



CNR: KAHC010065422022

NC: 2026:KHC:45424-DB
MFA No. 1052 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 1052 OF 2022 (MV-D)

BETWEEN:

1. MR. JEROME CUTINHA @
PETHAMUGERU JEROME CUTINHA,
S/O LATE JOSEPH CUTINHA,
AGED ABOUT 56 YEARS,
2. MRS. NORINE CRASTA
S/O LATE JOSEPH CUTINHA,
AGED ABOUT 50 YEARS,

BOTH ARE RESIDING AT
DOOR NO.1-48,
GREEN FIELDS PUNACHA,
PARIALTHADKA, VITTAL, PUNACHA,
BANTWAL-574 243.
PRESENTLY R/AT HOUSE NO.2-94,
PATRAO COMPOUND,
OPPOSITE DEREBAIL CHURCH,
KONCHADY, MANGALURU.

...APPELLANTS

(BY SRI. RAJESH.C.P., ADVOCATE FOR
SRI. S.LAKSHMINARAYANA., ADVOCATE)

AND:

1. MRS. SHARMILA SASHTI
W/O VIJAYA SASTHI,
AGED ABOUT 52 YEARS,



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R/AT, F-213,
INLAND EVERGLADES,
MARUTI LAYOUT,
DASARAHALLI MAIN ROAD,
KEMPAPURA POST,
BENGALURU NORTH-560 068.

2. THE ICICI LOMBARD GENERAL INSURANCE CO LTD
REPRESENTED BY ITS DIVISIONAL MANAGER,
2ND FLOOR, S.V.R.COMPLEX,
89, HOSUR MAIN ROAD,
1ST STAGE, KORAMANGALA, ZUZUVADI,
1ST STAGE, B.T.M.LAYOUT,
BENGALURU-560 068.

POLICY NO.3001/3069534/03/80063000/2302,
VALID FROM 01.06.2017 TO 31.05.2018.

SERVICE ADDRESS:

THE DIVISIONAL MANAGER,
ICICI LOMBARD GENERAL INSURANCE CO.LTD.,
2ND FLOOR, S.V.R.COMPLEX,
89 HOSUR MAIN ROAD,
1ST STAGE, KORAMANGALA,
ZUZUVADI, 1ST STAGE,
B.T.M.LAYOUT, BENGALURU-560 068.

...RESPONDENTS

(BY SRI. B.PRADEEP., ADVOCATE FOR R2;
R1-SERVED)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 16.01.2020 PASSED IN MVC
NO.980/2018 ON THE FILE OF THE I ADDITIONAL DISTRICT
JUDGE AND II ADDITIONAL MACT, MANGALURU, D.K., PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.



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THIS APPEAL, COMING ON FOR ADMISSION, 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 16.01.2020, in MVC No.980/2018, passed by the 1st Additional District Judge & II Additional MACT, Mangaluru, D.K., (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded global compensation to the appellants/petitioners in a sum of Rs.5,00,000/-, along with interest at 6% per annum from the date of the petition till its realisation.

2. Although the respondent no.1 was served, none has appeared on behalf of respondent No.1. Accordingly, she is proceeded with *ex-parte*.



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3. The challenge in the present appeal is by the appellants/petitioners. With the consent of parties, the matter is taken up for hearing and final disposal at the admission stage itself.

4. Briefly, the facts of the case are that on 25.03.2018, when one Ms.Nikita Cutinha was standing near her house, at about 10.45 a.m., a car bearing registration No.KA-53/P-1999 being driven in a high speed, hit Ms.Cutinha. As a result of the accident, she sustained grievous injuries, became unconscious and had to be shifted to AJ Hospital in Mangaluru, where she was treated as an inpatient from 25.03.2018 to 09.04.2018. During the treatment, she underwent various surgeries, but despite the treatment succumbed to her injuries on 09.04.2018.

5. A claim petition under Section 166 of the Motor Vehicles Act (hereinafter referred to as the 'MV Act') was filed by the parents of the deceased. The respondent No.1 although served before the Trial Court, failed to appear



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and was proceeded with ex-parte. The respondent No.2/ insurance company filed its written statement denying the averments made in the claim petition and its liability to make any payment.

6. On the basis of pleadings filed by the appellants/petitioners, the learned Tribunal framed the following issues:

"1. Whether the petitioners prove that on 25.03.2018 at about 10.45 a.m., while the deceased Miss. Nikitha Cutinha D/o. Mr.Jerome Cutinha at Pethaugeru Jerome Cutinha was standing near to her house opposite to Derebail Church of Konchady Village, of Mangaluru City, a Car bearing Reg. No.KA-53/P-1999 came with high speed in a rash and negligent manner and dashed against the deceased and caused accident in which the deceased sustained greivous injuries and succumbed to the accidental injuries, due to the actionable negligence of the driver of the said Car?

