



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 6TH DAY OF FEBRUARY 2026

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 21402 OF 2013 (MV)

BETWEEN:

1. S. KULASHEKHARA
S/O. KULLAYAPPA,
AGED ABOUT 34 YEARS,
COOLIE,
2. KALYANI
W/O. S. KULASHEKHARA,
AGED ABOUT 30 YEARS,

BOTH ARE R/O: 13TH WARD,
KAMALAPUR, HOSPET TALUK,
BELLARY DISTRICT.

...APPELLANTS

(BY SRI. AKASH AMARASHETTI, ADVOCATE FOR
SRI. Y. LAKSHMIKANT REDDY, ADVOCATE)

AND:

1. SYED SEMIULLAH
S/O. LATE ASADULLA,
AGED ABOUT 42 YEARS,
OWNER OF TRACTOR AND TRAILOR,
BEARING REG.NO.KA-35/T-8641-8642,
R/O: 13TH WARD, FORT AREA,

BHARATHI
H M



Digitally signed by
BHARATHI H M
Location:
HIGH COURT OF
KARNATAKA
DHARWAD BENCH
DHARWAD



KAMALAPUR, HOSPET TALUK,
BELLARY DISTRICT.

2. THE MANAGER
RELIANCE GENERAL INSURANCE CO. LTD.,
SLV TOWERS,
PARVATHI NAGAR,
BELLARY.

...RESPONDENTS

(BY SRI. G.N. RAICHUR, ADVOCATE FOR R2;
NOTICE TO R1 IS SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR
VEHICLES ACT PRAYING TO MODIFY THE JUDGMENT AND
AWARD 30-06-2012 PASSED ON THE FILE OF ADDITIONAL
SENIOR CIVIL JUDGE AND JMFC, HOSPET IN MVC.NO.329/2011
AND PASS SUCH OTHER ORDER OR ORDERS AS THIS HON'BLE
COURT DEEMS FIT IN THE CIRCUMSTANCES, IN THE INTEREST
OF JUSTICE AND EQUITY.

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



ORAL JUDGMENT

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

This is the appeal filed under Section 173(1) of Motor Vehicles Act, 1988 (for short 'M.V.Act') praying for enhancement of compensation and also challenging the liability fixed only against the owner of the vehicle in judgment and award dated 30.06.2012 in MVC No.329/2011 by the Addl. Senior Civil Judge and JMFC., Hospet (for short 'Tribunal').

2. Parties would be referred with their ranks as they were before Tribunal.

3. The claimants being the parents of deceased Kavya, aged about 9 years have filed the claim petition under Section 166 of the Motor Vehicles Act praying for compensation in respect of the death of their daughter Kavya that had taken place in the road traffic accident occurred on 09.10.2010 at 05.45 p.m. involving the tractor-trolley bearing Reg.No.KA-35/T-8641.



4. It is the contention of claimants that after plucking the sugarcane while Kavya aged about 9 years was coming on the road near Masthanappa house at Kerethanda road, Kamalapur, due to rash and negligent driving of driver of the tractor-trolley bearing Reg.No.KA-35/T-8641 and 8642, trolley dashed against her and she succumbed to the injuries when she was taken to Government 100 bed hospital. Claimants being the parents of deceased are entitled for compensation. Hence, they have filed claim petition praying for compensation under different heads.

5. Even after service of notice, respondents No.1 & 2 being driver and owner of the tractor-trolley have not appeared and not contested the petition.

6. Respondent No.3 being the insurer has filed the objection statement before the Tribunal, wherein he denied the contention of claimants in toto i.e., regarding the place, date and time of accident and further contended that the driver of the tractor-trolley was not having valid and



effective driving licence as on the date of accident. Hence, prayed for dismissal of petition against respondent No.3.

7. On behalf of claimants, Claimant No.2 was examined as P.W.1 apart from marking Exs.P.1 to P.8 and closed their side. On behalf of respondent No.3, employee at respondent No.3 was examined as R.W.1 and another witness as R.W.2 apart from marking Exs.R.1 to R.3 and closed their side.

8. After recording evidence of both sides, hearing arguments of both sides, the Tribunal came to the conclusion that the claimants are entitled for total compensation of ₹.2,70,000/- and held that insurer is not liable to pay compensation because driver of the tractor-trolley was not having valid and effective driving licence.

