



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 4864 OF 2022 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 7295 OF 2022 (MV-D)

IN MFA No. 4864/2022

BETWEEN:

1. THE MANAGER GO DIGIT GENERAL INS CO LTD
ATLANTIS NO.95, 4TH B CROSS
KORAMANGALA INDUSTRIAL LAYOUT
5TH BLOCK, BANGALORE-560095

NOW REPRESENTED BY THE MANAGER
GO DIGIT GENERAL INS CO LTD
CONSULATE 1, SECOND FLOOR
RICHMOND ROAD
SHANTHALA NAGAR
ASHOK NAGAR, BANGALORE
KARNATAKA-560025

...APPELLANT

(BY **SMT.** A N KRISHNA SWAMY, ADVOCATE)

AND:

1. VENKATANARASAMMA
W/O VENKATESH
AGED ABOUT 50 YEARS



2. VENKATESH
S/O LATE VENKATAPPA
AGED ABOUT 69 YEARS

BOTH ARE R/AT NO.75, HALLAGEVADERAHALLI
R R NAGAR, BANGALORE SOUTH
RAJARAJESARINAGAR
BANGALORE, KARNATAKA

3. KANDADAIAH H D
S/O LATE DUNDAIAH
R/A KENCHANAKUPPE VILLAGE
BIDADI HOBLI AND POST
RAMANAGAR TALUK AND DISTRICT

4. SHIVAPPA
S/O RAMAPPA
R/A 100/2, BERETANA AGRAHARA
NAGANATHAPURA
BANGALORE-560100

5. THE MANAGER
UNITED INDIA INSURANCE COMPANY
6TH FLOOR, KRUSHI BHAVAN
NRUPATHUNGA ROAD
BANGALORE-560001

...RESPONDENTS

(BY SRI. A.K. BHAT, ADVOCATE FOR C/R1 AND R2
R3 SERVED, UNREPRESENTED
VIDE ORDER DATED 30.08.2023,
NOTICE TO R4 IS HELD SUFFICIENT)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 26.04.2022 PASSED IN MVC



NC: 2025:KHC:54719-DB
MFA No. 4864 of 2022
C/W MFA No. 7295 of 2022

NO.2082/2019 ON THE FILE OF THE IX ADDITIONAL SMALL CAUSES JUDGE, COURT OF SMALL CAUSES, MEMBER, MACT-7, BENGALURU (SCCH-15), AWARDING COMPENSATION OF RS. 17,73,200/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TO TILL THE DATE OF DEPOSITING OF THE COMPENSATION AMOUNT IN THE COURT.

IN MFA NO. 7295/2022

BETWEEN:

1. SMT VENKATANARASAMMA
W/O VENKATESH
AGED ABOUT 50 YEARS
2. SRI VENKATESH
S/O LATE VENKATAPPA
AGED ABOUT 68 YEARS

BOTH ARE R/AT NO.75, HALLAGEVADERHALLI
R R NAGAR, BANGALORE SOUTH
RAJARAJESHWARINAGAR
BANGALORE- 560 098

...APPELLANTS

(BY SRI. A.K. BHAT, ADVOCATE FOR
SRI. BASAVARAJU T.G., ADVOCATE)

AND:

1. SRI KANDADIAH H D
S/O LATE DUNDAIAH
MAJOR IN AGE
R/A KENCHANAKUPPE VILLAGE
BIDADI HOBLI AND POST



RAMANAGAR TALUK AND DISTRICT
KARNATAKA - 562 109

2. SRI SHIVAPPA
S/O RAMAPPA
MAJOR IN AGE
R/A 100/2, BERETANA AGRAHARA
NAGARATHAPURA, BANGALORE-560100
3. THE MANAGER
UNITED INDIA INSURANCE COMPANY LTD
6TH FLOOR, KRISHI BHAVAN
NRUPATHUNGA ROAD
HUDSON CIRCLE
BENGALURU-560001
4. THE MANAGER
GO DIGIT GENERAL INSURANCE COMPANY
ATLANTIS, 95, 4TH B CROSS ROAD
KORAMANGALA INDUSTRIAL LAYOUT
5TH BLOCK
BANGALORE - 560 095

...RESPONDENTS

(R1 SERVED, UNREPRESENTED

VIDE ORDER DATED 30.08.2023,

NOTICE TO R2 IS HELD-SUFFICIENT

SRI. L. SREEKANTA RAO, ADVOCATE FOR R3

SRI. A.N. KRISHNA SWAMY, ADVOCATE FOR R4)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 26.04.2022 PASSED
IN MVC NO. 2082/2019 ON THE FILE OF THE IX C/C XIII
ADDITIONAL SMALL CAUSES JUDGE, COURT OF SMALL
CAUSES, MEMBER, MACT-7, BENGALURU SCCH-15 PARTLY



**NC: 2025:KHC:54719-DB
MFA No. 4864 of 2022
C/W MFA No. 7295 of 2022**

ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION
BARRED BY TIME.

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

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

Both these appeals arise out of common judgment
and award dated 26.4.2022 passed by the Court of XI &
C/c XII ASCJ Small Causes and Additional MACT,
Bengaluru (SCCH-15) in MVC No.2082/2019.

2. The brief facts are that, on 02.01.2019 at about
5.30 p.m., the deceased Subramanya was travelling in a
auto bearing registration No.KA-05-AF-1517, as a
passenger from Ramanagara to Bidadi, when the auto
reached near Sri Sai Condiments Tea Stop in between
Kallagopahalli and Dasappanadoddi Village, Bidadi, the
rider of the auto rickshaw drove the said vehicle in a rash



and negligent manner and dashed the auto rickshaw to a Tipper lorry bearing registration No.KA-42-A-5814. As a result of the accident, the deceased Subramanya died on the spot. He was around 24 years old at the time of the accident.