2. Whether the respondents prove that they are not liable to pay compensation?

3. Whether the petitioners are entitled for compensation? If so, what quantum and from whom?

4. What order or award?"



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7. The mother of the deceased, petitioner No.2 was examined as PW1 and an eye-witness as PW2. Mr.Anil Pathrao who is the neighbor of the deceased was examined as PW3 for having conducted the cremation. While PW4 was a representative of the Aloysius college where the deceased was studying. The respondent No.2 / Insurance company did not examine any persons on their behalf. However, they produced the insurance policy as Exhibit R1.

7.1. Thirty-four documents were filed by the petitioners, which included FIR (Exhibit-P1), P.M.Report (Exhibit-P4), MVA Report (Exhibit-P5), spot sketch (Exhibit-P6), rough sketch (Exhibit-P7), inquest report (Exhibit-P8), police intimation (Exhibit-P9), and charge-sheet (Exhibit-P13). In addition, documents in relation to the birth (Exhibit-P14) and the death certificate (Exhibit-P15) and educational qualification (Exhibits P18 & P19) of the deceased were also filed along with documents relating to



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the payment of college fees of the deceased (Exhibit-P20). The medical documents were also placed on record by the appellants/petitioners.

8. The learned Tribunal examined the evidence placed before it and found that the negligence of the offending vehicle is proved. The learned Tribunal further found that various amounts had been expended in respect of the funeral and other expenses of the deceased. Regarding medical expenses, after examining the documents placed before it, the learned Tribunal held that although the appellants/petitioners claimed at Rs.4,23,263/- towards medical expenses in a sum of Rs.2,58,097/- has already been paid by the health insurers and only the balance remains. The learned Tribunal further held that the father of the deceased had incurred amounts towards traveling from Saudi Arabia, but had not produced any documents to show the conveyance charges. Thus, they were not entitled to the same either. Accordingly, the learned Tribunal awarded a global compensation in the sum of



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Rs.5,00,000/- to the appellants/petitioners, with interest at 6% per annum, from the date of petition till the date of deposit.

9. As stated above, the challenge in the present appeal is by the appellants/petitioners. The learned counsel for the appellants submits that in view of the law as settled by the Supreme Court, global compensation could not have been awarded. Reliance in this behalf is placed on the judgments of ***Baby Sakshi Greola vs. Manzoor Ahmad Simon¹*** and in the case of ***Devendar Kumar Tripathi and Others vs. The Oriental Insurance Company Limited And Others²*** to submit that in cases of death of a minor child, it is now settled law in this behalf that in case of a death or an injury of a minor child, the minimum wages of a skilled worker, which is equivalent to the Notional Income Chart is to be taken for calculation of loss of dependency. The learned counsel for the appellants

¹ 2024 SCC Online SC 3692

² 2025 SCC Online SC 2800



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further submits that the amounts under non-pecuniary heads and also under medical expenses ought to have been awarded by the learned Tribunal.

10. The learned counsel for the respondent/Insurance company on the other hand fairly submitting that in terms of the settled law in the case of a death of a minor child, the notional income would be awarded along with loss of future prospects, as well as conventional heads. However, he submits that the amounts that are payable for medical expenses have been examined and it is found that Rs.2,58,097/- has already been paid, and thus an amount of Rs.1,65,166/- is to be awarded.

10.1 In the rejoinder, the learned counsel for the appellant affirms this calculation *qua* medical expenses to be awarded.

11. The law on compensation to be awarded in the case of the death of a minor child is no longer *res-integra*. The law as settled by the Supreme Court is that in the case of



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a death or injury of a minor child, the Minimum Wages of the Skilled Worker are to be awarded. The Supreme Court in ***Master Ayush vs. Branch Manager, Reliance General Insurance Company Ltd. & Another***³ while discussing entitlement of the compensation in the case of a minor child held that minimum wages in the State where the accident occurred of a skilled worker as of the date of the accident and that compensation would be assessed thereon on the assumption that the Appellant would have been able to earn after attaining maturity. The relevant extract is set out below:

"10. Hence, as per the above extract, the minimum wages payable to a skilled workman in 2010-11 is to the tune of Rs 3708.70. In this view, the minimum wages as on the date of accident is rounded off to Rs 3700. The compensation, therefore, is to be assessed on the basis of the said minimum wages on the assumption that the appellant would have been able to earn after attaining majority."

