



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD 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.1486 OF 2023 (MV-D)

BETWEEN:

1. SMT. SUGUNA,
W/O LATE RAJENDRA @ RAJANNA,
AGED ABOUT 51 YEARS, COOLIE,
R/AT KALMADURESHWARA BADAVANE,
SAKARAYAPATTANA,
KADUR TALUK,
CHIKKAMAGALURU
DISTRICT-577135.
2. RAMU S/O LATE RAJENDRA @ RAJANNA,
AGED ABOUT 36 YEARS, COOLIE,
R/AT No.30, 6TH CROSS,
JYOTHINAGARA,
NEAR ANGANAVADI,
HORAMAVU AGRA,
BANGALORE-560043.
3. SMT. MANJULA W/O RAVI,
D/O LATE RAJENDRA @ RAJANNA,
AGED ABOUT 42 YEARS,
HOUSE WIFE,
R/AT KALMADURESHWARA
BADAVANE,



SAKARAYAPATTANA,
KADUR TALUK,
CHIKKAMAGALURU
DISTRICT-577135.

4. SMT. RADHA D/O LATE RAJENDRA
@ RAJANNA,
AGED ABOUT 42 YEARS,
HOUSE WIFE,
R/AT KALMADURESHWARA
BADAVANE,
SAKARAYAPATTANA,
KADUR TALUK,
CHIKKAMAGALURU
DISTRICT-577135
5. SMT. RUKMUNI W/O RAVI,
D/O LATE RAJENDRA @ RAJANNA,
AGED ABOUT 42 YEARS,
HOUSE WIFE,
R/AT KALMADURESHWARA
BADAVANE,
SAKARAYAPATTANA,
KADUR TALUK,
CHIKKAMAGALURU
DISTRICT-577135.

...APPELLANTS

(BY SRI. MOHAN.K.N., ADVOCATE)

AND:

1. THE MANAGER
ICICI LOMBARD GENERAL
INSURANCE CO.,



NC: 2026:KHC:31039-DB
MFA No. 1486 of 2023

1ST FLOOR, SBN ARCADE,
I.G.ROAD,
CHIKKAMAGALURU-577101.

2. K.S.R.T.C.,
CENTRAL OFFICE,
K.H. ROAD,
BANGALORE-560027
REP. BY ITS MANAGING DIRECTOR

...RESPONDENTS

(BY SRI. A.N.KRISHNA SWAMY, ADVOCATE FOR R1;
SRI. N.B.PATIL, ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.05.12.2022 PASSED IN MVC
NO.294/2021 ON THE FILE OF THE PRL. SENIOR CIVIL JUDGE
AND CJM, MACT, CHIKKAMAGALURU, DISMISSING THE CLAIM
PETITION FOR COMPENSATION AND ETC.

THIS APPEAL, COMING ON FOR HEARING, 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 S.G.PANDIT)

The claimants are in appeal being aggrieved by the dismissal of their claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (for short 'the Act, 1988').

2. The claimants are wife and children of the deceased-Rajendra@Rajanna, who died in a road traffic accident that occurred on 13.03.2020 involving motorcycle bearing Reg.No.KA:66:H:5341 and KSRTC Bus bearing Reg. No.KA:21:F:0147. The claimants filed claim petition making insurer of the motorcycle as well as KSRTC as party to the proceedings. In the claim petition it is stated that the deceased was having income of Rs.40,000/- per annum and he was aged 65 years as on the date of accident.

3. On service of notice, respondent Nos.1 and 2 both appeared before the Tribunal and filed their objections. Respondent No.1-Insurance Company admitted issuance of policy of insurance to the vehicle motorcycle bearing Reg.No.KA:66:H:5341. It is further submitted by the insurance company that the deceased himself was riding the motorcycle



on the date of accident. Therefore, the claimants cannot claim compensation from respondent No.1-Insurance Company. Respondent No.2-KSRTC denied the occurrence of accident and involvement of above mentioned two wheeler in the accident. However, further it is stated that the driver of the Bus was driving the Bus in a cautious manner and due to negligence of the deceased-rider of the motorcycle, the accident has occurred. It is also stated that the KSRTC Authorities have paid a sum of Rs.20,000/- towards interim compensation to the son of the deceased. Thus, they prayed for dismissal of the petition.

