



CNR: KAHC010141802023

NC: 2026:KHC:41799
MFA No. 1805 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 1805 OF 2023
(MV-D)

BETWEEN:

TATA AIG GENERAL INSURANCE CO. LTD.,
R/O PENINSULA BUSINESS PARK TOWER A,
15TH FLOOR, G.K. MARG,
LOWER PAREL,
MUMBAI - 400 013.

ALSO AT,
NO.69, II FLOOR, JP AND DEVI,
JAMBUKESHWAR ARCADE, MILLERS ROAD,
BENGALURU - 560 052,
REPRESENTED BY ITS CHEF MANAGER -
CLAIMS LEGAL.

...APPELLANT

(BY SRI. MURALIDHARA N., ADVOCATE)

AND:

1. RABIA BASARI @ RABARI BANRI
W/O LATE ANWAR SAB,
AGED ABOUT 41 YEARS,
2. RAMIZA SIMRAN
D/O LATE ANWAR SAB,
AGED ABOUT 21 YEARS,
3. SONU MEHAK
D/O LATE ANWAR SAB,
AGED ABOUT 19 YEARS,

Digitally signed by
LAKSHMINARAYANA
MURTHY RAJASHRI

Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:41799
MFA No. 1805 of 2023

CNR: KAHC010141802023

ALL ARE R/O 1ST MAIN,
1ST CROSS, NEAR CHOWDAMMA TEMPLE,
TIPPU NAGARA, HARIHARA,
DAVANAGERE DISTRICT,
KARNATAKA - 577 601.

4. ATHAULLA M.G.
S/O ANWAR M.G.,
AGED ABOUT 37 YEARS,
KA.17/HA/9225 MOTOR BIKE DRIVER,
R/O #1178/1112, NEAR CHOWDAMMA TEMPLE,
TIPPU NAGAR, HARIHARA,
DAVANAGERE DISTRICT - 577 601.
5. ABRAR M.G.
S/O ANWAR M.G.,
AGED ABOUT 24 YEARS,
KA.17/HA/9225 MOTOR BIKE OWNER,
R/O #905, TIPPU NAGAR, HARIHARA,
DAVANAGERE DISTRICT - 577 601.

...RESPONDENTS

(BY SMT. SHRUTHI S.P. ADVOCATE FOR R1 TO R5)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED 02.01.2023
PASSED IN MVC NO.504/2019 ON THE FILE OF THE SENIOR
CIVIL JUDGE AND JMFC, HARIHARA, AWARDED
COMPENSATION OF RS.10,71,750/- WITH INTEREST AT 6
PERCENT P.A. FROM THE DATE OF PETITION TILL
REALIZATION.

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



NC: 2026:KHC:41799
MFA No. 1805 of 2023

CNR: KAHC010141802023

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the insurer challenging the Judgment and Award dated 02.01.2023 passed in MVC No.504/2019 by Senior Civil Judge and JMFC and MACT, Harihar.

2. Respondent Nos.1 to 3/claimants made a claim petition seeking for award of compensation for the death of Anwar Sab (husband of claimant No.1 and father of claimant Nos.2 and 3) in a road traffic accident occurred on 26.12.2018 contending that the accident occurred due to rash and negligent driving by the rider of motorcycle bearing registration No.KA.17/HA/9225.

3. The Tribunal recorded the evidence adduced by the parties and upon appreciating the evidence on record, assessed the compensation and awarded the compensation under various heads as under:



CNR: KAHC010141802023

NC: 2026:KHC:41799
MFA No. 1805 of 2023

Sl. No.	Particulars	Amount
1.	Towards Loss of dependency	Rs. 9,21,750/-
2.	Towards Loss of Consortium	Rs. 1,20,000/-
3.	Towards Funeral Expenses	Rs. 15,000/-
4.	Towards Loss of Estate	Rs. 15,000/-
	Total	Rs. 10,71,750/-

4. The Tribunal has also awarded the interest at the rate of 6% per annum from the date of petition till realisation and directed the appellant/insurer to deposit the compensation awarded with interest. The appellant/insurer challenging the Judgment and Award passed by the Tribunal on the ground that the accident has not taken place as contended and the appellant is not liable to pay the award amount.

