



CNR: KAHC010508692015

NC: 2026:KHC:39870-DB
MFA No. 3194 of 2015
C/W MFA No. 377 of 2015
MFA No. 2327 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 3194 OF 2015 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 377 OF 2015 (MV-D)

MISCELLANEOUS FIRST APPEAL NO. 2327 OF 2015 (MV-D)

IN MFA NO.3194 OF 2015

BETWEEN:

1. SMT. MANJULA
W/O LATE MANJUNATH G.JANNU,
AGED 41 YEARS,
OCC: HOUSE WIFE,
2. MASTER PREETHAM
S/O LATE MANJUNATH,
AGED 9 YEARS,
3. KUM. AADYA
D/O LATE MANJUNATH G.JANNU,
AGED 7 YEARS,
4. SMT. SAVITHRI
D/O LATE GANGADHAR JANNU,
AGED 53 YEARS,
ALL R/O NO.3101/1,
9TH MAIN, 2ND CROSS,
M.C.C.BLOCK,
DAVANAGERE-57701.

Digitally signed by
SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA



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APPELLANT NO.2 & 3 ARE MINORS
REPRESENTED BY NATURAL GUARDIAN,
MOTHER/APPELLANT NO.1-SMT. MANJULA.

...APPELLANTS

(BY SMT. SARITHA KULKARNI., ADVOCATE)

AND:

1. SUDHAKAR.K.J.
S/O JAYADEVAAPPA,
AGE: 36 YEARS,
R/O # 1923/49, 45TH MAIN ROAD,
SWAMY VIVEKANANDA LAYOUT,
NOW R/O 7TH CROSS, KTJ NAGAR,
DAVANAGERE CITY-577 001.
2. THE MANAGER,
THE NEW INDIA ASSURANCE CO., LTD.,
R.K.ARCADE, OPP: VALI MEDICAL STORE,
VIDHYARTHI BHAVAN,
DAVANGERE-577 001.
3. SMT. LATHA
D.V.REVANKAR,
AGE: 44 YEARS,
OCC: PROPRIETOR-NAVEEN LADIES TAILOR.
4. MASTER GANESH
S/O LATHA,
AGE: 21 YEARS,

ALL R/O NAVEEN LADIES TAILOR,
DIAMOND PLAZA, 2ND FLOOR,
DURGADA BAYALU, HUBLI.

...RESPONDENTS

(BY SRI. A.R.LAKSHMI NARAYANA., ADVOCATE FOR R2;
SMT. SHOBHA BHAVIKATH., ADVOCATE FOR R4;
V/O/DTD:05.07.2016-NOTICE TO R1-DISPENSED WITH;
R3-SERVED)



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THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 03.09.2014 PASSED IN MVC NO.1143/2010 ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MEMBER, MACT-III, DAVANAGERE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 377 OF 2015

BETWEEN:

THE MANAGER,
THE NEW INDIA ASSURANCE COMPANY LIMITED,
R.K.ARCADE, OPPOSITE TO VALI MEDICAL STORE,
VIDYARTHI BHAVAN, DAVANAGERE,

REPRESENTED

BY THE MANAGER,
REGIONAL OFFICE (MOTOR TP HUB),
THE NEW INDIA ASSURANCE COMPANY LIMITED,
MAHALAKSHMI CHAMBERS,
NO.9, M.G.ROAD
BANGALORE-560 001.

...APPELLANT

(BY SRI. A.R.LAKSHMI NARAYANA., ADVOCATE)

AND:

1. SMT. MANJULA
AGED ABOUT 41 YEARS,
HOUSE WIFE
2. MASTER PREETHAM
AGED ABOUT 9 YEARS,
3. KUM. AADYA
AGED ABOUT 6½ YEARS,

1 IS THE WIFE AND
2 AND 3 ARE THE CHILDREN
RESPECTIVELY, OF
LATE SHRI MANJUNATHA.G.JANNU,



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RESPONDENTS 2 & 3 BEING MINORS;
ARE REPRESENTED BY
THEIR MOTHER/NATURAL GUARDIAN
1ST RESPONDENT

4. SMT. SAVITHRI
D/O SHRI GANGADHARA JANNU,
AGED ABOUT 53 YEARS,

ALL THE RESPONDENTS 1 TO 4
ARE RESIDING AT
NO.3101/1, 2ND CROSS, 9TH MAIN,
MCC-B BLOCK,
DAVANAGERE-577 001.

