



CNR: KAHC010026502025

NC: 2026:KHC:45893
MFA No. 424 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 424 OF 2025 (MV-D)

BETWEEN:

THE MANAGER
RELIANCE GENERAL INSURANCE CO. LTD.,
4TH STAGE, VIJAYANAGAR
NEAR TEJU CORNER
MYSORE - 570 017.
REP. BY ITS MANAGER LEGAL.
No. 28, 5TH FLOOR, EAST WING
CENTENARY BUILDING, M G ROAD
BANGALORE - 560 001.

...APPELLANT

(BY SRI D VIJAYAKUMAR, ADVOCATE)

Digitally signed by
LAKSHMINARAYANA MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA

AND:

1. SMT. LAKSHMAMMA
W/O GAVIGOWDA
AGED ABOUT 59 YEARS
R/AT BEERASHETTAHALLI VILLAGE
PANDAVAPURA TOWN
PANDAVAPURA TALUK
MANDYA DISTRICT - 571 434.
2. SRI SHIVAKUMAR K
S/O KUMAREGOWDA
AGED ABOUT 40 YEARS
R/AT. HIRODE BEEDI
PANDAVAPURA TOWN



CNR: KAHC010026502025

NC: 2026:KHC:45893
MFA No. 424 of 2025

PANDAVAPURA TALUK,
MANDYA DISTRICT – 571 434.

...RESPONDENTS

(BY SRI. PUNEETH. B. S, ADVOCATE FOR R1
SRI VINAY B R, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:26.10.2024 PASSED IN MVC No.330/2021 ON THE FILE OF THE SENIOR CIVIL JUDGE AND J.M.F.C., MACT, PANDAVAPURA, AWARDED COMPENSATION OF Rs.13,07,628/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL THE DATE OF REALIZATION.

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 appellant –insurer challenging the judgment and award dated 26.10.2024 passed in MVC No.330/2021 by Senior Civil Judge and MACT, Pandavapura.

2. Respondent No.1 –claimant made a claim petition praying to award compensation for the death of her younger brother Ramu in a road traffic accident occurred on 19.02.2021 contending that the accident



occurred due to rash and negligent driving of the driver of good vehicle bearing registration No.KA-45/4751. The Tribunal after recording the evidence of the parties, appreciating the evidence assessed the compensation and awarded compensation under various heads as under:

Monthly income of the deceased	Rs.11,733.20/-	
After adding 10% towards future prospects as per directions of Hon'ble High Court	Rs.12,906/-	
Less 1/4 th towards	Rs.3,226/-	
Personal expenses as per Sarla Verma case		
Actual Income of the deceased	Rs.9,679/- p.m.	
Multiplier as per Sarla Verma case	11	
Loss of Dependency	Rs.9,679X12X11	Rs.12,77,628/-
Loss of Estate		Rs.15,000/-
Funeral Expenses		Rs.15,000/-
	Total	Rs.13,07,628/-

3. The Tribunal also awarded interest at the rate of 6% per annum from the date of petition till realization and directed the appellant -insurer to deposit the award



amount with interest. The appellant –insurer challenging the said judgment and award has filed the present appeal.

4. Heard learned counsel for the appellant –insurer and learned counsel for respondent No.1.

5. Learned counsel for the appellant –insurer would contend that the involvement of the insured vehicle is disputed. The complaint has been filed after 05 days of the accident. The claimant is elder sister of the deceased, she is married, she is residing along with her son and not dependent on the deceased. The eyewitness to the accident has not been examined. Even the complaint has been filed by son of the claimant and has not been examined. Therefore, the Tribunal has erred in holding that the accident occurred due to the rash and negligent driving of the driver of the goods vehicle bearing registration No.KA-45/4751. He further contends that the Ex.P8 is Adhar Card of the deceased, wherein his date of birth is mentioned as 01.01.1953 and considering the



CNR: KAHC010026502025

same he is aged 68 years and the Tribunal has erred in taking the age of the deceased as 52 years. The claimant being elder sister of the deceased, residing with her son is not dependant. The deceased was unmarried/bachelor. No records are produced to show that the deceased was residing with the claimant. The claimant is aged 70 years as mentioned in Ex.P4 –inquest mahazar. The son of the claimant is aged 50 years. The same is mentioned in Ex.P5. Considering the said aspect, the claimant is not dependant on the deceased and therefore, she is not entitled for loss of dependency as held by Division Bench of this Court in the case of **A. Manavalagan Vs A. Krishnamurthy and Others¹**. With these, he prays to allow the appeal.

