

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.7464 OF 2016 (MV-I)

BETWEEN:

1. SMT REKHA
W/O K.M.PUTTARAJU,
AGED 26 YEARS,
R/AT KUPPUR VILLAGE,
SHETTIKERE HOBLI,
C.N.HALLI TALUK-572 214.
2. GOWRAMMA
W/O RAJAPPA,
AGED 22 YEARS,
R/AT HIRESADARAHALLI VILLAGE,
KANAKATTE HOBLI,
ARASIKERE TALUK,

NOW BOTH ARE R/AT
KUPPUR VILLAGE,
C.N.HALLI TALUK-572 214.

...APPELLANTS

(BY SRI. HANUMANTHARAYAPPA K., ADVOCATE)

AND:

1. SURESH K S
S/O SADDAOAJ.K,
AGED ABOUT 47 YEARS,
R/AT KUPPUR VILLAGE,
SHETTIKERE HOBLI,
C.N.HALLI TALUK-572 214.
2. THE MANAGER
IFFCO TOKIO,
GENERAL INSURANCE CO.LTD.,

BRANCH OFFICE,
NO.28, 1ST STREET,
BANGALORE-560 001.

...RESPONDENTS

(BY SRI. K.A. CHANDRASHEKARA, ADVOCATE FOR R1;
SRI D.VIJAYA KUMAR, ADVOCATE FOR R2)

THIS MISCELLANEOUS FIRST APPEAL IS FILED U/S 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO CALL FOR RECORDS AND MODIFY THE JUDGMENT AND AWARD DATED 26-09-2015 PASSED BY THE SENIOR CIVIL JUDGE AND XIX MACT AT CHIKKANAYAKANAHALLI IN MVC NO.440/2014, ON HIS FILE, IN SO FAR AS IT RELATES TO THE DENIAL COMPENSATION CLAIMED AND AWARD COMPENSATION, AS PRAYED FOR BY ALLOWING THIS APPEAL AND ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 08.12.2025 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

This appeal is filed by the claimants directed against the judgment and award dated 26.09.2015, in MVC No.440/2014 passed by the Itinerate Court of the Senior Civil Judge and XIX MACT, Chikkanayakanahalli (for short 'Tribunal').

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

3. The brief facts of the case before the Tribunal are that:

On 12.02.2013, at about 8.00 p.m., one Veerabhadra was returning from his land towards his house by walk on the extreme end of the left side of Kuppur tank bund, at that time, one Hero Honda Splendor Plus motor bike bearing Reg.No.KA-44-J-4243 came in a rash and negligent manner and dashed against said Veerabhadra. Due to said accident, Veerabhadra fell down and sustained fractures and injuries. Immediately, he was shifted to the Government Hospital, C.N.Halli and after first aid, he was shifted to Government Hospital, Tumkur. Further he was shifted to NIMHANS, Bengaluru and after taking treatment, he was shifted to Government Hospital, C.N.Halli and while taking treatment in the said hospital, he succumbed to injuries on 14.02.2013 at about 4:00 a.m. The claimants are his sisters and filed claim petition under Section 166 of the MV Act, seeking compensation.

4. Upon service of notice, the respondent Nos.1 and 2 have appeared through their respective counsel and filed their written statement respectively. Respondent No.1 in his written statement has contended that the petitioners are not the dependants of the deceased and hence, petition is not maintainable. The rider of the offending vehicle was holding valid and effective driving licence as on the date of accident. He has insured his vehicle with the respondent No.2 and the policy was in force as on the date of accident. Hence, respondent No.2 is liable to pay the compensation.

5. The respondent No.2 in its written statement denied the averments of the claim petition and contended that it has issued a policy in the name of Mr.Suresh in respect of two wheeler bearing No.KA-44-J-4243 and policy was in force on the date of accident and restricts his liability to the terms and conditions of the policy. He further contended that, the claimants are married and not dependent on the deceased for their livelihood. The rider of the insured vehicle was not holding valid and effective

driving licence at the time of accident and as such, its liability has to be absolved. Hence, prayed to dismiss the petition.

6. On the basis of the pleadings of the parties, the Tribunal framed issues and recorded the evidence. The petitioner No.1 was examined as PW-1 and got marked documents at Exs.P1 to P-13. The respondents have neither examined any witnesses nor marked any documents.

7. After hearing the parties and on perusal of the documents, the Tribunal has allowed the petition in part and awarded compensation of Rs.4,72,000/- with interest at the rate of 6% per annum from the date of petition till realization.

