



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 23RD DAY OF JANUARY 2026

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 20628 OF 2013 (MV)

BETWEEN:

SRI. JAGANNATH MANGALESHPA ALVANDI,
AGE: 43 YEARS, OCC: AGRICULTURE,
R/O. MANGLORE, TQ: YALABURGA,
DIST: KOPPAL.

...APPELLANT

(BY SRI. G.N. RAICHUR, ADVOCATE)

AND:

SRI. AJAY ROHIDAS ANVEKAR,
AGE: 26 YEARS, OCC: NIL,
R/O. BASWESHWAR NAGAR, GADAG.

...RESPONDENT

(BY SRI. G.N. NARASAMMANAVAR, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLE ACT PRAYING TO CALL FOR THE RECORDS HEAR THE PARTIES AND SET ASIDE THE JUDGMENT AND AWARD PASSED IN MVC NO.368/2006 DATED:21-07-2012 PASSED BY THE COURT OF DISTRICT JUDGE AND MACT, GADAG. BY ALLOWING THIS APPEAL WITH COST IN THE ENDS OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

BHARATHI
H M



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BHARATHI H M
Location: HIGHCOURT
OF KARNATAKA
DHARWAD BENCH
DHARWAD



ORAL JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'the M.V. Act') questioning the judgment and award dated 21.07.2001 passed in M.V.C.No.368/2006 on the file of the learned District Judge and M.A.C.T. Gadag, (in short, the 'Tribunal').

2. Parties would be referred with their ranks, as they were before the Tribunal for sake of convenience and clarity.

3. The claimant/brother-Ajay Rohidas Anvekar of deceased known as Anil Rohidas Anvekar has filed claim petition under Section 166 of M.V. Act claiming compensation in respect of death of his brother involving Bajaj Motorcycle bearing registration No.KA-26/J-2499 and tractor and trailer bearing registration Nos.KA-37/T-3370 and KA-37/T-3371.



4. It is the contention of claimant that on 15.08.2006 at 08.30 a.m. on Talakal-Bannikoppa road i.e., NH-63 road, when brother of deceased was going in his motorcycle bearing registration No.KA-26/J-2499, the driver of tractor and trailer came from opposite side and dashed against the rider and caused the accident and due to said accident, Anil Rahidas Anvekar died at the spot. After hearing the news, the wife of deceased committed suicide on the same day. Claimant is the only dependent on the deceased. Due to sudden death of deceased, claimant was thrown to street. Hence, prayed for compensation under different heads.

5. After service of notice, respondent being the owner of tractor and trailer filed his written statement, wherein he denied the petition averments in toto regarding the age, income and occupation of deceased and also the dependency of claimant and other averments made in the petition. Hence, prayed for dismissal of the petition.



6. On behalf of claimant, claimant was examined as PW.1. Apart from marking Exs.P1 to 13 and closed his side before the Tribunal. On behalf of respondent, respondent was examined as RW.1 and closed his side before the Tribunal.

7. After recording evidence of both sides and hearing arguments of both sides, the Tribunal held that the claimant is only the brother of deceased and hence, considering the principles noted in the judgment of Hon'ble Apex Court i.e., ***Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and another¹***, the Tribunal has awarded compensation of ₹2,04,000/- under the head loss of estate to the claimant.

8. Aggrieved by the said judgment and award, the appellant/respondent i.e., owner of the tractor and trailer is before this Court.

9. Heard arguments of both sides.

¹ AIR 2009 SC 3104



10. Learned counsel for appellant, Sri G.N. Raichur would submit that appellant is the owner of tractor and trailer and there was no insurance to it. Claimant is younger brother of deceased and was doing family business of goldsmith at Gadag, whereas deceased was Hostel Superintendent of Government Hostel working at Koppal. Thus, claimant cannot be the dependent of deceased. In this regard, learned counsel for appellant relied upon the judgment of division Bench of this Court in MFA No.103546/2019 and two other judgments of Hon'ble Apex Court i.e., ***Manjuri Bera vs. Oriental Insurance Company Ltd. and another***². ***The New India Assurance Company Limited Vs. Anand Pal and others***³ and hence, prayed for allowing the appeal.

11. Learned counsel for respondent/claimant Sri G. N. Narasammanavar would submit that claimant was the younger brother of deceased aged only about 19 years and

² AIR 2007 SC 1474

³ SLA No. 7805/2022 dated 04.12.2023



only after deceased got Government job, claimant was looking after the family business and claimant was entirely depending upon the deceased in all respects. Hence, considering the principles noted in ***Sarla Verma's*** case cited supra, the Tribunal has rightly awarded compensation only under the head 'loss towards estate' and not under the head of loss of dependency. Hence, prayed for dismissal of the appeal.

12. Having heard arguments of both sides and verifying the appeal papers along with Trial Court records, the only point that arises for consideration is

Whether any compensation could be awarded to the claimant/younger brother of deceased, when both were not residing under single roof?

13. The finding of this Court on the above point is in '**affirmative**' for the following reasons:-

On 15.08.2006 at 08.30 a.m., on Talakal-Bannikoppa road i.e., NH-63 road, the accident happened involving a



motorcycle bearing registration No.KA-26/J-2499 and tractor and trailer bearing registration Nos.KA-37/T-3370 and KA-37/T-3371 and the deceased died at the spot are not in dispute.

14. The claimant was aged about 19 years at the time of the accident. The cross-examination of claimant reveals that the deceased has got Government job during 2004 and deceased died in the year 2006 i.e., within 2 years of he getting the Government job. The cross-examination of PW.1 further reveals that his father died during 1996, after death of his father, his mother was taking care of business and his mother also died in the year 2001 and after death of his mother, it is the brother of claimant i.e., deceased was taking care of business and only because he got job in the year 2004, this claimant started looking after the family business and claimant was bachelor.

