

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 30TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MFA NO.101157 OF 2016

C/W

MFA CROB NO.100020/2019

IN MFA NO.101157/2016:

BETWEEN:

THE DIVISIONAL CONTROLLER,
N.W.K.R.T.C. BELAGAVI DIVISION, BELAGAVI.
(OWNER/CUSTODIAN OF NWKRTC
BUS BEARING NO.KA-42/F-362)
R/BY CHIEF LAW OFFICER,
N.W.K.R.T.C., CENTRAL OFFICE, HUBBALLI.

...APPELLANT

(BY SRI. I.C. PATIL, ADVOCATE)

AND:

1. SHRI GOPAL S/O RAMU MASTI,
AGE: 26 YEARS, OCC: AGRICULTURE,
R/O: SOLAPUR, TQ: HUKKERI, DIST: BELAGAVI.
2. SMT. MAHADEVI LAGAMANNA PATIL,
AGE: 24 YEARS, OCC: HOUSEHOLD WORK,
R/O: EXAMBA, TQ: CHIKKODI, DIST: BELAGAVI.

...RESPONDENTS

(BY SMT. SUNANDA P. PATIL, ADVOCATE FOR R1 & R2)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 05.01.2016 PASSED IN MVC NO.246/2015 ON THE FILE OF ADDL. M.A.C.T., HUKKERI, AS COMPENSATION AWARDED IS EXCESSIVE AND EXORBITANT BY ALLOWING THIS APPEAL AND ETC.

IN MFA CROB.NO.100020/2019:
BETWEEN:

1. SHRI. GOPAL S/O RAMU MASTI
AGE: 29 YEARS, OCC: AGRICULTURE,
R/O: SOLAPUR-591313,
TQ: HUKKERI, DIST: BELAGAVI.
2. SMT. MAHADEVI W/O LAGAMANNA PATIL
AGE: 27 YEARS, OCC: HOUSEHOLD WORK,
R/O: EXAMBA-591244,
TQ: CHIKKODI, DIST: BELAGAVI.

...CROSS OBJECTORS

(BY SMT. SUNANDA P. PATIL, ADVOCATE)

AND:

THE DIVISIONAL CONTROLLER,
NORTH WEST KARNATAKA ROAD
TRANSPORT CORPORATION,
BELAGAVI-590001, DIVISION BELAGAVI.

...RESPONDENT

(BY SRI. I.C. PATIL, ADVOCATE)

THIS MFA.CROB IN MFA NO.101157/2016 FILED UNDER ORDER 41 RULE 22 OF CPC., 1908, PRAYING TO ALLOW THE CROSS APPEAL BY MODIFYING THE JUDGMENT AND AWARD DATED 05.01.2016 IN MVC NO.246/2015 PASSED BY THE ADDITIONAL MACT, HUKKERI TO THE EXTENT OF DISALLOWED CLAIM AND ENHANCE THE COMPENSATION FROM RS.5,50,000/- TO THE TUNE OF RS.10,00,000/- ALONG WITH INTEREST AT THE RATE OF 9% FROM THE DATE OF PETITION TILL ITS REALIZATION TO THE CROSS OBJECTORS/CROSS APPELLANTS IN THE INTEREST OF JUSTICE AND EQUITY.

THE APPEAL AND THE CROSS OBJECTION HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 23.01.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

CAV JUDGMENT

MFA No.101157/2016 is filed by the North West Karnataka Road Transport Corporation (NWKRTC) challenging the judgment and award dated 05.01.2016 passed by the Additional Motor Accident Claims Tribunal (MACT), Hukkeri ('the Tribunal', for short), in MVC No.246/2015 and MFA Crob.No.100020/2019 is filed by the claimants, who are the son and daughter of the deceased Smt. Srimanthi, seeking enhancement of compensation.

2. The brief facts are that on 23.08.2014 at about 4.40 p.m., the deceased Smt. Srimanthi was walking near Basava Circle, Chikkodi. At that time, NWKRTC bus bearing registration No.KA-42/F-362, coming from Basava Circle side towards Belagavi, in a rash and negligent manner, dashed against her. She sustained grievous injuries and died on the spot. A criminal case was registered against the driver of the bus. Post-mortem report confirmed the death was due to the accident.

3. The claimants, being her children, preferred a claim petition under Section 166 of the Motor Vehicles Act, 1988 ('MV Act', for short) before the Tribunal seeking compensation.

4. The Tribunal, after considering evidence including FIR, spot panchanama, MV report, and post-mortem report, held that the accident occurred due to rash and negligent driving of the bus driver. The Tribunal assessed the income of the deceased at Rs.5,000/- per month and awarded total compensation of Rs.5,50,000/- with interest at 6% per annum.

