



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

MISCELLANEOUS FIRST APPEAL NO. 4014 OF 2019 (MV-D)

BETWEEN:

1. KIRAN DAHIYA @ KIERAN
D/O RAJENDRA DAHIYA,
W/O BUDHGANESH DAHIYA,
AGED ABOUT 21 YEARS

2. KANCHEDI LAL DAHIYA
S/O RAM VISHAL DAHIYA,
AGED ABOUT 54 YEARS,

3. RADHA BAI
W/O KANCHHEDI LAL @
KANCHHEDI LAL DAHIYA,
AGED ABOUT 53 YEARS,

ALL ARE R/AT WARD NO.6,
TAH VIJAYRAGHAVAGARH,
GRAMDEVIRIMA JHGAWAN,
DEORI MAJHGAWAN, KATNI,
VIJAYRAGHAVGARH, MADHYA PRADESH.

...APPELLANTS

(BY SRI. K.S. ANAND, ADVOCATE FOR
SRI. GIRISHA H.M, ADVOCATE)

Digitally signed by
AASEEFA PARVEEN
Location: HIGH
COURT OF
KARNATAKA



AND:

1. THE MANAGER
UNITED INDIA INSURANCE CO. LTD.,
5TH AND 6TH FLOOR, KRUSHI BHAVAN,
BUILDING, HUDSON CIRCLE,
BENGALURU - 560 001.
2. MR. MANJUNATH B.S
S/O SATHYA NARAYAN,
NO.158, 2ND CROSS,
SRICHAKRANAGER,
VISHWANEEDAM POST, ANDRAHALLI,
BANGALORE - 560 091.

...RESPONDENTS

(BY SRI. MANJULA N. TEJASWI, ADVOCATE FOR R1;
VIDE ORDER DATED 24.06.2025, NOTICE TO R2 IS
DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 28.11.2018 PASSED IN MVC
NO.354/2018 ON THE FILE OF THE XXI ADDITIONAL SCJ & XIX
ACMM, MEMBER-MACT, BENGALURU [SCCH-23], BENGALURU,
PARTLY 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:

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA



ORAL JUDGMENT

Heard Sri.K.S.Anand who represents Sri.Girisha H.M learned counsel on record for the appellants as well as Ms.Manjula N Tejaswi learned counsel for respondent No.1.

2. Challenge in this appeal is the award that is passed by the Motor Accident Claims Tribunal, Bengaluru in MVC No.354/2018 dated 28.11.2018. This is a claimants appeal.

3. The first appellant being the wife, second appellant being the father and the third appellant being the mother of the deceased Budh Ganesh Dahiya (hereinafter be referred to as the deceased for brevity), who died in a road traffic accident that occurred in the year 2017 filed a petition claiming compensation of Rs.25,00,000/- in total.

4. Tribunal held that the deceased contributed for the accident to occur and his contribution is to an extent of 30%. Thereby directed respondents herein to pay the



appellants a sum of Rs.17,15,048/- which is 70% of the entitled amount i.e. Rs.24,50,068/-. Aggrieved by the same this appeal is filed.

5. Learned counsel for the appellants stated that the appeal is filed on two grounds. Firstly, entire negligence lies on the part of the driver of the offending vehicle. Therefore, the amount which the appellants are entitled for compensation should be paid by the respondents only. Secondly, tribunal erred in taking the earnings of the deceased as Rs.12,500/- per month. Indeed the deceased was earning Rs.14,400/- per month by the date of accident.

6. Arguing on the aspect of earnings, learned counsel for the appellants submitted that the deceased was working as a helper in IL & FS Metro Company. Appellants produced the evidence of PW-3 who works as Senior Assistant at IL & FS Engineering and Construction Company Ltd. and also Ex.P11- Identity card of the



deceased and Ex.P12 Wage Register book. But discarding said evidence, tribunal took the notional income as Rs.12,500/- per month. Therefore taking the salary of the deceased as Rs.14,400/- per month, the amount claimed as compensation is required to be awarded.

7. On the other hand, learned counsel for respondent No.1 contended that Tribunal taking into consideration the contents of Ex.P14 took the average salary of the deceased as Rs.12,500/- per month. Learned counsel stated that the accident occurred in the year 2017 and for the relevant period the Karnataka State Legal Services Authority is taking the notional income as Rs.11,000/- per month. But considering the evidence produced by the appellants, tribunal took the earnings of the deceased as Rs.12,500/- per month and thus the findings given in that regard are valid.

8. Tribunal discussed at length at para 12 of the impugned order with regard to the evidence produced by



the appellants herein in respect of the occupation and earnings of the deceased. Having considered all the evidence produced, more particularly the contents of Ex.P14, the tribunal took the average monthly salary of the deceased as Rs.12,500/- per month and therefore the findings given in that regard requires no interference.

