



CNR: KAHC010420362023

NC: 2026:KHC:37575-DB
MFA No. 5628 of 2023
C/W MFA No. 566 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

M.F.A. NO. 5628 OF 2023 (MV-D)

C/W

M.F.A. NO. 566 OF 2025 (MV-D)

IN MFA NO. 5628/2023

BETWEEN:

THE DIVISIONAL MANAGER
THE ORIENTAL INSURANCE COMPANY LIMITED
DIVISIONAL OFFICE
A M ARCADE, C G HOSPITAL ROAD
DAVANAGERE
INSURANCE POLICY ISSUING OFFICE
THE ORIENTAL INSURANCE COMPANY LIMITED
SRI SHARADA COMPLEX
1ST FLOOR, OPP: KSRTC BUS STAND
P B ROAD, CHITRADURGA
NOW REP. BY ITS REGIONAL OFFICE
THE ORIENTAL INSURANCE CO. LTD.,
REGIONAL OFFICE, SUMANGALA COMPLEX
LAMINGTON ROAD, HUBLI-580020
REP. BY ITS REGIONAL MANAGER.

...APPELLANT

(BY SRI. H C VRUSHABHENDRAIAH, ADV.)

AND:

1. SRI OMPRAKASH SHRIWASTAV
S/O CHANDRANATH LAL
AGED ABOUT 64 YEARS
OCC: NIL

Digitally signed by
NANJUNDACHARI
Location: High
Court of Karnataka



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2. PUSHPA SHRIVASTAVA
@ PUSHPA KUMARI SINGH
AGED ABOUT 47 YEARS
OCC: HOUSEHOLD WORK

BOTH ARE PETITIONER ARE THE
R/O SAHABGANI, CHANDALI
UTTAR PRADESH
C/O KARNATAKA BANGLE STORES
VASANTHA TALKIES ROAD
DAVANAGERE -577002
(PETITIONER NO.1 IS THE FATHER
PETITIONER NO.2 IS MOTHER OF THE
DECEASED MANISH SHRIWASTAV)

3. MANJUNATH K T
S/O THIPPANNA
MAJOR
OCC: TRANSPORT BUSINESS
R/O CHIKKAGONDANAHALLI
GOLLARAHATTI
CHITRADURGA DISTRICT-577501.

...RESPONDENTS

(BY SMT. SARITHA KULKARNI, ADV. FOR R1 & R2
SRI S C VIJAYAKUMAR, ADV. FOR R3)

THIS APPEAL IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DATED 30.03.2023 PASSED IN MVC
NO.212/2021 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL
JUDGE, MEMBER, VI MACT AND JMFC, DAVANGERE, AWARDED
COMPENSATION OF RS.45,49,080/- WITH INTEREST AT 9 PERCENT
P.A. FROM THE DATE OF PETITION TILL THE DATE OF
REALIZATION.

IN MFA NO. 566/2025

BETWEEN:

1. SRI. OMPRAKASH SHRIWASTAV
S/O CHANDRANATH LAL,
AGED ABOUT 66 YEARS,
OCC: NIL



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2. PUSHPA SHRIVASTAVA
@ PUSHPA KUMARI SINGH
W/O OMPRAKASH SHRIWASTAV,
AGED ABOUT 49 YEARS,
OCC: HOUSEHOLD WORK

BOTH THE PETITIONERS ARE THE
R/O SAHABGANJ, CHANDALI,
UTTAR PRADESH STATE,
C/O KARNATAKA BANGLE STORE,
VASANTHA TALKIES ROAD,
DAVANAGERE.
(PETITIONER NO.1 IS FATHER,
PETITIONER NO.2 IS MOTHER OF THE
DECEASED MANISH SHRIWASTAV)

...APPELLANTS

(BY SMT. SARITHA KULKARNI, ADV.)

AND:

1. MANJUNATH. K. T.
S/O THIPPANNA,
MAJOR,
OCC: TRANSPORT BUSINESS,
R/O CHIKKAGONDANAHALLI,
GOLLARAHATTI,
CHITRADURGA DISTRICT - 577501
(RC OWNER OF HGV NO.KA-16/B-8766)
2. THE DIVISIONAL MANAGER,
THE ORIENTAL INSURANCE COMPANY LIMITED,
DIVISIONAL OFFICE,
A.M. ARCADE, C.G. HOSPITAL ROAD,
DAVANAGERE - 577001
INSURANCE POLICY ISSUING OFFICE:
THE ORIENTAL INSURANCE COMPANY LIMITED,
SHRI SHARADHA COMPLEX,
1ST FLOOR, OPPOSITE KSRTC BUS STAND,
P.B. ROAD, CHITRADURGA- 577501