15. The deceased was working as Hostel Superintendent in Government Hostel and thus, he has to stay in the hostel for the whole day and he would not be



having holidays also and he has to look after the hostel day and night. Hence, the contention of claimant that even though deceased was working as Hostel Superintendent, deceased was also assisting the claimant in family business cannot be accepted as correct. Thus, apparently deceased ought to be in the place where he was working. However that does not mean that deceased was not contributing anything to the family from his salary.

16. It is not in dispute that deceased married in year 2005 and after deceased died in the accident, immediately on the same day, his wife also committed suicide by hearing the news of death of her husband. Both parents of claimants are no more and he was having only two married sisters and they were residing in their respective husband's houses.

17. In first of the aforesaid citations relied by the learned counsel for appellant i.e., MFA No.103546/2019, the Co-Ordinate Bench of this Court held that, Tribunal has awarded a sum of ₹.50,000/- under the 'head loss of estate'



and it is contrary to the ruling of the Hon'ble Apex Court in ***National Insurance Company Limited vs. Pranay Sethi and others***⁴; and further held that, the Tribunal has not awarded any compensation under the head 'loss of consortium' and thus, the claimant was entitled for said amount under the head loss of consortium and thus, there was no interference on said judgment.

18. In second of the aforesaid citations relied by the learned counsel for appellant ***Manjuri Bera's*** case (supra), it is held at paragraph Nos.12, 17 and 18 as follows:

"12. Judged in that background where a legal representative who is not dependant files an application for compensation, the quantum cannot be less than the liability referable to Section 140 of the Act. Therefore, even if there is no loss of dependency the claimant if he or she is a legal representative will be entitled to compensation, the quantum of which shall be not less than the liability flowing from Section 140 of the Act. The appeal is allowed to the aforesaid extent. There will be no order as to costs. We record

4 (2017) 16 SCC 680



our appreciation for the able assistance rendered by Shri Jayant Bhushan, the learned Amicus Curiae.

17. In my opinion, "No Fault Liability", envisaged in Section 140 of the said Act, is distinguishable from the rule of "Strict Liability". In the former, the compensation amount is fixed. It is Rs.50,000/- in cases of death [Section 140(2)]. It is a statutory liability. It is an amount which can be deducted from the final amount awarded by the Tribunal. Since, the amount is a fixed amount/crystallized amount, the same has to be considered as part of the estate of the deceased. In the present case, the deceased was an earning member. The statutory compensation could constitute part of his estate. His legal representative, namely, his daughter has inherited his estate. She was entitled to inherit his estate. In the circumstances, she was entitled to receive compensation under "No fault Liability" in terms of Section 140 of the said Act. My opinion is confined only to the "No Fault Liability" under Section 140 of the said Act. That section is a Code by itself within the Motor Vehicles Act, 1988.

18. For the above separate reasons, I agree with the conclusion, namely, the appeal be allowed with no order as to costs."

19. Thus, in the aforesaid citation, it is held that under Section 140 of the Motor Vehicles Act, the claimant is



entitled for compensation which shall not be less than the liability flowing from Section 140 of the M.V. Act and thus, the appeal was allowed holding that even a married daughter could maintain a claim petition.

20. Under the same footing even the major younger brother is also entitled to file a claim petition.

21. The third judgment relied upon by the learned counsel for appellant is that The New India Insurance Company Ltd. (supra) wherein the deceased left behind only his elder brothers who were married having their respective children and residing separately and under those circumstances, it was held that they are not entitled for compensation and appeal was allowed.

22. In the instant case, as discussed above, the claimant is none other than the younger brother of deceased and was just 19 years at the time of the accident. Even though the claimant was running a family business, the deceased was having definite income that is salary



because he was working as Hostel Superintendent at Government Hostel.

23. In the aforesaid cases, the ***Sarla Verma's*** case, was not overruled. Under those circumstances, even though the claimant was only the younger brother of deceased, who was working at Koppal, it cannot be said that there was no assistance from the deceased to the claimant. Definitely claimant is entitled for compensation towards loss of estate. Relying upon this ***Sarla Verma's*** case only, the Tribunal has awarded the compensation. The salary certificate of deceased reveal that he was drawing gross salary of ₹.7,680/- per month and after deductions it was ₹.6,672. Considering all these facts, the Tribunal has taken the savings of deceased that might be given to his brother would be ₹.1,000/- per month and by making calculation that the age of deceased is 30 years and applied the appropriate multiplier 17.

24. In the absence of any other material before the Court, respectfully following the judgment of ***Sarla***



Verma's case, the compensation of ₹.2,04,000/- awarded by the Tribunal is in accordance with law and thus it needs no interference. If at all, the claimant was elder to the deceased and was having stable business and was having his own family, then the argument of learned counsel for appellant would be acceptable. In the absence of these things, when the claimant was younger brother of deceased, the said argument is not acceptable one. Considering these facts, the point under consideration is answered in 'negative' and thus this Court proceed to pass the following:

ORDER

- i) Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is dismissed by confirming the judgment and award passed in M.V.C.No.368/2006 on the file of the learned District Judge and Member, MACT, Gadag.



- ii) No order as to costs.
- iii) Amount in deposit if any be transmitted to
the Tribunal.

Sd/-
(GEETHA K.B.)
JUDGE

SSP: Para 1 to 15
HMB: Para 16 to end
CT-MCK
LIST NO.: 1 SL NO.: 3