



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAMACHANDRA D. HUDDAR

MISCELLANEOUS FIRST APPEAL NO. 271 OF 2020 (MV-D)

BETWEEN:

1. SMT. PREMA
W/O LATE CHANDRASHEKAR BAILPA,
AGED ABOUT 47 YEARS,
R/AT SRI RAKSHKA NILAYA, MOOLABETTU,
POST SANOOR VILLAGE - 574 114,
KARKALA TALUK.
2. MR. ROHITH JAIN
S/O LATE CHANDRASHEKAR BAILPA,
AGED ABOUT 27 YEARS,
R/AT HENRY COMPOUND,
OPP M.C.C BANK ROAD,
NANDIGUDDA, MANGALURU - 575 001.
3. MRS. SHRIRAKSHA
W/O CHANDRA PRABHA,
AGED ABOUT 24 YEARS,
R/AT BARAMELU HOUSE POST,
VENOOR - 574 242,
BELTHANGADY TALUK.

...APPELLANTS

(BY SRI. CHANDRANATH ARIGA K, ADVOCATE)



AND:

1. MR. NITHIN
S/O LATE KUMARAYYA BHANGA,
MAJOR, R/AT MULOTTUGUTHU,
SHUNTIGUDDE,
SANOOR VILLAGE - 574 114,
KARKALA TALUK.
2. DIVISIONAL MANAGER,
RELIANCE GENERAL INSURANCE
COMPANY LTD.,
MAXIMUS COMMERCIAL COMPLEX,
4TH FLOOR, LIGHT HOUSE HILL ROAD,
OPP K.M.C COLLEGE,
MANGALURU - 575 002.
3. SMT. PREMA J SHETTY (ADULT)
D/O JATHAPPA SHETTY,
R/AT H NO.1-49, KURKULA,
KADAMBALA, MIYAR VILLAGE - 574 107,
KARKALA TALUK.
4. DIVISIONAL MANAGER,
NATIONAL INSURANCE COMPANY LTD.,
3RD FLOOR, BHARAT BUILDING,
P.M. RAO ROAD,
MANGALURU - 575 001.
5. MR. PRABHAKAR ANCHAN (ADULT)
S/O DEVAPALA ANCHAN,
H NO.3-321, VARAMBALLI,



POST BRAHMAVARA - 576 213,
UDUPI TALUK AND DISTRICT.

...RESPONDENTS

(BY SRI. D. VIJAYAKUMAR, ADVOCATE FOR R2;
SRI. KIRAN N, ADVOCATE FOR R3;
SRI. ASHOK N. PATIL, ADVOCATE FOR R4;
R1 AND R5 SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 28.05.2019 PASSED IN MVC
NO. 162/2017 ON THE FILE OF THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE, MEMBER, MACT-IV, D.K., MANGALURU,
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 being claimant Nos.1 to 3 in
MVC.No.162/2017 are before this Court being aggrieved
and dissatisfied by the judgment and award dated
28.05.2019 passed in their claim petition awarding total
compensation of Rs.6,23,632/- together with interest at
the rate of 6% per annum from the date of petition till
realization of entire amount.



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

3. The learned Tribunal held both respondent Nos.1 and 2 to pay the compensation jointly and severally. Now in this appeal, respondents Nos.1 and 2 are not disputing the findings of the Tribunal with regard to the accident that occurred on 07.11.2016 at about 1.00 p.m., when the deceased Sri.Chandrashekar Balipa, was travelling on his motorcycle bearing registration No.KA-20-EK-6947 along with respondent No.1 as a pillion rider. Due to negligence on the part of respondent No.1 the driver of the car bearing No.KA-19-ME-7599, he had sustained injuries and thereafter shifted to the hospital for treatment and died due to accidental injuries. As respondent Nos.1 and 2 are not disputing the accident and death of deceased Chandrasekhar Balipa, the findings of the learned Tribunal have attained finality with regard to the same. Now, in this appeal the only challenge by the appellants is that, quantum of compensation.



4. Sri.Chandrakantha Ariga.K, learned counsel for the appellants submits that, deceased was an agriculturist as well as doing Dairy business and was earning Rs.18,000/- p.m. He was aged 57 years at the time of accident. He submits that, PW1 has given evidence before the Tribunal and Tribunal disbelieving certain documents with regard to medical expenses and without considering the profession of the deceased, has awarded a meager compensation of Rs.6,23,632/-.

5. He further submits that, the Tribunal has not taken into consideration the actual profession of the deceased, as well as the medical expenses so spent by the family members towards treatment of the deceased. Further, he submits that, the Tribunal has committed a grave error in deducting 50% of the income towards personal expenses, though there were three dependants. He further submits that, there shall be 10% enhancement towards future prospects in view of the judgment of the Hon'ble Apex Court in the case of ***National Insurance***



Company Limited Vs. Pranay Sethi and Others

reported in **(2017) 16 SCC 680**. Thus, he submits that, the appeal be allowed and also the compensation awarded by the Tribunal be enhanced.

6. As against this submission, the learned counsel Sri.D.Vijaykumar, appearing for respondent No.2/Insurance Company refuted the submissions of the counsel for the appellant and submits that, there is no examination of the doctor who has treated the deceased. Rightly, the learned Tribunal has disbelieved the documents produced by the appellants and have not awarded the compensation towards the medical expenses calculated at Rs.30,000/-. Further, he submits that, petitioner Nos.2 and 3 are major children of the deceased. Therefore, the Tribunal is right in deducting 50% of the income of the deceased towards the personal expenses. Further, he submits that, no document is produced to show that, the deceased was earning more than Rs.18,000/-. Therefore, the Tribunal has rightly assessed



his monthly income at Rs.9,000/- notionally taking the income at Rs.300/- per day. Hence, he prays to dismiss the appeal by submitting that, whatever the compensation so awarded by the Tribunal is just and proper and it requires no interference.

7. Having heard the arguments of both the sides, perused the records. The only point that is to be considered in this appeal is that:

"Whether the appellants have made out any grounds for enhancement of compensation as prayed for?"

8. The occurrence of death of deceased Sri.Chandrashekar Balipa, because of the accidental injuries is not in dispute. It is the specific assertion of the appellants that, the deceased was an agriculturist and was also doing the Dairy business. From that profession, he was earning Rs.18,000/- p.m. To show that deceased was an agriculturist, the claimants have produced the RTC extracts in respect of Sy.No.125, wherein the name of the



deceased is appearing at the column. The total extent of land is shown as 0.20 cents. But in column No.12(9), it is stated that, no proper information. He was aged 57 years at the time of accident. The Tribunal has assessed his daily income at Rs.300/- per day and has arrived at a monthly income of Rs.9,000/- p.m., and has calculated the loss of dependency. But, in view of the guidelines issued by the Karnataka State Legal Services Authority, as the accident has taken place in the year 2016, the notional income that is to be assessed is at Rs.9,500/- p.m. To this 10% is to be added towards future prospects that is Rs.950/-. Thus, the total income of the deceased comes to Rs.10,450/- (Rs.9500/- + Rs.950/-). From this, $\frac{1}{3}^{\text{rd}}$ is to be deducted towards personal expenses of the deceased, as he had three dependants, that comes to Rs.3,483/- (Rs.10,450/3). Thus, the total amount of Rs.6,967/- would be the monthly income of the deceased, which is to be multiplied with '9', as the deceased was aged 57 years of age at the time of accident, as per the judgment in **Sarla**



Verma and Ors. v. Delhi Transport Corporation and Anr reported in ***AIR 2009 SC 3104***. It is to be multiplied by '12' to calculate annually, that means **loss of dependency** is **Rs.7,52,436/-** (Rs.6967 X 9 X 12 months).

