



CNR: KAHC010554982019

NC: 2026:KHC:44399
MFA No. 130 of 2020
C/W MFA No. 3154 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO. 130 OF 2020 (MV-I)

C/W

MISCELLANEOUS FIRST APPEAL NO.3154 OF 2020(MV-D)

IN MFA No. 130/2020

BETWEEN:

THE NEW INDIA ASSURANCE COMPANY LTD.,
R/O NO.9, 2ND FLOOR,
MAHALAKSHMI CHAMBER,
M.G.ROAD, BANGALORE-560 001,
REP. BY ITS REGIONAL MANAGER

...APPELLANT

(BY SRI. SHANKARA REDDY C, ADVOCATE)

AND:

1. SRI KRISHNAPPA T
S/O THIMMEGOWDA,
AGED ABOUT 31 YEARS,
R/AT NO.20/3, 7TH A CROSS,
TIGALARA PALYA MAIN ROAD,
NEAR K.G.VIDYA MANDIR,
BALAJI NAGAR,
BANGALORE NORTH-560 058
2. SMT. VIMALA
W/O VENKATESH,
D/O THIMMEGOWDA,
AGED ABOUT 35 YEARS,
R/AT NO.E-138, NEAR GANESHA TEMPLE,
HEGGANAHALLI CROSS, VISHWANEEDAM POST,
BANGALORE NORTH-560 091

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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3. SMT. KANTHAMMA
W/O SHIVASHANKAR,
D/O THIMMEGOWDA,
AGED ABOUT 33 YEARS,
R/AT NO.156, 6TH CROSS,
NEAR SHANIMAHATMA TEMPLE,
MARUTHINAGAR, HEGGANAHALLI,
BANGALORE NORTH-560 091
4. SRI. BETTASWAMY
S/O THIMMEGOWDA,
AGED ABOUT 29 YEARS,
R/AT TIPPUR VILLAGE,
YEDIYUR HOBLI,
KUNIGAL TALUK,
TUMKUR DISTRICT
5. SRI. THIMMEGOWDA
S/O THIMMARAYI GOWDA,
AGED ABOUT 61 YERS,
R/AT TIPPUR VILLAGE,
YEDIYUR HOBLI,
KUNIGAL TALUK,
TUMKUR DISTRICT
6. SRI. A SELVARAJU
S/O ANGAMUTTU,
AGED ABOUT 52 YEARS,
R/AT NO.42/25-A,
GANDHINAGAR, ATTUR POST,
ATTUR TALUK, SALEM DISTRICT,
TAMIL NADU

...RESPONDENTS

(BY SRI. K.T GURUDEVA PRASAD, ADVOCATE FOR R1 TO R5,
R6 - SERVED, UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 15.10.2019 PASSED IN MVC
NO. 5250/2018 ON THE FILE OF THE I ADDITIONAL SMALL
CAUSES JUDGE AND MACT, BENGALURU (SCCH-11), AWARDING



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COMPENSATION OF RS.10,58,672/- WIDTH INTEREST AT 9 PERCENT P.A FORM THE DATE OF PETITION TILL THE DATE OF REALIZATION.

IN MFA NO. 3154/2020

BETWEEN:

1. MRS KRISHNAPPA T
W/O THIMMEGOWDA
AGED ABOUT 32 YEARS,

R/AT NO.23/1
7TH A CROSS,
TIGALARA PALYA MAIN ROAD
NEAR K.G VIDYA MANDIR
BALAJINAGAR
BENGALURU NORTH-560 058
2. VIMALA
W/O VENKATESH
D/O THIMMEGOWDA
AGED ABOUT 36 YEARS
R/AT E-138
NEAR GANESHA TEMPLE,
HEGGANAHALLI CROSS,
VISHWANEEDAM POST
BENGALURU NORTH-560 091
3. KANTHAMMA
W/O SHIVASHANKAR
D/O THIMMEGOWDA
AGED ABOUT 34 YEARS
R/AT NO.156, 6TH CROSS,
NEAR SHANIMAHATMA TEMPLE,
MARUTHINAGAR,
HEGGANAHALLI CROSS,
BENGALURU NORTH-560 091
4. BETTASWAMY
S/O THIMMEGOWDA
AGED ABOUT 30 YEARS,



