



CNR: KAHC010131842020

NC: 2026:KHC:46268
MFA No. 4231 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.4231 OF 2020(MV-I)

BETWEEN:

SRI PRASHANTH
AGED ABOUT 35 YEARS,
S/O LATE RAJU,
R/O PRASHANTH NILAYA
MAKKIMANE,
SASTHAN POST
PANDESHWARA VILLAGE
UDUPI TALUK AND DISTRICT - 576 101

...APPELLANT

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

(BY SRI. K PRASANNA SHETTY, ADVOCATE)

AND:

1. SANTHOSHI
AGED ABOUT 43 YEARS,
W/O PARSHURAMA
R/O AGRICULTURAL QUARTERS
KIRIMANJESHWARA VILLAGE
KUNDAPURA TALUK
UDUPI DISTRICT - 576 201
2. PARASHURAMA
AGED ABOUT 53 YEARS,
S/O MUTTHAPPA



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R/O AGRICULTURAL QUARTERS
KIRIMANJESHWARA VILLAGE
KUNDAPURA TALUK
UDUPI DISTRICT - 576 201

3. THE NEW INDIA ASSURANCE CO. LTD.,
FIRST FLOOR,
PUSHPA BUILDING
MAIN ROAD,
KUNDAPURA - 576 201

...RESPONDENTS

(BY SRI. R. GOVINDARAJAN, ADVOCATE FOR R3,
VIDE ORDER DATED 24.10.2025, NOTICE TO R1 & R2 IS
DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.11.2018 PASSED IN MVC
NO. 436/2017 ON THE FILE OF THE SENIOR CIVIL JUDGE AND
ADDITIONAL MOTOR VEHICLE ACCIDENT CLAIMS TRIBUNAL,
KUNDAPURA, ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

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



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CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

1. The claimant, being dissatisfied with the compensation of Rs.9,62,360/- awarded by the Tribunal, is in appeal.
2. The fact that the accident occurred and the further fact that the offending vehicle was insured is not in dispute.
3. The Tribunal, on assessment of evidence, has awarded the following sums as compensation:

Sl. No.	Particulars	Amount in (Rs.)
1.	Future loss of income	6,47,682
2.	Pain and sufferings	40,000
3.	Hospital and medical expenses	21,500
4.	Loss of income during laid up period	43,178
5.	Loss of amenities	40,000
6.	Food, nourishment, attendant charges and transportation charges	20,000
7.	Future medical expenses	1,50,000
	Total	9,62,360



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4. Learned counsel for the respondent No.3 - Insurance Company contended that the Tribunal was not justified in assessing the functional disability at 20%, despite the evidence of PW.2—Doctor, who examined the claimant, indicating the possibility of reduction of the disability to 17%. However, this contention would have been appreciated by this Court if there is an appeal filed by the respondent No.3 - insurance company or this aspect of the matter was contested before the Tribunal. In the absence of any appeal by the Insurance Company or any rebuttal evidence on this aspect, particularly when the instant appeal is preferred by the claimant seeking enhancement of compensation, the Insurance Company cannot seek reduction of the disability assessed by the Tribunal. Hence, on appreciation of the medical evidence, the Tribunal was justified in assessing the functional disability of the claimant at 20% to the whole body.

5. Learned counsel for the appellant contended that the Tribunal erred in assessing the average annual income of the injured at Rs.2,15,894/- instead of Rs.3,15,894/-. According to him, as evidenced by Exs.P33 to P35—Income Tax Returns, the



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total income of the injured for the assessment years 2014-15, 2015-16 and 2016-17 was Rs.9,71,680/-, resulting in an average annual income of Rs.3,23,894/-. After deducting Rs.8,000/- towards income tax, the net average annual income would be Rs.3,15,894/-. However, the Tribunal, due to an inadvertent error, considered the average annual income at Rs.2,15,894/- and consequently assessed the monthly income at Rs.17,991/- instead of Rs.26,324/-.