9. Coming to the aspect of negligence, the case of the appellants is that on 31.12.2017 at about 07.00 p.m. While the deceased and his brother were crossing Bangalore-Mysore Road at Kengeri Hobli, a two wheeler bearing registration No.KA-02-HT-9389 which was being driven by its rider in a rash and negligent manner dashed against the deceased and also his brother. The deceased fell down, sustained injuries and died due to those injuries.

10. Respondent No.1 took a plea that the deceased was crossing the road negligently that too without observing the flow of traffic and at a place where he was



not supposed to cross the road and thereby the accident occurred.

11. It is the submission of learned counsel for the appellants that respondent No.1 has not adduced any evidence to show that the deceased contributed for the accident to occur that too to an extent of 30%. Therefore, tribunal ought not to have attributed contributory negligence on the part of the deceased.

12. *Per contra*, learned counsel for respondent No.1 stated that the manner of happening of accident itself reveals that the deceased was negligent. There was no zebra cross mark at the place where the deceased was crossing the road and therefore he should not have started crossing the road at that place. Learned counsel also submitted that the principle of *res ipsa loquitur* applies to the facts of this case and therefore there is no necessity for respondent No.1 to adduce any evidence with regard to the contributory negligence on part of the deceased.



13. There is no denial of the fact that a case was registered against the rider of the motorcycle which is involved in the accident basing on the contents of Ex.P2 complaint and after thorough investigation, police laid charge sheet against the rider of the motorcycle as could be found through the contents of Ex.P8 charge sheet. It is not the case of respondent No.1 that the contents of Ex.P8 chart sheet reveals the contributory negligence on part of the deceased. No doubt the deceased was crossing the road at the place where he was not supposed to do so. When the claimants have produced sufficient proof that the accident occurred due to the negligence on part of the rider of the offending vehicle, though there is material to show that the deceased was crossing the road and the place where he was not supposed to cross the road, yet liability vests upon respondent No.1 to show the extent of contributory negligence on part of the deceased for the accident to occur. The tribunal has not given any reason as to why it came to a conclusion that the contributory



negligence on part of the deceased is 30%. The case of the appellants is that the deceased along with his brother i.e. PW2 was crossing the road. The evidence of PW2 is that they were crossing the road cautiously. When two persons were found crossing the road, it is for the rider of a vehicle to take steps for slowing down the vehicle or to put sufficient effort for preventing the hit. Tribunal made an observation that as per the contents of Ex.P4, the rider of the offending two wheeler had enough scope to avoid the accident by taking his vehicle towards his right side, but he did not do so.

14. Thus having considered all these factors, this Court is of the view that contributory negligence that can be attributed on part of the deceased can only be 10%. Thus, respondents are liable to pay compensation to the extent of 90% of the sum which appellants are entitled to receive as compensation.



15. Now coming to the quantum of compensation which the appellants are entitled to receive, in the light of the aforementioned discussion with regard to the occupation and earnings of the deceased, this Court considers that there are no reasons to interfere with the amount awarded as compensation towards loss of dependency i.e. ₹ 23,80,068. So far as loss of consortium is concerned, appellant No.1/wife is entitled to a sum of Rs.40,000/- towards loss of spousal consortium and the parents i.e. appellant Nos.2 and 3 are entitled to a sum of Rs.40,000/- each towards loss of parental consortium. The appellants are also entitled to a sum of Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate. Thus, the compensation which the appellants are entitled to receive under each head is as under:-

Heads	Amount in Rs.
Loss of dependency	23,80,068
Loss of spousal consortium	40,000
Loss of parental consortium	80,000
Funeral expenses	15,000
Loss of estate	15,000
Total	25,30,068



16. As the contributory negligence on part of the deceased is 10%, respondents are liable to pay 90% of the total sum which comes to Rs.22,77,061.2/- rounded to Rs.22,77,061/- (25,30,068 -10%).

17. Thus the appeal is disposed of with the following

ORDER

- i. The appeal is allowed in part.
- ii. Respondent Nos.1 and 2 are jointly and severally liable to pay the appellants a sum of Rs.22,77,061/- as compensation.
- iii. First respondent shall deposit the entire amount excluding the sum already deposited within a period of 8 weeks from the date of receipt of certified copy of this judgment.
- iv. The apportionment made by the tribunal applies to enhanced sum as well.



- v. The enhanced sum shall carry interest at the rate of 6% per annum from the date of petition till the date of deposit.
- vi. On deposit, appellants are permitted to withdraw their respective shares.

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

VS
List No.: 1 Sl No.: 21