5. Learned counsel appearing for the Corporation contends that the claimants were major children and not financially dependent on the deceased and therefore no compensation for loss of dependency should be granted. He further contended that the income and occupation of the deceased were not supported by evidence and that the compensation awarded by the Tribunal was exorbitant.

6. In support of his contentions, learned counsel for the Corporation has relied on the following judgments:

- ***M/s. Oriental Insurance Company Ltd. Vs.Shivamma and others*** reported in ***ILR 2008 KAR 1561***
- ***The Divisional Controller, NWKRTC, Belagavi Division Vs.Smt.Shanta Ram Bhatkande and another in MFA No.101792/2015 c/w MFA No.101334/2015 by order dated 17.02.2018***

- ***M/s. Shreerama General Insurance Company Ltd. Vs.Smt.S Thippamma @ Thippamma and others in MFA No.101587/2016 c/w MFA No.103960/2016 by order dated 12.01.2018***

7. Learned counsel for the claimants contends that the income of the deceased was undervalued, as she was engaged in tailoring and milk vending and also managing household services. She submitted that the Tribunal failed to consider future prospects of income, did not award compensation under the heads of loss of estate, filial consortium, and loss of love and affection, and that the interest rate awarded was lower than reasonable. They prayed for enhancement of total compensation to Rs.10,00,000/-.

8. In support of her contentions, learned counsel for the claimants has relied on the following judgments:

- ***Basavarajappa Basappa and others Vs.Shekappa and another in MFA No.100807/2015 by order dated 08.10.2025,***
wherein at paragraph 6 it has held as follows:

"6. In the decision that is relied upon by learned Counsel for the appellants in the case between National

*Insurance Company Limited and Birender & Others*¹
Hon'ble Supreme Court at para 14 held as follows:

"14. The legal representatives of the deceased could move application for compensation by virtue of clause (c) of Section 166(1). The major married son who is also earning and not fully dependant on the deceased, would be still covered by the expression "legal representative" of the deceased. This Court in Manjuri Bera (supra) had expounded that liability to pay compensation under the Act does not cease because of absence of dependency of the concerned legal representative. Notably, the expression "legal representative" has not been defined in the Act. In Manjuri Bera (supra), the Court observed thus:-

"9. In terms of clause (c) of sub-section (1) of Section 166 of the Act in case of death, all or any of the legal representatives of the deceased become entitled compensation and any such legal representative can file a claim petition. The proviso to said sub-section makes the position clear that where all the legal representatives had not joined, then application can be made on behalf of the legal representatives of the deceased by impleading those legal representatives as respondents. Therefore, the High Court was justified in its view that the appellant could maintain a claim petition in terms of Section 166 of the Act.

¹ (2020) 11 SCC 356

10. The Tribunal has a duty to make an award. determine the amount of compensation which is just and proper and specify the person or persons to whom such compensation would be paid. The latter part relates to the entitlement of compensation by a person who claims for the same.

11. According to Section 2(11) CPC, "legal representative" means a person who in law represents the estate of a de-ceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued. Almost in similar terms is the definition of legal representa-tive under the Arbitration and Conciliation Act, 1996 1.e. un-der Section 2(1)(g).

12. As observed by this Court in *Custodian of Branches of BANCO National Ultramarino v. Nalini Bai Naique* [1989 Supp (2) SCC 275 the definition contained in Section 2(11) CPC is Inclusive in character and its scope is wide, it is not confined to legal heirs only. Instead it stipulates that a person who may or may not be legal heir competent to inherit the property of the deceased can represent the estate of the deceased person. It includes heirs as well as persons who represent the estate even without title either as executors or administrators in possession of the estate of the

deceased. All such persons would be covered by the expression "legal representative". As observed in Gujarat SRTC v. Ramanbhai Prabhatbhai (1987) 3 SCC 234 a legal representative is one who suffers on account of death of a person due to a motor vehicle accident and need not necessarily be a wife, husband, parent and child."

In paragraph 15 of the said decision, while advertng to the provisions of Section 140 of the Act, the Court observed that even if there is no loss of dependency, the claimant, if he was a legal representative, will be entitled to compensation. In the concurring judgment of Justice S.H. Kapadia, as His Lordship then was, it is observed that there is distinction between "right to apply for compensation" and "entitlement to compensation". The compensation constitutes part of the estate of the deceased. As a result, the legal representative of the deceased would inherit the estate. Indeed, in that case, the Court was dealing with the case of a married daughter of the deceased and the efficacy of Section 140 of the Act. Nevertheless, the principle underlying the exposition in this decision would clearly come to the aid of the respondent Nos. 1 and 2 (claimants) even though they are major sons of the deceased and also earning."