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5. THIMMEGOWDA
S/O THIMMEGOWDA
AGED ABOUT 62 YEARS

APPELANT NOS.4 AND 5 ARE
R/AT TIPTUR VILLAGE
YEDIYUR HOBLI,
KUNIGAL TALUK
TUMKUR DIST-581106

...APPELLANTS

(BY SRI. GURUDEV PRASAD K.T, ADVOCATE)

AND:

1. MR A SELVARAJU
S/O ANGAMUTTU
AGED ABOUT 53 YEARS,
R/AT NO.42/25-A
GANDHINAGAR, ATTUR POST,
ATTUR TALUK, SALEM DISTRICT
TAMILNADU, PIN-636 102

2. THE NEW INDIA ASSURANCE COMPANY LTD.,
REGIONAL OFFICE,
NO.9, 2ND FLOOR,
MAHALAKHSMI CHAMBERS,
M.G ROAD, BENGALURU-560 001
REP. BY ITS MANAGER

...RESPONDENTS

(BY SRI. C. SHANKARA REDDY, ADVOCATE FOR R2,
R1 - SERVED, UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST
THE JUDGMENT AND AWARD DT.15.10.2019 PASSED IN
MVC NO.5250/2018 ON THE FILE OF THE I ADDITIONAL
SMALL CAUSES JUDGE, MACT, BENGALURU, (SCCH-11),
PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.



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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

These two appeals are directed against the judgment and award passed in MVC No.5250/2018 dated 15.10.2019 by the Motor Accident Claims Tribunal, Bengaluru (SCCH-11), (for short, 'the Tribunal'), whereby the Tribunal partly allowed the claim petition filed by the claimants and awarded compensation of Rs.10,58,672/- with 9% interest.

2. The brief facts which are necessary for disposal of these appeals are, on 30.07.2017 at about 11:00 p.m., after drilling bore-well in the agricultural land of Jayamma (deceased in this case), the operator/driver of the bore-well lorry bearing registration No.TN-77-D-1414, all of a sudden moved the said vehicle in a negligent manner and dashed against Jayamma. Thereby, she sustained injuries on chest and head so also other parts of the body. Immediately, she was shifted to Adichunchanagiri Hospital, Bellur for treatment. However, during the course of treatment, she succumbed to the injuries. Thereafter, the legal representatives of deceased-Jayamma



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filed a claim petition claiming compensation for her accidental death.

3. The Tribunal, upon assessment of oral and documentary evidence partly allowed the claim petition and awarded the compensation as stated supra. The said judgment is challenged by the Insurance Company in MFA No.130/2020, whereas the claimants in MFA No.3154/2020.

4. Heard the learned counsel for the respective parties.

5. Apart from reaching several contentions, learned counsel for the Insurance Company in MFA No.130/2020 primarily contented that the Tribunal has grossly erred while saddling the entire negligence on the driver of the bore-well lorry bearing registration No.TN-77-D-1414. According to him, the deceased-Jayamma also contributed equal negligence for the accident, as she without observing the movement of the lorry, suddenly passed in front of the lorry, as such the accident caused. She also contended that the Tribunal, failed to appreciate the evidence of RWs.1 and 2. Both these witnesses



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have categorically deposed before the Tribunal about the negligence of the deceased. Notwithstanding the said contention, he also contended that the Tribunal has erred in awarding exorbitant compensation to the claimants. With these submissions, he prays to allow the appeal filed by the Insurance Company by dismissing the appeal by the claimants.

6. *Per contra*, learned counsel for the claimants contended that the Tribunal, upon meticulous examination of the evidence on record, rightly saddled the entire negligence on the driver of the bore-well lorry. According to him, the driver of the lorry, after drilling bore-well, moved the lorry all of a sudden without observing the movement of the deceased in the field, as such, the accident caused. He further contented that though a charge sheet has been filed against the owner of the lorry by arraying him as accused No.2 under Section 32 of the Karnataka Ground Water (Regulation and Control of Development and Management) Act, 2011 (for short 'the Act, 2011), the same is nothing to do with negligence on the part of the deceased. He further contented that RWs.1 and 2 are not an eyewitnesses to the incident. He also contented that the



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Tribunal is not justified in awarding meagre compensation without considering the proper income and appropriate multiplier and deduction. The Tribunal also erred in awarding proper compensation on the heads of consortium and loss of estate. Accordingly, he prays to enhance the compensation by allowing the appeal and to dismiss the appeal filed by the Insurance Company.

7. I have given my anxious consideration to the submission made by learned counsel for the respective parties and perused the impugned judgment and award so also the other documents made available before this Court.

8. As could be gathered from records, the occurrence of accident dated 30.07.2017 in the land of Thimmegowda and the death of deceased-Jayamma in the said accident are not in dispute. Further, it is also not in dispute that the bore-well lorry bearing registration No.TN-77-D-1414 is covered with the valid insurance policy of respondent No.2 before the Tribunal. So far as the contention raised by the learned counsel for the Insurance Company about the contribution of negligence by the deceased-Jayamma for the accident is concerned, after the



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accident, the jurisdictional Police registered FIR against the driver of the bore-well lorry based on the complaint lodged by the son of deceased-Jayamma. Subsequently, the said jurisdictional Police investigated the case and laid charge sheet against the driver of the lorry for the offence punishable under Section 304A of IPC and against the owner of the said lorry for the offence punishable under and Section 32A of Act, 2011, for not obtaining permission to drill the bore-well in the field as per 7A from the office of Karnataka Ground Water Authority. In the charge sheet, it is specifically stated by the Police that the accident was caused solely due to the negligent driving of the driver of the offending lorry. To discard the said investigation documents and evidence of PWs.1 and 2, the Insurance Company has not placed any contrary evidence. Moreover, mere filing of charge sheet against the owner of the bore-well under the Act, 2011, itself cannot be a ground to attribute negligence against the deceased. In such circumstances, I am of the considered view that the Tribunal is justified in saddling the entire negligence on the part of the driver of the offending lorry.



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9. As far as the compensation is concerned, in order to arrive at the loss of dependency, the Tribunal has determined the monthly income, notionally at Rs.8,500/-. As there is no credible evidence to ascertain the actual monthly income, it would be appropriate and prudent to adopt the monthly income determined by Karnataka State Legal Services Authority, which, for the accident of the year 2017, would be Rs.11,000/-.

10. Since claimant Nos.1, 4 and 5 are the two sons and husband of the deceased, while claimant Nos.2 and 3 are her married daughters residing in their respective matrimonial homes, they cannot be considered as dependants of the deceased. Therefore, claimant Nos.1, 4 and 5 are to be considered as dependants. As the deceased was aged 50 years, a multiplier of '13' would have to be applied and as she was self-employed, 25% requires to be added to her monthly income towards future prospects and 1/3rd has to be deducted towards personal expenses. Thus, the claimants would be entitled to a sum of **Rs.14,30,000/-** (11,000 + 25% X 12 X 13 X 2/3) towards "loss of dependency".



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11. The claimants, being the sons, daughters and husband of the deceased, they would each be entitled to a sum of **Rs.48,400/-** towards "*loss of consortium*" i.e., in all **Rs.2,42,000/-** (48,400 x 5) and they would also be entitled to a sum of **Rs.36,300/-** under the "*conventional heads*".

12. Thus, the claimants, in modification of the impugned award, would be entitled to the following sums:

Sl. No.	Particulars	Amount (In Rs.)
1.	Towards loss of dependency	14,30,000
2.	Towards loss of consortium	2,42,000
3.	Towards loss of estate	36,300
	Total	17,08,300

13. Thus, the claimants would be entitled for total compensation of **Rs.17,08,300/-** as against Rs.10,58,672/-. However, in view of the judgment of the Division Bench of this Court in the case of ***Ms. Joyeeta Bose and others vs. Venkateshan V., and others*** in ***M.F.A.No.5896/2018***, the Tribunal ought to have awarded the 6% interest instead of 9%. Accordingly, the interest awarded by the Tribunal is modified and the claimant is entitled for 6% interest for the compensation amount.



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14. The Insurance Company is directed to deposit the amount of compensation awarded within six weeks from the date of receipt of a certified copy of this judgment.

15. The appeal filed by the claimant as well as the Insurance Company are accordingly ***allowed in part.***

The amount in deposit, if any, shall be transmitted to the Tribunal.

The apportionment of compensation amount shall be in terms of the award of the Tribunal.

Pending I.As., if any, stand disposed of.

**SD/-
(RAJESH RAI K)
JUDGE**

HKV
List No.: 1 Sl No.: 1