5. SHRI. K.J.SUDHAKAR
S/O SHRI K.JAYADEVAPPA,
AGED ABOUT 36 YEARS,
RESIDING AT NO.1923/49,
7TH CROSS, 45TH MAIN,
SWAMI VIVEKANANDA LAYOUT,
KTJ NAGAR, DAVANAGERE-577 001.

6. SMT. LATHA
D/O SHRI G.V.REVANKAR
AGED ABOUT 44 YEARS,
PROPRIETOR,
NAVEEN LADIES TAILOR,

7. MASTER GANESH
S/O SMT.LATHA
AGED ABOUT 21 YEARS,

RESPONDENTS 6 & 7 ARE
RESIDING AT
NAVEEN LADIES TAILOR,
2ND FLOOR, DIAMOND PLAZA,
DURGADA BAIL, HUBLI-580 020.

...RESPONDENTS

(BY SRI. SAVITHA KULKARNI FOR R1 & R4., ADVOCATE;



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R2 & R3 ARE MINORS REP.BY R1;
SRI. SREEHARISHA.A.K., ADVOCATE FOR R5;
SMT. SHOBHA.S.BHAVIKATTI., ADVOCATE FOR R6 & R7)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:03.09.2014 PASSED IN MVC NO.1142/2010 ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, MEMBER, MACT-3, DAVANAGERE, AWARDED A COMPENSATION OF RS.33,79,886/- WITH INTEREST @ 6% P.A FROM THE DATE OF PETITION TILL ITS DEPOSIT.

IN MFA NO. 2327 OF 2015 (MV-D)

BETWEEN:

1. SMT. LATHA
AGED ABOUT 45 YEARS,
W/O LAE MANJUNATHA G.JANNU,
2. GANESH
AGED ABOUT 19 YEARS,
S/O LATE MANJUNATHA.G.JANNU,

BOTH ARE RESIDING AT
D.NO.46, GOKUL ROAD,
HUBLI-580024.

...APPELLANTS

(BY SRI. SHOBHA.S.BHAVIKATTI.,ADVOCATE)

AND:

1. SMT. MANJULA
AGED ABOUT 41 YEARS,
W/O.LATE MANJUNATH JANNU,
2. MASTER PREETHAM
AGED ABOUT 9 YEARS,
W/O LATE MANJUNATH.G.JANNU,



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3. KUM AADYA
AGED ABOUT 6½ YEARS,
D/O LATE MANJUNATH.G.JANNU,
4. SMT. SAVITRI
AGED ABOUT 53 YEARS,
D/O GANGADHARA JANNU,
R/AT NO.3101/1,
9THMAIN 2NDCROSS,
MCC "B" BLOCK,DAVANAGERE-577704.
5. SUDHAKAR.K.J.
AGED ABOUT 36 YEARS,
S/O SHRI JAYADEVAPPA,
R/O NO.1923/49,
45TH MAIN ROAD,
SWAMY VIVEKANANDA LAYOUT,
R/O 7TH CROSS, KTJ NAGAR,
DAVANAGERE-577 001.
6. THE NEW INDIA ASSURANCE CO.LTD.,
R.K.ARCADe, OPP.VALI MEDICAL STORE,
VIDHYARTHI BHAVAN, DAVANAGERE,
REPRESENTED BY ITS MANAGER.

...RESPONDENTS

(BY SRI.Y.ARUNA., FOR ADVOCATE FOR R2;
SRI. A.R.LAKSHMI NARAYANA., ADVOCATE FOR R6;
SMT. SARITHA KULKARNI., ADVOCATE FOR R1, R3 & R4;
NOTICE TO R5 IS DISPENSED WITH-V/O/DTD:12.01.2018)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 03.09.2014 PASSED IN MVC
NO.1143/2010 ON THE FILE OF THE II ADDITIONAL
DISTRICT & SESSIONS JUDGE AND MEMBER, MACT-III,
DAVANAGERE, 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:



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

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

MFA No.3194/2015, MFA No.377/2015
& MFA No.2327/2015:

1. These appeals seek to challenge the Judgment and Award dated 03.09.2014 in MVC No.1143/2010 passed by the II Additional District and Sessions Judge and Member, MACT-III, Davanagere, (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded compensation to the dependants of the deceased Manjunath, a total sum of Rs.33,79,886/- along with interest at 6% per annum from the date of petition till its realisation.

