



CNR: KAHC010000272025

NC: 2026:KHC:46808
MFA No. 8 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 8 OF 2025 (MV-D)

BETWEEN:

1. SMT. SHILPA K N
W/O. LAT. K.N. MARIYAPPA
AGED ABOUT 37 YEARS.
2. SMT. LEELAVATHI
W/O. LATE. K.V. NARAYANAPPA
AGED ABOUT 71 YEARS.

BOTH ARE RESIDING AT D.No.83
KASARU KOPPA, HALASUR
TARIKERE, CHIKMANGALORE
PIN-577 144.

...APPELLANTS


Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI
Location: HIGH
COURT OF
KARNATAKA

(BY SMT. POOJA PARVATHI, ADVOCATE FOR
SRI. RAVISHANKAR SHASTRY G, ADVOCATE)

AND:

1. MR G M MUSTHAFA
S/O. LATE. G. MOHAMMED
AGED ABOUT 47 YEARS
RESIDING AT FLAT No.303
ESSEL TOWERS, OPP. SYNDICATE BANK
JAYASHREE GATE, BIKARNAKATTE
KULASHEKARA, MANGALURU
D.K. DISTRICT.-575 005.



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2. THE DIVISIONAL MANAGER
NEW INDIA INSURANCE CO. LTD.,
4TH FLOOR, FORTUNE BUILDING,
OPP: ATHENA HOSPITAL
FALNIR, MANGALURU
D.K. DISTRICT-575 5001.

...RESPONDENTS

(BY SMT. MALATHI T N, ADVOCATE FOR R2
R1 SERVED BUT UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:09.09.2024 PASSED IN MVC No.1803/2018 ON THE FILE OF THE I ADDITIONAL SENIOR CIVIL JUDGE AND MEMBER, MACT, MANGALURU, DAKSHINA KANNADA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the appellants/claimants seeking enhancement of compensation awarded in judgment and award dated 09.09.2024 passed in MVC No.1803/2018 by the I Additional Senior Civil and Member, MACT, Mangaluru, D.K.



2. Even though the appeal is listed today for admission, it is taken up for disposal with the consent of learned counsel for appellants and learned counsel for respondent No.2/insurer.

3. The appellants/claimants made a claim petition praying to award compensation for the death of K.N.Mariyappa (husband of claimant No.1 and son of claimant No.2) in a road traffic accident occurred on 01.08.2018 contending that the accident occurred due to rash and negligent driving of the driver of Bus bearing Regn.No.KA-19-AB-1447. The Tribunal after recording the evidence of the parties, appreciating the evidence assessed the compensation and awarded compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Loss of dependency	32,11,680/-
02.	Spousal consortium	48,400/-
03.	Parental consortium	48,400/-
04.	Funeral expenses	NIL
05.	Conveyance/traveling expenses	10,000/-
06.	Loss of estate	18,150/-
	Total	33,36,630/-



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4. The Tribunal held that the deceased has also contributed to the accident and assessed his contributory negligence at 20% and awarded Rs.26,69,304/- (80% of Rs.33,36,630/-) with interest @ 6% p.a. from the date of petition till realization and directed respondent No.2/insurer to deposit the award amount with interest. The claimants challenging the said contributory negligence attributed to the deceased and also seeking enhancement of compensation awarded by the Tribunal have filed the present appeal.

5. Heard learned counsel for the appellants and learned counsel for respondent No.2/insurer.

6. Learned counsel for appellants would contend that the accident has taken place in a junction. The deceased was riding his motor cycle from Mangalore towards Udupi and in a junction he took right turn and the bus which entered the said junction dashed against the deceased. The charge sheet has been filed against the driver of bus



for rash and negligent driving for the offence under Sections 279 and 304-A of IPC. Considering the said aspect the negligence is on the part of the driver of bus. She further submits that Pay sheet of July as per Ex.P22, the gross salary is Rs.22,000/- and in that profession tax of Rs.200/- is to be deducted and monthly income is to be taken at Rs.21,800/- as against Rs.24,170/- taken by the Tribunal. The Tribunal has rightly added 25% future prospects, deducted 1/3rd towards personal expenses of deceased and applied multiplier '15'. The Tribunal has not awarded funeral expenses on the ground that funeral expenses are borne by ESI and the same is not proper and the said bearing of expenses by ESI is not relating to accident. With this she prayed to allow the appeal.