- **Reliance General Insurance Company Limited Vs.Gangappa and others** reported in **HCR 2022 KANT 887**, wherein at paragraphs 22, 23, 24 and 25 it has held as under:

"22. No doubt learned counsel for insurance company also relied upon judgement in Manjuri Bera decided on 30.03.2007, wherein the Apex Court discussed earlier the contention taken by married daughter and the same was rejected as she is not dependent. But in view of recent judgement in Birender, the Apex Court discussed in detail regarding the word 'legal representatives of the deceased' and considering an application under Section 166(1) of Motor Vehicles Act and the judgement in Manjuri Bera is also taken note of by the Apex Court and held that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation irrespective of the fact whether legal representative was fully dependant on the deceased and not to limit the claim towards conventional heads only. Hence, the said contention of insurance company cannot be accepted in view of Birender's case.

23. The Apex Court in the said judgement further held even married sons are also entitled for compensation. This Court also cannot make any discrimination whether they are married sons or married daughters and hence, very contention that married daughters of deceased are not entitled for compensation cannot be accepted and the Court has to take note of the rationale behind in coming to the conclusion of even married sons and major sons are eligible to claim compensation and hence

the married daughters also entitle for compensation on all the heads and not to limit only for conventional heads.

24. Counsel for respondents/claimants also relied upon a judgement of Kerala High Court in the case of Shalumol supra. In paragraph Nos.50 and 51 of the said judgement, Kerala High Court also held that bond between the mother and daughter is eternal and further observed that even if the dependency is relevant criterion to claim compensation for loss of dependency, it does not mean financial dependency is the 'ark of the covenant'. Dependency includes gratuitous service dependency, physical dependency, emotional dependency, psychological dependency so on and so forth, which can never be equated in terms of the money.

25. Having considered the principles laid down in the judgements referred to supra, this Court has taken note of recent judgement of the Apex Court in Birender, wherein it is held that even married sons are entitled for compensation not only on conventional heads but also on loss of dependency. Hence, the very contention of the appellant-insurance company cannot be accepted."

9. It is further contended that the claimants are dependents of the deceased. The deceased, having lost her husband earlier, was managing family affairs and household

services, while also doing tailoring and milk vending. She was thus the sole earning member and her contribution to the family cannot be ignored.

10. The accident was of the year 2014, hence the notional income for that year, as per the Karnataka State Legal Services Authority, is Rs.7,500/- per month. Adding 25% for future prospects as per **National Insurance Co. Ltd. v. Pranay Sethi (2017 ACJ 2700)**, the total annual income comes to Rs.1,12,500/- (Rs.7,500/- add 25% = Rs.9,375/- x 12 = Rs.1,12,500/-). Deducting one-third for personal expenses, the annual income comes to Rs.75,000/- (Rs.1,12,500/- less 1/3rd = Rs.75,000/-). The multiplier applicable for age 50 is 13. Therefore, loss of dependency = **Rs.9,75,000/-** (Rs.75,000/- x 13 = Rs.9,75,000/-).

11. As regards filial consortium and loss of love and affection, in view of the Apex Court judgment in **Magma General Insurance Co. Ltd. v/s Nanu Ram Alias Chuhru Ram & Ors. (2018 ACJ 2782)**, compensation is awarded to reflect the loss suffered by the children due to untimely death of their mother. The Tribunal did not consider this head adequately,

and therefore an amount of Rs.48,000/- each for the two claimants is awarded for filial consortium and love/affection and Rs.18,000/- for loss of estate and funeral expenses, considering two escalations in accordance with the post - 2017 judgments of the Apex Court and this High Court, where a 10% escalation is applied for every three years. Accordingly, the reassessment of the compensation as per the Chart of the High Court Legal Services Authority is as under:

Sl. No.	Head of Compensation	Amount (₹)
1	Loss of Dependency	9,75,000
2	Loss of Estate	18,000
3	Filial Consortium – Claimant No.1	48,000
4	Filial Consortium – Claimant No.2	48,000
5	Funeral Expenses	18,000
	Total Compensation	11,07,000

12. Considering the calculations and the claimants' losses, the total compensation is fixed at **Rs.11,07,000/-** with interest at 6% per annum from the date of petition till realization.

13. In the result, this Court proceeds to pass the following:

ORDER

- (i) The appeal filed by the Corporation is ***dismissed***.
- (ii) The cross-objection filed by the claimants is ***allowed***.
- (iii) The judgment and award dated 05.01.2016 passed in MVC No.246/2015 by the Additional MACT, Hukkeri, is modified. The claimants are entitled for total compensation of Rs.11,07,000/- with interest at the rate of 6% per annum from the date of petition till realization.
- (iv) The Corporation shall deposit the enhanced compensation along with interest within six weeks from the date of receipt of certified copy of this judgment.
- (v) Apportionment and disbursement shall be in the same manner as directed by the Tribunal.
- (vi) Amount in deposit, if any, shall be transmitted to the Tribunal forthwith.
- (vii) The trial Court records, if any, shall be transmitted to the Tribunal forthwith.

No order as to costs.

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

KGK / CT:VP