



CNR: KAHC010190102017

NC: 2026:KHC:51287-DB
MFA No. 161 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

MISCELLANEOUS FIRST APPEAL NO. 161 OF 2017 (MV-D)

BETWEEN:

1. SMITHA
W/O LATE KALIPRASAD
AGED ABOUT 23 YEARS
R/O HOSANANJAPURA VILLAGE
BHADRAVATHI TALUK
SHIMOGA DISTRICT
NOW R/O BOMMANAKATTE VILLAGE
HOLALKERE TALUK-577 526
2. TANUPRASAD
S/O LATE KALIPRASAD
AGED ABOUT 2 YEARS
MINOR REPRESENTED BY HER
NATURAL GUARDIAN MOTHER
APPELLANT NO.1

Digitally signed
by PAMITHRA B
Location: HIGH
COURT OF
KARNATAKA

...APPELLANTS

(BY SRI: SHASHIDHARA R, ADVOCATE)

AND:

1. K. MAHABHADRAPPA
S/O VEERABHADRAPPA
AGED ABOUT 51 YEARS
R/O GANDHI NAGARA
CHALLAKERE TOWN-577 522



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OWNER OF MALLIKARJUNA BUS
BEARING NO KA-16/A-7177

2. THE DIVISIONAL MANAGER
NEW INDIA ASSURANCE CO. LTD.,
A.M.ARCADE, NEAR VIDHYARTHI BHAVAN
C.G.HOSPITAL ROAD
DAVANAGERE-577 001
3. MEENAKSHAMMA
W/O MARIYAPPA
AGED ABOUT 53 YEARS
4. MARIYAPPA
DEAD BY ITS LR_s
- 4(A). SHIVAMURTHI
S/O MARIYAPPA
AGED ABOUT 39 YEARS
- 4(B). MANJUNATH
S/O MARIYAPPA
AGED ABOUT 34 YEARS

ALL ARE RESIDING AT
HOSANANJAPURA VILLAGE
BHADRAVATHI TALUK
SHIMOGA DISTRICT-577 301

...RESPONDENTS

(BY SRI: H B NAGARAJA, ADVOCATE FOR R1;
SRI: C R RAVI SHANKAR, ADVOCATE FOR R2;
SRI: PRITHVI RAJ B N, ADVOCATE FOR R3;
R4[A] & R4[B] ARE SERVED AND UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED 02.08.2016
PASSED IN MVC NO.71/2015 ON THE FILE OF THE SENIOR
CIVIL JUDGE, & MACT, HOLALKERE, PARTLY ALLOWING THE



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CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

This appeal is directed against the judgment and award dated 02.08.2016 in MVC No.71 of 2015 passed by the Senior Civil Judge and Additional Motor Accident Claims Tribunal at Holalkere, whereby, the Tribunal has awarded compensation of Rs.13,57,500/-, for the death of husband of appellant No.1.

2. The husband of appellant No.1 and father of appellant No.2 and son of respondent Nos.3 and 4 namely, Kali Prasad died on 08.11.2014 in the road traffic accident. The appellants herein have approached the MACT seeking compensation for the death of Kali Prasad. In the claim petition, the parents of the deceased were arrayed as respondent Nos.3 and 4. According to the appellants, the



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deceased was working as Bill Collector at KPTCL and was also carrying agriculture operations. According to them, the monthly income of the deceased was Rs.30,000/-. The Tribunal has considered the income of the deceased at Rs.5,000/- per month and added 30% for future prospects. Applying the multiplier '17' and deducting 1/4th of the income for personal expenses, the Tribunal has awarded a sum of Rs.9,94,500/- towards loss of dependency.

3. It is the submission of learned counsel for the appellants that the assessment of the income at Rs.5,000/- per month is on the lower side and the Tribunal ought to have considered the income of Rs.8,500/- and added 40% as future prospectus. It is his further submission that the compensation awarded for loss of consortium and love and affection is inadequate and liable to be enhanced.

4. Learned counsel for the respondent - insurer seeks to justify the judgment and award passed by the Tribunal and submits that there are no grounds for enhancement of compensation. The Tribunal has granted sufficient compensation under each of the heads. Learned counsel



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hasten to add that the claimants have not produced any documents in proof of the income of the deceased as claimed by them in the claim petition and therefore, the Tribunal had no other option except to apply the notional income for determination of compensation towards loss of dependency.

5. Alternatively, it is his submission that if this Court were to enhance the compensation under the head loss of dependency and the loss of consortium, the death of respondent No.4/father is required to be taken note of and appropriate deduction of personal expenses based on number of dependents is to be made. In addition, it is contended that in view of the death of respondent No.4, the grant of compensation towards loss of consortium shall be restricted only to appellant Nos.1 and 2 and respondent No.3.

6. We have heard learned counsel for the parties and perused the records.

7. Learned counsel for the appellants is right in his submission that the consideration of notional income at Rs.5,000/- in respect of the accident occurred during the year



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2014 is in lower side and even according to the chart issued by the Legal Services Authority, the notional income in respect of the accident for the year 2014-15, Rs.8,500/- is required to be considered. Since the deceased was aged 30 years as on the date of accident, future prospects of 40% is to be considered. In view of the fact that the respondent No.4/father died during the pendency of this appeal, the deduction of personal expenses shall be considered at 1/3rd since the number of dependents are 3 in number. Accordingly, the loss of dependency is determined at **Rs.15,23,200/-** (8,500 + 3,400 (40%) x 12 x 16 x 2/3rd).

8. The compensation awarded by the Tribunal under the head loss of love and affection is inadequate, inasmuch as, the loss of consortium in respect of appellant Nos.1 and 2 and respondent No.3 shall be granted at Rs.40,000/- each i.e., **Rs.1,20,000/-** (40,000 x 3). In light of the judgment of the Hon'ble Supreme Court in ***National Insurance Co. Ltd., Vs Pranay Sethi¹***, the appellants are entitled for compensation of

¹ (2017) 16 SCC 680



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Rs.15,000/- towards funeral and transportation expenses and a sum of **Rs.15,000/-** towards loss of estate.

9. Since the entire medical expenses of Rs.2,83,000/- claimed by the appellants is already granted, no interference is called for. Accordingly, the total compensation for which the appellant Nos.1 and 2 and respondent No.3 are entitle to is re-assessed as follows:

Sl. No.	Particulars of heads	As per the award of MACT (Rs.)	Re-assessed compensation (Rs.)
1	Loss of dependency	9,94,500/-	15,23,200/-
2	Loss of love and affection and Loss of consortium	45,000/-	1,20,000/-
3	Funeral Expenses	25,000/-	15,000/-
4	Loss of estate	10,000/-	15,000/-
5	Medical Expenses	2,83,000/-	2,83,000/-
	Total	13,57,500/-	19,56,200/-

10. At this stage, learned counsel for the appellants submits that the Trial Court has erroneously directed that the entire compensation towards medical expenses shall be paid to respondent Nos.3 and 4 only on the ground that the medical bills were in the custody of the said respondents. In fact, respondent Nos.3 and 4 were entirely dependant upon the



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income of the deceased and therefore, respondent Nos.3 and 4 had no means to meet the medical expenses. Therefore, it is only appellant No.1 who is entitled for entire medical expenses.

11. As noticed above, during the pendency of this appeal, respondent No.4 i.e., father of the deceased died and other two sons of respondent Nos.3 and 4 were brought on record as respondent Nos.(a) and (b). Despite service of notice, respondent Nos.4(a) and (b) remained unrepresented.

12. Considering the overall circumstances and the fact that respondent Nos.3 and 4 are the parents of the deceased, the contention of the appellants that the apportionment of compensation and entitling respondent Nos.3 and 4 for the entire medical expenses is erroneous does not merit consideration.

13. It is not in dispute that the medical bills were produced by the parents. Therefore, presumption of medical expenses having been met by the parents lies in their favour. No rebuttal evidence is available on record. However, this Court deems it appropriate to redo the apportionment of



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compensation in light of the death of respondent No.4 - father and non representation of respondent Nos.4(a) and (b).

14. We are of the considered opinion that in light of changed circumstances, appellant No.1 should be made entitled for 40% of the total compensation and appellant No.2 shall be entitled for 30% of the compensation and respondent No.3 is entitled for 30% of the compensation.

15. In the result,

(i) Appeal is ***allowed in part.***

(ii) The judgment and award dated 02.08.2016 in MVC No.71 of 2015 passed by the Senior Civil Judge and Additional Motor Accident Claims Tribunal at Holalkere, is modified entitling the appellants and respondent No.3 for an re-assessed compensation of **Rs.19,56,200/-** as against the compensation already granted by the Tribunal in a sum of Rs.13,57,500/-.

(iii) The enhanced compensation shall carry interest at 6% per annum from the date of petition, till its realization.

(iv) In view of the re-apportionment of the compensation as detailed above, necessary adjustment of the



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compensation already released and the compensation to be released on account of enhancement in this appeal shall be made by the Tribunal while releasing the balance compensation.

Registry is directed to transmit the Trial Court records, forthwith, along with the copy of this judgment, for needful action.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(T.P.VIVEKANANDA)
JUDGE**

BGN
List No.: 1 Sl No.: 5