



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 19TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR JUSTICE M.I.ARUN

AND

THE HON'BLE MR JUSTICE B. MURALIDHARA PAI

MISCELLANEOUS FIRST APPEAL NO. 101446 OF 2020 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 101218 OF 2025 (MV-D)

IN MFA NO.101446 OF 2020:

BETWEEN:

1. SUSMA @ SUSMITA
W/O. LAXMIPUTRA KADAKOL,
AGE : 31 YEARS, OCC : HOUSEHOLD WORK,
R/O : SIRAGUMPI, TQ : JAMAKHANDI,
DIST : BAGALKOT – 591 242.
2. BHUMIKA D/O. LAXMIPUTRA KADAKOL,
AGE : 05 YEARS, OCC : NIL,
R/O : SIRAGUMPI, TQ : JAMAKHANDI,
DIST : BAGALKOT – 591 242.

(SINCE MINOR REPRESENTED BY HER
MOHTER APPELLANT NO.1)

... APPELLANTS

(BY SRI VITTHAL S. TELI, ADVOCATE)

AND:

1. SHIVANAND S/O. KRISHNAPPA CHAWAN,
AGE : 36 YEARS, OCC : BUSINESS,
R/O : HANAMAPUR, TQ : BADAMI,
DIST : BAGALKOT – 587 201.
2. THE BRANCH MANAGER,
NATIONAL INSURANCE CO. LTD.,
NEAR KEB NAVANAGAR,
BAGALKOT – 587 101.



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3. RATNABAI W/O. NINGAPPA KADAKOL,
AGE : 58 YEARS,
OCC : HOUSEHOLD WORK,
R/O : MIRAJ, TQ : INDI,
DIST : VIJAYPUR – 184 120.

... RESPONDENTS

(BY SRI M.B. HASALKAR, ADV. FOR R1(ABSENT);
SRI. N.R.KUPPELUR, ADV. FOR R2;
SRI. MAHANTESH S. HIEMATH, ADV. FOR R3)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYS THAT THE JUDGMENT AND AWARD DATED 23.12.2019 IN MVC NO.11/2017 PASSED BY THE PRL. SENIOR CIVIL JUDGE AND MEMBER MACT-II, BAGALKOT IN AWARDING THE COMPENSATION OF RS.52,25,641/- AND INTEREST AT RATE OF 6% FROM THE DATE OF PETITION AND MAY BE KINDLY MODIFIED BY ENHANCING TO RS.45,74,359/- WITH 18% INTEREST AND SADDLE THE LIABILITY ON RESPONDENT NO.2, IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA NO.101218 OF 2025:

BETWEEN:

SHRI RATNABAI W/O. NINGAPPA KADAKOL,
AGE : 58 YEARS, OCC : HOUSEHOLD,
R/O : MIRGI, TQ : INDI,
DIST : VIJAYPUR – 184 120.

... APPELLANT

(BY SRI. MAHANTESH S. HIEMATH, ADVOCATE)

AND:

1. SHRI SUSMA @ SUSHMITA
W/O. LAXMIPUTRA KADAKOL,
AGE : 31 YEARS, OCC : HOUSEHOLD,
R/O : SIRAGUMPI,
TQ : JAMAKHANDI,
DIST : BAGALKOT – 591 242.
2. BHUMIKA D/O. LAXMIPUTRA KADAKOL,
AGE : 05 YEARS, OCC : NIL,



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R/O : SIRAGUMPI, TQ : JAMAKHANDI,
DIST : BAGALKOT – 591 242.

(SINCE MINOR REPRESENTED BY HER
MOHTER-R1)

3. SHIVANAND S/O. KRISHNAPPA CHAWAN,
AGE : 36 YEARS, OCC : BUSINESS,
R/O : HANAMAPUR, TQ : BADAMI,
DIST : BAGALKOT – 587 201.

4. THE BRANCH MANAGER,
NATIONAL INSURANCE COMPANY LTD.,
NEAR KEB NAVANAGAR,
BAGALKOT – 587 101.

... RESPONDENTS

(BY SRI. VITTHAL S. TELI, ADV. FOR R1 & R2;
SRI M.B. HASALKAR, ADV. FOR R3(ABSENT);
SRI. N.R.KUPPELUR, ADV. FOR R4)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYS THAT THE JUDGMENT AND AWARD DATED 23.12.2019 IN MVC NO.11/2017 PASSED BY THE PRL. SENIOR CIVIL JUDGE AND MEMBER MACT-II, BAGALKOT IN AWARDING THE COMPENSATION OF RS.52,25,641/- AND INTEREST AT RATE OF 6% FROM THE DATE OF PETITION AND MAY BE KINDLY MODIFIED BY ENHANCING TO RS.45,74,359/- WITH 18% INTEREST AND SADDLE THE LIABILITY ON RESPONDENT IN THE INTEREST OF JUSTICE AND EQUITY.

