



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 5157 OF 2023 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 6090 OF 2023 (MV-D)

IN MFA No. 5157/2023

BETWEEN:

THE ORIENTAL INSURANCE CO. LTD.,
REGIONAL OFFICE, NO 44/45
LEO SHOPPING COMPLEX,
RESIDENCY ROAD,
BANGALORE - 560025
NOW REPRESENTED BY ITS
REGIONAL MANAGER.

...APPELLANT

(BY SRI. H C VRUSHABHENDRAIAH., ADVOCATE)

AND:

1. ANNAPURANA
W/O LATE MANJUNATH M
AGED ABOUT 53 YEARS
2. SHRADDHA M
S/O LATE MANJUNATH M
AGED ABOUT 24 YEARS



3. KEERTHAN M
S/O LATE MANJUNATH M
AGED ABOUT 28 YEARS

ALL ARE RESIDING AT NO. 22,
2ND CROSS, KALIDASA ROAD,
VANI VILAS MOHILLA,
MYSURU - 570 002.

4. CHANDRASHEKAR B
S/O BORAIHAH, NO 75,
8TH CROSS, 4TH MAIN,
VINAYAKANAGAR
MYSURU - 570 012.

...RESPONDENTS

(BY SRI. P MAHADEVASWAMY., ADVOCATE FOR R1 TO R3;
R4 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT, 1988
AGAINST THE JUDGMENT AND AWARD DATED 25.04.2023
PASSED IN MVC NO.1195/2022 ON THE FILE OF THE CHIEF
JUDGE, COURT OF SMALL CAUSES, MEMBER, PRL. MACT,
BENGALURU, AWARDED COMPENSATION OF RS.17,15,884/-
WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF
PETITION TILL THE DATE OF DEPOSIT IN COURT.

IN MFA NO. 6090/2023

BETWEEN:

1. ANNAPURNA
W/O LATE MANJUNATH M
AGED ABOUT 53 YEARS
2. SHRADDHA M
D/O LATE MANJUNATH M
AGED ABOUT 24 YEARS
3. KEERTHAN M
S/O LATE MANJUNATH M



NC: 2025:KHC:51101
MFA No. 5157 of 2023
C/W MFA No. 6090 of 2023

AGED ABOUT 28 YEARS

ALL ARE R/AT NO.22,
2ND CROSS, KALIDASA ROAD
VANI VILAS MOHALLA
MYSURU-570 002.

...APPELLANTS

(BY SRI. P MAHADEVASWAMY., ADVOCATE)

AND:

1. CHANDRASHEKAR B
S/O BORAIHA
NO.75, 8TH CROSS,
4TH MAIN, VINAYAKANAGAR
MYSURU-570 012.
2. THE MANAGER
ORIENTAL INSURANCE CO. LTD.,
R. O. NO.44/45, LEO SHOPPING COMPLEX
RESIDENCY ROAD, BENGALURU-25.

...RESPONDENTS

(BY SRI. H C VRUSHABENDRAIAH., ADVOCATE FOR R2;
V/O DATED 25.03.2024, NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST
THE JUDGMENT AND AWARD DATED 25.04.2023 PASSED
IN MVC NO.1195/2022 ON THE FILE OF THE CHIEF JUDGE,
COURT OF SMALL CAUSES, MEMBER, PRL. MACT,
BENGALURU, PARTLY ALLOWING THE CLAIM PETITION
FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION AND ETC.,

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



CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

Both these appeals arises out of the judgment and award dated 25.04.2023 passed by the Chief Judge, Court of Small Causes, Member, MACT, Bengaluru (for short 'the Tribunal') in MVC.No.1195/2022.

2. MFA.No.5157/2023 is filed by the insurer challenging the quantum of compensation awarded and MFA.No.6090/2023 is filed by the legal representatives of deceased seeking enhancement of compensation.

3. Both the appeals arises out of common judgment and award, therefore they are taken up together for disposal.

4. Though appeals are slated for admission, with consent of learned advocates appearing for both the sides, they are taken up for final disposal.

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



6. The brief facts of the case are that on 06.02.2022, at about 08.30 p.m., the deceased Manjunath M, while crossing the temple road from its left side at JL Puram, Mysuru, the rider of the motorcycle bearing registration No. KA-09-EU-0112, rode his vehicle in a rash and negligent manner and hit the said Manjunath. As a consequence, he fell down and sustained grievous injuries. Immediately he was shifted to hospital and while undergoing treatment he succumbed to injuries. The claimants being his wife, son and daughter filed the claim petition seeking compensation.

7. Respondent No.1 was the owner and respondent No.2 was the insurer. Respondent No.2- Insurer denied the petition averments and denied its liability to pay the compensation and also contend that accident occurred due to contributory negligence of the deceased as well as the rider of the motorcycle. Hence, prayed to apportion the liability. With these reasons, they prayed to dismiss the claim petition.



8. The Tribunal recorded the evidence. Claimant examined one witness as PW-1 and got marked Exs-P1 to P20. Respondents have not led any oral or documentary evidence.

9. The Tribunal after hearing the argument on both sides and on appreciating the materials available on record, held that the accident occurred due to contradictory negligence of the deceased as well as rider of the motorcycle in the ratio of 20:80 respectively.

10. The Tribunal awarded the following amount of compensation:

Particulars	Amount in Rs.
Loss of dependency	19,79,856
Loss of estate	16,500
Funeral expenses	16,500
Loss of consortium to petitioner No.1	44,000
Loss of parental consortium to petitioner No.2 and 3 at Rs.44,000	88,000
Total	21,44,856

The Tribunal held that out of said amount claimants are entitled 80% of compensation i.e. Rs.17,15,884/-.