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(INSURER OF HGV NO.KA-16/B-8766
INSURANCE POLICY NO. 472108/31/2021/1967)
INSURANCE POLICY VALID FROM
16.08.2020 TO 15.08.2021

...RESPONDENTS

(BY SRI. H.C. VRUSHABHENDRAIAH, ADV. FOR R2)

THIS APPEAL IS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.03.2023 PASSED IN MVC NO.212/2021 ON THE FILE OF THE COURT OF II ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, DAVANAGERE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

Both these appeals are filed challenging the judgment and award passed by the II Additional Senior Civil Judge and JMFC, Davanagere (for short 'the Tribunal'), in MVC No. 212/2021, dated 30.03.2023. MFA No.5628/2023 is filed by the insurance company, aggrieved by the saddling of liability on the insurance company. MFA No.566/2025 is filed by the claimants, not being satisfied with the



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compensation awarded by the Tribunal, seeking enhancement of the same.

2. A claim petition under Section 166 of the Motor Vehicles Act was filed by the claimants seeking compensation for the accidental death of Sri Manish Shrivastava, who was involved in a road traffic accident involving lorry bearing No.KA-16-B-8766 and motorcycle bearing No. TN-37-AJ-1031 on 21.02.2021, wherein the deceased was a pillion rider in the latter motorcycle. The claimant No.1 is the father and claimant No.2 is the mother of the deceased. It was contended before the Tribunal that the deceased was hale and healthy. He was working as a nozzle man at HMBS Textile Private Limited earning Rs.31,000/- p.m. and was aged 22 years as on the date of the accident.

3. Before the Tribunal, upon issuance of notice, the insurance company appeared and filed its objections. On behalf of the claimants, the first claimant was



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examined as PW-1 and the Accountant of HMBS Textiles Private Limited was examined as PW-2, and documents were marked as Exhibits P-1 to P-15. On the other hand, the respondents examined RW-1 and RW-2 and got marked Exhibits R-1 and R-2. Upon consideration of the pleadings, the evidence and the documents placed on record, the Tribunal awarded a total compensation of Rs.47,72,200/- with interest at the rate of 9% per annum under the following heads:

Sl. No.	Compensation under the Head	Amount
1.	Loss of dependency	Rs. 46,87,200/-
2.	Loss of estate	Rs. 15,000/-
3.	Funeral expenses	Rs. 25,000/-
4.	Loss of Consortium	Rs. 30,000/-
5.	Love and Affection	Rs. 15,000/-
	TOTAL	Rs. 47,72,200/-

4. In coming to the aforesaid conclusion, the Tribunal assessed the monthly income of the deceased at Rs.31,000/-, deducted 50% towards personal and living expenses of the deceased, added 40% towards future prospects and applied the multiplier of 18.



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5. Heard Sri. H C Vrushabhendraiah, learned counsel for the insurance company and Smt. Saritha Kulkarni, learned counsel for the claimants and Sri.S.C.Vijayakumar, learned counsel for the owner of the offending vehicle. Perused the entire appeal papers including the Trial Court records.

6. Learned counsel Sri. H C Vrushabhendraiah for the insurance company would submit that the judgment and award passed by the Tribunal is contrary to law, the evidence and the documents available on record. It is submitted that the Tribunal committed a grave error in fastening the entire negligence on the driver of the lorry and that the deceased had also contributed to the accident. It is submitted that the Tribunal completely ignored the police records such as the spot mahazar, the sketch and the IMV report, all of which would clearly demonstrate that the rider of the scooter, had also contributed to the accident. It is further submitted that the



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claimants have not produced any documents to establish that the deceased was earning a monthly income of Rs.31,000/-. It is also submitted that the Tribunal committed a grave error in awarding interest at the rate of 9% per annum instead of 6% per annum. Thus, it is prayed that the appeal filed by the insurance company be allowed. Learned counsel for the owner of the offending vehicle would adopt the arguments urged on behalf of the insurance company.

7. Per contra, learned counsel for the claimants, Smt. Sarita Kulkarni, would submit that the Tribunal has rightly attributed the entire negligence to the driver of the lorry and she has no quarrel with the findings of the Tribunal in that regard. However, it is submitted that the Tribunal has not awarded just compensation under the conventional heads. Thus, it is prayed that the appeal filed by the claimants be allowed to the aforesaid extent.



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8. Having heard the learned counsel for the parties and having perused the appeal papers and trial court records, points that arise for consideration are:

- 1. Whether the Tribunal was justified in fastening the entire negligence upon the driver of the lorry?*
- 2. Whether the compensation awarded by the Tribunal is just and proper?*

9. The answer to the above points would be in the affirmative and in the negative, respectively, for the following reasons.

