



CNR: KAHC010203872019

NC: 2026:KHC:40565-DB
MFA No. 3733 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.3733 OF 2019(MV-D)

BETWEEN:

1. CHANNABOREGOWDA, T.N
AGED ABOUT 36 YEARS,
S/O NINGAIAH,
 2. ISWARYA,
AGED ABOUT 10 YEARS,
D/O T.N.CHANNABOREGOWDA,
 3. CHIRANTH Gowda,
AGED ABOUT 8 YEARS,
S/O T.N.CHANNABOREGOWDA,
- APPELLANT NOS.2 AND 3 ARE MINORS
REP. BY APPELLANT NO.1

ALL RESIDING AT:
MARIGOWDABADAVANE,
5TH CROSS, MANDYA CITY

...APPELLANTS

(BY SMT.BHUSHANI KUMAR, ADVOCATE)

AND:

1. VISHWESHWARAIH.S,
MAJOR
R/O NO.51, LAXMIKRUPA,
50 FEET ROAD, HANUMANTHANAGAR,
BANGALORE-560 050.
(OWNER OF THE CAR BEARING NO.KA-05-MN-4868)

Digitally
signed by K S
RENUKAMBA

Location:
High Court of
Karnataka



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2. THE MANAGER,
LEGAL UNIVERSAL SOMPOGENERAL
INSURANCE COMPANY LIMITED,
POLICY ISSUING OFFICE,
UNIT 401, 4TH FLOOR,
SANGAM COMPLEX,
ANDHERIKURLA ROAD,
ANDHERI MUMBAI,
(POLICY NO.2311/53441824/03/000
VALID FROM 16-08-2016 TO 15-08-2017)

...RESPONDENTS

(BY SRI.PUTTAMALLA, ADVOCATE FOR R1;
SRI.C.R.RAVISHANKAR, ADVOCATE FOR
SRI.B.PRADEEP ADVOCATE FOR R2)

THIS MISCELLANEOUS FIRST APPEAL IS FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 26/12/2018, PASSED IN MVC NO.932/2017, ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE & MACT, MANDYA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE JAYANT BANERJI)

The present appeal is filed by the claimants challenging the Judgment and Award dated 26.12.2018 in MVC No.932/2017 passed by the II Additional Senior Civil Judge and MACT,



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Mandya¹ (hereinafter referred to as the 'Tribunal). By the Impugned Award, the learned Tribunal has awarded compensation to the appellants/claimants in a sum of Rs.11,35,800/- along with interest at 6% per annum from the date of petition till the date of deposit.

2. Perusal of the record of this case reflects that the petition was filed by the dependents of the deceased under Section 166 of the Motor Vehicles Act claiming compensation of Rs.30,00,000/-, due to the death of the deceased T.M. Pramila on 18.06.2017 at about 10.30 a.m., in a road accident, while the deceased and her friend were standing on the left side of the road in order to cross the road near Somanahalli Village on Bangalore-Mysore Main Road in order to go to the garments factory. At that time, a car bearing registration No. KA.05/MN.4868, which was driven by its driver in a very rash and negligent manner from the Bangalore towards the Mysore, came and dashed his car against the deceased, due to which she sustained grievous injuries to her head, right leg, right hand, right ear etc. Immediately the deceased was shifted to

¹ Tribunal



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Maddur Government Hospital for treatment, where after administering first-aid treatment, she was referred to NIMHANS at Bangalore for further treatment. However, while being shifted to NIMHANS, she died on the way. The cadaver of the deceased was brought back to Maddur Government Hospital, where post-mortem examination was done.

3. It was stated that the deceased was hale and healthy before the accident and was aged 30 years at that time and working at M/s. Girish Exports, Somanahalli Industrial Area, Maddur, as a garment employee. Additionally she was doing tailoring and milk vending work, and from the said work, she used to earn Rs.15,000/- p.m., and was maintaining her family and she was the only earning member in the family and all the appellants were totally depending on the earning of the deceased for their livelihood. Further, it is averred that the 1st appellant/claimant lost his wife at his young age and appellants/claimants Nos. 2 & 3 are still minors. As such, they all lost the love and affection of the deceased permanently.

4. The appellants/claimants appeared before the Tribunal through their counsel. During the evidence before the Tribunal,



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on behalf of the appellants/claimants No.1 to 3, the appellant No.1/claimant No.1-T.N. Channaboregowda himself was examined as PW.1 and marked the documents viz., Copies of FIR, Compliant, Spot Mahazar, Sketch, Inquest report, Post-mortem report, IMV report, Final Report and salary certificates respectively as per Ex.P1 to Ex.P9, and one Mr. K.L. Ravi, who stated to be eye-witness to the incident in question, was examined as PW.2. The Respondents No. 1 & 2 have appeared before the Tribunal through their respective counsel and filed their written statement, *inter alia*, totally denying the cause and circumstances of the accident, the amount spent towards funeral and other incidental expenses, age, occupation, income, as stated by the appellants/claimants.

5. The respondent No.1 being the Owner of the offending vehicle, and the Respondent No.2, being the Legal Universal Sompo General Insurance Company Limited², were represented by their respective counsel.

