



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 27<sup>TH</sup> DAY OF NOVEMBER, 2025**

**BEFORE**

**THE HON'BLE MR. JUSTICE UMESH M ADIGA**

**MISCELLANEOUS FIRST APPEAL NO. 6068 OF 2022 (MV-D)**

**BETWEEN:**

1. SMT. MANJULABAI  
W/O LATE YALLOJIRAO,  
AGED ABOUT 38 YEARS
2. SRI. CHETHAN RAO  
(HEART PATIENT)  
S/O LATE YALLOJIRAO,  
AGED ABOUT 22 YEARS,
3. NANDANAROA  
S/O LATE YALLOJIRAO,  
AGED ABOUT 18 YEARS
4. SMT. GOWRUBAI  
W/O LATE NARASINGARAO,  
AGED ABOUT 63 YEARS  
HOUSE WIFE

ALL ARE RESIDENTS OF  
MARATHIPALYA VILLAGE,  
C.N DURGA HOBLI,  
KORATAGERE TALUK,  
TUMAKURU DISTRICT.

...APPELLANTS

(BY SRI. SATHISHA T, ADVOCATE)

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ANNAPURNA G  
Location: HIGH  
COURT OF  
KARNATAKA



**AND:**

1. JAYAPPA  
S/O SHIVANANDAPPA  
AGED ABOUT 48 YEARS  
RESIDENT OF CHIKKATHOTLUKERE,  
VILLAGE AND POST, KORA HOBLI,  
TUMAKURU TALUK,  
TUMAKURU DISTRICT.
2. THE MANAGER ORIENTAL INSURANCE  
COMPANY LTD.,  
CORPORATE AND REGD. OFFICE,  
ORIENTAL HOUSE,  
P.B.NO. 7037/A-25/27,  
ASAF ALI ROAD,  
NEW DELHI - 110 002.  
NOW REPRESENTED BY  
THE REGIONAL MANAGER,  
ORIENTAL INSURANCE COMPANY LTD,  
REGIONAL OFFICE,  
NO. 44/45, LEO SHOPPING COMPLEX  
RESIDENCY ROAD,  
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. JANARDHAN REDDY, ADVOCATE FOR R2;  
R1 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE  
JUDGMENT AND AWARD DATED 07.04.2022 PASSED IN MVC  
NO. 515/2019 ON THE FILE OF THE IV ADDITIONAL DISTRICT  
JUDGE AND M.A.C.T., TUMAKURU, MADHUGIRI,  
PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION  
AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR ORDERS, 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 07<sup>th</sup> April 2022, passed by the IV Additional District Judge and M.A.C.T., Tumakuru, Madhugiri (for short `Tribunal'), in MVC No.515/2019, seeking enhancement of compensation.

Though this appeal is slated for Interlocutory Application, with the consent of learned counsel for both 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 claimants filed this claim petition under Section 166 of the Motor Vehicles Act, claiming compensation for the death of Yallojirao, who is the husband of claimant No.1, father of claimant Nos.2 and 3 and son of claimant No.4. The deceased met with an accident on 31.12.2018 at about 05.30 p.m. at Jonigarahalli Arakere Main Road due to rash and negligent driving of FORCE Triumph Goods vehicle bearing registration No.KA-16-B-3325.



4. It is their further contention that the deceased was aged about 51 years, was working in a bakery and was earning Rs.25,000/- per month. The claimants were dependent upon his earnings. With these reasons, they prayed to award compensation.

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 8 documents, as per Exs.P-1 to P-8. Respondents examined two witnesses as RW-1 and RW-2 and marked documents as Exs.R-1 to R-8.

7. The Tribunal after hearing both parties and appreciating the evidence on record, held that the accident occurred due to rash and negligent driving of the offending vehicle by its driver. The Tribunal has taken income of the deceased as Rs.10,500/- per month, assessed the age as 51 years, added 10% of income towards future prospects, applied the multiplier as '11', deducted 1/4<sup>th</sup> of income towards personal expenses and assessed the compensation under the head loss of dependency. Though the Tribunal has relied on the



judgment of ***Magma General Insurance Co. Ltd. Vs. Nanu Ram Alias Chuhru Ram and Others***<sup>1</sup>(supra), it awarded an amount of Rs.44,000/- towards loss of consortium.

