



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO.6969 OF 2021 (MV-D)

C/W

MFA CROSS OBJECTION NO.144 OF 2022 (MV-D)

IN MFA No.6969/2021:

BETWEEN:

SRI. SAMATHI REDDAPPA RAJU,
S/O S.VENKATARAJU,
MAJOR IN AGE,
AGED ABOUT 47 YEARS,
RESIDING AT NO.11-1,
NALLACHINNAPALLI,
CHAMBAKURU(P), KOPPALE,
H/W. RAMASAMUDRAM (M)
CHITTOOR,
ANDHRA PRADESH.

...APPELLANT

(BY SMT. SUSHMITHA G., ADVOCATE)

AND:

1. OBAMMA ALIAS OBAKKA
W/O LATE VARADAPPA,
NOW AGED ABOUT 52 YEARS.
2. ADEMMA
D/O LATE VARADAPPA,
NOW AGED ABOUT 32 YEARS,
3. GANGAMMA
D/O LATE VARADAPPA,
NOW AGED ABOUT 30 YEARS



4. SRINIVASA
S/O LATE VARADAPPA
NOW AGED ABOUT 27 YEARS

ALL ARE RESIDING AT
THOTLI VILLAGE,
SUGATURU HOBLI,
KOLAR TALUK AND DISTRICT.
PIN-563 101.

5. M/S IFFCO TOKIO GENERAL
INSURANCE COMPANY LTD.,
NEAR ADITHYA LAB,
BANGARPET CIRCLE,
KGF-BANGARPET ROAD,
KOLAR - 563 101.
REP: BY ITS MANAGER.

...RESPONDENTS

(BY SRI. K.VISHWANATHA, ADVOCATE FOR R1 TO R4,
SRI. S. KRISHNA KISHORE, ADVOCATE FOR R5)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.10.04.2018 PASSED IN MVC
NO.307/2016 ON THE FILE OF THE II ADDITIONAL SENIOR
CIVIL JUDGE, MACT, KOLAR, AWARDING COMPENSATION OF
RS.8,50,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE
DATE OF PETITION TILL ITS REALIZATION.

IN MFA.CROB NO. 144/2022

BETWEEN:

1. OBAMMA ALLIAS OBAKKA
W/O LATE VARADAPPA
AGED ABOUT 53 YEARS
2. ADEMMA
D/O LATE VARADAPPA
AGED ABOUT 33 YEARS



3. GANGAMMA
D/O LATE VARADAPPA
AGED ABOUT 31 YEARS
4. SRINIVASA
S/O LATE VARADAPPA
AGED ABOUT 28 YEARS

ALL ARE R/O THOTLI VILLAGE
SUGATURU HOBLI,
KOLAR TALUK.

.. CROSS-OBJECTORS

(BY SRI. VISHWANATHA K., ADVOCATE)

AND:

1. SAMATHI REDDAPPA RAJU,
S/O. S. VENKATARAJU,
NO.11-1, NALLACHINNAPALLI
CHAMBAKURU(P),
KOPPALE,
H/W. RAMASAMUDRAM(M),
CHITTOOR,
ANDHRA PRADESH.
2. M/S IFFCO TOKIO GENERAL
INSURANCE CO. LTD.,
NEAR ADITHYA LAB,
BANGARPET CIRCLE,
KGF, BANGARPET ROAD
KOLAR-563 101.
REP. BY MANAGER.

...RESPONDENTS

(BY SMT. SUSHMITHA G., ADVOCATE FOR
SRI. GOPAL KRISHNA, ADVOCATE FOR R1,
SRI. S. KRISHNA KISHORE, ADVOCATE FOR R2)



THIS MFA.CROB IS FILED U/O.41 RULE 22 R/W SEC.173(1) OF MVC ACT, AGAINST THE JUDGMENT AND AWARD DT.10.04.2018 PASSED IN MVC NO.307/2016 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE, MACT, KOLAR, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THE APPEAL AND MFA.CROB., ARE COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL COMMON JUDGMENT

MFA.No.6969/2021 and MFA.Crob.No.144/2022 arises out of judgment and award dated 10th April 2018, passed by the II Addl.Senior Civil Judge and M.A.C.T., Kolar, (for short `Tribunal'), in MVC No.307/2016.

