



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23rd DAY OF JANUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.100628 OF 2020 (MV-D)

BETWEEN:

1. RAJESAB S/O. RASULAB KOPPAD,
AGE : 45 YEARS, OCC : COOLIE.
2. KUMARI. TASENAM BANU D/O. RAJESAB,
AGE : 18 YEARS, OCC : STUDENT.
3. KUMAR. ARBAJA ALI S/O. RAJESAB KOPPAD,
AGE : 15 YEARS, OCC : STUDENT.
4. KUMARI. RAHINA D/O. RAJESAB KOPPAD,
AGE : 14 YEARS, OCC : STUDENT.

ALL ARE R/O: GANJIGATTI,
TQ : KALAGHATAGI,
DIST : DHARWAD – 580 012.

APPELLANT NO.3 AND 4 ARE MINORS
REPRESENTED BY THE MINOR GUARDIAN FATHER
AS APPELLANT NO.1

...APPELLANTS

(BY SRI. G. R. TURAMARI, ADVOCATE)

AND:

1. RAJAKUMAR S/O. DEVAJI NAIK,
AGE : 48 YEARS,
OCC : BUSINESS & OWNER OF THE SWIFT
DEZIRE MARUTI CAR BEARING ITS TEMPORARY
REGISTRATION NO.MH-13/TR-L 17,
R/O: 230, MOUNESHWAR NAGAR,
SHINDAGRI ROAD,
TQ: AND DIST : VIJAYAPURA – 586 101.
2. THE DIVISIONAL MANAGER,
THE NEW INDIA ASSURANCE CO.LTD.,

R/O : SOMESHWAR HEIGHTS,
OPP : OLD DY.S.P.OFFICE,
P.B.ROAD,
DIST : DHARWAD – 580 010.

3. NAGARAJ S/O. RAJENDRA DUNDI,
AGE : 26 YEARS, OCC : DRIVER,
R/O : C/O. YASHODA VIDWAN, H.NO.41,
VISHWESHWAR NAGAR, HUBBALLI,
OWNER OF THE MOTORCYCLE TEMP.
NO.KA-25/TC-01.
4. THE DIVISIONAL MANAGER,
THE ORIENTAL INSURANCE CO. LTD.,
R/O: AVENUE COMPLEX, 1ST FLOOR,
OPP: DHO, NEAR OLD S.P.CIRCLE,
HALLIKERI CHAWL, HALIYAL ROAD,
DHARWAD – 580 008.

...RESPONDENTS

(BY SRI. H. N. HANCHINAMANI, ADVOCATE AND
SMT. SUSHMA B. NAIK, ADVOCATE FOR R1;
SRI. G.N.RAICHUR, ADVOCATE FOR R2;
SRI. S.S. JOSHI, ADVOCATE FOR R4;
NOTICE TO R3-DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO ENHANCING THE COMPENSATION AND FIXING THE LIABILITY TO THE RESPONDENT NO.2 INSURANCE COMPANY BY MODIFYING THE JUDGMENT AND AWARD PASSED BY THE COURT OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND ADDITIONAL MACT, DHARWAD IN M.V.C NO.24/2016, DATED 30.01.2019 AND ALLOW THE APPEAL, IN THE INTEREST JUSTICE AND EQUITY.

THIS MFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 09.01.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

CAV JUDGMENT

1. This appeal is filed by the claimants seeking modification of the judgment and award dated 30.01.2019 passed by the II Additional Senior Civil Judge and Additional MACT, Dharwad (for short, "the Tribunal"), in M.V.C. No.24/2016, seeking enhancement of compensation and fastening of liability on respondent No.2 - Insurance Company.

2. The parties are referred to as per their ranking before the Tribunal for the sake of convenience and easy reference.

3. The brief facts of the case are as follows:

On 24.12.2015 at about 5.00 p.m., near Naragund Mini Vidhana Soudha on Hubballi-Solapur Road, when Smt. Ashabi was alighting from a motorcycle bearing registration No.KA25/TC-01, a Swift Dzire Car bearing Registration No.MH-13/TRL-17, driven at a high speed in a rash and negligent manner dashed against her. As a result of the impact, Ashabi sustained grievous injuries and died on the spot. The post-mortem was conducted at the Government Hospital, Naragund, and the funeral rites were performed by the petitioners.

