



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. 103857 OF 2023 (MV-D)

C/W

MFA CROSS OBJ NO. 100021 OF 2024 (MV-D)

IN MFA NO.103857 OF 2023:

BETWEEN:

NATIONAL INSURANCE CO. LTD.,
BY ITS DIVISIONAL MANAGER,
RAMDEV GALLI, BELAGAVI,
BY ITS AUTHORIZED SIGNATORY.

... APPELLANT

(BY SRI RAVINDRA R. MANE, ADVOCATE)

AND:

1. SMT. MAHIRAJ W/O HUSSAIN MULLA,
AGE. 37 YEARS, OCC. HOUSE WIFE,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI NOW AT SHREE NAGAR,
BELAGAVI-590 001.
2. KUMARI RIJAWAN D/O HUSSAIN MULLA,
AGE. 17 YEARS, OCC. STUDENT,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI, NOW AT SHREE NAGAR,
BELAGAVI-590 001.
3. KUMARI RUKSHANA D/O HUSSAIN MULLA,
AGE. 14 YEARS, OCC. STUDENT,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI NOW AT SHREE NAGAR,
BELAGAVI-590 001.



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4. KUMARI BASHIRA D/O HUSSAIN MULLA,
AGE. 11 YEARS, OCC. STUDENT,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI, NOW AT SHREE NAGAR,
BELAGAVI-590 001.

5. KUMARI ASHIYA D/O HUSSAIN MULLA,
AGE. 07 YEARS, OCC. STUDENT,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI, NOW AT SHREE NAGAR,
BELAGAVI-590 001.

(RESPONDENT NOS.2 TO 5 BEING MINORS,
THEY ARE REPRESENTED BY THEIR MOTHER
AND NATURAL GUARDIAN,
THE RESPONDENT NO.1 HEREIN)

6. SHRI BASAGOUDA S/O ISHWAR CHANNANNAVAR,
AGE. MAJOR, OCC. AGRICULTURE AND BUSINESS,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI-590 001.
(OWNER OF THE TRAILERS BEARING REGISTRATION
NOS.KA-23/TB-5181 AND KA-23/TB-5182)

7. MR. MOULA S/O HASSANSAB HALKARNI,
AGE. MAJOR, OCC. BUSINESS,
R/O. AT POST: GUDAS, TQ. HUKKERI,
DIST. BELAGAVI-590 001,
(OWNER OF THE MOTORCYCLE BEARING
KA-49/Q-7303).

8. THE DIVISIONAL OFFICER,
THE UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE AT NO.1568, 2ND FLOOR,
ABOVE BANK OF BARODA, MARUTI GALLI,
BELAGAVI-590 002.

... RESPONDENTS

(BY SMT. GEETHA K.M. @ P.B. PAWAR, ADVOCATE FOR R1, R2 TO R5
ARE MINORS R/BY R1;
NOTICE TO R6 TO R8 IS DISPENSED WITH)



THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO CALL FOR THE RECORDS, ALLOW THIS APPEAL AND SET ASIDE THE JUDGMENT AND AWARD DATED 27.04.2023 PASSED IN MVC NO.1313/2021 ON THE FILE OF THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BELAGAVI, INCLUDING THE COSTS AND ETC.

IN MFA CROB NO.100021 OF 2024:

BETWEEN:

1. SMT. MAHIRAJ W/O HUSSAIN MULLA,
AGE. 38 YEARS, OCC. HOUSE WIFE,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI, NOW AT SHREE NAGAR,
BELAGAVI-590 010.
2. KUMARI RIJAWAN D/O HUSSAIN MULLA,
AGE. 19 YEARS, OCC. STUDENT,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI, NOW AT SHREE NAGAR,
BELAGAVI-590 010.
3. KUMARI RUKSHANA D/O HUSSAIN MULLA,
AGE. 15 YEARS, OCC. STUDENT,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI, NOW AT SHREE NAGAR,
BELAGAVI-590 010.
4. KUMARI BASHIRA D/O HUSSAIN MULLA,
AGE. 12 YEARS, OCC. STUDENT,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI, NOW AT SHREE NAGAR,
BELAGAVI-590 010.
5. KUMARI ASHIYA D/O HUSSAIN MULLA,
AGE. 05 YEARS, OCC. STUDENT,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI, NOW AT SHREE NAGAR,
BELAGAVI-590 010.



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(SINCE PETITIONERS NO.3 TO 5 BEING MINORS
R/BY THEIR M/G NATURAL MOTHER PETITIONER NO.1).