[Emphasis Supplied]

12. A similar view was taken by the Supreme Court in ***Minor Roopa D/o Basappa vs. Divisional Manager,***

³ (2022) 7 SCC 738



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New India Assurance Company Limited⁴ where the injured was a minor girl who suffered permanent physical impairment. The Court while relying on the **Master Ayush** case determined compensation on the basis of minimum wages of a skilled worker in the following terms:

"4. The learned counsel for the appellant has produced the photographs of the appellant which shows the extent of loss of limb and the consequent psychological, emotional and physical pain which the appellant would suffer for rest of her life. In fact, the other leg may not be able to support the appellant, when she grows. This Court in *Ayush [Ayush v. Reliance General Insurance Co. Ltd., (2022) 7 SCC 738 : (2022) 4 SCC (Civ) 175 : (2022) 3 SCC (Cri) 269]* was considering a case of an accident of 5-year-old child wherein this Court determined compensation on account of loss of future earnings on the basis of minimum wages due to permanent disability for life, loss of future prospects, medical expenses and pain and suffering."

5. The minimum wages in the State of Karnataka on the date of accident were Rs 4320 per month as per Notification No. KAE 79 LMW 2005 dated 17-3-2006, published in the Gazette dated 19-2-2007. The wages as per the notification are as under:

"Minimum Wages and VDA from 1-4-2012 to 31-3-2013

SCHEDULE

Sl.No.	Class of Employment	Minimum rates of wages payable for different zones		
		Basic	VDA	Total
1	2	3	4	5
1.	Highly skilled	2691.80	1728.90	4420.70
2.	Skilled	2591.80	1728.90	4320.70

⁴ (2024) 12 SCC 2019



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3.	Semi-skilled	2041.80	1728.90	3770.70
4.	Unskilled	1891.80	1728.90	3620.70

6. The future prospectus **would be 40% in view of National Insurance Co. Ltd. vs. Pranay Sethi [National Insurance Co. Ltd. vs. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205]**. Thus, the compensation works out to be Rs 4320 plus 40%, amounting to Rs 6048 per month. The appellant will not be able to use any artificial limb and would always have to depend for her daily chores and as she grows, she would suffer more physical and emotional distress. She would always require assistance of another person and frequent use of hired means of transport. In view of the said fact, we award compensation as follows:

	Head	Amount
A	Loss of future earnings due to the permanent disability for life $(4320 + 1728 = 6048) \times 12 \times 18$	Rs.13,60,368
B	Medical Expenses including future expenses	Rs.5,00,000
C	Pain, suffering and loss of amenities	Rs.5,00,000
D	Loss of marriage prospects	Rs.10,00,000
E	One attendant charges $(4624 \times 12 \times 18) = 9,98,784$	Rs.10,00,000
F	Conveyance charges (as she has to move in a hired conveyance)	Rs.10,00,000
	Total	Rs.53,06,368
	Rounded off	Rs.53,07,000

[Emphasis Supplied]

13. The Supreme Court in the case of **Hitesh Nagjibhai Patel vs Bababhai Nagjibhai Rabari**⁵ has held in cases involving a minor child who suffers death or permanent disability in a motor vehicle accident, the child cannot be

⁵ 2025 SCC Online 3446



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treated as a non-earning individual merely because he or she was not engaged in gainful employment. The computation of compensation under the head of loss of income must be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the concerned State. The relevant extract of the ***Hitesh Nagji*** case is set below:

"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. **It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman** as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in *Kajal v. Jagdish Chand and Ors.*, and *Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr.*

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15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case



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involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matrix of minimum wages payable to a skilled worker in the respective State at the relevant point of time.

It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law."

[Emphasis Supplied]

14. In view of the settled law, the calculation of income in relation to the minor would be done in the following manner. Since the accident occurred was in the year 2018, the notional income should be taken at Rs.12,500/- per month. The age of the deceased was 16 years and future prospects would have been taken at 40%. Since the minor was survived by her parents, the loss of 50% of the amounts would be deducted towards personal expenses and the multiplier of 18 would be requisite to calculate loss of dependency in the following manner:

$$\begin{aligned} & (\text{Rs.12,500} + 40\%) = 17,500 - \text{Rs.8,750 (50\%)} \\ & = \text{Rs.8,750} \times 12 \times 18 = \text{Rs.18,90,000/-} \end{aligned}$$

15. Further, in view of the law laid down by the Supreme Court in the ***Pranay Sethi*** case, loss of consortium is



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payable at Rs.40,000/- to two petitioners/appellants, amounting to **Rs.80,000/-** with escalation of 20%. The appellants/petitioners are also entitled to compensation under the conventional heads. Accordingly, **loss of estate** and **funeral expenses** are awarded at Rs.15,000/- each with escalation of 20%. Further, the agreed for balance medical expenses to be paid is Rs.1,65, 166/-.

16. In view of the foregoing discussions, the compensation awarded by the learned Tribunal requires to be recalculated in the following terms:

Sl.No.	Particulars	Amount (Rs.)
1	Loss of Dependency (Rs.12,500 + 40%) - 50% = 17,500- 8,750 = Rs.8,750 x 12 x 18	18,90,000/-
2	Loss of Consortium (Rs.40,000 x 2) +20%	96,000/-
3	Loss of Estate (Rs.15,000 + 20%)	18,000/-
4	Funeral Expenses (Rs.15,000 + 20%)	18,000/-
5	Medical Expenses	1,65, 166/-
	Total	21,87,166/-
	Less : Awarded by the Tribunal	5,00,000/-
	Enhanced Compensation	16,87,166/-



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17. On the aspect of the interest to be awarded by the Tribunal, one of us, Justice Tara Vitasta Ganju, has in a recent judgment captioned ***United India Insurance Co. Ltd. vs. Sri. Malyadri. M And Others***⁶, after analyzing the precedents of the Supreme Court and this Court, has found that an award of 9% interest is in accordance with the settled provisions in the present-day scenario, especially in cases of death and permanent disability. It was held that the award of 9% interest has been regularly upheld by the Supreme Court. It is apposite to extract the relevant portion of the judgment below:

*"24. Thus, an analysis of the precedents shows that the award of interest **over the last 5-10 years has infact consistently been awarded @ 9% p.a. or upholding such an award.***

xxx

xxx

xxx

*29. An analysis of the foregoing discussions of the Supreme Court, **reflects that the Supreme Court has consistently held that the award of interest is intended to recompensate the claimant for being deprived of the use of money, which ought to have been paid at the time of occurrence of the accident.** The rate of interest, therefore, must be just, fair and reasonable, having regard to the prevailing economic conditions and bank rates.*

⁶ 2026 SCC Online Kar 4090



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29.1. The award of interest is usually determined at the prevailing bank rate of interest on a case-to-case basis and at the rate which is just and fair and reasonable.

29.2 There cannot be any 'straitjacket formula' in determining the rate of interest and that the same must depend on the facts and circumstances of each case. The guiding principle remains that the rate must neither be punitive nor non-existent but must strike a balance between fairness to the claimant and reasonableness to the insurer.

29.3 The rate of interest 9% is more appropriate in case involving death and serious injury especially, where there is a long delay in the claimants receiving the compensation.

30. In the present case, the accident occurred in the year 2016 leading to the death of the wife of respondent No.1 and mother of respondent Nos.2 and 3. The award came to be passed in the year 2018. The learned Tribunal has deemed it apposite to award interest on the compensation @ 9% per annum. The award of interest is not punitive as is fair considering the prevailing economic condition and bank rates. In addition, it is now 10 years since the date of the accident."

[Emphasis Supplied]

17.1 In the present case, the claim petition has been filed by the parents of the deceased, who lost their 16 years old minor daughter, who was a meritorious student and taking tuitions to support her family. Given the circumstances of this case, this Court deems it apposite to enhance the



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interest awarded by the learned Tribunal from 6% to 8% on the compensation awarded.

18. Accordingly, the appellants/petitioners are entitled to total compensation of **Rs.21,87,166/-** along with interest at the rate of 8% per annum as awarded by the learned Tribunal from the date of petition till the date of realization.

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

ORDER

(i) The appeal is ***allowed in part;***

(ii) The Judgment and Award dated 16.01.2020, in MVC No.980/2018, passed by the I Additional District Judge and II Additional MACT, Mangaluru D.K., is modified, enhancing the compensation to **Rs.21,87,166/-** along with interest at the rate of 8% per annum as awarded by the learned Tribunal from the date of petition till realization;



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(iii) The remaining portion of the Impugned Award of the Tribunal remains undisturbed;

(iv) The respondent No.2/Insurance company is directed to pay the enhanced compensation with interest as awarded by the Tribunal within eight weeks from today; after deducting the amount already paid to the appellants/petitioners;

(v) On such deposit of compensation, the same shall be released in favour of the appellants/petitioners, after deducting the amount already paid to the appellants/petitioners, on filing of an appropriate application for withdrawal of the enhanced amount;

(vi) The Registry is directed to draw the modified Award accordingly;

(vii) The Registry is directed to transmit a copy of this judgment to the concerned Tribunal, along



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with its records, and the amounts in deposit if any,
by the Insurance Company;

(viii) All pending application(s) stand disposed of;

(ix) No order as to costs.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

JJ
List No.: 1 Sl No.: 3