



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO. 637 OF 2023 (MV-D)

BETWEEN:

1. FATHIMA P.C.,
AGED 23 YEARS
W/O. LATE MUHAMMED SUHAIL P,
2. MASTER MUHAMMED LABEEB P,
AGED ABOUT 4 YEARS
S/O LATE MUHAMMED SUHAIL P,

APPELLANT NO.2 IS MINOR REPRESENTED BY THE
APPELLANT NO.1 AS GUARDIAN MOTHER
FATHIMA.P.C.

3. IBRAHIM MUSALIYA P,
AGED ABOUT 69 YEARS
S/O LATE UMMER P,
4. KATHEEJA M
AGED 63 YEARS
W/O. IBRAHAIM MUSALIYAR P,

ALL ARE RESIDENT OF
ARIPPARAMBARA MUKKIL,
P O THIRUVATTUR,
THALIPARAMBA,KANNUR DISTRICT
KERALA STATE,
PIN CODE- 670 502

...APPELLANTS

(BY SRI. PAVANA CHANDRA SHETTY H.,ADVOCATE)

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



AND:

1. M. MOHAMMED RAFIQ
AGED 45 YEARS
S/O ABDUL KHADER
R/O DARKAS HOUSE
NEAR MUBARAK MANZIL
KAUP POST, UDUPI DISTRICT – 576 101.
2. MANAGER
AI - ISHAN EDUCATION CENTRE
IHAN NAGAR
MULLOOR VILLAGE
UCHILA POST, KAUP TALUK
UDUPI DISTRICT – 576 101
3. THE NEW INDIA ASSURANCE CO LTD
UDUPI DIVISIONAL OFFICE
SRIRAM ARCADE,
OPP HEAD POST OFFICE
UDUPI DISTRICT – 576 101
REP BY ITS BRANCH MANAGER

...RESPONDENTS

(BY SRI. A. R. LAKSHMI NARAYAN, ADVOCATE FOR R3;
V/O DATED 24.11.2025, NOTICE TO R1 AND R2 IS
DISPENSED WITH)

THIS MFA FILED U/S 173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.22.04.2022 PASSED IN MVC
NO.591/2019 ON THE FILE OF THE SENIOR CIVIL JUDGE AND
ADDITIONAL MACT, KUNDAPURA, PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION BARRED BY TIME.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE MR. JUSTICE RAJESH RAI K



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE RAJESH RAI K)

Being dissatisfied with the compensation awarded in MVC.No.591/2019 dated 22.04.2022 passed by the Senior Civil Judge and Additional MACT at Kundapura (for short, 'the Tribunal'), the claimants are before this Court.

2. Factual matrix of the case is that, the deceased P.Muhammed Suhail met with a road traffic accident on 21.04.2019 and thereby sustained grievous injuries and thereafter succumbed to the injuries. Accordingly, the jurisdictional police registered a case against the driver of offending vehicle – Mahindra Bolero and subsequent to the investigation, chargesheet was laid against the driver of the said vehicle. Thereafter, legal representatives of the deceased P.Muhammed Suhail filed claim petition before the Tribunal seeking compensation for the accidental death of said P.Muhammed Suhail.



3. To prove the claim before the Tribunal, claimants examined five witnesses as PWs.1 to 5 and in total marked 51 documents as Ex.P1 to Ex.P51. However, the insurance company by contesting the petition examined no witnesses but produced Ex.R1 document.

4. On assessment of the oral and documentary evidence, the Tribunal partly allowed the claim petition and awarded compensation of Rs.34,22,000/- on the following heads, along with interest at the rate of 6% p.a., from the date of petition till the date of deposit:

Sl.No.	PARTICULARS	AMOUNT
1.	Towards loss of dependency (15,000+40%-1/4 th x12x17)	Rs. 32,13,000/-
2.	Loss of spousal consortium to petitioner No.1	Rs. 44,000/-
3.	Loss of parental consortium to petitioner No.2	Rs. 44,000/-
4.	Loss of filial consortium to petitioner Nos.3 and 4	Rs. 88,000/-
5.	Towards loss of estate	Rs. 16,500/-
6.	Towards funeral, obsequies expenses and transportation of dead body	Rs. 16,500/-
	TOTAL	Rs. 34,22,000/-

5. Challenging the same, the present *lis* is before this Court.



6. We have heard learned counsel Sri.Pavanachandra Shetty for appellants and learned counsel Sri.A.R.Lakshmi Narayan for respondent No.3/insurance company.

7. Apart from urging several contentions, learned counsel for the appellants primarily contended that the Tribunal grossly erred by not taking into consideration, the proper income of the deceased, despite placing sufficient documents to prove that the deceased was the Principal in AL-Ihsan Education Center apart from engaging in tuitions and thereby earning a salary of Rs.37,000/- per month. By placing reliance on Ex.P44 to P46, he submits that the employer of the deceased was examined before the Tribunal as PW4 who categorically deposed that the deceased was earning a salary of Rs.17,000/- p.m., apart from tuition fees. This aspect of the matter is not properly appreciated by the Tribunal, as such, on the head of loss of dependency, compensation awarded by the Tribunal is inadequate. Accordingly, he prays to allow the appeal.