... CROSS OBJECTORS

(BY SMT. GEETHA K.M. @ P.B. PAWAR, ADVOCATE)

AND:

1. SRI BASAGOUDA S/O ISHWAR CHANNANNAVAR,
AGE. MAJOR, OCC. AGRICULTURE AND BUSINESS,
R/O. NADI-INGALAGAON, TQ. ATHANI,
DIST. BELAGAVI-591 304,
(OWNER OF TRAILER BEARING NO.KA-23/TB-5181
AND KA-23/TB-5182).
2. THE DIVISIONAL MANAGER,
THE NATIONAL INSURANCE CO. LTD.,
RAMDEV GALLI, BELAGAVI-590 010,
(INSURER OF TRAILERS BEARING REG. NO.KA-23/TB
5181 AND KA-23/TB-5182 BEARING POLICY
NO.610202312010001983 VALID FROM
12.09.2020 TO 11.09.2021).
3. MR. MOULA S/O HASSANSAB HALKARNI,
AGE. MAJOR, OCC. BUSINESS,
R/O. AT POST: GUDAS, TQ. HUKKERI,
DIST. BELAGAVI-590 010,
(OWNER OF MOTORCYCLE BEARING NO.KA-49/Q-7303).
4. THE DIVISIONAL MANAGER,
THE UNITED INDIA INSURANCE CO. LTD.,
ITS DIVISIONAL OFFICE NO.1568,
2ND FLOOR, ABOVE BANK OF BARODA,
MARUTI GALLI, BELAGAVI-590 010,
(INSURER OF MOTORCYCLE BEARING NO.KA-49/Q-7303
BEARING POLICY NO.2401023120P110092073
VALID FROM 08.12.2020 TO 07.12.2021)

... RESPONDENTS

(BY SRI RAVINDRA R. MANE, ADVOCATE ACCEPT NOTICE FOR R2)

THIS MFA CROB IN MFA NO.103857/2023 FILED UNDER ORDER
41 RULE 22 OF CPC., CALL FOR THE RECORDS, ALLOW THE APPEAL
AND SET ASIDE THE JUDGMENT AND AWARD DATED 27.04.2023
PASSED IN MVC NO.1313/2021 ON THE FILE OF THE V ADDITIONAL



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C/W MFA.CROB No. 100021 of 2024

DISTRICT AND SESSIONS JUDGE AND ADDL. MOTOR ACCIDENT CLAIMS TRIBUNAL, BELAGAVI, ENHANCE THE COMPENSATION AS CLAIMED BY THE ACROSS OBJECTORS BY HOLDING THAT THE INSURANCE COMPANY IS LIABLE TO PAY THE SAME IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THESE APPEALS ARE COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 04.02.2026, 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)

1. National Insurance Co. Ltd., who was Respondent No.2 in MVC No.1313/2021 on the file of learned V Additional District and Sessions Judge and Additional MACT, Belagavi (in short, 'the tribunal') has maintained the appeal in MFA No.103857/2023 praying to set aside the judgment and award dated 27.04.2023 passed therein, mainly contesting sole liability of satisfying the award on them and urging to hold that the deceased was equally contributed for the accident.

2. The Claimants in MVC No.1313/2021 have filed the cross-appeal in MFA Crob. No.100021/2024, praying for



enhancement of the compensation awarded by the Tribunal on the ground that it is on the lower side.

3. The parties to these proceedings are referred with their original ranking before the tribunal.

4. The claimants, who are the wife and children of the deceased Sri Hussain, filed the claim petition in MVC No.1313/2021 before the Tribunal under Section 166 of the M.V. Act, praying for compensation of Rs.50,00,000/- for the death of Sri Hussain in a road traffic accident that occurred on 12.12.2020. After contest, the Tribunal allowed the petition in part, holding that the claimants are entitled to compensation of Rs.24,05,474/- together with interest at 6% p.a. from the date of the petition till its realization. The Tribunal fastened the liability for satisfying the award on Respondent No.2 on the ground that the accident in question occurred due to actionable negligence on the part of the driver of the vehicle i.e, trolleys bearing Nos. KA-23-TB-5181 and KA-23-TB-5182, which were insured with Respondent No.2.

5. Sri Ravindra R. Mane, learned Counsel for Respondent No.2



6. Sri Ravindra R. Mane, learned Counsel for Respondent No.2, vehemently submitted that the Tribunal committed an error in holding that the driver of the trolleys in question was solely responsible for the accident, even though there was ample material on record to show contributory negligence on the part of the deceased, who was riding the motorcycle in question. He contended that, in the facts and circumstances of the case, the Tribunal ought to have held that the deceased contributed to the accident at least to the extent of 50% and reduced the compensation accordingly. He further submitted that the Tribunal erroneously awarded Rs.2,00,000/- to the claimants under the heads of loss of love and affection and filial consortium, and ordered payment of penal interest at 9% p.a.

7. Per contra, Smt. Geetha K.M. @ P.B.Pawar, learned Counsel for the Claimants, apart from supporting the Tribunal's findings on the question of negligence on the part of the driver of the tractor-trolleys, prayed for enhancement of the compensation on the ground that the amount awarded by the Tribunal is on the lower side. She contended that the Tribunal



had not properly appreciated the relevant factors for arriving at just and reasonable compensation in the case.

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

- i) *Whether the deceased has contributed for the accident and if so, to what extent?*
- ii) *Whether the claimants have made out valid grounds to seek enhancement of compensation?*

Point No.(i):

9. Undisputedly, on 12.12.2020 at about 9.00 p.m., the deceased met with a road traffic accident near Siddarud Guruv's field on Nadi Ingalgaon-Darur Road when he was going on a motorcycle bearing No.KA-49-Q-7303 along with a pillion rider, namely Mr. Ayan. The deceased was riding the motorcycle, and the accident occurred when he dashed his vehicle against the trolleys bearing Nos. KA-23-TB-5181 and KA-23-TB-5182. As a result, the deceased sustained grievous injuries and later succumbed to the injuries suffered in the accident.



10. It is also undisputed that the trolleys in question were loaded with sugarcane and had been parked in the middle of the road. It is the specific case of the claimants that the driver concerned had parked the trolleys in the middle of the road without taking any precautions such as switching on indicators or signals, and that the place was completely dark without any street lights.

11. Per contra, Respondent No.2 contended that the deceased himself drove the motorcycle in a reckless manner and at a high speed, on account of which he could not avoid the collision and caused the accident by dashing his motorcycle against the tractor-trailers from behind. They further contended that on account of the same, the jurisdictional police had filed the charge sheet even against the deceased.

12. The Tribunal, after a careful analysis of the factual matrix of the case and the material available on record held that the accident in question occurred due to negligent parking of the trolleys in the middle of the road without tail lights, indicators, or sign-boards, and proceeded to hold the driver of the said vehicle solely responsible for the accident. In support of its findings, the



Tribunal relied on the decision in ***K. Anusha and Others Vs Regional Manager, Shriram General Insurance Company Ltd.***, reported in **2022 ACJ 721**.

13. In ***K. Anusha and Others' case***, Hon'ble Apex Court of India, relying on the case in ***Pramodkumar Rasikbhai Jhaveri Vs Karmasey Kunvargi Tak and Others*** reported in **(2002) 6 SCC 455**, held that

"... To establish contributory negligence, some act or omission, which materially contributed to the accident or the damage, should be attributed to the person against whom it is alleged. In ***Pramodkumar Rasikbhai Jhaveri Vs Karmasey Kunvargi Tak and Others***, reported in **(2002) 6 SCC 455** this Court quoted a decision of the High Court of Australia in ***Astley v. Austrust Ltd***, reported in **(1999) 73 ALJR 403**, to hold that "...where, by his negligence, one party places another in a situation of danger, which compels that other to act quickly in order to extricate himself, it does not amount to contributory negligence, if that other acts in a way which, with the benefit of hindsight is shown not to have been the best way out of the difficulty". In fact, the statement of law in ***Swadling v. Cooper***, reported in **1931 AC 1**, that "...the mere failure to avoid the collision by taking some extraordinary precaution, does not in



itself constitute negligence...", was also quoted with approval by this Court. Therefore, we are compelled to reverse the finding of the Tribunal and the High Court on the question of contributory negligence."

14. In the case on hand, the parking of the trolleys in the middle of the road without taking necessary precautions was the material aspect that contributed to the accident. The deceased might have driven the motorcycle at a high speed, due to which he could not avoid the collision. It is to be noted that the accident occurred at night, at about 9.00 p.m., in a place of complete darkness without street lights. It is well settled that merely driving a vehicle at high speed does not automatically amount to negligent driving. Courts have consistently held that it requires proof of rashness and a failure to exercise due care. In the facts and circumstances of the case, we hold that the mere failure on the part of the deceased to avoid the collision cannot be termed negligence on his part or held to constitute contributory negligence to the accident. Accordingly, Point No.1 is answered in the negative.