THESE APPEALS ARE COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 03.02.2026, THIS DAY, **B. MURALIDHARA PAI J.**, DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE M.I.ARUN
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI



CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

The Claimants in MVC No.11/2017 on the file of learned Principal Senior Civil Judge and MACT-II, at Bagalkot (in short, 'the Tribunal') have maintained these miscellaneous first appeals praying for enhancement of the compensation awarded by the Tribunal and to saddle the liability of paying the compensation on the Insurer.

2. The parties to these proceedings are preferred with their original ranking before the Tribunal.

3. The Claimants are the wife, daughter and mother of deceased Sri Laxmiputra. On 07.08.2015 at about 09.30 p.m. when the deceased was proceeding by walk towards Sainik School on Athani Road in Vijayapura, he met with a road traffic accident due to actionable negligence on the part of the rider of motor-cycle bearing No.KA-29-Y-9484. The Claimants maintained a petition in MVC No.11/2017 praying for compensation of Rs.1,07,00,000/- from the Respondents together with court cost and interest. After contest, the Tribunal



allowed the petition in part and awarded compensation of Rs.52,25,641/- together with interest at the rate of 6% per annum from the date of petition till its deposit. The Tribunal further held that as there was breach of policy conditions, the Insurer cannot be fastened the liability of paying the compensation amount and directed the owner of the vehicle i.e., Respondent No.1 to satisfy the award.

4. Learned Counsel for Claimants vehemently submitted that the award passed by the Tribunal is on lower side. He submitted that the Tribunal has erred in not awarding compensation under the head of loss of filial consortium and loss of love and affection. He further submitted that the Tribunal ought to have awarded interest at the rate of 9% per annum. He strenuously contended that the Tribunal has committed an error in not considering the liability of the Insurer to satisfy the award in view of existence of valid insurance policy as on the date of accident. As such he prayed to suitably enhance the compensation amount and to fasten the liability on the Insurer to satisfy the award.



5. *Per contra*, learned Counsel for Insurer vehemently submitted that in the case on hand the Insurer has adduced sufficient evidence before the Tribunal to show that as on the date of the accident the rider of the motorcycle in question was not holding a driving license to ride the motorcycle and thereby there was violation of the terms and conditions of the policy. In view of the same, he justified the order of the Tribunal absolving the Insurer from the liability of satisfying the award. Further, he submitted that the Tribunal has determined just and proper compensation in the case having regard to the facts and circumstance of the case and the materials available on record.

6. On hearing the submissions made on both sides and considering the materials available on record, the following points would arise for consideration of this Court:

i) Whether the Claimants have made out valid ground to seek enhancement of the compensation?

ii) Whether the Insurer is liable to satisfy the award?

Point Nos.i and ii:

7. Under the impugned judgment and award, the Tribunal has held that the Claimants are entitled for total



compensation of Rs.52,25,641/-. The Tribunal has arrived at the said figure, on the following basis:

1	Monthly income based on HRMS salary slip for the month of July 2015, marked at Ex.P7	Rs.26,429/-
2	After deduction of PT - Rs.200/-, the monthly income	Rs.26,229/-
3	Annual income of the deceased - Rs.26,229/- X 12	Rs.3,14,748/-
4	After deduction of Rs.11,475/- (10%) on taxable income of Rs.1,14,748/-	Rs.3,03,273/-
5	Amount after deduction of 1/3 rd portion of the income towards personal expenses of the deceased i.e., Rs.3,03,273/- minus Rs.1,01,091/-	Rs.2,02,182/-
6	Addition of future prospects as per the decision in Pranay Sethi's case i.e., 50% of actual salary	Rs.1,01,091/-
7	Net income of the deceased for the purpose of computing loss of dependency	Rs.3,03,273/-
8	Loss of dependency on applying multiplier '17'	Rs.51,55,641/-
9	Loss of estate	Rs.15,000/-
10	Loss of consortium	Rs.40,000/-
11	Funeral expenses	Rs.15,000/-
12	Total compensation	Rs.52,25,641/-



8. In ***Magma General Insurance Co. Ltd. Vs Nanu Ram alias Chuhru Ram and others*** reported in ***AIR ONLINE 2018 SC 1249*** Hon'ble Apex Court has held that the consortium is a compendious term which encompasses spousal consortium, parental consortium and filial consortium. The claimants herein being the wife, daughter and mother of the deceased, the Tribunal ought to have awarded compensation to each of them under the head of consortium, i.e, spousal, parental and filial. As such this Court holds that the compensation awarded by the Tribunal under the head of consortium needs to be enhanced to Rs.1,20,000/- in place of Rs.40,000/-.