6. However, the learned counsel for the respondent No.3 - insurance company vehemently opposed the same by contending that the Tribunal erred in assessing the income of the injured by relying upon Exs.P33 to P35—Income Tax Returns. According to him, the said Income Tax Returns disclose that the income of the claimant was derived only from other sources. Hence, placing reliance on Section 57 of the Income Tax Act, he contended that such income from other sources cannot be taken into consideration for determining the loss of income.

7. Admittedly, the Insurance Company has not preferred any appeal. Further, the aforesaid aspect was neither disputed



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before the Tribunal nor questioned during the cross-examination of the claimant with regard to the Income Tax Returns. Hence, the contention advanced by learned counsel for respondent No.3 – Insurance Company cannot be accepted. Such a contention could have been considered had the Insurance Company preferred an appeal challenging the assessment of income or had the said aspect been disputed before the Tribunal. In the absence of any such appeal or rebuttal evidence, particularly when the instant appeal is preferred by the claimant seeking enhancement, the Insurance Company cannot raise such a contention at this stage.

8. On perusal of Exs.P33 to P35, it is evident that, for the assessment year 2014-15, against the total income of Rs.3,35,200/-, a sum of Rs.72,300/- was deducted and the net income was shown at Rs.2,62,900/-. Likewise, the net income for the years 2015-16 and 2016-17 was shown at Rs.3,46,100/- and Rs.3,62,680/-, respectively. In such circumstances, the Tribunal was justified in relying upon the Income Tax Returns produced by the claimant for determining his income.



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9. Accordingly, there is considerable force in the contention of learned counsel for the claimant that the Tribunal committed an error in taking the net average annual income at Rs.2,15,894/- instead of Rs.3,15,894/-. On dividing the net average annual income of Rs.3,15,894/- by 12, the monthly income works out to Rs.26,324/-. Accordingly, the monthly income of the claimant for the purpose of determining loss of future income is taken at Rs.26,324/-.

10. The Tribunal has erred in adopting multiplier '15' even though the claimant was not completed the age of 36 years as on the date of accident. The Division Bench of this Court in MFA No.4378/2023 c/w MFA No.3047/2023 held in paragraph No.15 as under:

*"15. Admittedly, the date of birth of the deceased is 30.01.1970 and as on the date of accident she was aged about 50 years 57 days. However, she had not attained the age of 51 years so as to apply multiplier of '11'. The Hon'ble Apex Court in the case **Samsun Bee and others vs. United India Insurance Company Limited and others** reported in **2026 ACJ 532** has held that higher multiplier continues to apply till deceased*



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completes entry into next age bracket and it does not shift merely upon crossing threshold age. The relevant paragraph Nos.4 and 9 reads as follows:

*"4. The Tribunal, vide its award, held the Respondent No. 1, 2 and 3 herein, to be jointly and severally liable to pay an amount of Rs.7,56,600/- to the claimant-appellants herein along with interest @ 7% per annum. The monthly income of the deceased was fixed as Rs.150/- per day, which comes to Rs.4,500/- per month, on a notional basis, in the absence of any other evidence on record. In accordance with settled principles of law laid down in **National Insurance Company v. Praney Sethi**, a deduction of 1/5th of his income was made considering eight dependants. The Tribunal considered the age of the deceased as 45 years 3 months, relying upon the marksheet P.P. 14 and came to the conclusion that the deceased was older than 45 years and younger than 50 years at the time of accident and applied the multiplier of 13. Moreover, different amounts were awarded towards conventional heads, as per law.*

5. XXX

6. XXX



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7. XXX

8. XXX

9. *On the aspect of multiplier, both the Tribunal and the High Court applied it to be 13. As already observed supra the age was determined as 45 years and 3 months on the basis of marksheet. The question that arises is whether the multiplier to be applied will be 13 or 14, given the categorisation made in **Sarla Verma (Supra)**. The same is reproduced as under for reference, as approved in **Pranay Sethi (Supra)**.*

"42. As far as the multiplier is concerned, the Claims Tribunal and the courts shall be guided by Step 2 that finds place in para 19 of Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] read with para 42 of the said judgment. For the sake of completeness, para 42 is extracted below : (Sarla Verma case [Sarla Verma v. DTC, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] , SCC p. 140) "42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the Table above (prepared by applying Susamma Thomas [Kerala SRTC v. Susamma Thomas, (1994) 2 SCC 176 : 1994 SCC (Cri) 335] ,



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Trilok Chandra [UP SRTC v. Trilok Chandra, (1996) 4 SCC 362] and Charlie [New India Assurance Co. Ltd. v. Charlie, (2005) 10 SCC 720 : 2005 SCC (Cri) 1657]), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is, M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.”