6. Learned counsel for respondent No.1 –claimant would contend that Ex.R3 clearly indicate the vehicle involved in the accident and it is MLC and in which the

¹ In ILR 2004 KAR 3268



CNR: KAHC010026502025

**NC: 2026:KHC:45893
MFA No. 424 of 2025**

vehicle number and the insurance of the appellant has been registered. There is no delay as contented in filing the complaint. The complaint has been filed on the next day of the incident i.e., 19.02.2021. The Tribunal based on FIR, complaint and charge sheet has rightly held that the accident occurred due to the rash and negligent driving of the driver of goods vehicle bearing registration No.KA-45/4751. The deceased was bachelor/unmarried person. The Tribunal has taken the income of the deceased based on minimum wages. The notional income fixed for the year 2021 is Rs.15,000/- and the said income is to be taken as against minimum wages taken by the Tribunal in a sum of Rs.11,733.20/-. The deceased as an unmarried person was residing with her sister –claimant and claimant was dependent on the deceased. Considering the said aspect, the Tribunal has rightly awarded compensation. With these, he prays to dismiss the appeal.



CNR: KAHC010026502025

7. Having heard learned counsels, the Court has perused impugned judgment, award and trial Court records.

8. The following points arise for consideration:

- i) Whether the Tribunal has erred in holding that the accident occurred due to the rash and negligent driving of driver of good vehicle bearing registration No.KA-45/4751?
- ii) Whether the claimant is entitled to award of compensation and compensation awarded by the Tribunal is just and proper?

Reasons to Point No.1: The accident occurred on 18.02.2021 at about 09.00 p.m. Ex.P1 is FIR and Ex.P2 is complaint. Ex.P2 has been filed by the son of the claimant and it is filed on 19.02.2021 at about 09.30 a.m. Ex.R3 is MLC extract, wherein deceased has been admitted in hospital with history of road traffic accident on 18.02.2021



CNR: KAHC010026502025

and vehicle number which caused the accident has also been mentioned as KA-45/4751. Considering the said aspect, there is no delay in filing the complaint as contended by learned counsel for the appellant. Ex.P7 is the copy of the charge sheet and it has been filed against the driver of the insured vehicle bearing registration No.KA-45/4751 for offences punishable under Sections 279 and 304-A of IPC and Section 187 of the Motor Vehicles Act. The said charge sheet has not been challenged by the driver of the goods vehicles bearing registration No.KA-45/4751. Considering the said aspect, the Tribunal has rightly held that the accident occurred due to the rash and negligent driving of driver of goods vehicle bearing registration No.KA-45/4751. Accordingly, point No.1 is answered.

9. **Reasons to Point No.2:** The case of the claimant is that she is elder sister of the deceased, the deceased was residing with her and she was dependant on him. In Ex.P4 –inquest mahazar, statement of claimant



NC: 2026:KHC:45893
MFA No. 424 of 2025

has been recorded wherein she has stated that the deceased was her younger brother, he was residing along with her and he was doing agriculture. She has stated that she has fostered the deceased since his young age, he refused to marry and remained bachelor. Even in the said inquest mahazar, statement of one Chandrasekhar son of late Ningegowda has been recorded wherein the claimant - Lakshmamma is stated to be the elder sister of the deceased. The father name of the deceased as per inquest mahazar –Ex.P4 is late Siddegowda. Ex.P9 is PAN card of the claimant, wherein her father name is also mentioned as Siddegowda. Considering these documents, it is clear that the deceased was younger brother of the claimant and claimant is elder sister of the deceased.