2. MFA.No.6969/2021 is filed by the owner of the vehicle challenging his liability pay the compensation, as well as quantum of compensation awarded by the Tribunal



and MFA.Crob.No.144/2022 is filed by the claimants seeking enhancement of compensation.

3. Since both appeals arise out of common judgment and award, they are taken up together for disposal.

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

5. The brief facts of the case are that, on 25.09.2016, deceased Varadappa was proceeding in Bolero pick-up vehicle bearing registration No.AP-03-TE-4512 as a coolie in the said vehicle. Due to rash and negligent driving of the said vehicle, it met with an accident near Eedigapalli road, Errakaluve channal. As a result, said Varadappa sustained fatal injuries and died at the spot. The claimants being his wife and children have filed the claim petition for awarding of compensation of Rs.20 lakhs.

6. Before the Tribunal, the respondent No.1 was the owner and respondent No.2 was the insurer of the



offending vehicle. Respondent No.1 remained *ex parte*. Respondent No.2- insurer filed its written statement denying the petition averments and denied its liability to pay the compensation. With these reasons, it prayed to dismiss the claim petition.

7. From the rival contentions of the parties, the Tribunal framed necessary issues, recorded the evidence of the parties to the proceedings, heard the arguments and after appreciation of the materials on record, held that the accident occurred due to the negligence of driver of the Bolero pick-up van. The Tribunal has taken the age of the deceased as 48 years, his earning per month as Rs.6,000/-, added 25% of income towards future prospects, applied the multiplier of `13', deducted 1/3rd of his income towards personal expenses and awarded the following amount of compensation:



Particulars	Amount in Rs.
Loss of dependency	7,80,000/-
Loss of estate	15,000/-
Loss of consortium	40,000/-
Towards funeral expenses	15,000/-
<i>Total</i>	<i>8,50,000/-</i>

8. Heard the arguments of the learned counsel appearing for both the sides.

9. Learned counsel for the appellant/owner vehemently contended that deceased Varadappa was travelling in the Bolero vehicle as coolie i.e., loader and unloader and he was not a passenger travelling in the goods vehicle. The Tribunal has not considered the materials available on record and erroneously held that he was a passenger in the goods vehicle. Learned counsel further submitted that the owner of the vehicle had paid additional premium of Rs.50/- to cover the risk of coolie



and hence, respondent-insurer is liable to pay the compensation.

10. Learned counsel further contended that, except claimant No.1, others are not dependent upon the earnings of the deceased. Claimant Nos.2 and 3 are married daughters and claimant No.4 is a major son. The married daughters were residing in their respective husband's house and son has got his own source of income. Therefore, they cannot be considered as dependents. The Tribunal has erroneously considered the same and calculated the compensation, which is incorrect. With these reasons, learned counsel for the appellant/owner prayed to fasten the liability on the insurer to pay compensation and to modify the impugned award accordingly.

11. Learned counsel for the claimants vehemently contended that the income taken by the Tribunal is on the lower side. The Tribunal ought to have deducted 1/4th of



his income towards personal expenses since there were four dependents. The amount of compensation awarded by the Tribunal under other heads are also on the lower side. Therefore, prayed to enhance the same.