9. Aggrieved by the said judgment and award, claimants have preferred the present appeal.

10. Heard arguments of both sides.



11. Learned counsel for appellants Sri Akash Amarashetti would submit that the driver of the tractor-trolley was having effective and valid driving licence as on the date of accident because he was having both licences to run LMV and also HGV transport. Furthermore, the compensation awarded by the Tribunal is less because in the recent judgment the Hon'ble Supreme Court has taken the minimum wages for a skilled labourer as on the date of accident to be taken as the income of deceased. Hence, on these two grounds he prayed for allowing the appeal.

12. Learned counsel for respondent No.2 Sri G.N.Raichur would submit that there was no valid licence to the driver of tractor-trolley. Furthermore, the accident happened in the sugarcane landed properties and not on the public road. Furthermore, the deceased was also held liable for the accident because she was trying to pluck the sugarcane from the moving vehicle. Furthermore, as per the judgment of Hon'ble Supreme Court in Civil Appeal No.6902/2021 (***Kurvan Ansari alias Kurvan Ali and***



another vs. Shyam Kishore Murmu and Another) dated 16.11.2021, income of the deceased is to be taken as 25,000/- per annum and accordingly the relevant multiplier 15 is to be applied. Hence, prayed for dismissal of the petition with costs.

13. Learned counsel for respondent No.2 would further submit that in the recent judgment of Hon'ble Apex Court relied by the learned counsel for appellants, this earlier judgment is not overruled and it still holds good. In this judgment, when the injured minor was there, this judgment came into existence. Hence it is not applicable to the facts of the case and it is to be differentiated from the present facts of the case. Hence, prayed for dismissal of appeal.

14. After hearing arguments of both sides, verifying the Trial Court records, the points that would arise for consideration are:



1. Whether the appellants establish that the driver of tractor-trolley was having valid and effective driving licence as on the date of accident?
2. Whether saddling liability only on owner by the Tribunal is improper?
3. Whether the appellants are entitled for enhanced compensation? If so, at what rate?

15. Finding of this Court on the above points is as under:

Point No.1: **Affirmative**

Point No.2: **Negative**

Point No.3: **Affirmative**

16. The admitted facts of the case are that on 09.10.2010 at about 09.45 p.m. near Masthanappa house at Kerethanda Road, Kamalapur, when claimant tried to pluck the sugarcane from a moving tractor-trolley bearing No.KA-35/T-8641 and 8642, left side of the trolley dashed against the deceased Kavya, aged 9 years and on the same



day she succumbed to the injuries sustained in the said road traffic accident.

17. Learned counsel for respondent No.2 vehemently contends that the accident was not happened on the public road but it was on the private road and hence the insurer is not liable to pay compensation. However, the charge-sheet and its annexure including spot panchanama and other documents reveal that the accident happened on Kamalapura-Kerethanda road near the house of one Masthanappa. Thus, it is not in a private property but on the public board. Hence, the above said argument of learned counsel for insurer is not tenable in law.

18. Learned counsel for insurer would further submit that the deceased is also liable for the accident because she tried to pluck the sugarcane from the moving trolley and thus the accident happened. But, it is to be noted here that the accident happened because of left side of the trolley hit on the minor girl and the driver should be cautious enough



while driving the tractor-trolley that the person who was coming on left side of the road should be avoided, but it is not being done in this case. Hence, the above said arguments of learned counsel for respondent No.2 is not tenable.

19. As far as driving license is concerned, Exs.R.2 & R.3-the driving licence extract of driver of the tractor-trolley, establish that the driver was having valid and effective driving licence to drive LMV (non-transportable vehicle) from 18.02.2006 to 17.02.2011 and he was having valid and effective driving licence to drive transport vehicle from 20.07.2010 to 19.07.2013. The accident occurred on 09.10.2010. Hence, the driver was having valid and effective driving licence as on the date of accident. In this regard, in the judgment of Hon'ble Apex Court in ***Mukund Dewangan vs. Oriental Insurance Co. Ltd*** reported in ***AIR 2017 SC 3668***, it is clearly held that a person who was having licence to drive LMV, when includes licence to drive transport vehicles, then definitely the driver of tractor-



trolley was having valid and effective driving licence as on the date of accident. However, the Tribunal by relying upon some old judgment which is not applicable at this juncture has held that the driver was not having specific driving licence to drive this tractor-trolley and thus held that insurer is not liable to pay compensation, which is not proper.

20. As far as enhancement of compensation is concerned, learned counsel for appellants relied for the judgment of Hon'ble Apex Court in Civil Appeal No.10278/2025 (arising of the SLP(C) No.14444/2025 (***Hitesh Nagjibhai Patel vs. Bababhai Nagjibhai Rabari and Another***) dated 08.08.2025.