4. In support of the claim, claimant No.2-son of the deceased examined himself as PW.1 apart from marking Exs.P1 to P9. On behalf of the respondents, RW.1 and RW.2 were examined and documents at Exs.R1 and R2 were marked. The Tribunal under impugned judgment and award, rejected the claim petition solely on the ground that the income of the deceased was more than Rs.40,000/- per annum and came to the conclusion that claim petition under Section 163-A of the Act, 1988 is not maintainable. Questioning the said rejection of



claim petition, the claimants are before this Court in this appeal.

5. Heard the learned counsel for the parties and perused the entire appeal papers including the Tribunal records.

6. Learned counsel Sri. Mohan.K.N., for the claimants would submit that the Tribunal committed grave error in rejecting the claim petition filed under Section 163-A of the Act, 1988. Learned counsel further submits that under Section 163-A of the Act, 1988, the claimants need not prove the negligence and irrespective of the negligence, the claimants would be entitled for compensation under Schedule-II of the Act, 1988. However, he submits that when the claimants have stated in the claim petition that the deceased was having income of Rs.40,000/- per annum, the Tribunal wrongly placed reliance on the decision reported in ***ILR 2007 Karnataka 28 (United India Insurance Co., Ltd and others v/s Anitha and others)*** and dismissed the claim petition.

7. On the other hand, learned counsel Sri. A.N.Krishna Swamy would submit that the claimants cannot claim any compensation from Insurance Company since the rider of the



vehicle, who has obtained insurance policy for the two wheeler himself was responsible for the occurrence of the accident. However, it is submitted that under Section 163-A of the Act, 1988, the claimants are entitled to claim compensation from respondent No.2-KSRTC, owner of offending vehicle.

8. Having heard the learned counsel for the parties and on perusal of the entire appeal papers including Tribunal records, the only point that falls for consideration is as to *"Whether the Tribunal justified in dismissing the claim petition solely on the ground that income of the deceased was more than Rs.40,000/- per annum?"* Answer to the said point would be in 'Negative' and we are of the opinion that the Tribunal erred in dismissing the claim petition filed under Section 163-A of the Act, 1988.

9. The accident that occurred on 13.03.2020 involving motorcycle bearing Reg.No.KA:66:H:5341 and KSRTC Bus bearing Reg. No.KA:21:F:0147, is not in dispute in this appeal.

10. We have gone through the material on record and evidence of PW.1 and have perused the claim petition. In the claim petition, it is categorically stated that the deceased was



having income of Rs.40,000/- per month and PW.1 in his evidence also stated that the deceased was having income of Rs.40,000/- per annum. When it is the evidence of the claimants that the deceased was having income of Rs.40,000/- per annum and not more than Rs.40,000/-, the claimants would be entitled for compensation under Section 163-A of the Act, 1988. In terms of Section 163-A of the Act, 1988, the claimants need not establish that the death in respect of which the claim has been made was due to any wrongful act or neglect or default of the rider of the motorcycle or any other person.

11. In the above circumstances and when the evidence is that the deceased was having income of Rs.40,000/- per annum, the Tribunal was not right and justified in dismissing the claim petition. In terms of the decision in the case of ***United India Insurance Co., Ltd and others v/s Anitha and others***, the claim petition could be dismissed only if the income is stated to be more than Rs.40,000/-. However, in the instant case, the income is Rs.40,000/- per annum and not above Rs.40,000/-.



12. Admittedly, the deceased was aged 65 years as on the date of accident. In terms of Schedule-II of the Act, 1988, applicable multiplier would be "5" and $1/3^{\text{rd}}$ needs to be deducted towards personal expenses of the deceased. However, the claimants would be entitled for a sum of Rs.2000/- towards Funeral Expenses and Rs.2,500/- towards Loss of Amenities and Rs.5,000/- towards Loss of Consortium to the Spouse. Thus, the claimants would be entitled for total compensation of **Rs.1,13,333/-** ($40,000/- \text{ p.a.} \times 5 - 1/3 = 1,33,333/- - 20,000 \text{ (interim maintenance)} = 1,13,333/-$) along with interest at the rate of 6% per annum. Accordingly, appeal is **allowed**.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(RAJESH RAI K)
JUDGE