



CNR: KAHC010001512023

NC: 2026:KHC:46457
MFA No. 30 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.30 OF 2023 (MV-D)

BETWEEN:

1. MAHALAKSHMI K.,
W/O LATE PUNEETH KUMAR,
AGED ABOUT 26 YEARS,
2. CHATHURVI,
D/O LATE PUNEETH KUMAR,
AGED ABOUT 4 YEARS,
3. ANASUYA,
W/O NAGARAJU K.N.,
AGED ABOUT 63 YEARS,
4. NAGARAJU K.N.,
S/O LATE NARASEGOWDA,
AGED ABOUT 64 YEARS,

2ND APPELLANT IS MINOR
REP BY HIS NATURAL MOTHER
AND GUARDIAN 1ST APPELLANT

ALL ARE RESIDING AT
NO.158, OLD MYSORE ROAD,
KUMBALAGODU,
BENGALURU - 560 074.

...APPELLANTS

(BY SRI. SHANTHARAJ K., ADVOCATE)

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AND:

1. JAGADISH G.K.,
S/O KEMPARAJU G.R.
AGED MAJOR,
RESIDING AT KERENAGALADA MANEGALU,
GUBBI - 572 216.
2. ORIENTAL INS. CO. LTD.,
BY ITS MANAGER
OFFICE AT NO.44/45,
3RD FLOOR,LEO SHOPPING COMPLEX,
M.G. ROAD,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. S.V. HEGDE MULKHAND, ADVOCATE FOR R2
VIDE ORDER DATED 04.03.2025 NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:28.09.2022
PASSED IN MVC NO.2270/2021 ON THE FILE OF THE VI
ADDITIONAL JUDGE, COURT OF SMALL CAUSES AND
ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AND MACT,
BENGALURU (SCCH-2), 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 T.M.NADAF



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ORAL JUDGMENT

This appeal by the claimants seeking for enhancement of compensation awarded under judgment and award dated 28.09.2022 passed in MVC No.2270/2021 by the VI Addl. Judge, Court of Small Causes and Addl. Chief Metropolitan Magistrate and MACT, Bengaluru (SCCH-2)¹.

2. Parties are referred to as per their ranking before the Tribunal.

3. Facts germane to file the present appeal are as under:

In an accident occurred on 01.03.2021, deceased Punith Kumar, a driver of the Medium Goods Vehicle bearing registration No.KA-41-B-4668, met with an accident due to actionable rash and negligent driving of the driver of Tipper Lorry bearing registration No.KA-06-AA-6804, suffered fatal injuries and while he was removed

¹ For short 'Tribunal'



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from the driver cabin and was being taken to hospital for treatment, died on the way and declared dead by the Dayanand Sagar Hospital, Harohalli. Accordingly, the claimants filed a claim petition seeking Rs.50,00,000/- as compensation for the death of deceased Punith Kumar. The insurance, who appeared in response to notice, has taken a specific contention that the claimants have not produced any documents to show the avocation of the deceased and the liability, if any, is subject to terms and conditions of the insurance policy.

4. The Tribunal after recording the evidence and appreciating the material on record, proceeded to allow the claim petition filed under Section 166 of Motor Vehicles Act, 1988 and awarded a total compensation of Rs.32,19,000/- taking the income of the deceased at Rs.15,000/- per month as per the Chart prepared by the Karnataka State Legal Services Authority for settling the matters for the year 2021. The Tribunal added 40% to the



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existing income and after deducting 1/4th, awarded compensation stated supra.

5. Heard Sri.Shantharaj K, learned counsel appearing for the appellants/claimants and Sri.S.V.Hegde Mulkhand, learned counsel appearing for the respondent No.2/insurer. Vide order dated 04.03.2025, notice of this appeal on respondent No.1 is dispensed with.

