

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 22ND DAY OF JULY, 2026****PRESENT****HON'BLE MR. JUSTICE JAYANT BANERJI****AND****HON'BLE MS. JUSTICE TARA VITASTA GANJU****MISCELLANEOUS FIRST APPEAL NO. 416 OF 2022 (MV-D)****BETWEEN:**

1. CHAITRA.C
D/O CHIKKANNA,
W/O LATE RAMU.N,
AGED ABOUT 25 YEARS,
R/AT NAYAKARA STREET, KASABA HOBLI,
CHAMUNDI HILLS POST, MYSURU-570010,
PRESENTLY R/AT KALIYURU VILLAGE,
TALAKADU HOBLI, MAMBALLI POST,
T.NARASIPURA TALUK,
MYSURU DISTRICT-571107.
2. UMA.S
W/O NANJUNDAIAH,
AGED ABOUT 51 YEARS,
3. NANJUNDAIAH
S/O MARA NAYAKA,
AGED ABOUT 67 YEARS,
R2 & R3 ARE RESIDING IN THE
ADDRESS OF APPELLANT NO.1
4. HEMAVATHI.K.N.
D/O NANJUNDAIAH,
AGED ABOUT 33 YEARS,
TALAKADU HOBLI,
MAMBALLI POST,

Digitally signed
by SUMATHY
KANNAN
Location: HIGH
COURT OF
KARNATAKA



T.NARASIPURA TALUK

...APPELLANTS

(BY SRI. SYED ABDUL SABOOR., ADVOCATE)

AND:

1. ABDUL MAJEED
S/O ABDUL KHADAR,
AGED ABOUT 41 YEARS,
R/AT 285, EWS, 3RD STAGE,
HUDCO, BANNIMANTAPA,
MYSURU-570015.
2. THE MANAGER,
DIVISIONAL OFFICE,
HDFC ERGO INSURANCE CO. LTD.,
MAHARAJA COMPLEX,
OPP.SUBURB BUS STAND,
NAZARBAD,BENGALURU NILGIRI ROAD,
MYSURU-570010.

...RESPONDENTS

(BY SRI. H.S.LINGARAJU., ADVOCATE FOR R2;
NOTICE TO R1-DISPENSED WITH V/O/DTD:23.03.2023)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 04.10.2021 PASSED IN MVC NO.412/2020 ON THE FILE OF THE PRL.JUDGE, COURT OF SMALL CAUSES AS A PRESIDING OFFICER, MACT, MYSURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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



CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the judgment and award dated 04.10.2021, in MVC No.412/2020, passed by the Principal Small Causes And Motor Accident Claims Tribunal, Mysore (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded compensation to the appellants/claimants in a sum of Rs.18,40,000/-, along with interest at 6% per annum from the date of the petition till its realisation.

2. The challenge in the present appeal is by the appellants/claimants.

3. Although the matter was listed for Admission, with the consent of the parties, it is taken up for hearing and final disposal at the stage of admission.



4. Briefly the relevant facts are that on 11.06.2020, at about 05.00 p.m., the deceased was riding on his motorcycle bearing Reg.No.KA-55 E-8973 on Mysuru – T.Narasipura Main Road, near Varakodu Gate. At that time, respondent No.1/driver of a lorry bearing Reg.No.KA-09/5859, stated to be driving the same at a high speed in a rash and negligent manner, hit the motorcycle of the deceased. Due to the accident, the deceased fell down, sustained injuries and succumbed to these injuries on the way to the hospital.

5. A claim petition was filed by the appellant/claimants deceased under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'MV Act') before the MACT. It was stated that a case of rash and negligent driving has been registered against the driver of the lorry by the jurisdictional Police. In addition, it was stated that amounts had been spent towards the funeral and other expenses of the deceased.



6. After service of Notice, the claim petition was contested by respondent No.2. There was no presence on behalf of the respondent No. 1/driver and he was proceeded with *exparte*. The respondent No.2 contended that the driver was not negligent and that the compensation prayed for was excessive.

7. Based on the pleadings of the parties, the following issues were framed:

"1) Whether the petitioners prove that, on 11.06.2020 at about 5.00 p.m., near Varkodu Gate on Mysuru – T.Narasipura main road, Mysuru Taluk, when the deceased was commuting on a Motor Cycle bearing registration No.KA-55-E-8973, at that time the driver of Lorry bearing registration No.KA-09/5859 drove the same from opposite direction in rash and negligent manner and hit the Motor Cycle and caused accident and due to the impact the husband of petitioner No.1, son of petitioner No.2 and 3 and brother of petitioner No.4 by name Sri.Ramu.N, succumbed to injuries as shown in the petition ?

2) Whether the petitioners are entitled for compensation? If so, how much and from whom?

3) What order or award?"