11. Being dissatisfied by the said amount of compensation so also, holding that the deceased had



contributed to the accident in question, claimants have preferred this appeal. The learned counsel for the claimants contended that the place of accident is not a main road. The deceased had crossed major portion of the road and before he could cross the complete road, rider of the motorcycle hit against him and caused the injuries. There was no negligence of the deceased to cause accident. The Tribunal has not considered these facts properly and erroneously considered the facts of the case and said that the deceased contributed to an extent 20% for causing of the accident.

12. The learned counsel for insurer contends that the Tribunal in its judgment discussed in detail about the said fact and also relied on the judgment of ***Koosappa Poojary vs. K.Sadabba and others***¹, and held that deceased who was crossing the road unmindfully in a place where it was not demarcated for crossing the road, led to a conclusion that accident occurred due to negligence of the person who crossed the road unmindfully. The Tribunal has properly applied its

¹ ILR 2013 KAR 1104



mind and considered the same and it doesn't call for any interference.

13. Undisputedly place of accident is within city of Mysore at J.L.Puram. Respondent No.2 has not led any evidence to substantiate the contention that deceased was unmindfully crossing the road without observing the movement of the vehicles. It is nobody's case that it was a heavy traffic road. No such facts was brought out in the cross-examination of PW1.

14. The rider of the motorcycle who caused the accident was not examined on behalf of the respondents. The police recorded the statement of one of the eyewitness, who has stated that when the deceased was crossing the road, rider of the motorcycle, came from his behind and hit him. As a result, the said Manjunath fell down and sustained injuries. It is not the statement of the said eyewitness, who was incidentally friend of the deceased, by name C. Raju that the said deceased was unmindfully trying to cross the road and at that time the accident occurred. It is the contention of the respondent insurer that accident occurred due to negligence of the deceased. Onus



shifts on him to prove the said fact. In the cross-examination of PW1 or in the charge sheet and enclosures, no case was made out by the police that suddenly he tried to cross the road, therefore, the rider of the vehicle could not avoid the accident and hit the deceased. When such case is not made out, it cannot be held that deceased had contributed for the accident.

15. It is common knowledge that in the residential places, the roads are not demarcated for crossing of the road since traffic is less. Only in case of the main roads as well as the highway, such demarcation could be seen. In the case of **Koosappa Poojary** (referred supra), there was materials to hold that the deceased of that case was unmindfully crossing the highway, which is having a heavy traffic. Looking at the facts of that case, this court held that the deceased was unmindfully crossing the road in an undemarcated place. Therefore, held that he had also contributed for the cause of accident. The law laid down in the said judgment cannot be made applicable to facts and circumstances of the present case. In view of facts and circumstances of the of the present case, the finding of the Tribunal that accident occurred due to



contributory negligence of the deceased is not tenable, which requires to be set aside.

16. It is the contention of the claimant that deceased was a businessman and was earning more than Rs.30,000/- per month. The Tribunal had accepted the self-serving statement and the licence produced before the court. The claimants have not produced any account books of the said shop. The so-called licence issued by the Mysore City Corporation indicates that the deceased was engaged in repairing mixers and cookers. The claimants have not produced any public records regarding payment of the tax to the Government.

17. If deceased was earning Rs.30,000/- per month from the business, then he must be an assessee under the Income Tax Act because his income exceeds Rs.3,36,000/- per annum. Therefore the contentions of the claimant that he was earning Rs.30,000/- per month is not substantiated by any reliable evidence. The notional income of the deceased has to be determined. Following the chart prepared by the Karnataka State Legal Services Authority his notional income is taken as Rs.15,500/- per month. Deceased was aged 60 years.



Therefore, as held in the case of National Insurance Co. Ltd vs. Pranay Sethi and Ors,² 10% of the income has to be added towards future prospects. The deceased was married and had left behind him his wife and two children. Even if we consider the children are majors, there is no evidence to show that they had independent source of income. Even otherwise, one third has to be deducted towards personal expenses.

18. The contention of the learned counsel for insurer that 50% of his income has to be deducted Towards personal expenses since he left behind him his wife and children are not dependent upon his earnings, cannot be a ground to deduct 50% of the income towards personal expenses.

19. On the basis of above facts, compensation has to be re-calculated. There is no dispute in respect of compensation awarded on other heads. On re-appreciation of the materials, the claimants are entitled for following amount of compensation.

² (2017) 16 SCC 680



20. Accordingly, the following compensation is awarded:

Particulars	Amount in Rs.
Loss of dependency (Rs.15,500+10%x12x9x2/3)	12,27,600
Loss of consortium(Rs.44,000x3)	1,32,000
Funeral expenses	16,500
Loss of estate	16,500
Total	13,92,600
Rounded off	Rs.13,93,000

Claimants are entitled to compensation of Rs.13,93,000/- as against Rs.17,15,884/- awarded by the Tribunal along with interest @ 6% per annum Remaining portion of the award passed by Tribunal is not disturbed.

21. Accordingly, I proceed to pass the following:

ORDER

- i. Both the appeals are ***allowed in part.***
- ii. The impugned judgment and award dated 25.04.2023 passed by the Chief Judge, Court of Small Causes, Member Principal Motor Accident Claims Tribunal, Bengaluru in MVC.No.1195/2022 is modified;



- ii. Claimants are entitled to compensation of Rs.13,93,000/- along with interest at the rate of 6% per annum from the date of claim petition till its realization as against Rs.17,15,884/-, awarded by the Tribunal.
- iii. Respondent No.2 shall deposit the said amount within a period of 6 weeks from the date of the award.
- iv. Whatever amount deposited by the insurer shall be transmitted to the Tribunal.
- v. The apportionment, deposit and release etc., are as per the award passed by the Tribunal.
- vi. Draw award accordingly.

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

Sd/-
(UMESH M ADIGA)
JUDGE