As can be seen from the above the multiplier of 14 is to be applied when the age of the deceased person is falls within 41 to 45 and multiplier of 13 is to be applied when the age of the deceased person is between 46 and 50. In this case, the age is categorically recorded as been 45 years and 3 months. The question then is whether the higher multiplier would continue to apply till the person has clearly entered into the next age bracket i.e., 46 to 50 or, would the lower multiplier be applied immediately after the day, that the deceased person crosses the threshold of 45 for instance as in the present case. In our considered view, the former is



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the correct approach. We say so for the reason that, in general parlance when age is described or discussed, the higher number is addressed only when the person attains that particular age. That apart, legally speaking the age is a crucial aspect that has to be taken into account when the Tribunal or higher appellate authorities are tasked with determining the possibilities of future earning of the deceased person. The higher the age the lesser the multiplier. Therefore, keeping in view the overarching principle of just and fair compensation which is to inform each and every computation, application of a lower multiplier right at the higher threshold of the previous one, it has to be held the same would be impermissible. In other words, the high limit of the previous multiplier would be inclusive of the 12 months' time, till the age of the deceased person is squarely within the lower limit of the next bracket. To illustrate, in case where the age of the deceased person or injured person, is 35 years 11 months, then the multiplier of 16 would apply, instead of 15. The later would only apply once the injured/deceased has positively crossed the age of 36 years, for example if he was aged 36 years and 3 days."



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11. On bare reading of the above judgment, the findings of the Division Bench of this Court squarely applicable to the facts and circumstances of this case. In the instant case also, though the claimant had crossed 35 years, he had not attained the age of 36 years at the time of accident. In such circumstance, in my considered view, the Tribunal is erred in taking the multiplier as '15' instead of '16'. Accordingly, the appropriate multiplier would have to be '16'.

12. Consequently, the claimant would be entitled to a sum of **Rs.10,10,841/-** (26,324 x 12 x 16 x 20%) towards '*loss of future income*' as against Rs.6,47,682/- awarded by the Tribunal.

13. Consequently, the claimant would be entitled to **Rs.78,972/-** (Rs.26,324 X 3 months) towards '*loss of income during the laid up period*', treating the laid up period as three months.

14. The sum awarded as medical expenses at **Rs.21,500/-** being based on the documentary evidence, do not call for modification and hence confirmed.



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15. The sums awarded under other heads of compensation granted by the Tribunal, remains unaltered.

16. Consequently, the award of the Tribunal is modified and the claimant would be entitled to the following compensation:

Sl. No.	Compensation under different Heads	As awarded by the Tribunal (Rs.)	As awarded by this Court (Rs.)
1.	Future loss of income	6,47,682	10,10,841
2.	Pain and sufferings	40,000	40,000
3.	Hospital and medical expenses	21,500	21,500
4.	Loss of income during laid up period	43,178	78,972
5.	Loss of amenities	40,000	40,000
6.	Food, nourishment, attendant charges and transportation charges	20,000	20,000
7.	Future medical expenses	1,50,000	1,50,000
	Total	9,62,360	13,61,313

17. Thus, the claimant is held entitled to the total compensation of **Rs.13,61,313/-** as against Rs.9,62,360/-,



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along with interest at the rate of 6% per annum from the date of petition till its realization excluding the interest on the sum awarded under the head of future medical expenses.

18. 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.

The appeal is accordingly ***allowed in part.***

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

CR
List No.: 1 Sl No.: 3