7. Learned counsel for respondent No.2/insurer would contend that Ex.P7, sketch indicates that the accident occurred in a junction. The deceased who took right turn in junction suddenly entered the road on which the bus was moving and on seeing the sudden entry of the



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deceased on his bike to the said junction, the Driver of the bus applied brake and Ex.P6 – spot mahazar indicate tyre marks on the spot. The said aspect indicate that the driver tried to avoid accident and the said aspect clearly indicate that the deceased also contributed to the accident and the Tribunal has rightly assessed it at 20%. She further submits that the Tribunal based on the bank entry in the pass book has rightly taken the notional income of the deceased. The Tribunal has rightly not awarded funeral expenses as the funeral expenses are borne by ESI. With this, she prayed for dismissal of the appeal.

8. Having heard the learned counsels, the Court has perused the judgment, award and trial Court records. The following points arise for consideration:

- (i) Whether the Tribunal is justified in attributing the contributory negligence on the part of the deceased at 20%?



- (ii) Whether there are any grounds for enhancement of compensation awarded by the Tribunal?

Re-Point No.1

9. The deceased on his motor cycle was proceeding from Mangaluru towards Udupi and in a junction he took a right turn and entered the road on which the Bus was moving from Udupi to Mangaluru. The accident occurred in the said junction. Ex.P6 - spot Mahazar indicate tyre marks at the spot of the accident and that itself indicate that the bus driver applied brakes on seeing the deceased entering the road suddenly. Considering the said aspect, the Tribunal has rightly held that deceased has contributed to the accident and assessed his negligence at 20%. Point No.1 is answered accordingly.

Re-Point No.2

10. The accident occurred on 01.08.2018 and as on the date of accident the deceased was aged 40 years. The



deceased was working in Manasa Security Bureau, Mangaluru and getting salary. PW.2 – Proprietor of the said agency has stated that he was paying Rs.24,170/- p.m. as salary and Rs.1,250/- as personal allowance and in that regard he has issued Ex.P19 – certificate. The pay sheets from March 2018 to July 2018 are produced at Ex.P22 which contains the pay details of deceased. The pay details of the deceased for July 2018 indicate that he is getting gross salary of Rs.22,000/-. In the said gross salary, Rs.200/- is deducted towards professional tax. Therefore, the net salary of the deceased is Rs.21,800/- and that is to be taken into consideration as against Rs.21,411/- taken by the Tribunal. The Tribunal has rightly added 25% towards future prospects, deducted 1/3rd towards personal expenses of the deceased and applied multiplier '15'. In view of the above, the loss of dependency is calculated as under:

$$\text{Rs.21,800} + 5450(25\%) = 27250 - 1/3^{\text{rd}} = \text{Rs.18,167/-}$$



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Rs.18,167 x 12 x 15 = 32,70,060/-

11. The Tribunal has rightly awarded Rs.48,400/- each, towards consortium to claimant Nos.1 and 2 and loss of estate of Rs.18,150/-. The Tribunal has not awarded funeral expenses but has awarded conveyance/traveling expenses on the ground the ESI has paid Rs.15,000/- towards funeral expenses to the claimants. The said funeral expense paid by ESI is not for the accidental death of the deceased. Therefore, the said amount received by the claimant shall not be deducted in the compensation to be awarded to the claimants. Therefore, the claimants are entitled to funeral expense, transportation of dead body in a sum of Rs.18,150/-. The claimants are not entitled separately for conveyance/traveling expenses as awarded by the Tribunal in a sum of Rs.10,000/-.

12. In view of the above, the claimants are entitled to compensation under various heads as under:



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Sl.No.	Heads	Amount in (Rs.)
01.	Loss of dependency	32,70,060/-
02.	Loss of consortium to claimant No.1	48,400/-
03.	Loss of consortium to claimant No.2	48,400/-
04.	Loss of estate	18,150/-
05.	Funeral expenses and transportation of dead body	18,150/-
	Total	34,03,160/-

13. Considering the above aspects, the total compensation assessed is Rs.34,03,160/-. As the deceased has contributed to the accident his negligence is assessed at 20%. Therefore, the claimants are entitled to 80% of Rs.34,03,160/- i.e. Rs.27,22,528/- as against Rs.26,69,304/- awarded by the Tribunal. Accordingly, Point No.2 is answered.

14. Consequently, the claimants are entitled to enhanced compensation of Rs.53,224/- (Rs.27,22,528/- - Rs.26,69,304/-) with interest @ 6% p.a. from the date of petition till realization. Respondent No.2 is liable to pay the said enhanced compensation with interest.

15. In view of the above, the following:



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ORDER

- i) The appeal is allowed in part.
- ii) The appellants/claimants are entitled to enhanced compensation of Rs.53,224/- with interest @ 6% p.a. from the date of petition till realization.
- iii) Respondent No.2/insurer shall deposit the enhanced compensation with interest before the Tribunal within a period of six weeks from this day.
- iv) The appellants/claimants are entitled to release of entire enhanced compensation in the ratio of 60:40.

**Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE**

DKB
List No.: 1 Sl No.: 1
Ct.sm