12. It is not in dispute that accident occurred due to negligence of driver of the Bolero pick-up vehicle. Though it is contended by the learned counsel for the appellant/owner that deceased was a coolie and he was travelling in the said vehicle as a coolie, but the FIR, charge sheet and its enclosures, as well as evidence of PW-1 is contrary to the said contention. These documents reveal that the deceased was travelling in the Bolero pick-up van as a loader of the band set. It is pertinent to note that, one of the person travelling in the tractor-trailer which was going along with the Bolero van had given the complaint stating that deceased was travelling in the said vehicle to go to a temple to perform some rituals since new vehicle was purchased by one of their relative. All these circumstances, belies the contention of the learned



counsel for the appellant/owner that deceased was travelling in the said vehicle as a coolie. The Tribunal considered these facts elaborately and rightly held that the deceased was not travelling as a coolie, but travelling as a passenger in the goods vehicle, therefore, fastened the liability on the owner of the vehicle. There are no reasons to interfere in the said findings.

13. In the claim petition, claimants have contended that deceased was working as a coolie and earning Rs.15,000/- per month, in the cross-examination, it is denied that he was earning Rs.15,000/- per month. The Tribunal has assessed the notional income at Rs.6,000/- per month probably on the basis of evidence of PW-1, wherein it was stated that deceased was earning Rs.150/- to Rs.200/- per day. Comparing to the notional income chart prepared by the Karnataka State Legal Services Authority, the said income taken by the Tribunal is on the lower side. Therefore, following the notional income chart prepared by KSLSA, the income of the deceased is taken



as Rs.9,500/- per month. Since the deceased was aged 48 years, 25% of his income has to be added towards future prospects. Undisputedly, the multiplier applicable in this case is `13'. Considering the age of the claimants, the Tribunal has deducted 1/3rd of his income towards personal expenses. The same does not call for any interference.

14. As held by the Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd., -vs- Nanu Ram Alias Chuhru Ram,***¹ claimants are entitled for compensation under the head `loss of consortium' at Rs.40,000/- each. As per the law laid down by the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd., -vs- Pranay Sethi***², compensation has to be awarded under conventional head.

15. Accordingly, the following compensation is awarded:

¹ (2018) SC 1247

² (2017) 16 SCC 680



Particulars	Amount in Rs.
Loss of dependency (Rs.9,500/- + 25% - $\frac{1}{3} \times 12 \times 13$)	12,35,052/-
Loss of consortium	1,60,000/-
Funeral expenses	15,000/-
Loss of estate	15,000/-
<i>Total</i>	<i>14,25,052/-</i>
<i>Amount awarded by the Tribunal</i>	<i>8,50,000/-</i>
<i>Enhancement-</i>	<i>5,75,052/-</i>
<i>Rounded off-</i>	<i>5,75,000/-</i>

16. The claimants are entitled to interest at the rate of 6% p.a. on the enhanced amount from the date of petition till its realization.

17. .Since there is a fundamental violation of policy of insurance, respondent No.1/appellant/owner of the vehicle is liable to pay the amount of compensation.

18. For the aforesaid discussion, I proceed to pass the following:



ORDER

i) MFA.No.6969/2021 is ***dismissed.***

MFA.Crob.No.144/2022 is ***allowed in part.***

ii) The judgment and award dated 10th April 2018, passed in MVC.No.307/2016, by the II Addl.Senior Civil Judge and M.A.C.T., Kolar, stands modified;

iii) The claimants are entitled to enhanced compensation of Rs.5,75,000/- with interest at the rate of 6% p.a. on the enhanced amount, from the date of petition till its realization.

iv) The respondent No.1 as the owner of the vehicle shall pay the amount of compensation along with interest within a period of eight weeks from the date of award.

v) The apportionment, deposit and release etc., are as per the award passed by the Tribunal.

vi) Whatever amount deposited by the appellant in MFA.No.6969/2021 shall be



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MFA No. 6969 of 2021
C/W MFA.CROB No. 144 of 2022

transmitted to the concerned Tribunal for
disbursement.

vii) Draw award accordingly.

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

Sd/-
(UMESH M ADIGA)
JUDGE

bk/
List No.: 1 Sl No.: 35