2. Insurance Company



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6. The counsel for the Respondent No.1-owner of the offending car submitted before the Tribunal that his vehicle is insured with the Respondent No.2 and if any liability of payment of compensation arises, the same be fastened on the Respondent No.2. The Insurance Company had submitted that the accident in question had occurred not due to the rash and negligent driving of the driver of the car; and the driver of the car did not have a valid and effective driving licence as on the date of the accident, and hence the Insurance Company is not liable to pay any compensation. But, the Respondent No.1 & 2 did not produce any oral and documentary evidence to substantiate their contentions.

7. Based on the pleadings of the parties, the following issues were framed by the learned Tribunal:

"1. Whether petitioners prove that the wife of the 1st petitioner and mother of the 2nd and 3rd petitioners by name T.M. Pramila was standing on the left side of the road to cross the Mysuru-Bengaluru main road, at Somahanahalli village, in order to go to Garments Factory, at that time driver of the Car bearing Reg. No.KA-05-MN-4868, drove the same in a rash and negligent manner and dashed to her due to which T.M. Pramila fell down and has succumbed to injuries, as contended in the petition?"



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2. Whether petitioners are entitled for compensation as prayed for? If yes to what extent and from whom?

3. What order or award?"

8. Having heard the learned counsel appearing on both sides and on considering the oral and documentary evidence produced by the parties, the Tribunal answered Issue No.1 in the affirmative and Issue No.2 partly in the affirmative.

9. The Tribunal considered the age of the deceased as 30 years as on the date of the accident and based on the salary certificate produced at Ex.P9, assessed the monthly income at Rs.7,800/- and also relying on the judgment of the Supreme Court in ***Sarla Verma (Smt.) and Another Vs. Delhi Transport Corporation and Another***³, has adopted the multiplier of '17' and after deducting 1/3rd of her income towards her personal expenses, and considering the other aspects, awarded a total compensation of Rs.11,35,800/- under the following heads:

³ (2009) 6 SCC 121



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Sl.No.	Particulars	Amount (Rs.)
1	Loss of dependency	10,60,800-00
2	Funeral expenses and Transportation of dead body 15,000+5000/-	20,000-00
3	Loss of Estate	15,000-00
4	Loss of consortium	40,000.00
	TOTAL	11,35,800-00

10. Being aggrieved by the said impugned judgment and award, the claimants are before this Court.

11. Heard Smt.Bhushani Kumar, learned counsel for the appellants and Sri. Puttamalla, learned counsel for the Respondent No.1-owner, and Sri. C.R. Ravishankar, learned counsel for the Respondent No.2/Insurance Company.

12. The contention of learned counsel for the appellants is that the deceased was an employee in a Garment Factory and to substantiate that contention, the appellant No.1/claimant No.1 has produced the salary certificate of the deceased, which indicates that the salary of the deceased was Rs.7,800/- per month. It is also contended that, in addition to the said employment, the deceased was a home-maker, and



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she was also doing milk vending and tailoring work and hence, her total income was Rs.15,000/- p.m. The Tribunal has erroneously observed that there is absence of any oral or documentary evidence to substantiate the contention of additional income, and has proceeded to assess the income of the deceased at Rs.7,800/- per month, which is less than half of what she was legally entitled to. It is therefore stated that the loss of dependency has been incorrectly calculated. Moreover, it is her contention that escalation ought to have been awarded by the Tribunal, given the fact that the matter is pending before this Court since the year 2019, which was not done in the instant case. Further, it is stated that there were three family members of the deceased, namely, her husband and two minor children. Therefore, the consortium has also not been awarded correctly. Learned counsel has sought to rely upon the judgment of the Supreme Court in the case of ***Shishu Pal and others Vs. Surjit and others***⁴ to contend that the deceased being a home maker, a minimum of Rs.30,000 should be taken as her notional monthly income.

⁴ 2026 SCC OnLine SC 1114



13. The counsel for the appellants has also contended that, on the awarded amount, only 6% interest has been awarded by the Tribunal and urged to enhance the same to 9% p.a., in view of the judgment of this court in ***Sri. Bimal Gogai and another vs. Managing Director, BMTC⁵***.

14. Sri. C.R. Ravishankar, learned counsel for the respondent/insurance Company, on the other hand has sought to distinguish the aforesaid judgment of the Supreme Court in ***Shishu Pal's case***, by relying upon the evidence on record to contend that evidence was duly led in the instant case before the Tribunal in respect of income of the deceased. Therefore, after evaluation of evidence, the Tribunal has assessed the income of the deceased at Rs.7,800/- per month. It is therefore, contended that the income has been properly awarded. However, the learned counsel has fairly conceded that the dependents being 03 in number, the consortium has not been correctly awarded. He also stated that, as far as the appellant No.1/claimant No.1 is concerned, the trial Court

⁵ MFA No.10401/2018 & MFA No.5507/2018 D/D 09.06.2026



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noted that he was working in a petrol pump and he was not having much income to maintain the family alone. Therefore, though he did not have enough income to look after the family alone, but his income would have been added to the income of the deceased to consider it as the family income.