2. MFA No.3194/2015 has been filed by one Manjula being the second wife of the deceased Manjunath and her minor children Master Preetham and Kum. Aadya including Savithri, the blind sister of the deceased Manjunath seeking



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for enhancement of the compensation awarded by the learned Tribunal.

3. MFA No.377/2015 has been filed by the Insurance Company challenging the age of the deceased taken by the learned Tribunal at 42 years in awarding compensation, since there is a dispute as regards the date of birth of the deceased.

4. MFA No.2327/2015 has been filed by one Latha being the first wife (who was said to be divorced), of the deceased Manjunath and her minor son Ganesh, challenging the apportionment out of the total compensation awarded by the learned Tribunal.

MFA No.3194/2015:

ORDER ON I.A.No.1/2018 & Appeal:

5. An application I.A.No.1/2018 is filed seeking to produce additional documents filed by the appellants. The documents sought to be produced are the SSLC marks Card and a Transfer Certificate of the deceased Manjunath.



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5.1 The learned counsel for the appellants submits that the compensation as awarded in the Impugned Award was based on two Income Tax Returns, both of which gave different dates of birth of the deceased. The Income Tax Return for AY 2009-10 [Exhibit P20], the date of birth was shown as 12.06.1958, while Income Tax Return for AY-2008-09 [Exhibit P21], the date of birth of the deceased was shown as 31.03.2008.

5.2 Learned counsel submits that the dates of birth as given in both these Income Tax Returns are incorrect and his actual date of birth is 18.12.1968. Reliance in this behalf is placed on the Karnataka Secondary Education Examination Board Certificate (SSLC) of the deceased Manjunath, which is attached along with the application. The learned counsel Smt. Shobha S. Bhavikatti, for the respondent Nos.3 and 4 including the learned counsel Sri. A.R. Lakshmi Narayana for respondent / Insurance Company submits that they have filed a memo today stating



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that they have no objection if the document i.e., the SSLC mark sheet is taken on record.

5.3 An examination of the Impugned Award shows that the date of birth as taken by the learned Tribunal (*albeit* while referencing the income tax returns) is in fact correct. Paragraph 18 in this regard, shows that the learned Tribunal calculated compensation stating that on the date of his death the deceased was 42 years old. Even as per the SSLC certificate, the deceased would be 42 years at the time of his death. Thus, the compensation has actually been calculated correctly by the learned Tribunal despite there being an inadvertent mistake.

5.4 In any event and given the fact that there is no objection in this behalf by the respondents, this Court deems it apposite to allow the application I.A.No.1/2018, which in any event would serve the ends of substantial justice.



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5.5 Smt. Saritha Kulkarni, learned counsel for the appellants submits on instructions that in view of the fact that the Insurance Company's appeal has been disposed of, she does not wish to press her appeal.

5.6 This appeal is accordingly dismissed as not pressed.

MFA NO.377/2015:

6. The learned counsel for the appellant/Insurance Company submits that this appeal has been filed for a limited purpose. Since there is no dispute as to the date of birth of the deceased being 18.12.1968, the challenge in this appeal would be limited to a direction recording or correction by this Court of the date of birth, since the compensation in any event will not get affected.

6.1 The statement of learned counsel for the appellant/Insurance Company is taken on record. The date of birth of the deceased shall reflect as 18.12.1968.

6.2 The record reflects that the date of birth of the deceased Manjunath is 18.12.1968 as evidenced from his



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SSLC Certificate issued by the Karnataka Secondary Education Examination Board. Thus, the deceased was 42 years old at the time of the accident, the multiplier applicable for calculation of compensation would remain as '14' as has been decided by the Impugned Award. Thus, the compensation calculated by this Court in the connected matter in MFA No.2327/2015 under the head of 'loss of dependency' at Rs.30,12,912/- would prevail.

6.3 MFA No.377/2015 is accordingly disposed of.

MFA NO.2327/2015:

7. The present appeal has been filed by one Latha being the divorced first wife of the deceased Manjunath and her son Ganesh, questioning the apportionment out of the total compensation awarded by the learned Tribunal.