6. Sri.Shantharaj, with all vehemence submits that as per the police records starting from the complaint and entire charge sheet material clearly show that the deceased was working as driver in vehicle bearing No.KA-41-B-4688. Despite the same, the Tribunal has taken the income at Rs.15,000/- instead of taking the actual income claimed under the claim petition i.e., Rs.30,000/- per month. He further submits that driving is a skilled work and the amount fixed under the Chart, which is Rs.15,000/- for the year 2021, is in respect of unskilled work. In that view of the matter, the income contended



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by the claimants must have been considered while assessing the 'loss of dependency. He further submits that though the Tribunal has awarded proper compensation under the heads 'loss of consortium', 'loss of estate and funeral expenses', however, failed to award 10% escalation under the conventional heads in view of settled position of law by the Hon'ble Supreme Court in the case of **NATIONAL INSURANCE CO. LTD. V. PRANAY SETHI** and sought to allow the appeal.

7. Refuting the submission, Sri.Hegde Mulkhand with all vehemence submits that the Tribunal after considering the material on record, in the absence of proof of income, has considered the income fixed under the Chart i.e., Rs.15,000/- per month and added 40% to the existing income and deducted 1/4th of income considering the number of claimants being 4 and awarded proper compensation, the same does not call for any interference at the hand of this Court and sought to dismiss the appeal.



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8. Having considered the rival submissions, this Court perused the entire appeal papers and trial court records.

9. A perusal of the trial court record clearly show that the complaint and charge sheet filed thereon clearly indicate that the deceased was a driver in a vehicle bearing No.KA-41-B-4668 and he was removed from the driver cabin after the accident and was taken to the hospital for treatment, however, he succumbed to the injuries on the way to the hospital. The Tribunal has considered the income of the deceased at Rs.15,000/- in the absence of salary certificate of deceased to prove the same.

10. A perusal of police records clearly show that at the time of accident he was driving the vehicle. Being a driver is a skilled work and in that view of the matter, this Court is of the opinion that appropriate compensation must have been considered by the Tribunal. As such, this



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Court is of the opinion that if a sum of Rs.18,000/- per month is considered as income of the deceased, that would meet the ends of justice. Further, this Court noticed that the Tribunal has not awarded 10% escalation on the conventional heads as per the judgment of Hon'ble Supreme Court in **PRANAY SETHI's** case supra. In view of the said judgment, the claimants are also entitled 1 term of 3 completed years, since the accident is of the year 2021. Accordingly, this Court proceeds to reassess the compensation, which is as under:

Sl. No.	Particulars	Compensation awarded by the Tribunal	Compensation awarded by the Tribunal
1	Towards loss of dependency	Rs.30,24,000/-	Rs.36,28,800/- (Rs.18,000/- + 40% x 12 x 16 x 3/4)
2	Loss of love and affection and consortium	Rs.1,60,000/-	1,60,000/-
3	Loss of Estate	Rs.15,000/-	15,000/-
4	Funeral Expenses	Rs.15,000/-	15,000/-
5	Towards transportation	Rs.5,000/-	—
6	10% escalation on completion 1 term of 3 completed years on conventional heads	—	Rs.19,000/-
	Total	Rs.32,19,000/-	Rs.38,37,800/-



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11. Accordingly, the claimants are entitled for enhanced compensation of Rs.6,18,800/-, which is rounded off to **Rs.6,19,000/-**, which shall carry interest @ 6% p.a. from the date of petition till realisation.

12. For the aforesaid reasons, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The judgment and award dated 28.09.2022 passed by the VI Addl. Judge, Court of Small Causes and Addl. Chief Metropolitan Magistrate and MACT, Bengaluru (SCCH-2), in MVC No.2270/2021, is hereby modified and claimants are entitled for enhanced compensation of Rs.6,19,000/- along with interest @ 6% p.a. from the date of petition till realisation.



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- (iii) The respondent No.2/insurer shall deposit the entire enhanced compensation along with interest stated supra before the concerned Tribunal, within six weeks from the date of receipt of copy of this order.
- (iv) Upon deposit, the apportionment and disbursement of compensation is in terms of the order passed by the Tribunal.
- (v) The Trial Court Records secured, shall be retransmitted to the concerned Tribunal forthwith without causing any delay.

Sd/-
(T.M.NADAF)
JUDGE

DR
List No.: 1 Sl No.: 13