9. In ***Magma General Insurance Company Ltd. Vs Nanu Ram and Others***, reported in ***2018 (18) SCC 130*** the Hon'ble Apex Court has held that "... the right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family and with respect to a spouse, it would include sexual relations with the deceased spouse". In the said decision, Hon'ble Apex Court has further held that "...most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on



the death of a child and the amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child". Thus it becomes clear that the compensation awarded under the head of consortium is inclusive of compensation under the head of love and affection. In view of the same, it is held that there is no need of separately awarding compensation to the Claimants under the head of loss of love and affection.

10. The Claimants have contended that the deceased was working as a Forest Officer and on fixed salary. Further, he was aged about 30 years as on the date of accident. In view of the same, they contended that the Tribunal ought to have considered addition of 100% of the income towards future prospects. They have further contended that the Tribunal ought to have deducted 1/4th of the income towards personal expenses of the deceased instead of 1/3rd of the amount taking into consideration the members/dependents in his family. This Court does not find any substance in these contentions of the Claimants in the light of law laid down in ***Pranay Sethi's Case***



[(2017) 16 SCC 680] and *Sarla Verma's Case* [(2009) 6 SCC 121].

11. For the foregoing reasons, Point No.(i) is answered partly in the affirmative holding that the claimants are entitled for total compensation by Rs.53,05,641/- in place of Rs. 52,25,641/- awarded by the tribunal, under the following heads:

Sl. No.	Heads of compensation	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Loss of Dependency	51,55,641.00	51,55,641.00
2.	Loss of Consortium	40,000.00	1,20,000.00
3.	Loss of Estate	15,000.00	15,000.00
4.	Funeral Expenses	15,000.00	15,000.00
	Total	52,25,641.00	53,05,641.00

12. The claimants have also sought for enhancement of rate of interest on awarded amount from 6% p.a. to 9% p.a. The claimants have not made out any justifiable or compelling grounds to seek enhancement of rate of interest from 6% to 9% p.a. on the award amount. Accordingly, rate of interest awarded by the Tribunal is retained.



13. The Insurer has adduced sufficient evidence on record to prove that the rider of the motorcycle was not holding a valid and effective driving license to ride the motorcycle though he was holding LMV license and license for driving bus and goods vehicle. In the said background, the Tribunal fastened the liability of satisfying the award on the owner of the offending vehicle. The victim herein was a third party. It is well settled that the Insurers must pay compensation to third party victims promptly under the 'Pay and Recover' principle as held in ***National Insurance Co. Ltd. Vs Swaran Singh*** reported in ***AIR 2004 SC 1531*** subject to their right to recover the amount so paid from the owner/insured of the vehicle. Undisputedly, there was a valid policy in respect of the offending vehicle as on the date of accident, covering the risk of third parties. As such this Court holds that the Insurer is liable to pay satisfy the award under the 'Pay and Recover' principle. Accordingly, Point No.(ii) is answered in the affirmative.

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



ORDER

- (i) The appeals in M.F.A. Nos.101446/2020 and 101218/2025 are allowed in part.
- (ii) The Claimants in M.V.C. No.11/2017 on the file of learned Principal Senior Civil Judge & MACT-II, Bagalkot are entitled for compensation of Rs.53,05,641/- in place of Rs.52,25,641/- awarded by the Tribunal together with interest thereon at the rate of 6% p.a. from the date of petition till its deposit before the Tribunal.
- (iii) The Insurer/Respondent No.2 is directed to deposit/ pay the compensation amount at first instance as per Pay and Recover principle within a period of three months from this day, subject to their right to recover the said amount from the insured/owner of the offending vehicle.
- (iv) The Claimants are entitled for share in the compensation amount and its disbursement, at the ratio ordered by the Tribunal.



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- (v) The office directed to transfer the amount if any deposited in these appeals to concerned Tribunal, to do the needful.
- (vi) Draw an award accordingly.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE

VB, BVV
CT: ASC
LIST NO.: 1 SL NO.: 1