The accident involving lorry bearing No.KA-16-B-8766 and motorcycle bearing No.TN-37-EJ-1031, which occurred on 21.02.2021 near Jayanna's land, M.B. Ayanahalli, Chikkajogi Halli Road, Kudligi Taluk, is not in dispute. However, the learned counsel for the insurance company has submitted that the rider of the motorcycle was equally responsible for the accident, whereas the learned counsel for the claimants has submitted that the Tribunal has



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rightly fastened the entire negligence upon the driver of the lorry.

10. Subsequent to the accident, an FIR came to be registered against the driver of the offending lorry alleging that he drove the vehicle in a rash and negligent manner and dashed against the motorcycle on which the deceased was travelling as a pillion rider. The investigation culminated in the filing of a charge sheet against the driver of the offending lorry alone. A perusal of the spot mahazar, IMV report and the charge sheet would indicate that the investigating agency, upon completion of investigation, found the driver of the offending lorry responsible for the accident.

11. It is also relevant to note that the deceased was only a pillion rider on the motorcycle and there is no allegation that he had in any manner contributed to the occurrence of the accident. The evidence of RW-2, the driver of the offending lorry, is nothing but a self-serving



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denial of negligence and no independent material has been produced by the Insurance Company to probabalise its contention of contributory negligence. The police records, coupled with the oral evidence available on record, clearly establish that the accident occurred due to the rash and negligent driving of the offending lorry. We are, therefore, of the considered view that the Tribunal was justified in fastening the entire negligence upon the driver of the offending lorry and we find no reason to interfere with the said finding.

12. With regard to the compensation to be awarded, the Tribunal was justified in assessing the monthly income of the deceased at Rupees 31,000 per month by relying upon the evidence of PW-2 and Exhibits P-10 and P-14. Admittedly, the deceased was a bachelor who was aged 22 years. In such circumstances, the Tribunal has rightly deducted 50% of the monthly salary towards the personal and living expenses of the deceased.



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Further, the Tribunal has rightly added future prospects at 40%, since the deceased was aged 22 years. The Tribunal has rightly adopted the multiplier of 18. Thus, the compensation awarded by the Tribunal under the head 'loss of dependency' is maintained.

13. With regard to the compensation to be awarded under the conventional heads, the Tribunal has erred in awarding compensation under the head of 'loss of love and affection' and the amount awarded by the Tribunal under the head 'loss of consortium' and 'funeral expenses' is incorrect. In terms of the decision of the Hon'ble Apex Court in **NATIONAL INSURANCE COMPANY LIMITED VS. PRANAY SETHI & OTHERS** reported in **AIR 2017 SC 5157**, the claimants shall be entitled to Rs.40,000/- each under the head of loss of consortium, Rs.15,000/- under the head of loss of estate, and Rs.15,000/- under the head of funeral and transportation expenses. Since the accident is of the year 2021, there shall be 10%



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escalation on the compensation awarded under the conventional heads. Thus, the claimants shall be entitled to modified compensation as under:

Sl. No.	PARTICULARS	AMOUNT
1.	Loss of Dependency	Rs. 46,87,200/-
2.	Loss of Consortium	Rs. 88,000/-
3.	Loss of Estate	Rs. 16,500/-
4.	Funeral Expenses	Rs. 16,500/-
	TOTAL	Rs. 48,08,200/-

14. Thus, the claimants would be entitled to the enhanced compensation of **Rs.48,08,200/-** as against Rs.47,72,200/- awarded by the Tribunal. However, it is made clear that the claimants shall not be entitled to interest on the enhanced portion of the compensation awarded. Further, we are of the opinion that the Tribunal has wrongly awarded interest @9% p.a. We deem it fit to award interest @6% p.a., taking note of today's Bank rate of interest.



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15. In the result, we proceed to pass the following:

ORDER

- a) MFA No.5628/2023 filed by the insurance company and MFA No.566/2025 filed by the claimants is partly allowed.
- b) The impugned judgment and award of the Tribunal is modified holding that the claimants would be entitled to the enhanced compensation of **Rs.48,08,200/-** as against Rs.47,72,200/- awarded by the Tribunal.
- c) The entire compensation, except the enhanced portion of the compensation amount shall carry interest at the rate of 6% per annum from the date of petition till date of realization.
- d) The Insurance Company shall deposit the entire compensation amount with accrued interest before the Tribunal within four weeks from the date of receipt of certified copy of this judgment.
- e) Apportionment, deposit and disbursement shall be made as per the award of the Tribunal.



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- f) The amount in deposit, if any, be transmitted to the concerned Tribunal forthwith along with Trial Court Records.
- g) Draw modified award accordingly.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

NC
CT:bms
List No.: 1 Sl No.: 35