10. The Tribunal has taken age of deceased as 52 years. In post mortem report – Ex.P5, FIR –Ex.P1, inquest mahazar –Ex.P4, the age of the deceased is mentioned as 52 years. Considering the said aspect, the Tribunal has rightly taken the age of the deceased as 52 years.



CNR: KAHC010026502025

NC: 2026:KHC:45893
MFA No. 424 of 2025

11. The claimant is elder sister of the deceased. She is having son by name Ramesh. The said Ramesh has filed complaint as per Ex.P2. The age of the said Ramesh as mentioned in the said complaint –Ex.P2 is 52 years. The claimant is having son -Ramesh, aged about 52 years, cannot be said to be dependant on the deceased. In Ex.P4 –inquest mahazar, the claimant in her statement has not stated that she was dependant on the deceased. But she has stated that the deceased was residing with her and he was doing agriculture work. Since the deceased was unmarried person, he was residing with the claimant and the claimant was taking care of him. A Division Bench of this Court in the case of **A. Manavalagan (supra) has held as under:**

"15. Where a breadwinner dies and his wife, children and parents, who are normally depending on the deceased, claim compensation, the method of computation is now standardized. The Court first finds out the income of the deceased, then estimates how



CNR: KAHC010026502025

NC: 2026:KHC:45893
MFA No. 424 of 2025

much he would have spent for himself (for his personal and living expenses). The balance is taken as the contribution to the dependents (family). The said estimate of the amount contributed to the family per year, which is the annual dependency, becomes the basis for arriving at the compensation. It is converted into a lump sum by multiplying it by the number of years during which he would have contributed to the family (duly scaled down to take several uncertainties into account). Thus, the annual dependency becomes the multiplicand and the number of years' purchase becomes the multiplier. As it is well settled that there cannot be a duplication of award under Sections 1A and 2 of the FA Act, where the main head for award of compensation is loss of dependency, the Courts will not duplicate the award under the head of loss of estate. Instead a conventional sum (Say Rs. 10,000/-) is awarded under the head of loss of estate, where the income has already been taken note of under the head of loss of dependency.

16. But, what would be the position if the claimant, though a legal heir is not a dependant of the deceased? Obviously, the question of



CNR: KAHC010026502025

NC: 2026:KHC:45893
MFA No. 424 of 2025

awarding any amount under the head of loss of dependency would not arise, as there was no financial dependency. In fact in this case, the deceased was not even managing the 'house hold' as is normally done by a housewife as the husband and wife were living in different places due to exigencies of service and the couple had no children. In such a case, the main head of compensation will be loss to estate under Section 2 of the Fatal Accidents Act. The claim petition becomes one on behalf of the estate of the deceased and the compensation received becomes part of the assets of the estate. Consequently what is to be awarded under the head of loss of dependency under Section 1A would be nil, as there is no real pecuniary loss to the members of the family."

Since the claimant is not dependant on the deceased, the claim becomes one on behalf of the estate of the deceased and the compensation received becomes part of the assets of the estate.



CNR: KAHC010026502025

NC: 2026:KHC:45893
MFA No. 424 of 2025

13. High Court of Kerala at Ernakulam in the case of the ***New India Insurance Co. Ltd., Vs Sindhu K and Others***² has observed thus:

"5. I have considered the rival contentions raised on both sides. First of all, the fact that the claimant was the legal representative of the deceased is not disputed. Further, it is also undisputed that the claimant was the sole legal heir of the deceased. The claimant, a 30-year-old married woman, was residing with her husband. Although married, the claimant, being the sole sibling, might have been financially dependent on her brother since her parents are no more. However, no evidence was adduced to prove the same. In Joseph v. Giji Varghese & Others [2009 KHC 1076], this Court had occasion to deal with a similar situation, wherein the claim petition was filed by the sibling of the deceased, and held as follows:

"The learned counsel for the appellant further raised a contention that even though there is no loss of dependency, there is loss of estate to the claimants and respondents 4 to 8, they being legal heirs of the

