengaluru, have preferred this appeal seeking enhancement of compensation awarded by the Tribunal.



2. The parties to this appeal are referred to as per their rank before the Trial Court for convenience.

3. The brief facts leading to this appeal are as follows -

The claimants being the legal heirs of deceased Gangadhara filed a claim petition under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.10,00,000/- (Rupees Ten Lakh only) on the ground that, on 08.11.2018 at 8.00 p.m. the deceased Gangadhara was riding his motorcycle bearing registration No.KA 09 HS 5556 with his friend Harish, who is the petitioner in MVC No.6796/2018 as a pillion rider slowly and cautiously. When they reached near Nettigere Gate, Kanakapura - Bengaluru Main Road, Uttarahalli Hobli, Bengaluru, at that time, the driver of a car bearing registration No.KA 51 MA 4082 drove the same in a rash and negligent manner in high speed and dashed against the motorcycle. Because of the impact, both the rider and pillion rider fell down and sustained grievous injuries. The deceased Gangadhara was shifted to Aastra hospital, Bengaluru for treatment and thereafter, after first aid treatment, he was taken to St. Johns



Hospital, Bengaluru. Despite giving better treatment, he succumbed to the accidental injuries.

4. It is the case of the claimants that, they are the legal heirs of deceased Gangadhara and deceased was the only earning member in their family. Prior to the accident, deceased was hale and healthy and was aged 22 years. He was working as an electrician at the time of accident and also a class I contractor and in addition to that, he was an agriculturist. Thus, from his profession, he was earning Rs.30,000/- p.m. Because of the unexpected death of the deceased, the claimants have lost their bread earner in their family. Hence, it is prayed by the claimants to award the compensation as prayed for in their petition.

5. Before the Tribunal, respondent No.2 appeared and resisted the petition by filing detailed objection statement. It is contended that, the accident was not because of any rash and negligent driving of the alleged car in the manner alleged. It was the deceased who was rash and negligent in causing the accident. It is contended that, the liability of respondent No.2



is subject to the terms and conditions of the policy. Hence, it is prayed by respondent No.2 to dismiss the petition.

6. Based upon the rival pleadings of both the parties, the learned Tribunal framed five issues.

7. To substantiate the case of the claimants, claimant No.1 entered the witness box as PW.1 and got marked 22 documents as EXs.P1 to P22 and also examined one Muniraju as PW.3. Respondent No.2 has led evidence of one D S Pradeep as RW.1 and got marked a copy of the policy. The learned Tribunal, on hearing the arguments of both sides and on evaluation of the evidence, held that, the said accident has taken place because of the rash and negligent driving of the car by its driver and in that accident, the deceased Gangadhara succumbed to the injuries. With regard to the award of compensation, learned Tribunal held that though it is submitted with regard to the monthly income of the deceased at Rs.30,000/- p.m., as there is no proof regarding the actual income, it held that the deceased was earning Rs.11,900/- p.m. as notional income, in which 40% was added towards future prospects by relying on the judgment in the case of **National**



Insurance Co. Ltd., Vs. Pranay Sethi and Others reported in **(2017) 16 SCC 680** and deducted half of his income towards his personal expenses, by applying multiplier '18', awarded a sum of Rs.12,85,200/- (Rs.5,950 x 12 x 18) towards loss of dependency.

8. In so far as other heads are concerned, the Tribunal has awarded compensation towards loss of estate; transportation of dead body, funeral and obsequies ceremony expenses; and towards loss of filial consortium, and in all awarded Rs.13,95,200/-.

9. Being dissatisfied with the said award passed by the Tribunal, now the appellants are before this Court seeking enhancement of the compensation.

10. Heard the arguments of learned counsel for the appellants - claimants and learned counsel for respondent No.1.

11. On perusal of the grounds urged in the appeal memo as well as the material on record, the respondent No.1 is not disputing the accident. So also the findings of the learned Tribunal that, the said accident has taken place because of the



rash and negligent driving of the driver of the car bearing registration No.KA 51 MA 4082. The respondent No.1 has not preferred any appeal challenging the said finding. Therefore, whatever the finding that has been given by the Tribunal have attained finality.

12. The respondents also do not deny the death of Gangadhara H P, S/o Puttaswamy in a road traffic accident that took place on 08.11.2018 at 8.00 p.m. near Nettigere gate, Kanakapura - Bengaluru Main Road, because of the rash and negligent driving of the car bearing No.KA 51 MA 4082. The only grievance of the claimants - appellants in this appeal is that, whatever the compensation that was awarded by the Tribunal is on the lower side.

13. It is submitted by Miss Nithya, learned counsel appearing on behalf of the advocate on record for the appellant that, deceased Gangadhara was an electrician and also a class I contractor and was an agriculturist. From his profession, he was earning Rs.30,000/- p.m. She submits that, though documents are produced and substantiated through evidence of PW.1, the learned Tribunal has taken the notional income of the



deceased at Rs.11,900/-, which is on lower side. She further submits that, with regard to the award of the compensation under other relevant heads, the Tribunal has not considered the same keeping in mind the judgment in ***Pranay Sethi's case***, stated supra, that there is no escalation towards loss of estate, transportation of dead body, funeral expenses, so also towards consortium. Thus, she submits that, the compensation so awarded by the Tribunal requires enhancement.

