



CNR: KAHC010074042022

NC: 2026:KHC:37277-DB
M.F.A. No.1253/2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.1253/2022 (MV-D)

BETWEEN:

1. RAJITHA PRAKASH
W/O PRAKASH .H
AGED ABOUT 45 YEARS
R/AT DOOR NO.8-3-203/11
G T ROAD, KUDROLI, KODIABAIL
MANGALORE-575003.
2. KSHAMA .P
D/O PRAKASH .H
AGED ABOUT 23 YEARS
R/AT DOOR NO.8-3-203/11
G T ROAD, KUDROLI, KODIABAIL
MANGALORE-575003.
3. SNEHA .P
D/O PRAKASH .H
AGED ABOUT 17 YEARS
(MINOR REP. BY NATURAL GUARDIAN
MOTHER RAJITHA PRAKASH)
RESIDING AT DOOR NO.8-3-203/11
G T ROAD, KUDROLI, KODIABAIL
MANGALORE-575003.
4. SHANTHA
W/O LATE RAMESH ACHARYA
AGED ABOUT 74 YEARS
RESIDING AT DOOR NO.1-23-1873

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA



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URVA, MARIGUDI, DEREBAIL
MANGALORE-575006.

...APPELLANTS

(BY SRI. RANJAN KUMAR K, ADV.,)

AND:

1. MR. ARAVINDA DEVADIGA
S/O SHANKARA DEVADIGA
R/O DOOR NO.4-115
PADUMANE, NEAR BAPPANADU TEMPLE
BAPPANADU VILLAGE
MULKY, MANGALORE
D K DISTRICT-575003.

2. THE UNITED INDIA INSURANCE CO. LTD
DIVISIONAL OFFICE
RAMBHAVAN COMPLEX
KODIAIBAIL, MANGALORE-575003.

...RESPONDENTS

(BY SRI. A.N. KRISHNA SWAMY, ADV., FOR R2
NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO
CALL FOR THE RECORDS IN MVC NO.180/2019 ON THE FILE OF
IV ADDITIONAL DISTRICT JUDGE AND MEMBER, MACT,
DAKSHINA KANNADA AT MANGALORE. MODIFY THE ORDER
DATED 11.02.2021 IN MVC NO.180/2019 PASSED BY THE
ADDITIONAL DISTRICT JUDGE AND MEMBER, MACT,
DAKSHINA KANNADA AT MANGALORE AND ALLOW THE CLAIM
PETITION AS PRAYED & ETC.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL



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ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This appeal is by the claimants challenging the judgment and award dated 11.02.2021 passed in M.V.C.No.180/2019 by the Motor Accident Claims Tribunal and II Additional Senior Civil Judge, Mangaluru, D.K.District (for short, 'the Tribunal').

2. Though this appeal is listed for admission, with the consent of learned counsel for the parties, it is taken up for final disposal.

3. The brief facts leading to filing of this appeal are that the wife, children and mother of the deceased Prakash H. filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking for compensation for the death of Prakash H. in a road accident dated 16.04.2018. It was averred that the deceased was aged about 50 years, he was a real estate agent as well as a miniature



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model maker and used to earn more than Rs.20,000/- p.m. The claim petition was opposed by the respondent-Insurance Company by denying the income, vocation and negligence. The Tribunal framed the issues. The parties led the evidence. The claimant No.1 examined herself as PW-1 and 2 witnesses as PW-2 and PW-3 and got marked Exs.P1 to P17. The respondents did not adduce oral evidence but with consent, got marked Ex.R1. The Tribunal, on appreciation of the evidence, assessed the income of the deceased at Rs.9,000/- p.m., deducted 1/3rd towards the personal and living expenses of the deceased and awarded total compensation of Rs.10,66,981/- with interest @ 6% p.a. from the date of petition till the date of its realisation. Being aggrieved, the claimants are in appeal seeking for higher compensation.

4. Sri.Ranjan Kumar K., learned counsel appearing for the appellants-claimants submits that the Tribunal has committed a grave error in assessing the income of the



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deceased at Rs.9,000/- p.m. It is submitted that the Tribunal has further erred in deducting $1/3^{\text{rd}}$ towards the personal and living expenses of the deceased which should have been $1/4^{\text{th}}$ as there are 4 claimants. It is further submitted that the award of compensation on all the other heads is on the lower side. Hence, he seeks to allow the appeal by enhancing the compensation appropriately.

