



CNR: KAHC010082192024

NC: 2026:KHC:49271
MFA No. 932 of 2024
C/W MFA No. 1603 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR
MISCELLANEOUS FIRST APPEAL No. 932 OF 2024 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL No. 1603 OF 2026
(MV-I)

IN MFA No. 932/2024

BETWEEN:

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by

PADMASHREE
SHEKHAR
DESAI

Location: HIGH
COURT OF
KARNATAKA

UNITED INDIA INSURANCE CO. LTD.,
REGIONAL OFFICE, 5TH FLOOR,
KRISHI BHAVAN NRUPATUNGA ROAD
HUDSON CIRCLE
BENGALURU - 560 027.
REPRESENTED BY:
THE REGIONAL MANAGER
UNITED INDIA INSURANCE CO. LTD.,
REGIONAL OFFICE 6TH FLOOR
KRISHI BHAVAN, NRUPATTUNGA ROAD
HUDSON CIRCLE
BENGALURU - 560 027.

...APPELLANT

(BY SMT. MANJULA NEMICHANDRA TEJASWI, ADVOCATE)



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AND:

1. SMT. MAHADEVAMMA
W/O RAJANNA
AGED ABOUT 45 YEARS.
2. SRI KRISHNA T C
S/O CHIKKEGOWDA @ LINGEGOWDA
AGED ABOUT 42 YEARS.

BOTH R/O THAMMADAHALLI VILLAGE
MALAVALLI TALUK
MANDYA DISTRICT - 571 430.
3. SRI YATHISH Y S
S/O GURUMURTHYCHARI
No. 123/11, 1ST CROSS
BYRAVESHWARA NAGARA
LAGGERE, BENGALURU - 560 058.
4. SRI ARUN KUMAR
S/O VENKATESH
G M STREET JOGAYYA KERI
MALAVALLI TOWN, MALAVALLI TALUK
MANDYA DISTRICT - 571 430.

...RESPONDENTS

(BY SRI SHRIPAD V SHASTRY, ADVOCATE FOR R1 & R2
R4- SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED:02.11.2023
PASSED IN MVC No.5418/2021 ON THE FILE OF THE VII
ADDITIONAL SCJ AND ACMM, MEMBER, MACT-3, BENGALURU,
AWARDING COMPENSATION OF Rs.13,25,956/- WITH
INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION
TILL DEPOSIT.



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IN MFA No. 1603/2026

BETWEEN:

1. SMT. MAHADEVAMMA
W/O RAJANNA
AGED ABOUT 47 YEARS.
2. SRI KRISHNA T.C
S/O CHIKKEGOWDA @ LINGEGOWDA
AGED ABOUT 44 YEARS.

BOTH ARE RESIDING AT:
THAMMADAHALLI VILLAGE, MALAVALLI TALUK
MANDYA DISTRICT-571 430.

...APPELLANTS

(BY SRI SHASTRI SHRIPAD VISHWANATHA, ADVOCATE)

AND:

1. SRI YATHISH Y S
S/O GURUMURTHYCHARI,
No. 123/11, 1ST CROSS
BYRAVESHWARA NAGARA, LAGGERE
BENGALURU 560058
2. UNITED INDIA INSURANCE CO. LTD.,
REGIONAL OFFICE, 5TH FLOOR
KRUSHI BHAVAN, NRUPATHUNGA ROAD
HUDSON CIRCLE
BENGALURU – 560 027.
BY ITS BRANCH MANAGER
3. SRI ARUN KUMAR
S/O VENKATESH, G M STREET
JOGAYYANA KERI, MALAVALLI TOWN



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MALAVALLI TALUK
MANDYA DISTRICT-571 430.

...RESPONDENTS

(BY SMT. MANJULA N TEJASWI, ADVOCATE FOR R2
(VK NOT FILED), V/O DTD. 03.03.2026, NOTICE TO
R1 & R3 ARE DISPENSED WITH
NOTICE TO R3 UNSERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED:02.11.2023
PASSED IN MVC No.5418/2021 ON THE FILE OF THE VII
ADDITIONAL SMALL CAUSES JUDGE AND ACMM, MEMBER,
MACT-3, COURT OF SMALL CAUSES, BENGALURU, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS COMING ON FOR ORDERS THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

MFA No.932/2024 is filed by the insurer challenging
the judgment and award dated 02.11.2023 passed in MVC
No.5418/2021 by the VII Additional Small Causes Judge
and Member, MACT-3, Bengaluru.

2. MFA No.1603/2026 is filed by the claimants
seeking enhancement of compensation awarded in the
same judgment passed in MVC No.5418/2021.



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3. Even though the appeals are listed today for admission, they are taken up for disposal with the consent of learned counsels appearing for the parties.

4. The claimants made a claim petition praying to award compensation for the death of Rajanna (husband of claimant No.1 and brother of deceased) in a road traffic accident occurred on 16.10.2021 contending that the accident occurred due to rash and negligent riding of the rider of motor cycle bearing Regn.No.KA-11-EH-9025 and also driver of Maruti Zen Car bearing Regn.No.KA-05-Z-751. The Tribunal after recording the evidence of the parties, appreciating the evidence assessed the compensation and awarded compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Loss of dependency	12,55,956/-
02.	Loss of estate	15,000/-
03.	Towards spousal consortium (for petitioner No.1)	40,000/-
04.	Transportation of dead body and funeral expenses	15,000/-
	Total	13,25,956/-



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5. The Tribunal also awarded interest @ 6% p.a. from the date of petition till realization. The Tribunal held that there is negligence on the part both rider of motor cycle and driver of car and held contributory negligence at 50% each. The insurer challenging the said contributory negligence contributed to the driver of the insured car has filed the present appeal. The claimants have filed appeal seeking enhancement of compensation awarded by the Tribunal.

6. Heard the learned counsel for the insurer and learned counsel for claimants.

7. Learned counsel for the insurer would contend that when the deceased was crossing the road, at that time, the rider of the motor cycle bearing Regn.No.KA-11-EH-9025 dashed against him and he fell down and thereafter Maruti Zen Car bearing Regn.No.KA-05-Z-751 ran over the deceased. The said rider of the motor cycle was not holding the driving license and there was no insurance of



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the said motor cycle. The rider of the motor cycle is responsible for the accident and as the accident occurred at 7.30 p.m., the driver of the Maruti Zen Car could not notice the accident and therefore, the rider of the motor cycle is totally negligent in driving the motor cycle and causing the accident. She further submits that even though the Tribunal held that the rider of the motor cycle and driver of the Car have contributed to the accident at 50% but the claim petition against the owner of the motor cycle/respondent No.3 has been dismissed. Even if there is contributory negligence on the part of the rider of the motor cycle and in cases of composite negligence, the joint tort feors are liable to pay the compensation assessed and in case if one of the joint tort feor pays the total compensation, he/it can recover the same from other joint tort feor to the extent of contributory negligence assessed by the Tribunal. She also placed reliance on the decision of **Khenyei vs. New India Assurance Company Ltd and others** reported in



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(2015) 9 SCC 273. She further submits that since claimant No.2 is not dependant and claimant No.1 is the wife of deceased, the Tribunal has rightly deducted 50% towards personal expenses of the deceased.

8. Learned counsel for the claimants would contend that as there is composite negligence, the claimants can recover the compensation assessed, from any of the joint tort feisor. He further submits that the Tribunal has taken income of the deceased based on minimum wages. But as per the chart prepared by the Karnataka State Legal Services Authority, the notional income fixed for the year 2021 is Rs.15,000/- p.m. and the same is to be taken. The Tribunal has rightly added 25% towards future prospects and applied multiplier '13'. He further submits that the compensation awarded under conventional heads is just and proper.

9. Having heard the learned counsels, the Court has perused the judgment, award and trial Court records.



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10. The accident occurred on 16.10.2021 at about 7.30 p.m. The deceased was aged 49 years as on the date of accident. Ex.P11 is the charge sheet and it is filed against both the rider of the motor cycle and the driver of Maruti Zen Car. The charge sheet is filed against the rider of the motor cycle (accused No.1) for the offence under Sections 279, 337, 304-A of IPC and Sections 3 and 181 of Indian Motor Vehicles Act. The charge sheet is also filed against the driver of the car (accused No.2) for the offence punishable under Sections 279 and 304(A) of IPC and Section 187 of the Indian Motor Vehicles Act. The charge sheet is filed against the owner of the motor cycle (accused No.3) for the offence under Sections 180, 146 and 196 of Indian Motor Vehicles Act. As per column No.17 of the charge sheet, rash and negligent driving is alleged against both the rider of the motor cycle and the driver of the car. The rider of the motor cycle dashed against the deceased and as a result he fell down, at that time, the driver of Maruti Zen Car ran over the deceased



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who fell on the road and body of the deceased was dragged to little distance and the deceased succumbed to the injuries in the hospital. Considering the fact that the charge sheet has been filed against both of them and the manner of the accident taken place, the Tribunal has rightly assessed the contributory negligence on the part of the driver of the car and the rider of the motor cycle at 50% each.

11. Considering the manner of the accident and the charge sheet being filed against the driver of the car and rider of the motor cycle there is composite negligence. In cases of composite negligence who is to be sued and what is the liability of the joint tort feisor has been considered by the Apex Court in the case of **Khenyei vs. New India Assurance Company Ltd and others (2015) 9 SCC 273**. The decision is also referred to by the Tribunal. In the said decision, the Hon'ble Apex Court has observed as under:



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- (i) *In the case of composite negligence, plaintiff/claimant is entitled to sue both or any one of the joint tortfeasors and to recover the entire compensation as liability of joint tortfeasors is joint and several.*
- (ii) *In the case of composite negligence, apportionment of compensation between two tortfeasors vis a vis the plaintiff/claimant is not permissible. He can recover at his option whole damages from any of them.*
- (iii) *In case all the joint tortfeasors have been impleaded and evidence is sufficient, it is open to the court/tribunal to determine inter se extent of composite negligence of the drivers. However, determination of the extent of negligence between the joint tortfeasors is only for the purpose of their inter se liability so that one may recover the sum from the other after making whole of payment to the plaintiff/claimant to the extent it has satisfied the liability of the other. In case both of them have been impleaded and the apportionment/ extent of their negligence has been determined by the court/tribunal, in main case one joint tortfeasor can recover the amount from the other in the execution proceedings.*
- (iv) *It would not be appropriate for the court/tribunal to determine the extent of composite negligence of the drivers of two vehicles in the absence of impleadment of other joint tortfeasors. In such a case, impleaded joint tortfeasor should be left, in case he so desires, to sue the other joint tortfeasor in independent proceedings after passing of the decree or award.*



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12. In cases of composite negligence, the claimant is at liberty to sue both or any one of the joint tort-feasors to recover the compensation as liability of joint tort feadors is joint and several.

13. In cases where all the joint tort feadors have been impleaded and evidence is sufficient it is open to the Court to determine the extent of contributory negligence of the drivers. In the case on hand, the claimant has **arraigned both the joint tort feadors**. The Tribunal has also apportioned the contributory negligence on the part of the joint tort feadors at 50% each. If one of the joint tort feadors pays the entire compensation, he/it is at liberty to recover the amount paid to the extent apportioned on the other joint tort feador in execution proceedings. Inspite of the said aspect, the Tribunal has only directed the owner and the insurer of Maruti Zen Car to pay the compensation to claimant No.1 and dismissed the claim petition against respondent No.3, the owner of motor cycle. The owner of the motor cycle is also liable to pay 50% of compensation



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awarded with interest to claimant No.1. Therefore, dismissal of claim petition against the owner of motor cycle is bad in law and therefore, it is set-aside. The insurer of Maruti Zen Car in case makes payment of the entire compensation assessed, it is at liberty to recover 50% of the same from the owner of motor cycle bearing Regn.No.KA-11-EH-9025 i.e. respondent No.3 before the Tribunal.

14. The notional income fixed by the Karnataka State Legal Services Authority for the year 2021 is Rs.15,000/- p.m. and that is to be taken as against Rs.12,882/- taken by the Tribunal. The Tribunal considering the age of the deceased has rightly applied multiplier '13' and added 25% towards future prospects. The Tribunal has deducted 50% towards personal expenses of the deceased. There are two claimants, claimant No.1 is the wife of the deceased and claimant No.2 is the brother of the deceased. The Tribunal has rightly held that claimant No.2 is not dependant and claim petition by claimant No.2



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has been rightly dismissed by the Tribunal. The Tribunal has deducted 50% towards personal expenses of the deceased considering that claimant No.1 is the only dependant of deceased and she is the wife of deceased.