14. As against this submission, learned counsel Sri D Vijayakumar, learned counsel appearing for respondent No.1 - insurer justifies the award passed by the Tribunal and submits that there shall not be any enhancement in the compensation awarded by the Tribunal and he prays for dismissal of this appeal.

15. Having given my anxious consideration to the arguments of both sides, the only point that has to be considered is,

" Whether the claimants - appellants in this appeal are entitled for enhancement of compensation or otherwise ? "



16. Though, it is argued by the counsel for the appellant that deceased Gangadhara was earning Rs.30,000/- p.m., as rightly observed by the Tribunal, except the self serving evidence of PW.1, there is no evidence placed by the claimants that he was really earning Rs.30,000/- p.m. Because of the same, the learned Tribunal has assessed the notional income of the deceased at Rs.11,900/-. Based upon that the loss of dependency is calculated by the Tribunal. In the absence of relevant proof regarding the income of the deceased, one has to rely upon the guidelines issued by the Karnataka State Legal Services Authorities with regard to assessment of the income. As per the guidelines of the Karnataka State Legal Services Authorities, as the accident has taken place in the year 2018, the notional income that has to be assessed is Rs.12,500/-. To this, 40% is to be added towards future prospects of the deceased. Thus the total monthly income of the deceased would be Rs.17,500/-. As the deceased was a bachelor, half of his income is to be deducted towards his personal expenses. That means, $\text{Rs.17500}/2 = \text{Rs.8,750/-}$. It is to be multiplied with '12' to calculate annually. As the deceased was aged 22



years, the proper multiplier as per the judgment of the Hon'ble Apex Court in the case of ***Sarla Verma and Others Vs. Delhi Transport Corporation and Another*** reported in **AIR 2009 SC 3104** that is applicable is '18'. Thus the loss of dependency comes to **Rs.18,90,000/-** (Rs.8,750 x 12 x 18) as against Rs.13,95,200/- awarded by the Tribunal.

17. So far as 'loss of estate' and 'transportation of dead body, funeral and obsequies ceremony expenses the Tribunal has awarded Rs.15,000/- each on these heads. As per the judgment in ***Pranay Sethi's case***, stated supra, there shall be increase of 10% escalation as the accident has taken place in the year 2018. Therefore, it would be **Rs.16,500/-** (Rs.15,000/- + Rs.1,500/-) each towards 'loss of estate' and 'loss of transportation of dead body, funeral ceremony expenses'.

18. So far as 'loss of consortium' is concerned, as in the claim petition, there are three legal heirs left behind by the deceased. But the Tribunal has awarded Rs.80,000/- only towards loss of consortium. As per the judgment in ***Pranay Sethi's case***, each legal heir is entitled for compensation



towards loss of consortium at Rs.40,000/- and there shall be escalation at the rate of 10%, that means to Rs.44,000/- each, thus it comes to Rs.1,32,000/-. Thus, all the claimants are entitled for 'loss of consortium' at **Rs.1,32,000/-** (Rs.44,000 x 3).

19. Thus, the appellants-claimants are entitled for the total compensation as per the following table:

1	Towards loss of dependency	Rs.18,90,000/-
2	Towards loss of estate	Rs.16,500/-
3	Towards transportation of dead body, funeral & obsequies ceremony expenses	Rs.16,500/-
4	Towards loss of consortium	Rs.1,32,000/-
	TOTAL	Rs.20,55,000/-

20. It is held that, the said accident has taken place because of the rash and negligent driving of the car owned by owner of car arraigned as respondent No.1 in the claim petition and insured with respondent No.1 in this appeal. Under the law of indemnity, insurer has to pay compensation. Hence, respondent No.1 - insurer has to deposit the compensation amount. Accordingly, it is held that, the appellants -



claimants are entitled for total compensation of Rs.20,55,000/- together with interest at the rate of 6% p.a. on the enhanced compensation amount, from the date of petition till its realization. Hence, the following -

ORDER

- i) The appeal is ***allowed-in-part.***
- ii) The impugned judgment and award passed in MVC No.6795/2018 dated 03.02.2020 by the III Additional Judge and Member, MACT, Court of Small Causes, Bengaluru is hereby modified.
- iii) Appellants are entitled to total compensation of Rs.20,55,000/- together with interest at 6% p.a. on the enhanced compensation from the date of petition till its realization as against Rs.13,95,200/- awarded by the Tribunal, thereby there would be enhancement of compensation of Rs.6,59,800/-.



iv) Respondent No.1 - insurer to deposit the compensation within six weeks from the date of this judgment before the Tribunal.

v) So far as apportionment and release of the amount, the order of the Tribunal remains unaltered.

vi) There shall be modified award accordingly in the above terms.

Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE

YKL
List No.: 1 Sl No.: 6