15. Having heard the learned counsel for the parties and perused the material on record, the question that arises for consideration before this Court is, *whether the compensation that has been calculated by the learned Tribunal is in accordance with law?*

16. We have considered the judgment in the case of ***Shishu Pal*** cited by learned counsel for the appellants. It is reflected therein that there was no evidence with regard to evidence of the income of the deceased. It appears that in the aforesaid case of ***Shishu Pal*** arose out of a judgment of Punjab and Haryana High Court in ***FAO No. 1627/2004***, decided on ***11.12.2024***, wherein the learned Single Judge of the said High Court assessed the income of the lady deceased, (who was a home-maker) by considering the minimum wages of a skilled labourer at Rs.3,000/- per month, and an addition of 40% was



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made on the said amount towards future prospects, and one fourth ($1/4^{\text{th}}$) of the revised monthly income was deducted towards of personal expenses, which resulted in the balance amount of Rs.3,150/- p.m., which worked out to be a sum of Rs.37,800/- annually. Therefore, it appears that no evidence was led before the Tribunal in the case of ***Shishu Pal*** to bring out the income of the deceased wife.

17. Such are not the facts in the instant case. In the instant case, evidence has been duly led by producing the salary certificate of the deceased evincing income of Rs.7,800/- p.m., and other income earned by way of milk-vending and tailoring has also been claimed. In the evidence of the PW1, he has stated in his examination-in-chief regarding milk-vending and tailoring work by the deceased in addition to the work in the garment factory. Even in the cross-examination, apart from admitting that he was working in a Petrol Bunk (*sic*), also stated that, his wife was doing agricultural and animal husbandry. Therefore, it is evident that apart from working in the garment factory, the deceased was also engaged in other occupations, which included looking after the cattle. Given the



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overarching interest of the dependents of the deceased, as well as the fact that the Motor Vehicles Act is a beneficial legislation, coupled with the fact that the Karnataka State Legal Services Authority has prepared a calculation chart fixing the notional income, multiplier, etc., and since the deceased has died in the year 2017, her income should be Rs.11,000/- per month and it is awarded accordingly. The multiplier of '17' with deduction of 1/3rd towards personal expenditure and addition of 40% towards future prospects be applied to the aforesaid notional income. As far as loss of consortium is concerned, since there are three dependants, the consortium would be Rs.1,20,000/- with 20% escalation. So far as the award under the heads of loss of estate at Rs.15,000/- and funeral expenses 15,000/- is concerned, that too is required to be awarded with 20% escalation each.

18. The loss of dependency is recomputed as follows:-

Heads	Amounts
Loss of dependency	Rs.20,94,264/- [Rs.11,000+40% =Rs.11,000+4400 = 15,400/- After deducting Rs.5134 (1/3 rd of Rs.15,400/-), the monthly income would



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	be Rs.10,266/- (15,400x1/3) and the annual income would be Rs.1,23,192/- [10,266x12=1,23,192] [Loss of Dependency: (Rs.10,266x12x17=20,94,264/-)]
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19. In view of the above, the award of the Tribunal requires to be recalculated in the following terms:-

Sl.No.	Particulars	Amount (Rs.)
01.	Loss of Dependency	20,94,264-00
02.	Loss of Consortium (Rs.40,000x3=1,20,000 +20% escalation)	1,44,000-00
03.	Loss of Estate (15,000+20% escalation)	18,000-00
04.	Transportation of dead body, funeral expenses charges and miscellaneous expenses (15,000+20% escalation)	18,000-00
	Total	22,74,264-00
	Less: Awarded by the Tribunal	11,35,800-00
	Enhanced compensation	11,38,464-00

20. Hence, the appellants/claimants are entitled to a total compensation of **Rs.22,74,264/-** as against Rs.11,35,800/- awarded by the Tribunal along with interest as awarded by the learned Tribunal, from the date of petition till its realization.



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21. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The appeal is ***allowed in part;***

(ii) The Judgment and Award dated 26.12.2018 in MVC No.932/2017 passed by the II Additional Senior Civil Judge & MACT, Mandya, is modified, enhancing the compensation by **Rs.11,38,464/-** [Rs.22,74,264 (-) Rs.11,35,800].

iii) The enhanced compensation shall carry interest at the rate of 9% per annum from the date of petition till the date of deposit.

(iii) The respondent No.2/Insurance company is directed to pay the entire compensation with accrued interest, within six weeks from today.

(iv) On such deposit of compensation, the same shall be released in favour of the appellants/claimants, on filing of an appropriate application for withdrawal of the enhanced amount before the Tribunal.

(v) The apportionment and disbursement of the enhanced compensation amount will be in terms of the award passed by the Tribunal.

(vi) The Registry is directed to draw the modified Award accordingly.



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(vii) The Registry is directed transmit a copy of this judgment to the concerned Tribunal, along with its records.

(viii) If any amount is deposited before this Court, the same shall be transmitted to the concerned Tribunal.

(ix) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

KGR
List No.: 1 Sl No.: 26