3. The parents of the deceased filed the claim petition under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.35,00,000/-. On the basis of the pleadings, the Tribunal framed following issues:

"(1) Whether the petitioners prove that deceased Sri. Subramanya was died in RTA arising out of accident alleged to have been taken place on 02.01.2019 at about 5.30 p.m., in front of Sri Sai Condiments Tea Shop, Kallagopahalli, Dasappanadoddi Village, Bidadi, Ramanagara, Karnataka, due to the rash and negligence driving of driver of the Auto bearing Reg.No.KA-05-AF-1517 and Tipper, bearing Reg.No.KA-42-A-5814 ?

(2) Whether the petitioners prove that, they are the dependents of the deceased ?



(3) Whether petitioners are entitled for compensation ? If so, what is quantum ?

(4) What order or award ?"

4. In response to issue No.1, the Tribunal has held that the accident occurred due to the rash and negligent driving of the auto rickshaw. The perusal of the spot panchnama would make it clear that the driver of the Tipper lorry parked the vehicle on the left side and auto rickshaw dashed the parked Tipper lorry. The deceased had died on the spot.

5. In response to issue No.2, the Tribunal has held that the claimants are the parents and they are the dependents of deceased Subramanya.

6. In response of issue No.3, the Tribunal after considering the evidence on record has considered the notional income of the deceased at Rs.11,000/- per month and calculated the loss of dependency accordingly.



7. Learned counsel for the Insurance Company submitted that the deceased was Travelling with the driver sitting on the driver seat of the auto rickshaw. Whereas the auto rickshaw cannot accommodate any other person other than the driver on the front seat. It is submitted that the deceased himself also had contributed in some manner to the occurrence of the accident in as much as the driver of the auto rickshaw, was not in the position to maneuver the autorickshaw, as the deceased was sitting on the same seat where the driver was sitting.

8. He has further submitted that the Tribunal has categorically recorded the findings that the auto rickshaw was travelling on the route for which no permit was there and the auto rickshaw was plying without valid permit and thus, the auto rickshaw was plying in violation of the statutory prescription as well as against the provisions in the insurance policy.



9. It is further submitted that in view of the aforesaid, the Tribunal ought to have ordered pay and recovery but instead of ordering pay and recovery, the insurance company has been ordered to pay the compensation.

10. On the other hand, Sri A.K. Bhat, learned counsel for the appellants in C/w appeal No.7295/2025 and for the respondents in MFA No.4866/2022 would submit that the Tribunal has not taken the correct notional income for the accident that took place in the year 2019, and therefore, the notional income has to be taken at Rs.14,000/- per month of the deceased.

11. He further submits that deceased has not contributed in the accident. It would be the responsibility of the driver not to allow any passenger to sit with him in the auto rickshaw while driving. However, the driver invited the deceased to sit with him and the sole responsibility would be of the driver of the auto rickshaw.



12. He further submitted that in respect of pay and recovery he has no say and it is for the Court to direct for pay and recovery.

13. We have heard the learned counsel for the parties and have considered the submissions made by them.

14. When a passenger is travelling in a public transport, he should also be careful and he should not travel in violation of the Rules framed under Motor Vehicles Act. Though there is the responsibility of the passenger for observing the law, but in the present case, the accident was caused not because of the deceased travelling with the driver, but it was caused due to the rash and negligent driving by the driver of the auto rickshaw as the driver of the auto rickshaw hit the parked Tipper lorry.



15. The deceased might have been travelling in violation of the rules, but was not the cause of the accident. Therefore, we are of the view that the deceased has not contributed to the cause of the accident, but the accident happened due to the sole act of rash and negligent driving of the auto rickshaw by its driver.

16. In so far as claim for the compensation is concerned, it is not in dispute that accident was in the year 2019, the notional income should have taken up @ Rs.14,000/- per month instead of Rs.11,000/- per month. The deceased was a bachelor and aged about 25 years and therefore, we recalculate the compensation as under:

Loss of dependency (14,000+40% of 14,000/- x 50%) = Rs.9,800/- x 12 x 18)	:	Rs.	21,16,800/-
Towards Parental Consortium	:	Rs.	80,000/-
Towards Funeral Expenses	:	Rs.	15,000/-
Loss of Estate	:	Rs.	15,000/-
TOTAL	:	Rs.	22,26,800/-
Less: Compensation awarded by Tribunal	:	Rs.	17,73,200/-
Enhanced compensation	:	Rs.	4,53,600/-



--	--	--	--

17. In MFA No.7295/2020, the claimants are entitled for enhanced compensation amount of Rs.4,53,600/- with 6% interest from the date of filing of the claim petition in MVC No.2082/2019 before the Tribunal till its realization.

18. Insurance company should pay the aforementioned enhanced compensation within six weeks. Any amount in deposit herein is directed to be remitted to the Tribunal for disbursal in accordance with the order passed by the Tribunal.

19. We make it clear as auto rickshaw was travelling in violation of the Rules framed and violation of the Insurance Policy, the insurance company would be entitled to recover the amount of compensation from the owner of the auto rickshaw and the driver jointly and severally.



NC: 2025:KHC:54719-DB
MFA No. 4864 of 2022
C/W MFA No. 7295 of 2022

Appeals are disposed of.

In view of the disposal of main appeals, pending
I.As. do not survive for consideration and stand disposed
of.

Digitally signed by DINESH
KUMAR SINGH
Location: HIGH COURT OF
KARNATAKA

(D K SINGH)
JUDGE

Digitally signed by TARA VITASTA
GANJU
Location: HIGH COURT OF
KARNATAKA

(TARA VITASTA GANJU)
JUDGE

HR
List No.: 1 Sl No.: 17
CT-SG