Point No.(ii):

15. In the case on hand, the tribunal has awarded compensation of Rs.24,05,474/- to the claimants, under the following heads:

Sl.No.	Heads	Amount	
01	Loss of dependency	Rs.21,75,474/-	i) Monthly income Rs.13,750/- plus 25% towards future prospects as held in Pranay Sethi's case. ii) Deduction : 1/4 th (as there are 5 dependents) iii) Multiplier : 14 (as deceased was aged between 41 to 45 years)
02	Transportation of dead body and funeral expenses	Rs.15,000/-	As per Pranay Sethi's case
03	Loss of estate	Rs.15,000/-	As per Pranay Sethi's case
04	Loss of love and affection and filial consortium	Rs.2,00,000/-	As per Magma's case
	Total	Rs.24,05,474/-	Interest at the rate of 6% p.a. from the date of petition till realization



16. The above details indicate an apparent arithmetical error committed by the Tribunal while computing the compensation under the head of loss of dependency. The monthly income of Rs.13,750/- multiplied by 12 would arrive at Rs.1,65,000/-. If 25% of the said amount is added towards future prospects, the total annual income would be Rs.2,06,250/- [i.e., Rs.1,65,000/- plus Rs.41,250/- (25%)]. Further, if 1/4th of such amount is deducted towards the personal expenses of the deceased, the net income comes to Rs.1,54,688/- [i.e., Rs.2,06,250/- minus Rs.51,562/-], and the total loss of dependency works out to Rs.21,65,632/-, i.e., Rs.1,54,688/- x 14. Whereas, the Tribunal erroneously computed the value of Rs.13,750/- x 12 as Rs.1,65,750/-, instead of the correct figure of Rs.1,65,000/-. Consequently, other mistakes crept in while calculating 25% towards future prospects, the deduction of 1/4th of the income towards personal expenses, and the total loss of dependency. Thereby, the actual compensation ought to have been Rs.23,95,632/- in place of Rs.24,05,474/- as mentioned in the impugned judgment and award.



17. The claimants have sought enhancement of the compensation awarded by the Tribunal on the ground that it is on the lower side and without properly considering the evidence on record. The claimants contended that the deceased was earning Rs.30,000/- per month from agriculture and milk vending business. However, they did not produce any reliable material before the Tribunal to prove the actual income of the deceased at the relevant time. In the circumstances, the Tribunal, relying on a chart prepared by KSLSA for conducting Lok Adalats, notionally took the income of the deceased as Rs.13,750/- per month for determining loss of dependency. This Court finds no error committed by the Tribunal in this regard.

18. The material on record indicates that the deceased was aged about 41 years at the time of the accident and left behind a wife and four children. Accordingly, the Tribunal deducted 1/4th of the income towards the personal expenses of the deceased and adopted a multiplier of 14, as held in **Sarla Verma Vs Delhi Transport Corporation**, reported in **2009 ACJ 1298**. The claimants have failed to point out any error committed by the Tribunal in this regard.



19. The Tribunal awarded Rs.2,00,000/- to the claimants under the head of loss of love and affection and filial consortium, as well as Rs.15,000/- each towards funeral expenses and loss of estate. This Court finds no error in the Tribunal awarding Rs.15,000/- each under the heads of funeral expenses and loss of estate.

20. In ***Magma General Insurance Company Ltd. Vs Nanu Ram***, reported in ***(2018) 18 SCC 130***, the Hon'ble Apex Court 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. With respect to a spouse, it would include sexual relations with the deceased spouse. .." The Hon'ble Apex Court 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 is clear that compensation under the head of consortium includes compensation under the head of love and affection. In the present case, the claimants are the



wife and children of the deceased. So, they are entitled to compensation of Rs.40,000/- each under the head of spousal and parental consortium, as held in Magma General Insurance Case. In view of the above, the compensation of Rs.2,00,000/- awarded by the Tribunal under the head of loss of love and affection and consortium is held proper.

21. Respondent No.2 has questioned the correctness of the Tribunal's order awarding penal interest at 9% per annum. The Tribunal awarded interest on the compensation at 6% per annum from the date of the petition till realization, with a direction to deposit the award amount within three months from the date of the order. The Tribunal further ordered penal interest at 9% per annum in the event of default in depositing the award amount within the stipulated time. This Court finds no error in the Tribunal issuing such a direction. However, in the facts and circumstances of the case namely, the filing of the appeal by Respondent No.2 and any delay in depositing the amount due to the pendency of the appeal, the direction needs to be modified suitably. For the foregoing reasons, this Court has answered Point No.(ii) in the negative, holding that the Claimants are



entitled for total compensation of Rs.23,95,632/- together with interest thereon as ordered by the Tribunal.

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

ORDER

- i. Both the appeals, filed by the Insurer and the Claimants in MFA No.103857/2023 and MFA Cross Objection No.100021/2024 respectively, are ***dismissed.***
- ii. The Claimants are entitled for total compensation of Rs.23,95,632/- as awarded by the Tribunal, together with interest at the rate of 6% per annum from the date of petition till its realization.
- iii. The Respondent No.2 shall deposit the entire award amount before the Tribunal within a period of three months from this day.



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- iv. The amount deposited if any by Respondent
No.2 before this Court shall be transferred to
concerned Tribunal forthwith.
- v. Draw an award accordingly.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE

VB, CKK
CT:BCK
LIST NO.: 1 SL NO.: 3