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M.F.A. No.4190/2020
C/W M.F.A. No.1464/2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH 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.4190/2020 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.1464/2021 (MV-D)

IN M.F.A. No.4190/2020:

BETWEEN:

THE BRANCH MANAGER
NATIONAL INSURANCE COMPANY LTD.,
NITHYANANDA COMPLEX ,I FLOOR
NEAR BUS STAND, MOODABIDRI
LOCAL OFFICE 3RD FLOOR
BHARATH BUILDING, K S RAO ROAD
MANGALURU.

THROUGH ITS REGIONAL OFFICE
NATIONAL INSURANCE CO., LTD.,
NO.144, SUBHARAM COMPLEX
M.G. ROAD, BENGALURU 560001
REP. BY ITS ASST. MANAGER
SRI. G. SHIVAKUMAR.

...APPELLANT

(BY SRI. B.C. SEETHA RAMA RAO, ADV.,)

AND:

1. SMT. SHAKUNTHALA
AGED ABOUT 42 YEARS

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA



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W/O LATE NAVEEN.

2. MASTER THANVIK
AGED ABOUT 5 YEARS
S/O LATE NAVEEN
SINCE MINOR REP BY HIS MOTHER
AND NATURAL GUARDIAN I.E.,
I RESPONDENT HEREIN.

3. SMT. YAMUNA
AGED ABOUT 67 YEARS
W/O LATE GOPAL MESTRI.

RESPONDENTS 1 TO 3 ARE
RESIDING AT D NO 10-169
AYYAPPA PRASAD, PRANTHYA VILLAGE
KODANGALLU, MANGALURU.

PRESENTLY AT: MATHRU KRIPA
BEHIND NAMMA TV KULAL POST
MANGALURU 575019.

4. MR. M. MOHAMMED
AGED ABOUT 54 YEARS
S/O MR. YOUSUF
RESIDENT OF MANDADKA HOUSE
MOODABIDIRI POST AND VILLAGE
BELTHANGADY TALUK, (D K) 574214
OWER OF VEHICLE NO KA 19/C-4237.

...RESPONDENTS

(BY SRI. B.R. GURUPRASAD, ADV., FOR R1 TO R3
R2 MINOR REP. BY R1
NOTICE TO R4 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO
CALL FOR THE RECORDS CONNECTED WITH MVC NO.945/2018
ON THE FILE OF THE HON'BLE COURT OF I ADDITIONAL
SENIOR CIVIL JUDGE & CJM AND MACT, AT MANGALURU,
EXAMINE THE SAME AND MODIFY THE AWARD DATED



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24.07.2020 TO REDUCE THE COMPENSATION AMOUNT TO
JUST LEVEL IN THE INTEREST OF JUSTICE.

IN M.F.A. NO.1464/2021:

BETWEEN:

1. SMT. SHAKUNTHALA
W/O LATE NAVEEN
AGED 42 YEARS.
2. MASTER THANVIK
S/O LATE NAVEEN
AGED 5 YEARS.
3. SMT. YAMUNA
W/O LATE GOPALA MESTRI
AGED 67 YEARS.

THE APPELLANT NO.2 IS A MINOR
AND REP. BY HIS NATURAL GUARDIAN
MOTHER, THE APPELLANT NO.1 HEREIN.

ALL ARE R/AT. D.NO.10-169
AYYAPPA PRASAD
PRANTHYA VILLAGE, KODANGALLU
MANGALURU TQ.

PRESENTLY RESIDING AT
MATHRU KRIPA
BEHIND NAMMA T.V
KULAI POST, MANGALURU-575019.

...APPELLANTS

(BY SRI. B.R. GURUPRASAD, ADV.,)

AND:

1. NATIONAL INSURANCE COMPANY LTD.
LOCAL OFFICE, BHARATH BUILDING
3RD FLOOR, K S RAO ROAD



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MANGALORE-575002
REPRESENTED BY ITS MANAGER.

2. MR. M. MOHAMMED
S/O YUSUF
AGED 54 YEARS
R/O MANDADKA HOUSE
MOODUKODI POST AND VILLAGE
BELTHANGADY TQ, D.K.-574242.

...RESPONDENTS

(BY SRI. B.C. SEETHA RAMA RAO, ADV., FOR R1
R2 NOTICE IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 24.07.2020 IN MVC NO.945/2018 PASSED BY THE COURT OF THE I ADDL. SENIOR CIVIL JUDGE AND CJM AND MACT AT MANGALURU, D.K. AND ALLOW THIS APPEAL BY GRANTING THE COMPENSATION AS PRAYED FOR IN THE CLAIM PETITION IN THE INTEREST OF JUSTICE.

THESE APPEALS, 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

ORAL JUDGMENT

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

MFA.No.4190/2020 is filed by the National Insurance Company Ltd. and MFA.No.1464/2021 is filed by the claimants challenging the judgment and award dated 24.07.2020 in MVC.No.945/2018 by the I Additional Senior



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Civil Judge & CJM and MACT, Mangaluru (for short 'the Tribunal').