5. Heard the learned counsel for appellant and learned counsel for respondent Nos.1 to 3/claimants.

6. Learned counsel for the appellant would contend that, as per the case of the claimants that the deceased was a pillion rider, but actually the deceased was riding the motorcycle. The motorcycle was owned by



NC: 2026:KHC:41799
MFA No. 1805 of 2023

CNR: KAHC010141802023

respondent No.2 who is the son of the deceased. As per claimants, respondent No.1 who is another son of the deceased was riding the motorcycle. Ex.R7 - MLC register extract indicates that the bike is dashed to the buffalo and accident occurred. Ex.R17 - Discharge summary indicates that the deceased was going on motorcycle that itself indicates that he was riding the motorcycle. R.W.2 - Doctor has produced medical records pertaining to the treatment of the deceased as per Ex.R2 to R6. R.W.5 is the Doctor who has produced Ex.R15 to R20. Respondent No.1 who is stated to be the rider of the motorcycle has not been examined. Considering the said aspect, it is clear that the accident as narrated by the claimants has not taken place. The insured vehicle is not involved in the accident and the deceased himself was riding the motorcycle and he dashed against the buffalo.

7. He further contended that, the Income Tax Returns of the deceased for the year 2016-17 and 2017-18 are produced at Ex.P5 and Ex.P14 and in order to prove



CNR: KAHC010141802023

NC: 2026:KHC:41799
MFA No. 1805 of 2023

them, the Income Tax Officer has been examined as P.W.2 and in his cross-examination he has stated that the aforesaid Income Tax Returns are liable to be rejected and they are zero returns. Therefore, the claimants have not proved the income of the deceased and the income taken by the Tribunal is not proper. With these, he prayed to allow the appeal.

8. Learned counsel for respondent Nos.1 to 3/claimants would contend that, the charge sheet has not been challenged. In order to prove that, a false charge sheet has been filed, none of the witnesses have been examined. The charge sheet has been filed after thorough investigation and it is based on the statement of eye witnesses. The Insurance Company has not examined the Investigating Officer in order to disprove the said charge sheet. Considering the said aspect, the Tribunal has rightly held that the accident occurred due to rash and negligent driving of the rider of insured vehicle on which the deceased was moving as a pillion rider. She further



CNR: KAHC010141802023

contended that, based on the income shown in Income Tax Returns Ex.P5 and Ex.P14, the Tribunal has rightly taken the income of the deceased at Rs.2,51,387/- per annum. The Tribunal has rightly taken the age of the deceased as sixty six (66) years and rightly applied multiplier '5' and deducted 1/3rd towards personal expenses of the deceased. With these, she prayed for dismissal of the appeal.

9. Having heard the learned counsel for the appellant and learned counsel for respondent Nos.1 to 3/claimants, the Court has perused the Judgment, Award and Trial Court records.

10. The following points are raised for consideration:

- I) Whether the Tribunal is justified in holding that the accident occurred due to rash and negligent driving of the rider of motorcycle bearing registration No.KA.17/HA/9225 and as a result, the deceased was a pillion rider sustained injuries and succumbed to the injuries?



CNR: KAHC010141802023

NC: 2026:KHC:41799
MFA No. 1805 of 2023

- II) Whether the quantum of compensation awarded by the Tribunal is just and proper?

REASONS

11. **POINT NO.I :** It is a specific case of the claimants that on 26.12.2018, the deceased Anwar Sab was proceeding as a pillion rider on motorcycle bearing registration No.KA.17/HA/9225 and respondent No.1 was riding the said motorcycle and the said motorcycle was owned by respondent No.2. Respondent Nos.1 and 2 are sons of the deceased.

12. Ex.P1 is the FIR and it is registered against the rider of the motorcycle i.e., Athaulla M.G. who was respondent No.1 before the Tribunal and the said FIR is registered on the first information filed on 27.12.2018 by one Jawid S/o. Sattar Sab.

13. The appellants after investigation have filed the charge sheet against the said Athaulla M.G. - rider of the motorcycle who was driving the motorcycle in a rash and negligent manner. A copy of the said charge sheet is at



CNR: KAHC010141802023

NC: 2026:KHC:41799
MFA No. 1805 of 2023

Ex.P12. In order to disprove the said contents of the charge sheet and prove that the accident has not taken place in manner put-forth by the claimants, the insurer has not examined by the Investigating Officer who has filed the charge sheet.

14. Learned counsel for the appellant places reliance on Ex.R7 - extract of MLC intimation wherein it is mentioned that the road traffic accident occurred due to hit by Buffalo. R.W.2 - Doctor has stated that, on whose statement the said information is recorded is not known and public have given the information and not the injured.

15. Athaulla M.G./respondent No.1 who was riding the motorcycle has also visited the hospital and as stated by R.W.2 he was conscious at that time, which indicates that he has also sustained injuries in the accident. In Ex.R17 - Discharge summary, it is stated that the deceased was proceeding on the motorcycle, merely because it is stated that the deceased was going on



CNR: KAHC010141802023

motorcycle does not indicate/prove that he was riding the motorcycle.