9. Learned counsel for the appellants further submits that, Tribunal has not considered three medical bills amounting to Rs.38,000/- which were produced by the claimants. But, the Tribunal has awarded Rs.67,632/-. On reading the findings of the Tribunal, it discloses that, these documents do not inspire any confidence to believe them and on that ground the receipts produced at Ex.P26 to Ex.P28 have not been considered by the Tribunal. But, the evidence of PW.1 shows that, these documents are marked without any objection from the respondent's side. No objections were raised by the respondents while marking these documents. These are the receipts issued by the hospital of Dr.Chandra Kumar Ballal and Dr.Padmanabha.K, so also, Mahalakshmi ENT, Head and



Neck Centre. Therefore, the Tribunal had committed an error in awarding compensation of Rs.67,632/- only leaving these three receipts stated supra. Therefore, in addition to Rs.67,632/-, the claimants are also held entitled for further compensation towards medical expenses of Rs.38,000/-, which comes to **Rs.1,05,632/-**.

10. The Tribunal has awarded 'loss of consortium' at Rs.40,000/- to the appellant/claimant No.1 only, but has not awarded any compensation towards loss of consortium to claimant Nos.2 and 3, who are the children of deceased. As per the judgment in ***Pranay sethi's*** case, consortium is to be awarded to the claimants stated supra. Therefore, the claimants Nos.2 and 3 are also entitled for consolidated rate of Rs.40,000/- each with escalation of 20% each. Thus, **loss of consortium** comes to **Rs.1,44,000/-** [(Rs.40,000 X 20%= Rs.8,000) Rs.40,000 + Rs.8,000= Rs.48,000 X 3].



11. Insofar as the 'loss of estate' and 'funeral expenses' is concerned, the Tribunal has rightly awarded Rs.15,000/-, but there is no escalation of 20%. Therefore, there shall be escalation of the compensation of Rs.15,000/- + Rs.3,000/- = **Rs.18,000/- each.**

12. Thus, the claimants are held entitled for enhancement of compensation of **Rs.4,14,436/-** (Rs.10,38,068/- - Rs.6,23,632/-) together with 6% interest per annum from the date of petition till its realisation on the enhanced compensation amount, as mentioned in the table below:

Sl.No.	Heads of Compensation	Amount
01	Loss of dependency	7,52,436/-
02	Medical expenses	1,05,632/-
03	Loss of estate	18,000/-
04	Loss of consortium	1,44,000/-
05	Funeral expenses	18,000/-
	TOTAL	10,38,068/-
	Tribunal awarded	6,23,632/-
	Enhanced amount	4,14,436/-



13. Thus, there shall be enhancement in compensation of **Rs.4,14,436/-**. It is held by the Tribunal that respondent Nos.1 and 2 are entitled to pay the compensation. However, under the law of indemnity, respondent No.2 shall deposit the compensation. So far as the order regarding apportionment, deposit and release of the amount is concerned, it remains unaltered. The respondent No.2 to deposit the compensation amount within six weeks from today together with interest @6% p.a. from the date of petition till its realisation.

14. Accordingly, I pass the following:

ORDER

- (i) Appeal is ***allowed-in-part***.
- (ii) The impugned judgment and award passed in MVC No.162/2017 dated 28.05.2019 passed by the III Additional District and Sessions Judge and MACT-IV, D.K., Mangaluru, is hereby modified to the above extent.



- (iii) The appellants/petitioners are held entitled for total compensation of **Rs.10,38,068/- as against Rs.6,23,632/-**, thereby, there would be enhancement of Rs.4,14,436/- together with interest @ 6% p.a. on the enhanced amount from the date of petition till its deposit.
- (iv) Respondent No. 2 shall deposit the compensation amount within six weeks from the date of judgment together with interest @6% before the tribunal.
- (v) So far as the order regarding apportionment, deposit and release of the amount is concerned, it remains unaltered.
- (vi) There shall be modified award accordingly.

Sd/-
(RAMACHANDRA D. HUDDAR)
JUDGE

PK
List No.: 1 Sl No.: 19
CT: BHK