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

3. Sri.B.C.Seetha Rama Rao, learned counsel appearing for the appellant/Insurance Company submits that the Tribunal has committed a grave error in assessing the income of the deceased at Rs.15,000/- per month, ignoring the evidence of PW1 that the deceased had borrowed a loan and had default in repayment of the installments, which clearly demonstrates that his income was not a fixed income. Therefore, it would be appropriate to assess the income notionally at Rs.12,500/- per month by placing reliance on the notional income chart prepared by the Karnataka State Legal Services Authority (KSLSA). It is submitted that the Tribunal has further erred in applying the multiplier of 16, whereas the appropriate



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multiplier would be 15, considering that the deceased was aged about 40 years at the time of the accident. It is further submitted that the claimants in the claim petition as well as in the evidence of PW1 have clearly admitted that the deceased was aged about 40 years at the time of the accident. Therefore, the Tribunal, considering the age of the deceased between 30 to 35 and applying 16 multiplier would be contrary to the evidence on record. Accordingly, he seeks to allow the appeal of the Insurance Company.

4. Per contra, Sri.B.R.Guruprasad, learned counsel appearing for the appellants/claimants submits that the deceased was the owner-cum-driver of an autorickshaw and was self-employed. To substantiate the same, the oral and documentary evidence have been placed on record. Hence, it would be appropriate to assess the income of the deceased at least Rs.20,000/- per month. It is submitted that the Tribunal, considering the oral and documentary evidence has rightly recorded a finding in paragraph No.31



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of the impugned judgment that the deceased was 35 years of age at the time of the accident, and the said finding cannot be interfered with. It is further submitted that the Tribunal has committed an error in not awarding consortium to the other claimants. Hence, he seeks enhancement of the compensation by awarding consortium to all the claimants with 20% escalation by allowing the appeal of the claimants.

5. We have heard the arguments of the learned counsel for the appellant/Insurance Company, the learned counsel appearing for the appellants/claimants and meticulously perused the material available on record including the Tribunal records.

6. The point that arises for consideration in these appeals is:

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



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7. The aforesaid point is answered in the affirmative for the following reasons:

a. The appellant/Insurance Company does not dispute that one Sri.Naveen met with a road accident on 11.04.2018 and that the accident occurred due to the actionable negligence of the driver of the vehicle bearing Reg.No.KA-19-C-4237, which was insured with the appellant/Insurance Company. The dispute in these appeals is mainly relating to the income of the deceased and the age of the deceased. Insofar as the age of the deceased is concerned, the Tribunal, in paragraph No.31 of the impugned judgment has recorded a finding that the deceased was 35 years of age on the basis of the Aadhaar card of the deceased. However, the claim petition filed by the claimants indicates the age of the deceased as 40 years and even PW1, the wife of the deceased, has clearly deposed before the Tribunal that the deceased was aged about 40 years at the time of the accident. When there is a clear admission on the part of claimant No.1 with regard



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to the age of the deceased, it would be appropriate to consider the age of the deceased as 40 years and apply the multiplier of 15 for the purpose of determination of compensation.

b. Insofar as the contention with regard to the income of the deceased is concerned, admittedly, the claimants have not produced any documentary evidence to substantiate the income of the deceased. The Tribunal, however, taking note of the avocation of the deceased and also taking note of the fact that he was the registered owner-cum-driver of an autorickshaw, assessed the income at Rs.15,000/- per month. In our view, the said finding of the Tribunal is required to be affirmed as the Tribunal has rightly come to conclusion that the deceased was self-employed, having purchased an autorickshaw for his livelihood and earning his income by driving the same. Considering the said aspects and taking note of the fact that the accident occurred in the year 2018, we are of the view that the assessment of income by the Tribunal at



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Rs.15,000/- per month is appropriate, which does not call for any interference. Having reassessed the age and affirming the finding of the Tribunal with regard to income, we are of the view that the compensation under the head of loss of dependency is required to be reassessed appropriately and the same is reassessed as under:

$$\text{Rs.15,000/-} + 40\% \times 12 \times 15 - 1/3 = \text{Rs.25,20,000/-}$$

8. The Tribunal has erred in awarding a sum of only Rs.40,000/- under the head of loss of consortium. The claimants are the wife, minor son and the mother of the deceased. Hence, each of the claimants are entitled to consortium at Rs.40,000/- along with 20% escalation which would be Rs.48,000/- each. Similarly, the award of compensation by the Tribunal under the conventional heads of transportation of dead body & funeral expenses and loss of estate also required to be enhanced by applying 20% escalation of the said amount. Consequently, the compensation under each of the said heads is re-determined at Rs.18,000/-.



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9. Thus, the appellants/claimants are entitled to modified compensation as under:

HEADS	AMOUNT (in Rs.)
Loss of dependency	25,20,000/-
Loss of consortium	1,44,000/-
Transportation of dead body & funeral expenses	18,000/-
Loss of estate	18,000/-
Total	27,00,000/-

Thus, the appellants-claimants shall be entitled to a total compensation of **Rs.27,00,000/-** as against Rs.27,58,000/- awarded by the Tribunal.

10. Insofar as the award of interest on the compensation amount is concerned, the same is required to be considered at 9% in view of the decision of this Court in the case of ***Sri.Bimal Gogai and Another v. The Managing Director, Bengaluru Metropolitan Transport Corporation***¹.

¹ WP.No.10401/2018 and connected matter dated 09.06.2026



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

ORDER

- a) Appeals are ***allowed in part.***
- b) The impugned judgment and award dated 24.07.2020 in MVC.No.945/2018 by the Tribunal is modified to an extent that the appellants-claimants would be entitled to the total compensation of Rs.27,00,000/- as against Rs.27,58,000/- awarded by the Tribunal.
- c) The interest on the compensation amount shall be payable at 9% from the date of the petition till realization.
- d) The Insurance Company shall deposit the compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of



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receipt of certified copy of this
judgment.

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

f) Registry shall transmit the records to
the Tribunal forthwith along with the
amount in deposit.

g) Draw modified award accordingly.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 10