8. *Per contra*, learned counsel Sri.A.R.Lakshmi Narayan for respondent-insurance company by supporting the impugned judgment contended that the Tribunal on meticulous examination of the entire evidence on record passed a well-reasoned judgment and award and granted adequate compensation. According to him, the claimants failed to produce the authenticated documents to substantiate that the deceased was working in the AL-Ihsan Education Center as Principal and he was drawing a salary of Rs.17,000/- per month and also failed to produce any documents to state that he was earning income from the tuition. He also submitted that PW4 in his cross-examination has stated that he has no authorization to depose evidence on behalf of the employer. In such circumstances, the Tribunal is justified in taking the income of the deceased at Rs.15,000/- p.m. Accordingly, he prays to dismiss the appeal.

9. We have given our anxious consideration on the submissions made by the learned counsel appearing for



the respective parties and also perused the entire documents placed before us including the impugned judgment and award.

10. As could be gathered from the records, the accident in question and the coverage of insurance policy to the offending vehicle are not in dispute. The only contention raised by the learned counsel for the appellants is that income of the deceased was not properly considered by the Tribunal. On perusal of the evidence of PW1 and PW2, i.e. the family members of the deceased, they have stated in their evidence that the deceased was working as Principal in the AL-Ihsan Education Center and was drawing salary of Rs.17,000/- p.m. They also stated that he was conducting tuitions and was earning Rs.8,000/- income per month.

11. Apart from the said evidence, the claimants also examined PW4 – one K.Mustafa Shaadhi who is the Manager of the AL-Ihsan Darga/Institution and placed



Ex.P44 to Ex.P46 i.e., Attendant Register, Salary Payment Register and Extra Tuition Fee Register respectively. The Tribunal has not considered the evidence of PW4 for the reason that he has not placed any authenticated documents to establish that he was the employer of the deceased and moreover, the name of the deceased in the staff salary book and attendant register is mentioned as Shahil Saadi instead of Muhammed Suhail.

12. Further, there is no appointment letter placed by the claimants to prove that the deceased was working in the said school. However, a careful examination of the evidence of PW4, Ex.P44 to Ex.P46 and the Staff Salary Book of the year 2018-19, depicts that all other employees were also drawing salary from the said institution like the deceased. The attendance register reveals that, along with deceased, others including PW4 were working in the said institution. In the cross-examination, this aspect of the matter was not seriously disputed by the insurance company. In such circumstances, though we are not



inclined to completely rely on those documents, nevertheless it could be presumed that the deceased was working in the said institution.

13. The salary payment register at Ex.P45 depicts that the deceased was drawing Rs.17,000/- salary as on the date of accident. As such, we are of the view that income of the deceased can be considered at Rs.17,000/- p.m., instead of Rs.15,000/-. The other contention and reliance placed by the claimants that the deceased was engaged in tuition and he was earning Rs.8,000/- p.m., as per Ex.P46 cannot be relied upon for the simple reason that the same is not an authentic document and there is no evidence available on record to prove Ex.P46.

14. The Tribunal is right in deducting $\frac{1}{4}^{\text{th}}$ of the assessed income towards personal expenses of the deceased and further it is justified in adding 40% of the assessed income towards future prospects and applying the multiplier of 17. In such circumstances, since we



quantify the income of the deceased at Rs.17,000/- instead of Rs.15,000/- p.m., loss of dependency has to be calculated as under:

$$\text{Rs.17,000} + 40\% - 1/4^{\text{th}} \times 12 \times 17 = 36,41,400/-.$$

15. With regard to the conventional heads, the Tribunal has rightly assessed the compensation under the heads 'funeral expenses' and 'Loss of estate' at Rs.16,500/- each, which requires no interference. The Tribunal is also right in awarding consortium of Rs.44,000/- to each of the claimants.

16. Thus, the claimants would be entitled for the following modified compensation:

Sl.No.	PARTICULARS	AMOUNT
1.	Loss of dependency	Rs. 36,41,400/-
2.	Loss of consortium (Rs.44,000 each)	Rs. 1,76,000/-
3.	Loss of estate	Rs. 16,500/-
4.	Funeral expenses and transportation of body	Rs. 16,500/-
	TOTAL	Rs. 38,50,400/-

17. Thus, the claimants would be entitled to a total compensation of Rs.38,50,400/- as against Rs.34,22,000/-



awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till date of realization.

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

ORDER

- a) Appeal is allowed in part.
- b) The impugned judgment and award of the Tribunal is modified holding that the claimants would be entitled to total compensation of Rs.38,50,400/- as against Rs.34,22,000/- awarded by the Tribunal.
- c) The entire compensation amount shall carry interest at the rate of 6% per annum from the date of petition till date of realization.
- d) The respondent-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 & disbursement shall be made as per the award of the Tribunal.



- 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/-
(RAJESH RAI K)
JUDGE

NC
CT: RK
List No.: 1 Sl No.: 31