8. On behalf of the appellants/claimants, the petitioner No.1, wife of the deceased, examined herself as PW-1 and exhibited twenty documents, as Exhibits P1 to P20, which



included FIR (Exhibit-P1), Spot Panchanama (Exhibit-P3), Inquest Panchanama (Exhibit-P5), Postmortem report (Exhibit-P6), IMV Report (Exhibit-P7) and Charge-sheet (Exhibit-P8). In addition thereto, the documents in relation to the educational qualifications of the deceased were filed, which were Exhibits P12 to P17. The Driving License of the deceased was marked as Exhibit-P20. No evidence was led by respondent No.2/insurance company, despite opportunity given.

9. The learned Tribunal after examining the evidence placed before it, found that the accident was caused due to negligent driving of the lorry driver. Thus, negligence was proved in terms of the documents filed. On the aspect of compensation, it was held by the learned Tribunal that the income of the deceased was Rs.10,000/- per month. The learned Tribunal found that there were 3 dependants of the deceased and thus, $1/3^{\text{rd}}$ of the income was deducted towards personal expenses. In addition, since the deceased was 37 years old, 40% was added for future



prospects and applying the multiplier of '15', the loss of dependency was calculated by the learned Tribunal as follows:

$$(Rs.10,000 + 40\%) Rs.14,000 - 1/3 \times 12 \times 15 = Rs.16,79,940/- \text{ rounded off to } Rs.16,80,000/-$$

9.1 In addition, the learned Tribunal awarded the compensation under the following heads:

Sl.No.	Particulars	Amount (Rs.)
1	Loss of Dependency	16,80,000/-
2	Loss of Consortium	1,20,000/-
3	Loss of Estate	15,000/-
4	Funeral Expenses	25,000/-
	TOTAL	18,40,000/-

9.2 Thus, an amount of Rs.18,40,000/-, along with interest at 6% per annum was awarded.

10. The learned counsel for the appellants/claimants raises only one ground of challenge. He submits that the notional income as per the Karnataka State Legal Services



Authority (KSLSA) for the period year 2020 was Rs.14,500/-. Thus, he submits that the learned Tribunal could not have taken the income at Rs.10,000/-.

11. The learned counsel for the respondent, on the other hand, fairly submits that the notional income for the year 2020 is Rs.14,500/-.

12. The limited point for consideration in the present appeal is, whether the amounts awarded by the learned Tribunal requires to be enhanced?

13. Given the consensus between the parties and the KSLSA notional income chart, it is apposite to recalculate the compensation towards 'loss of dependency' in the following manner:

$$(Rs.14,500 + 40\%) = 20,300 - \frac{1}{3} \times 12 \times 15 =$$
$$Rs.24,35,999/- \text{ rounded off to } Rs.24,36,000/-$$

14. Further, in view of the law laid down by the Supreme Court in the ***Pranay Sethi*** case, loss of consortium is payable at Rs.40,000/- each to three appellants/claimants,



amounting to **Rs.1,20,000/-**. The appellants/claimants are also entitled to compensation under the conventional heads. Accordingly, **loss of estate** and **funeral expenses** are awarded at Rs.15,000/- each, along with the added escalation.

15. Accordingly, the compensation to be awarded is recalculated as follows:

Sl.No.	Particulars	Amount (Rs.)
1	Loss of Dependency [(Rs.14,500 + 40%) = 20,300 - 1/3 rd x 12 x 15]	24,36,000/-
2	Loss of Consortium (Rs.40,000 x 3 + 10%)	1,32,000/-
3	Loss of Estate (Rs.15,000 + 10%)	16,500/-
4	Funeral Expenses (Rs.15,000 + 10%)	16,500/-
	Total	26,01,000/-
	Less : Awarded by the Tribunal	18,40,000/-
	Enhanced Compensation	7,61,000/-

16. Hence, the appellants/claimants are entitled to a total compensation of **Rs.26,01,000/-** along with interest at 6% per annum from the date of petition till its realization.



17. Accordingly, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***allowed in part;***
- (ii) The Judgment and Award dated 04.10.2021, in MVC No.412/2020, passed by the Principal Small Causes And Motor Accident Claims Tribunal, Mysore is modified by awarding a total compensation of **Rs.26,01,000/-** along with interest at the rate of 6% per annum from the date of petition till realization.
- (iii) The remaining portion of the Impugned Award of the Tribunal remains undisturbed.
- (v) The respondent/Insurance company is directed to pay the enhanced compensation with interest as awarded by the Tribunal within eight weeks from today.
- (vi) On such deposit of compensation, the same shall be released in favour of the appellants/claimants, on



filing of an appropriate application for withdrawal of the enhanced amount.

(vii) The Registry is directed to draw the modified Award accordingly.

(viii) The Registry is directed transmit the amount in deposit along with a copy of this judgment to the concerned Tribunal, along with its records for disbursal.

(ix) No order as to costs. All pending application(s) stand closed.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

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List No.: 1 Sl No.: 7