8. The brief relevant facts are that on 14.09.2010 at about 11.45 p.m. when the deceased Manjunath was proceeding on his motor cycle on the left side of Davanagere – Shamanur road, near Hiremath situated on the said road,



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the respondent No.5 / Sudhakar K.J who was riding his motorcycle bearing Registration No.KA-17/EB-2727 on the road at a high speed in a rash and negligent manner, dashed against the motor cycle of Manjunath, as a result of which he sustained grievous injuries and succumbed to the injuries on the spot. The case of rash and negligent driving was registered by the Davanagere Traffic police in Crime No. 126 of 2010 and a charge sheet was filed against respondent No.5 herein.

9. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'MV Act') was filed by the dependants namely Smt. Manjula being the second wife of the deceased Manjunath, her two minor children namely Master Preetham and Kum. Aadya along with Savithri who was the blind spinster sister of deceased Manjunath, seeking compensation. Smt. Latha who was the divorced first wife of deceased Manjunath was arrayed as respondent No.3 in the claim petition and her minor son Master Ganesh was arrayed as respondent No.4. It was



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contended that the deceased Manjunath was the Proprietor of M/s. Manjunath Jewelleries and was doing pawn broker business and was earning Rs.75,000/- per month and was contributing to the entire family being his first wife and son, second wife and two children as well as his blind spinster sister.

10. The claim petition was contested by the Insurance Company and the owner/driver of the offending vehicle. The owner of the offending vehicle stated that he had a valid driving licence and he has not committed any negligence. The owner/driver did not file any written statement. The Insurance Company as well as the respondent Nos. 3 and 4 filed their written statements. The Insurance Company stated that the accident was due to the sole negligent act of the deceased and denied that he was running a Jewellery shop. The respondent Nos. 3 and 4 stated that they were claiming compensation on account of the death of the deceased since they are the wife and the legal heir of the deceased. The occurrence of the accident however was not



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denied nor was the fact that the deceased was the proprietor of a Jewellery business.

11. Based on the pleadings between the parties, the following issues were framed by the learned Tribunal:

"1. Whether the petitioners & respondents No.3 & 4 prove that Sri. Manjunatha G. Jannu S/o Gangadhar Jannu suffered fatal injuries in a motor cycle accident occurred on 14.09.2010 at about: 11.45 p.m, near Hirematta, Shamariur Davangere roud, Davangere City, due to rash and negligent driving by the rider of motor cycle bearing Reg. No.KA-17/EB-2727 as alleged in the petition?

2 Whether the petitioners prove that they are legal representatives of deceased Sri. Manjunatha G. Jannu S/o Gangadhar Jannu as alleged?

3 Whether the respondents No.3 & 4 prove that, they are the legal representatives of deceased Sri Manjunatha G. Jannu S/o Gangadhar Jannu (wife & son) as alleged?

4 Whether the petitioners are entitled for compensation? If so, for what amount and from whom?

5 Whether the respondent No.3 & 4 are entitled for compensation? If so, for what amount and from whom?

6. What amount or award?"

12. Smt. Manjula (second wife) examined herself as PW-1 and also produced PW-2 as a witness. Thirty documents were marked by her which included the FIR [Exhibit P1],



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Statement [Exhibit P2], Charge Sheet [Exhibit P3], Inquest Report [Exhibit P4], PM Report [Exhibit P5], IMV Reports [Exhibits P6 & 7], panchanama [Exhibit P8]. The statement of respondent No.3 was exhibited as [Exhibit P9] and the Certified copy of the Order and Decree in MC No. 2 of 2000 [Exhibit P10]. In addition, the Identity Cards and Disability Certificate of the Blind Spinster sister were also part of the Exhibits. The Death Certificate of the deceased was exhibited as [Exhibit P30].

12.1 The first wife of the deceased Smt. Latha was also examined as RW-1. She produced five documents which included copy of the Insurance Policy [Exhibit R1] as well as copy of the order setting aside the divorce decree [Exhibit R2], a money lending licence [Exhibit R3], memo [Exhibit R4] and order sheet in MVC No. 35 of 2010 [Exhibit R5]. The Insurance company did not adduce any oral or documentary evidence.

13. After examining the evidence of PW-1 and RW-1, the learned tribunal found that the factum of the accident was



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proved and that the accident was caused on account of the negligence of the rider of the offending vehicle. The learned Tribunal also found that the post-mortem report [Exhibit P5] referenced the fact that the death of the deceased was due to a hemorrhage shock and in a road traffic accident. The IMV reports [Exhibits P6 & 7] did not show that the accident was due to a mechanical defect. Thus, negligence was proved.