15. Learned counsel for the insurer placing reliance on the decision of Hon'ble Apex Court in **Sarla Verma vs. DTC** reported in **(2009) 6 SCC 121** and **National Insurance Company Ltd. Vs. Pranay Sethi and others** reported in **(2017) 16 SCC 680** contends that in cases where there are 2 to 3 dependants the deduction should be $1/3^{\text{rd}}$. She further submits that in cases where only the wife being the claimant, deduction should be 50%. In case of death of bachelor, deduction towards personal expenses of deceased would be 50% considering that the father is earning and mother is the only dependant and in future he may marry and contribute his income to his family. In both the decisions of Sarla Verma and Pranay Sethi, the Hon'ble Apex Court has not considered what would be the deduction in case where wife/widow is the



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only claimant. The Hon'ble Apex Court in recent case of ***Ved Kanwar and others Vs Babulal and Others reported in 2026 ACJ 872*** has considered a similar case and taken deduction at $1/3^{\text{rd}}$ where the deceased was married and left behind his widow only. Therefore, the deduction to be taken in the present case is $1/3^{\text{rd}}$ towards personal expenses of the deceased. In view of the above, the loss of dependency is calculated as under:

$$\text{Rs.}15,000 + 25\%(3,750)=18,750 \times 12 = \text{Rs.}2,25,000/-$$

$$\text{Rs.}2,25,000 - 1/3 = 1,50,000 \times 13 = \text{Rs.}19,50,000/-$$

16. The claimants have not sought enhancement of compensation under conventional heads stating that the compensation awarded under conventional heads is just and proper.

17. In view of the above, the claimants are entitled to compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Loss of dependency	19,50,000/-



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02.	Loss of estate	15,000/-
03.	Loss of consortium	40,000/-
04.	Transportation of dead body and funeral expenses	15,000/-
	Total	20,20,000/-

18. Considering the above aspects, the claimants are entitled to total compensation of Rs.20,20,000/- as against Rs.13,25,956/- awarded by the Tribunal with interest. The apportionment of the compensation among the joint tort feasons is at 50% each. The owner and insurer of Maruti Zen Car bearing Regn.No.KA-05-Z-751 are jointly and severally liable to pay 50% of the compensation awarded with interest and the owner of motor cycle bearing Regn.No.KA-11-EH-9025 is liable to pay remaining 50% of the compensation awarded with interest. Since the accident occurred due to composite negligence on the part of driver of Maruti Zen Car and rider of the motor cycle, the insurer of Maruti Zen Car shall deposit the entire compensation and recover 50% of the amount deposited from the owner of motor cycle bearing Regn.No.KA-11-EH-9025.



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19. In view of the above, the following:

ORDER

- i) Both the appeals are allowed in part.
- ii) Claimant No.1 is entitled to total compensation of Rs.20,20,000/- with interest @ 6% p.a. from the date of petition till realization.
- iii) The owner of Maruti Zen Car (respondent No.1 before the Tribunal) and insurer of the said car (respondent No.2 before the Tribunal) are jointly liable to pay 50% of the compensation awarded with interest.
- iv) The owner of motor cycle bearing Regn.No.KA-11-EH-9025 (respondent No.3 before the Tribunal) is liable to pay 50% of the compensation awarded with interest.
- v) Respondent No.2/insurer of Maruti Zen Car shall deposit the entire compensation awarded with interest before the Tribunal within a period of six weeks from this day



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including the amount already deposited and recover 50% of the amount deposited from respondent No.3 (before the Tribunal) by filing execution proceedings.

- vi) The amount in deposit is ordered to be transmitted to the Tribunal.
- vii) Claimant No.1 is not entitled to interest for the delay period of 755 days in filing the appeal as per order dated 03.03.2026 passed on I.A.1/2026 in MFA No.1603/2026.
- viii) Claimant No.1 is entitled to release of 50% compensation amount. Remaining amount shall be kept in FD with Karnataka Bank, City Civil Court Branch, Bangalore, for a period of 5 years.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DKB
List No.: 1 Sl No.: 22
Ct.sm