5. *Per contra*, Sri.A.N.Krishna Swamy, learned counsel appearing for the Insurance Company supports the impugned order of the Tribunal and submits that the claimants have failed to produce any proof before the Tribunal with regard to the income of the deceased. Hence, the Tribunal has rightly assessed the income at Rs.9,000/- p.m. It is submitted that the Tribunal, taking note of the fact that the claimant No.2 is aged about 21 years, has considered the other claimants as dependants and deducted $1/3^{\text{rd}}$ towards the personal and living expenses of the deceased which also does not call for any



interference. It is further submitted that the award of compensation by the Tribunal is just and proper and there is no scope for enhancement. Hence, he seeks to dismiss the appeal.

6. We have heard the arguments of the learned counsel for the appellants, the learned counsel for the respondent No.2 and meticulously perused the material available on record.

7. The point that arises for consideration in this appeal is:

"Whether the judgment and award of the Tribunal calls for any interference?"

8. The above point is answered in the affirmative or the following reasons:

(a) The appellants-claimants as well as the respondent No.2-Insurance Company do not dispute that one Sri.Prakash H. met with a road accident on



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16.04.2018 and the accident was caused due to the actionable negligence on the part of the driver of the vehicle insured with the respondent No.2. It is to be noticed that the deceased was aged about 50 years at the time of accident and it was claimed that he was real estate agent as well as a miniature model maker and used to earn Rs.20,000/- p.m. However, no cogent or acceptable evidence was placed before the Tribunal and the Tribunal assessed the income of the deceased Rs.9000/- p.m. It is required to be noticed that the accident is of the year 2018 and hence, it would be appropriate to re-assess the income of the deceased at Rs.12,500/- p.m., placing reliance on the notional income chart prepared by the Karnataka State Legal Services Authority. Admittedly, the deceased was aged 50 years. Hence, there should be an addition of 10% to the assessed income on account of loss of future prospects and the appropriate multiplier would be 13. The claimants are the wife and 2 daughters. Claimant No.3 is a minor, claimant No.2 is a student pursuing her



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education and claimant No.4 is the mother of the deceased. Therefore, the appropriate deduction would be $1/4^{\text{th}}$ as against $1/3^{\text{rd}}$ assessed by the Tribunal towards the personal and living expenses of the deceased. Hence, the compensation under the head of loss of dependency is re-assessed as under:

$$(12,500+10\%) \times 12 \times 13 - 1/4 = \text{Rs.}16,08,750/-$$

(b) The claimants being the wife, children and mother of the deceased, each one would be entitled to Rs.44,000/- towards loss of consortium, which includes 10% escalation. Similarly, the compensation towards transportation of dead body and funeral expenses and towards loss of estate would be at Rs.16,500/- each which includes 10% escalation. The Tribunal, taking note of the medical expenses incurred by the claimants, has awarded Rs.40,981/- under the said head. The same is unaltered. Hence, the compensation is re-assessed as under:



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HEADS	AMOUNT (in Rs.)
Loss of dependency	16,08,750
Loss of consortium (44,000 x 4)	1,76,000
Transportation of dead body & funeral expenses	16,500
Loss of estate	16,500
Medical expenses	40,981
TOTAL	18,58,731

Thus, the appellants-claimants shall be entitled to the total compensation of **Rs.18,58,731/-** as against Rs.10,66,981/- awarded by the Tribunal.

9. Insofar as the interest on the enhanced compensation is concerned, the same is required to be awarded at 9% p.a. in view of the decision of this Court in case of ***SRI.BIMAL GOGAI AND ANOTHER Vs. THE MANAGING DIRECTOR, BMTC¹***.

10. In the result, this Court proceeds to pass the following:

¹ MFA.No.10401/2018 and connected matter dtd 09.06.2026



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ORDER

- a) The appeal is ***allowed-in-part***.
- b) The impugned judgment and award dated 11.02.2021 passed by the Tribunal in M.V.C.No.180/2019 is modified to an extent that the appellants-claimants would be entitled to total compensation of **Rs.18,58,731/-** as against Rs.10,66,981/- awarded by the Tribunal.
- c) The enhanced compensation shall carry interest at the rate of 9% p.a. from the date of petition till realisation.
- d) The respondent-Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of the certified copy of this judgment.



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e) The rest of the judgment and award of the Tribunal with respect to apportionment, deposit and release shall remain unaltered.

Draw the modified award accordingly.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

RV
List No.: 1 Sl No.: 12