21. In the aforesaid judgment, the of Hon'ble Apex Court has re-assessed the compensation to be granted to the minor child and granted the total compensation at ₹.35,90,489/- considering the disability of the minor girl at 90% in respect of the accident held on 14.10.2012 by



relying upon the *Master Mallikarjun vs. Divisional Manager, National Insurance Company Limited and Another* reported in 2013 ACJ 2445; *Kajal vs. Jagdish Chand and Others* reported in (2020) 4 SCC 413 and *Baby Sakshi Greola vs. Manzoor Ahmad Simon and Another* reported in 2024 SCC OnLine SC 3692.

22. In **Hitesh's** case, it is held as under:

"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in **Kajal v. Jagdish Chand and Ors.**³, and **Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr.**⁴."

(Emphasis supplied)



23. Learned counsel for respondent No.2 submits that the judgment of Hon'ble Apex Court in Civil Appeal No.6902/2021 is to be followed and not the recent judgment of the Hon'ble Apex Court. In that case, only ₹.25,000/- per annum was taken as the income of minor. Because in that case, the death of the minor child was dealt with, but in the citation relied by the learned counsel for appellants, injury suffered by a minor was dealt with.

24. On perusal of both the said citations, both are dealt by the Division Bench of Hon'ble Apex Court. The judgment relied by respondent No.2 is dated 16.11.2021, whereas the judgment relied by the appellants was dated 08.08.2025. The judgment relied by the appellants is the recent one and thus it is to be relied.

25. The principles note down in the aforesaid judgment that the minimum wages of a skilled labourer as on the date of accident is to be considered as the income of deceased minor girl. The date of accident was 09.10.2010.



So the minimum wages of a skilled labourer as prescribed by the Minimum Wages Act as on that day was ₹.4,578/- per month. Hence, that is to be taken as the income of deceased and it is to be multiplied by 12 to get the annual income of deceased.

26. 40% is to be added to it as future prospects as per the judgment of Hon'ble Apex Court in ***National Insurance Company Limited vs. Pranay Sethi and Others*** reported in ***(2017) 16 SCC 680***. 50% of the national income of deceased is to be deducted towards her personal expenses. She was aged 9 years at the time of accident. In ***Hitesh's*** case supra, the injured minor girl was alive and she had suffered 90% disability. At that time her age was considered to apply the relevant multiplier. However, in ***Kurvan's*** case supra, the second schedule for compensation is considered, wherein if the age of deceased is 15 years, then the relevant multiplier would be 15. So considering these aspects, the claimants are entitled for



compensation under the head loss of dependency as follows:

$$₹.4,578 \times 12 + 40\% / 50\% \times 15 = ₹.5,76,828/-$$

27. Under the head filial consortium, claimants are entitled for ₹.80,000/- + 10% escalation charges as per as per **Magma General Insurance Co. Ltd vs. Nanu Ram Alias Chuhru Ram** reported in **ACJ 2018 2782** and thus claimants are entitled for compensation of ₹.88,000/- under the said head. The claimants are entitled for compensation of ₹.15,000/- towards funeral expenses and ₹.15,000/- towards loss of estate. Thus, the claimants are entitled for the following modified compensation:

Sl.No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Loss of dependency	₹.1,50,000/-	₹.5,76,828/-
2	Future prospectus	₹.60,000/-	-
3	Loss of expectation of life (non pecuniary damages)	₹.60,000/-	-
4	Filial consortium	-	₹.88,000/-
5	Funeral expenses	-	₹.15,000/-
6	Loss of estate	-	₹.15,000/-
	Total	₹.2,70,000/-	₹.6,94,828/-



28. Thus, the claimants are entitled for total compensation of ₹.6,94,828/- instead of compensation of ₹.2,70,000/- awarded by the Tribunal. Hence, I pass the following:

ORDER

1. Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is allowed in part.
2. The judgment and award passed in MVC No.329/2011 dated 30.06.2012 on the file of Additional Senior Civil Judge and JMFC, Hospet is modified holding that the claimants are entitled for total compensation of ₹.6,94,828/- with interest at 6% per annum from the date of petition till realisation instead of compensation of ₹.2,70,000/- awarded by the Tribunal.
3. The respondent-insurer shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of 8



weeks from the date of receipt of certified copy of this judgment.

4. The disbursement and deposit shall be made as per the order of the Tribunal.
5. Registry to transmit the TCR to the Tribunal forthwith.
6. Draw modified decree accordingly.

Sd/-
(GEETHA K.B.)
JUDGE

HMB-Upto para 2
SH-Para 3 to end
LIST NO.: 1 SL NO.: 5