It is the case of the claimants that deceased Ashabi was aged 33 years, engaged in tailoring work, earning Rs.9,000/- per month and the claimants were entirely dependent on her income.

The accident occurred solely due to the negligence of the driver of the Car.

4. The claim petition was filed under Section 166(1) of the Motor Vehicles Act, 1988 (for short, "the MV Act"), claiming compensation of Rs.12,00,000/-.

5. Upon issuance of notice, respondent Nos.1 to 4 appeared through their respective counsel. Respondent Nos.2 and 4 – Insurance Companies filed separate statements of objections, whereas respondent No.1 did not choose to contest the petition by filing objections.

6. In order to substantiate their case, claimant No.1 examined himself as PW-1 and produced six documents, which were marked as Exs.P1 to P6. On the other hand, the respondents examined one witness as RW-1 and produced four documents marked as Exs.R1 to R4.

7. On the basis of the pleadings and evidence on record, the Tribunal by the impugned award held that the accident occurred due to negligence of the driver of the Car and awarded compensation of Rs.8,90,000/- with interest @ 8% per annum, fastening liability on respondent No.1-owner of the Car holding that the insurer was not liable.

8. Learned counsel for the appellants contend that the Tribunal erred in assessing the income of the deceased at Rs.5000/- per month, which is on lower side considering the year of accident. It is also contended that the compensation awarded under the head of loss of dependency is inadequate and require enhancement. Though PW-1 is not an eyewitness to the accident, his deposition reiterates the averments made in the claim petition regarding the cause of the accident. He further submits that documentary evidence such as the FIR, complaint, post-mortem report, charge sheet, MVI report, and spot mahazar produced at Exs.P1 to P6 clearly establish the manner of the accident.

9. It is contended that as per the complaint, when the deceased was travelling as a pillion rider on the motorcycle bearing registration No.KA-25/TC-01, a Car bearing registration No.MH-13/TRL-17, driven rashly and negligently at a high speed, dashed against the motorcycle, causing the deceased to fall on the road and succumb to the injuries on the spot. Therefore, it is argued that the accident occurred solely due to the negligence of the driver of the Car, and the appellants seek enhancement of compensation, particularly under the head of loss of dependency.

10. Learned counsel for respondent No.2 – Insurance Company contends that the deceased was travelling as a pillion rider on the motorcycle bearing registration No.KA-25/TC-01, which was ridden at a high speed and in a negligent manner by its rider, who did not possess a valid and effective driving licence. Due to such negligence, the deceased fell from the motorcycle and died on the spot. He submits that a false complaint was lodged against the driver of the Car. It is further contended that the Car involved in the accident was not duly registered as on the date of the accident and was not permitted to ply on the road. The vehicle, though registered as a passenger-carrying vehicle, did not have a valid permit on the date of the accident. It is also contended that the temporary registration of the motorcycle bearing registration No.KA-25/TC-01 was valid only up to 20.12.2015 and the accident occurred on 24.12.2015. Hence, it is submitted that respondent No.1 violated the provisions of the M.V.Act and the terms and conditions of the policy, and therefore the appeal deserves to be dismissed as against respondent No.2.

11. In support of his contention, the learned counsel places reliance on the judgment of the Hon'ble Supreme Court in

the case of ***Amrit Paul Singh Vs. Tata AIG General Insurance Co.Ltd.,*** reported in ***AIR 2018 SC 2662***. In the present case, there is nothing brought on record by the insured to prove that he had a permit of the vehicle. In such a situation onus cannot be cast on the insurer.

12. Learned counsel for respondent No.4 contends that the rider of the motorcycle did not possess a valid and effective driving licence at the time of the accident. The temporary registration of the motorcycle was valid from 21.11.2015 to 20.12.2015, whereas the accident occurred on 24.12.2015. Thus, the motorcycle was not permanently registered on the date of the accident, and respondent No.3 violated the terms and conditions of the insurance policy. Therefore, respondent No.4 is not liable to indemnify respondent No.3. It is further contended that though the accident occurred due to the negligence of the driver of the Car, respondent No.4 cannot be fastened with liability. Accordingly, prays to dismiss the appeal.