16. Considering all these aspects, the Tribunal has rightly held that the accident occurred due to rash and negligent driving of the rider of motorcycle which was insured with the appellant/insurer. Accordingly, Point No.I is answered.

17. **POINT NO.II :** The Tribunal has taken the age of the deceased as sixty six (66) years and applied multiplier '5'. The Tribunal has taken the future prospects at 10% as per the decision of Hon'ble Apex Court in the case of ***NATIONAL INSURANCE COMPANY vs. PRANAY SETHI AND OTHERS*** reported in ***AIR 2017 SC 5157***. The future prospects are to be taken into consideration at 10% if the deceased is aged between fifty (50) to sixty (60) years. Even though, the Tribunal has taken the age of the deceased as sixty six (66) years, it has taken future



CNR: KAHC010141802023

prospects at 10%. Therefore, the Tribunal has erred in taking the future prospects at 10%.

18. Ex.P5 is the Income Tax Returns verification form for the Assessment year 2016-17 of the deceased wherein his gross total income is shown as Rs.2,51,387/- and for the Assessment Year 2017-18 his gross total income of the deceased is shown as Rs.2,60,022/-.

19. Ex.P14 is the Income Tax Return filed by the deceased for the Assessment Year 2016-17 wherein income from business is shown as Rs.1,91,387/- and income from other sources is shown as Rs.60,000/- and the total income is shown as Rs.2,51,387/-.

20. P.W.2 - Income Tax Officer has stated that the said income from other source is interest earned by the deceased and also from other source. If the said income of Rs.60,000/- is earned from interest that cannot be taken as income of the deceased, since the claimants who are legal representatives are also entitled to the said interest



CNR: KAHC010141802023

earned on the deposit even after the death of the deceased.

21. The Income Tax Returns for the Assessment Year 2017-18, the income from business is shown as Rs.1,62,289/- and income from other sources is shown as Rs.97,733/-. As per P.W.2 - Income Tax Officer, the income from other source is the interest on deposit earned by the deceased. Therefore, the income from other source cannot taken into consideration for ascertaining the income of the deceased from his business. Therefore, the income from business as stated in Ex.P14 for the year 2016-17 at Rs.1,91,387/- and for the year 2017-18 is Rs.1,62,289/- is to be taken into consideration. The average of the said two yearly income is to be taken as $\text{Rs.1,91,387/-} + \text{Rs.1,62,289/-} = \text{Rs.3,59,676/-}$. The average yearly income is Rs.1,76,838/-. Therefore, the yearly income of the deceased is to be taken at Rs.1,76,838/-. Since the deceased was aged sixty six (66) years, he is not entitled to future prospects, deduction



CNR: KAHC010141802023

NC: 2026:KHC:41799
MFA No. 1805 of 2023

towards personal expenses of the deceased to be taken at $1/3^{\text{rd}}$ and after deduction of the said $1/3^{\text{rd}}$, the yearly income is Rs.1,17,892/-, if it is multiplied by '5', loss of dependency will be Rs.5,89,460/-.

22. The claimants are entitled to loss of dependency of Rs.5,89,460/- as against Rs.9,21,750/- awarded by the Tribunal. The Tribunal has rightly awarded loss of consortium in a sum of Rs.1,20,000/-, funeral expenses in a sum of Rs.15,000/- and loss of estate in a sum of Rs.15,000/-.

23. Considering all the above aspects, the claimants are entitled to total compensation under various heads as under:

Sl. No.	Compensation Heads	Amount
1.	Loss of dependency	Rs. 5,89,460/-
2.	Loss of consortium	Rs. 1,20,000/-
3.	Loss of estate	Rs. 15,000/-
4.	Funeral expenses	Rs. 15,000/-
	Total	Rs. 7,39,460/-



CNR: KAHC010141802023

24. The claimants are entitled to total compensation of Rs.7,39,460/- as against Rs.10,71,750/- awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till realisation. Accordingly, point No.II is answered.

25. The appellant/insurer is liable to pay the total compensation amount with interest.

26. In view of the above, the following:

ORDER

- i) *Miscellaneous First Appeal is **allowed-in-part.***
- ii) *Respondent Nos.1 to 3/claimants are entitled to total compensation of Rs.7,39,460/- as against Rs.10,71,750/- awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till realisation.*
- iii) *The appellant/insurer shall deposit the total compensation amount with interest before the Tribunal within a period of six weeks*



CNR: KAHC010141802023

NC: 2026:KHC:41799
MFA No. 1805 of 2023

from this day (including the amount already deposited).

- iv) The amount in deposit, deposited by the appellant/insurer is ordered to be transmitted to the Tribunal.*
- v) The share among respondent Nos.1 to 3/claimants and the deposit as determined by the Tribunal remains unaltered.*

**Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE**