



CNR: KAHC010041162024

NC: 2026:KHC:39651-DB
MFA No. 615 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH 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. 615 OF 2024 (MV-D)

BETWEEN:

UNITED INDIA INSURANCE COMPANY LTD.,
REGIONAL OFFICE,
KRUSHI BHAVAN, 5TH AND
6TH FLOOR, NRUPATHUNGA ROAD,
BENGALURU-560001
BY ITS MANAGER.

...APPELLANT

(BY SRI. JWALA KUMAR, ADV.)

AND:

1. SMT. RANJITHA DEVI
W/O LATE SRI GOBIN PAUDEL
D/O NAR BDR CHETRY
AGED ABOUT 33 YEARS,
2. SRI RAHUL PAUDEL
S/O LATE SRI GOBIN PAUDEL
AGED ABOUT 22 YEARS,
3. SRI ROHONI PAUDEL
S/O LATE SRI GOBIN PAUDEL
AGED ABOUT 21 YEARS,

Digitally signed by
NANJUNDACHARI
Location: High
Court of
Karnataka



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4. MASTER GOURAV PAUDEL
S/O LATE SRI GOBIN PAUDEL
AGED ABOUT 18 YEARS,

RESPONDENT NOS. 1 TO 4 ARE
R/AT BAITHOLANGSO
HAMERN, CHIKARIENGTI
KARBI ANGLONG,
ASSAM-782485.

5. SRI K SUBBAIYAN
S/O KALIANNAN MAJOR
NO.6/70, IYAR SALI COLONY
THATHATHIRIPURAM POST,
NAMMKAL DISTRICT-673108.

...RESPONDENTS

(BY SRI. GURUDEVA PRASAD K. T., ADV. FOR R1 TO R4
R5- SERVED)

THIS APPEAL IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 31.10.2023 PASSED IN
MVC NO.6163/2022 ON THE FILE OF THE XVII ADDITIONAL
JUDGE, COURT OF SMALL CAUSES AND MEMBER, MACT,
BENGALURU, AWARDING COMPENSATION OF RS.34,06,000/-
WITH INTEREST AT 7 PERCENT P.A. FROM THE DATE OF
PETITION TILL REALIZATION.

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

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



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ORAL JUDGMENT

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

The insurer is in appeal against the judgment and award dated 31.10.2023 in MVC.No.6163/2022 on the file of the Court of XVII Additional Judge, Court of Small Causes and Member, MACT, Mayo Hall Unit, Bengaluru (SCCH-21) (for short, 'the Tribunal') questioning liability as well as quantum of compensation awarded.

2. Brief facts of the case are that, the claimants – wife and children of one late Gobin Paudel filed a claim petition under Section 166 of the Motor Vehicles Act, 1989 claiming compensation for the accidental death of husband of the first claimant in a road traffic accident that took place on 06.10.2022 involving motorcycle bearing registration No.KA-50/EH-9418 and a Milk Tanker bearing registration No.TN-28/AQ-1578. It is stated that the deceased was aged 42 years and was earning a sum of Rs.20,000/- per month, working as Security Supervisor. It



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is stated that the claimants were wholly dependent on the income of the deceased.

3. The appellant/insurance company on appearance before the Tribunal filed its objections denying the claim petition averments. Further, it was contended that the driver of the offending vehicle had no valid and effective driving license as on the date of the accident and respondent No.2 – owner of the vehicle had entrusted the vehicle to a person who was not having valid and effective driving license to drive the same, amounting to violation of the policy conditions by the second respondent – owner. It is also contended that the accident occurred solely due to the negligence of the rider of the motorcycle. As the rider of the motorcycle failed to take precaution, the accident had occurred. Further, it is contended that there is no nexus between the injuries and the death as alleged by the claimants and there is no involvement of the alleged



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offending vehicle. Thus, it is prayed for dismissal of the claim petition.

4. The first claimant – wife of the deceased examined herself as PW1 apart from examining PW2 and marked documents at Ex.P1 to Ex.P28. On behalf of the respondents, first respondent got examined its Assistant Manager as RW1 and got marked documents as Ex.R1 to Ex.R4.

5. The Tribunal on appreciation of the material on record, awarded total compensation of Rs.34,06,000/- along with 7% interest from the date of petition till its realization, on the following heads:

Sl. No.	Compensation heads	Compensation amount
1	Towards love and affection	Rs. 60,000/-
2	Towards funeral expenses and transportation charge	Rs. 15,000/-
3	Towards loss of dependency	Rs. 32,76,000/-
4	Towards loss of estate	Rs. 15,000/-
5	Towards filial consortium	Rs. 40,000/-
	TOTAL	Rs. 34,06,000/-



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6. Heard learned counsel Sri.Jwala Kumar for appellant/insurance company and learned counsel Sri.Gurudeva Prasad.K.T., for respondent Nos.1 to 4. Perused the entire appeal papers including the Trial Court Records.

7. Learned counsel Sri.Jwala Kumar for appellant/insurance company would submit that the Tribunal committed a grave error in not considering the contention of the appellant/insurance company that the rider of the motorcycle was under the influence of alcohol and before receiving the FSL report, the police had filed the charge sheet against the driver of the offending vehicle – Milk Tanker, which is not proper. Learned counsel would further submit that since the accident occurred due to the negligence of rider of the motorcycle who was under the influence of alcohol, the Tribunal ought to have considered the contributory negligence on the part of the rider of the motorcycle.



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8. Further, learned counsel for the appellant/insurance company contended that the claimant Nos.2 and 3 are major sons who were working, as such the Tribunal committed a grave error in deducting $1/4^{\text{th}}$ towards personal and living expenses of the deceased. Learned counsel would submit that the deduction towards personal and living expenses ought to have been $1/3^{\text{rd}}$ since the wife and minor son are the dependents. Thus, he would pray for allowing the appeal and to reduce the compensation awarded by the Tribunal.

9. Learned counsel for the respondent Nos.1 to 4/claimants Sri.Gurudeva Prasad.K.T., supports the judgment and award passed under appeal. Learned counsel would further submit that there is no evidence to substantiate the contention of the appellant that the rider of the motorcycle was under the influence of alcohol. No document whatsoever was produced by the insurance company to prove the said contention. In the absence of



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any material, he submits that the statement remains as a statement and nothing more, and the same cannot be taken into consideration. Further, learned counsel would submit that the Tribunal has rightly deducted 1/4th towards personal and living expenses of the deceased. He submits that the major sons are aged about 20 and 19 years respectively and they are not earning members. Thus, he submits that the Tribunal is justified in deducting 1/4th towards personal and living expenses of the deceased. Thus, learned counsel would pray for dismissal of the appeal.

10. Having heard the learned counsel appearing for the parties and on perusal of the entire appeal papers including the Trial Court Records, the only point which falls for our consideration is as to,

Whether in the facts and circumstances the judgment and award under appeal warrants interference?



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11. Answer to the above point would be in the Negative for the following reasons:

Learned counsel for the insurance company contended that the rider of the motorcycle was under the influence of alcohol. To substantiate the said contention, no material whatsoever is placed on record. The postmortem report is placed as Ex.P7. Ex.P7 – postmortem report would indicate that the blood samples were sent for chemical analysis as per the police requisition. However, FSL report is not placed on record by either of the parties. Admittedly, charge sheet is filed against the driver of the offending vehicle – Milk Tanker. There is no material or evidence to conclude that the rider of the motorcycle – deceased has also contributed towards the occurrence of the accident. Merely on the statement of the appellant/insurance company, this Court cannot conclude that the accident had taken place due to negligence of the deceased. Thus, the said contention is rejected.



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12. With regard to deduction towards personal and living expenses of the deceased, learned counsel for the appellant/insurance company contended that since there are two major children, deduction ought to have been $1/3^{\text{rd}}$ and not $1/4^{\text{th}}$. The said contention is untenable. The claimants are wife and children of the deceased. There are totally four dependents and when the dependents are four, the Tribunal is justified in deducting $1/4^{\text{th}}$ towards personal and living expenses of the deceased. The only contention of the appellant/insurance company is that the claimant Nos.2 and 3 are major sons of the deceased. Only because the claimant Nos.2 and 3 are aged 19 and 20 years, they cannot be considered as working members of the family, unless it is established that they earning by placing material on record. They were residing together and they were depending on the income of the deceased. Therefore, we do not find any error in deduction of $1/4^{\text{th}}$ towards personal and living expenses of the deceased.



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13. Learned counsel for the appellant/insurance company also contended that the interest awarded by the Tribunal at 7% p.a., is on the higher side. Taking note of the bank interest nowadays, we are of the opinion that it is not a case for interference in reducing the rate of interest awarded by the Tribunal.

14. There is no merit in the appeal and accordingly appeal stands ***rejected***.

The amount in deposit shall be transmitted to the Tribunal.

**Sd/-
(S.G.PANDIT)
JUDGE**

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

NC
CT:bms
List No.: 1 Sl No.: 60