8. The Tribunal in the impugned judgment held that driver of the offending vehicle was not holding a valid and effective driving licence to drive the said class of vehicle. Therefore, it rejected the contention of the appellants that the insurer should pay the compensation to the third party and recover the same from the owner of the vehicle. Instead, the Tribunal directed the owner to pay the compensation. The said findings are challenged in the present appeal.

9. In spite of service of notice, respondent No.1-owner has not appeared. Learned counsel for the insurer is present and heard the arguments.

10. The fact of the accident, death of Yallojirao in the said accident and his relationship with the claimants are not in dispute.

11. The claimants were unable to prove income of the deceased. Therefore, the Tribunal has taken notional income of

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<sup>1</sup> (2018) 18 SCC 130



the deceased as Rs.10,500/- per month, which is on the lower side compared to the notional income chart prepared by the Karnataka State Legal Services Authority. Following the said chart, the notional income of the deceased is taken as Rs.12,500/- per month. The remaining factors i.e., addition of 10% towards future prospects, deduction of 1/4<sup>th</sup> for personal expenses and application of the multiplier are not in dispute. On the basis of the said factors, the compensation under the head loss of dependency is recalculated.

12. As per the judgment in the case of ***National Insurance Company Limited Vs. Pranay Sethi & Others***<sup>2</sup> referred by the Tribunal, when a fixed amount of compensation is awarded under the head of funeral expenses, there is no question of adding additional amount of Rs.10,000/- towards transportation of the dead body, since it is against the law laid down in the case of ***Pranay Sethi*** (supra). Therefore, the said amount cannot be awarded.

13. Though the Tribunal has referred to the ***Magma General Insurance Co. Ltd. (supra)*** case, it has not awarded

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<sup>2</sup> AIR 2017 SC 5157



a just and reasonable amount of compensation under the head loss of consortium, which needs to be recalculated.

14. Undisputedly, the offending vehicle was insured with respondent No.2 and the policy was in force. The Tribunal has not considered the judgment relied by the learned Counsel for the appellants in respect of pay and recovery. In the case of ***National Insurance Co. Ltd., Vs. Swaran Singh and Others<sup>3</sup>***, decided by Hon'ble Apex Court and ***New India Assurance Co. Ltd., Vs. Yellavva and Another<sup>4</sup>*** (full bench of this Court), it has been clearly held that the insurer shall satisfy the claim of third parties and it is at liberty to recover it from the owner of the vehicle. The Tribunal has erred in not considering the law laid down in the aforesaid judgments relied on by the appellants and has incorrectly directed the owner of the vehicle to pay compensation directly to the claimants, without intervention of the insurer, which needs to be modified.

15. For the aforesaid discussions, the claimants are entitled to the following amount of compensation:

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<sup>3</sup> AIR 2004 SC 1531

<sup>4</sup> 2020 ACJ 2560



| Particulars                                                             | Amount in Rs.     |
|-------------------------------------------------------------------------|-------------------|
| Loss of dependency<br>(12,500+10% $\times$ 12 $\times$ 11 $\times$ 3/4) | 13,61,250/-       |
| Loss of consortium (44,000 $\times$ 4)                                  | 1,76,000/-        |
| Loss of estate                                                          | 16,500/-          |
| Funeral expenses                                                        | 16,500/-          |
| Total                                                                   | 15,70,250/-       |
| <i>Amount awarded by the Tribunal</i>                                   | 12,31,000/-       |
| <i>Enhancement-</i>                                                     | <b>3,39,250/-</b> |

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

17. Undisputedly, respondent No.2 shall pay the same and recover it from the owner of the vehicle.

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

**ORDER**

- i) The Appeal is ***allowed in part.***
- ii) The judgment and award dated 07<sup>th</sup> April 2022, passed in MVC.No.515/2019, by the IV Additional District Judge and M.A.C.T., Tumakuru, Madhugiri, stands modified;



iii) The claimants are entitled to enhanced compensation of Rs.3,39,250/-, with interest at the rate of 6% p.a. from the date of petition till its realization.

iv) The respondent No.2-insurer shall pay the said enhanced amount as well as amount awarded by the Tribunal, with liberty to recover the same in appropriate proceedings initiated on the basis of award passed in this case.

v) The respondent No.2 - Insurance Company shall deposit the amount within a period of six weeks from the date of award.

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

vii) Draw award accordingly.

Registry is directed to send copy of this judgment to the concerned Tribunal.

**Sd/-**  
**(UMESH M ADIGA)**  
**JUDGE**

AMA  
List No.: 1 Sl No.: 18  
CT: BHK