



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 8109 OF 2023 (MV-D)

BETWEEN:

1. KAMALAMMA,
W/O LATE VENKATESH,
AGED ABOUT 62 YEARS.
2. V LAKSHMIDEVI,
D/O LATE VENKATESH,
AGED ABOUT 36 YEARS.
3. MANJUNATH V,
S/O LATE VENKATESH,
AGED ABOUT 34 YEARS,

ALL ARE RESIDING AT:
VANAKANAHALLI POST,
ANEKAL, BANGALORE URBAN.

...APPELLANTS

Digitally signed by KORLAHALLI
BHARATHIDEVIKRISHNACHARYA
Location: HIGH COURT OF
KARNATAKA

(BY SRI. JAGADISH GUNDAPPA., ADVOCATE)

AND:

1. SHIVA RUDRAMMA N,
W/O NANJUNDAPPA,
NO.221, PUMP HOUSE,
MARIYAPPA LAYOUT,
BEHIND COURT, ANEKAL,
BANGALORE - 562 106.
2. THE MANAGER,
UNITED INDIA INSURANCE CO LTD.,



R.O:NO.18, 5TH FLOOR,
KRUSHI BHAVAN, HUDSON CIRCLE,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI.A. M. VENKATESH., ADVOCATE FOR R2;
V/O DATED 16.01.2024 NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 18.08.2022 PASSED IN MVC NO.1091/2019 ON THE FILE OF THE C/c XXII ADDITIONAL SMALL CAUSES JUDGE AND ACMM, MEMBER -MACT- COURT OF SMALL CAUSES, BENGALURU (SCCH-24), 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 UMESH M ADIGA

ORAL JUDGMENT

This appeal is filed by the claimants being aggrieved by the judgment and award dated 18th August 2022, passed by the C/c XXII Additional Small Causes Judge and ACMM, Member MACT Court of Small Causes, Bengaluru (SCCH-24), (for short 'Tribunal'), in MVC No.1091/2019, seeking enhancement of compensation.

Though this appeal is slated for admission, with the consent of both the parties 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 brief facts of the case are that, on 28.03.2017 at about 11.30 a.m., near Jayalakshmi Takies road, the deceased met with an accident due to rash and negligent riding of the motorcycle bearing registration No.KA-51-ER-5921. As a result, he sustained fatal injuries and while undergoing treatment, succumbed to the injuries on the very same day. The deceased was aged about 62 years and was earning Rs.20,000/- p.m., from agriculture. The claimants are his wife and children. With these reasons, prayed to award the compensation.

4. The respondent No.2-insurer denied the petition averments and denied its liability to pay the compensation and prayed to dismiss the claim petition.

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 15 documents, as per Exs.P-1 to



P-15. Respondents examined one witness as RW-1 and marked documents as Exs.R-1 to R-3.

7. The Tribunal after hearing both parties and appreciating the evidence on record, held that the accident occurred due to rash and negligent riding of the motorcycle by its rider. The Tribunal also found that the rider of the motorcycle was not holding a valid and effective driving license. Therefore, directed respondent No.2-insurer to pay the compensation and recover it from the owner of the vehicle. The Tribunal has awarded the following amount of compensation:

Particulars	Amount in Rs.
Loss of dependency	4,62,000/-
Loss of estate	17,000/-
Loss of consortium	1,20,000/-
Funeral expenses and transportation of dead body	17,000/-
Medical expenses	21,700/-
<i>Total</i>	<i>6,37,700/-</i>

8. The only grievance of learned counsel for the appellants is that deceased was a married person and claimant No.1 is his widow. However, the Tribunal has deducted 50% of



his income towards personal expenses, on the ground that his son and daughter were majors. The said finding is erroneous. Therefore, prayed to enhance the compensation while deducting 1/3rd of the income towards personal expenses, as per the law laid down in the cases of ***Sarla Verma And Others Vs. Delhi Transport Corporation And Another¹*** as well as ***National Insurance Company Limited Vs. Pranay Sethi & Others²***.

9. Learned counsel for the respondents supported the impugned judgment and prayed to dismiss the appeal.

10. Heard the arguments. There is no dispute in respect of the amount of compensation awarded under the other heads. Hence, no need to recalculate the same.

11. The claimants were unable to prove income of the deceased. Therefore, the Tribunal has taken notional income as Rs.11,000/- p.m. The suitable multiplier applicable in the present case is '7', since age of the deceased was 62 years. The Tribunal, instead of deducting 1/3rd, deducted 50% of his

¹ 2009 ACJ 1298

² AIR 2017 SC 5157



income towards personal expenses. In the case of **Sarla Verma** as well as **Pranay Sethi** (*supra*), the Hon'ble Apex Court held that in the case of married person, the deduction shall be $1/3^{\text{rd}}$. Therefore, whether respondent Nos.2 and 3 are major or minor does not make much difference. Hence, instead of 50%, the Tribunal ought to have deducted $1/3^{\text{rd}}$ of his income. Therefore, the compensation for which the claimants were entitled under the head loss of dependency is $(11,000 \times 12 \times 7 \times 2/3^{\text{rd}}) = \text{Rs.6,16,000/-}$. After deducting the amount already awarded by the Tribunal i.e., Rs.4,62,000/- $(6,16,000 - 4,62,000)$, the claimants are entitled to enhancement of **Rs.1,54,000/-**.

12. This appeal was filed after delay of 368 days and while allowing the said application, it is held by the Court that in the event appeal is allowed, then the claimants are not entitled to interest for the delayed period. Therefore, excluding the delayed period, the claimants are entitled to interest at the rate of 6% per annum from the date of claim petition till its realization.



13. The Tribunal has already held that respondent No.2-insurer shall pay the compensation and recover it from the owner of the vehicle.

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

ORDER

- i) The Appeal is ***allowed in part.***
- ii) The judgment and award dated 18th August 2022, passed in MVC.No.1091/2019, by the XXII Additional Small Causes Judge and ACMM, Member MACT Court of Small Causes, Bengaluru (SCCH-24), stands modified;
- iii) The claimants are entitled to enhanced compensation of Rs.1,54,000/-, with interest at the rate of 6% p.a. from the date of petition till its realization, excluding delayed period of 368 days in filing the appeal.
- iv) The respondent No.2 - Insurance Company shall deposit the amount within a period of six weeks from the date of award.
- v) Respondent No.2-insurer is at liberty to recover the said amount from the owner of the vehicle as ordered by the Tribunal.



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