² In MACA No.532/2018 decided on 24.10.2024



CNR: KAHC010026502025

NC: 2026:KHC:45893
MFA No. 424 of 2025

deceased. The contention is that the Tribunal ought to have granted compensation considering the loss of estate. It has come out in evidence that the deceased was an Agriculturist. Even though there is no proof regarding quantum of income derived by the deceased, it can be presumed that the deceased was earning some amount out of agricultural operations. If that be so, whatever surplus amount, which will remain after meeting personal expenses of the deceased, would have been his savings which ultimately could have devolved upon his sibling (legal heirs) as his estate. Taking view of the matter in this angle, we are of the opinion that the Tribunal ought to have granted compensation under the head of loss of estate. On our moderate estimate we arrive that the deceased was getting notional income of Rs.1500/- per month. Considering the fact that he had no wife and children 2/3rd of the amount can be deducted towards his personal expenses. Based on the age of the deceased the correct multiplier to be adopted is 11. Therefore 1/3rd of the earnings can be



CNR: KAHC010026502025

NC: 2026:KHC:45893
MFA No. 424 of 2025

computed as loss of estate of the deceased. Thus the legal heirs of the deceased are entitled to get an amount of Rs.66,000/- towards loss of estate. We are inclined to award the said amount. Hence the total compensation need be re-fixed at Rs.92,500/- (Rs.66,000- Rs.26,500)."

In Elamma & others ICICI Lombard General [2023:KER:84777], following the judgment in Joseph (supra), this Court held that the siblings of the deceased are entitled for compensation under the head, loss of estate. Here, in this case, the claimant is the only legal heir of the deceased. I find that while the claimant is not entitled to compensation for loss of dependency, she is entitled to compensation for loss of estate, which can be calculated using the same method as for loss of dependency. In Joseph (supra), this Court had deducted 2/3rd of the income towards personal expenses, which was followed by this Court in Elamma (supra). However, it is already settled by the apex court in National Insurance Co. Ltd. v. Pranay Sethi [2017(4) KLT 662(SC)] that if the deceased is a bachelor, the amount to be deducted towards personal expenses is 50%. Therefore, I find that the tribunal has rightly deducted 50% of the income towards personal expenses and the



CNR: KAHC010026502025

compensation awarded by the tribunal towards loss of estate does not deserve any interference."

Considering the above aspects, the claimant being sibling of the deceased is entitled for compensation under the head of loss of estate. Since the deceased was a bachelor, the amount to be deducted towards personal expenses is 50%. The Tribunal has taken the income of the deceased at Rs.11,733.20/- per month and applied multiplier '11'. Considering the said aspect, loss of estate is calculated as under:

$$\text{Rs.11,733/-} \times 12 = \text{Rs.1,40,796/-} \text{ less } 50\% =$$
$$\text{Rs.70,398/-} \times 11 = \text{Rs.7,74,378/-}.$$

14. Therefore, the claimant is entitled to loss of estate in a sum of Rs.7,74,378/-. The claimant being the sister of the deceased is entitled to compensation towards loss of love and affection in a sum of Rs.40,000/- and funeral expenses of Rs.15,000/-. In view of the above, the



claimant is entitled to total compensation under various heads as under:

Sl.No.	HEADS	Amount
1	Loss of estate	Rs.7,74,378/-
2	Loss of Love and affection	Rs.40,000/-
3	Funeral Expenses	Rs.15,000/-
Total		Rs.8,29,378/-

The claimant is entitled to total compensation of Rs.8,29,378/- as against Rs.13,07,628/- as awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till reliasation. The appellant - insurer is liable to pay the said compensation with interest.

15. In view of the above, the following

ORDER

- i) The appeal is ***allowed in part.***
- ii) Respondent No.1 -claimant is entitled to total compensation of Rs.8,29,378/- as against Rs.13,07,628/- as awarded by the Tribunal with



CNR: KAHC010026502025

interest at the rate of 6% per annum from the date of petition till reliasation.

- iii) The appellant -insurer shall deposit the said compensation amount with interest before the Tribunal within a period of 06 weeks from this day.
- iv) The amount in deposit is ordered to be transmitted to the Tribunal.
- v) The order of deposit made by the Tribunal is remained unaltered.
- vi) Registry is directed to send back trial Court records.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP
List No.: 1 Sl No.: 1