8. Heard learned counsel appearing for both the parties and perused the material on record.

9. Learned counsel for the appellants submits that the occurrence of accident and death of said Veerabhadra is not in dispute. Therefore, there is no need to reconsider

the same. The contention of the claimants is that the Tribunal ought to have taken notional income as Rs.8,000/- per month following the chart prepared by the Karnataka State Legal Services Authority. But, it has taken income at Rs.4,500/- per month. Therefore, compensation under the head 'loss of estate' may be re-calculated taking notional income as Rs.8,000/- per month as the accident is of the year 2013. He further submits that amount of compensation awarded under the conventional heads is on the lower side. It is also contended that the Tribunal committed an error in not adding 40% of future prospects to the notional income without considering or appreciating the law laid down by the Apex Court in the case of **National Insurance Company Limited vs. Pranay Sethi and others** reported in **(2017) 16 SCC 680**. It is also contended by him that the Tribunal has failed to consider the law laid down by the Apex Court in the case of **Magma General Insurance Company Limited vs. Nanu Ram & Others** reported in **(2018) 18 SCC 130** in awarding

compensation towards 'loss of love and affection'. He therefore requests this Court to enhance the compensation by modifying the impugned judgment and award passed by the Tribunal. Therefore, prayed to allow the appeal and enhance the compensation.

10. Learned counsel for the respondents No.1 and 2 vehemently contends that Tribunal has awarded just and reasonable amount of compensation and there is no need to enhance the same. Respondent No.2 has contended that the Tribunal has erred in fastening the liability on it and hence, prayed to dismiss the appeal.

11. It is contended that the deceased was doing cattle business and was earning a sum of Rs.25,000/- per month. The accident has taken place in the year 2013 and as per the chart prepared by the Karnataka State Legal Services Authority, income of the deceased is taken at Rs.8,000/- per month. As the deceased was aged 33 years as on the date of accident, 40% has to be added to the income of the deceased towards future prospects as per ***Pranay sethi supra***. The multiplier applicable is '16'.

Since the deceased was a bachelor, 50% of his income has to be deducted towards personal expenses. Accordingly, on re-determination of the 'loss of estate', the same works out to be:

$$8,000 + 40\% \times 12 \times 16 \times 50\% = \mathbf{Rs.10,75,200/-}$$

12. The Tribunal has awarded compensation of Rs.15,000/- towards 'loss of love and affection' to the appellants. Hence, a sum of Rs.40,000/- each is awarded. Therefore, the appellants/claimants are entitled for a sum of **Rs.80,000/-** (Rs.40,000 x 2) as per the law laid down in ***Magma*** case supra.

13. The Tribunal has awarded a sum of **Rs.10,000/-** towards 'funeral expenses' and the same is just and reasonable.

14. Thus, the total compensation re-determined by this Court under various heads are as follows:

1.	Loss of estate	:	Rs.	10,75,200/-
2.	Loss of love and affection	:	Rs.	80,000/-

3.	Funeral expenses	:	Rs.	10,000/-
	TOTAL	:	Rs.	11,65,200/-

15. The total compensation re-determined by this Court works out to Rs.11,65,200/- as against Rs.4,72,000/- awarded by the Tribunal. The appellants – claimants are entitled for total compensation of **Rs.11,65,200/-** along with interest at the rate of 6% per annum from the date of filing of the petition till realization.

17. Accordingly, for the foregoing reasons, the following order is passed:

ORDER

- i) The appeal is ***allowed-in-part***;
- ii) The judgment and award in MVC.No.440/2014, dated 26.09.2015, passed by the Itinerate Court of the Senior Civil Judge & XIX MACT, at Chikkanayakanahalli is modified;
- iii) The appellants – claimants are entitled for total compensation of **Rs.11,65,200/-** along with interest at the rate of 6% per annum

from the date of filing of the petition till realization;

- iv) The compensation amount along with accrued interest if any, shall be deposited by the respondent No.2 – Insurance Company, within eight weeks from the date of filing of the petition till realization;
- v) The appellant/claimant is not entitled for interest for the delay period of 286 days in filing the appeal.
- vi) Apportionment and disbursement of the compensation amount shall be as per the impugned Award of the Tribunal.
- vii) Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the judgment passed by this Court forthwith without any delay.
- viii) No order as to costs.

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

MH/-