13. Heard the learned counsel appearing for the appellants, learned counsels appearing for respondent Nos. 2 and 4 and perused the material available on record.

14. Having carefully considered the rival submissions and the materials on record, it is not in dispute that the accident in question occurred on 24.12.2015 and resulted in the death of Ashabi. The involvement of the Car bearing Registration No.MH-13/TRL-17 in the accident is also not seriously disputed. The police records, namely the FIR, complaint, spot mahazar, IMV report, post-mortem report, and charge sheet produced at Exs.P1 to P6 clearly establish that the accident occurred due to the rash and negligent driving of the driver of the said Car.

15. Further in respect of the quantum of compensation is concerned, it is seen that the Tribunal has assessed the monthly income of the deceased at Rs.5,000/- in the absence of documentary proof. However, considering the fact that the accident occurred in the year 2015 and that the deceased was stated to be engaged in tailoring work, the notional income adopted by the Tribunal is on the lower side. This Court deems it appropriate to reassess the monthly income of Rs.8000/- as per the chart prepared by the Legal Services Authority. As the deceased was aged 33 years as per the PM report, 40% has to be added to the income of the deceased towards future prospects as per the law laid down by the Hon'ble Supreme

Court in the case of **National Insurance Co. Ltd. Vs. Pranay Sethi and others** reported in **2017 ACJ 2700**. The multiplier applicable is '16'. Since there were four dependants at the time of accident, $1/4^{\text{th}}$ of her income has to be deducted towards personal expenses. Accordingly, on re-determination of the 'loss of dependency', the same works out to be:

$$8,000 + 40\% \times 12 \times 16 \times 3/4 = \text{Rs.}16,12,800/-$$

16. The Tribunal has awarded a sum of Rs.1,00,000/- towards 'loss of love and affection', Rs.40,000/- towards 'loss of consortium', Rs.15,000/- towards 'loss of estate' and Rs.15,000/- towards 'funeral expenses', which is just and reasonable.

17. In view of the above discussion, the total compensation re-determined by this Court under various heads are as follows:

1.	Loss of Dependency	:	Rs.	16,12,800/-
2.	Loss of love and affection	:	Rs.	1,00,000/-
3.	Loss of Consortium	:	Rs.	40,000/-
3.	Loss of estate	:	Rs.	15,000/-
4.	Funeral expenses	:	Rs.	15,000/-
	TOTAL	:	Rs.	17,82,800/-

18. The claimants are entitled for total compensation of Rs.17,82,800/- as against Rs.8,90,000/- awarded by the

Tribunal along with interest at the rate of 6% per annum from the date of filing of the petition till deposit.

19. As regards the liability, as per the order passed by the Tribunal, the respondent No.1 being the owner of the vehicle is held liable for the negligence in the ratio of 25% on the deceased and 75% on the owner of the Car. Therefore the claimants are entitled for 75% of the total compensation awarded in their favour.

20. In view of the above, it is observed that the Tribunal has rightly considered the decision of the Apex Court in ***Amrit Paul Singh's*** case (*supra*), and fastened liability on the respondent No.1-owner of the Car by keeping in mind admitted policy violations regarding permit and registration, and in the absence of proof to the contrary. Therefore, the finding of the Tribunal in respect of fastening liability on the owner does not call for interference.

21. In view of the foregoing reasons, this Court proceeds to pass the following:

ORDER

- i) The appeal is **allowed-in-part**;
- ii) The impugned judgment and award dated 30.01.2019 passed by the II Additional Senior Civil

Judge and Additional MACT, Dharwad, in M.V.C. No.24/2016, is modified;

- iii) The respondent Nos.1 to 4 – claimants are entitled for 75% of the total compensation of Rs.17,82,800/- as against Rs.8,90,000/- awarded by the Tribunal along with interest at the rate of 6% per annum from the date of filing of the petition till deposit;
- iv) The compensation amount along with accrued interest if any, shall be deposited by the respondent No.1 – owner of the Car, within eight weeks from the date of filing of the petition till deposit;
- v) Apportionment and disbursement of the compensation amount shall be as per the order of the Tribunal.
- vi) Amount in deposit along with accrued interest, if any shall be transmitted to the Tribunal.

No order as to costs.

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

KGK, CT:VP