14. On the aspect of compensation, learned Tribunal examined the certified copy of the divorce decree passed on 16.09.2004 [Exhibit P11] and found that the first wife Smt. Latha was not residing with the deceased. It was further held that the deceased had five legal heirs being, the first wife and her son/appellant Nos.1 and 2 herein, second wife and her two minor children/respondent Nos.1 to 3 herein and an unmarried spinster sister of the deceased/respondent No.4 herein. On the compensation to be awarded, the learned Tribunal after examining the Income Tax Returns for the Assessment Year 2009-10,



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found that the income of the deceased was Rs.2,27,430/- and adopted 30% of the amount as loss of future prospects. After deducting a standard deduction of Rs.1,60,000/-, a sum of Rs.1,35,659/- remained as the taxable income. Thus, the annual income of the deceased was taken at Rs.2,95,659/- less Income Tax of Rs.13,973/- which comes to Rs.2,81,686/-. One-fifth was deducted towards personal expenses i.e. Rs.56,337/- and 'loss of dependency' was thus calculated as follows:

$$\text{Rs.2,25,349/-} \times 14 = \text{Rs.31,54,886/-}.$$

14.1 In addition, compensation towards 'loss of consortium' and 'loss of minor care and guidance for minor children' were awarded at Rs.1,00,000/- while funeral expenses at Rs.25,000/-. According, the learned Tribunal awarded the following compensation:

Sl.No.	HEADS OF COMPENSATION	AMOUNT (IN Rs.)
1	Loss of future prospects	Rs.31,54,886/-
2	Funeral Expenses	Rs. 25,000/-
3	Loss of consortium	Rs. 1,00,000/-



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4	Loss of care and guide for minor children	Rs. 1,00,000/-
	TOTAL	Rs.33,79,886/-

14.2 Thus, the learned Tribunal awarded Rs.33,79,886/- with interest at the rate of 6% from date of petition, till its deposit.

14.3 On the apportionment, however, the learned Tribunal found that since the respondent Nos.1 to 4 herein being the second wife, minor children and sister were residing at the house of the deceased and appellants (first wife and son) resided elsewhere and it was also found that appellant No.2 herein had attained majority while respondent Nos.2 and 3 herein were still minors, the apportionment of compensation was done in the following manner:

Sl.No.	NAME & RELATIONSHIP WITH DECEASED MANJUNATH	AMOUNT (IN Rs.)
1	Smt. Latha / Appellant No.1/ first (divorced) wife	Rs.5,00,000/-
2	Smt. Manjula / Respondent No.1 / second wife	Rs.10,79,886/-
3	Master Ganesh / Appellant No.2 (son of first wife)	Rs.3,00,000/-



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4	Master Preetham / Respondent No.2/ son of second wife	Rs.5,00,000/-
5	Kum. Aadya / Respondent No.3/ daughter of second wife	Rs.5,00,000/-
6	Savitri / Respondent No.4/ blind spinster sister	Rs.5,00,000/-
	TOTAL	Rs.33,79,886/-

15. Learned counsel for the appellants/respondent Nos.3 and 4 submit that they are challenging the Impugned Award on two grounds. Firstly, she submits that in view of the settled position of law in the case of **National Insurance Co. Ltd., vs. Pranay Sethi**,¹ the compensation awarded towards 'Loss of consortium' should have been higher. Secondly, she contends that the apportionment has been incorrectly done by the learned Tribunal. Learned counsel submits that the learned Tribunal gave additional amounts to Smt. Manjula, the second wife, Master Preetham and Kumari Aadya and also awarded compensation of a sum of Rs.5,00,000/- to the blind sister of the deceased. However, the minor son and the first wife Smt. Latha/appellants herein, have been awarded lesser amounts, primarily for

¹ (2017) 16 SCC 680



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the reason that they were not living with the deceased and that the deceased had already divorced Smt. Latha. It is the further contention of the learned counsel that the learned Tribunal has wrongly stated that the son of Smt. Latha was a major and was fending for himself but in fact he was a minor and was only 16 years old at the time of the accident. She submits that in fact there was no divorce between the parties, as the decree of divorce was obtained *ex parte* and the said *ex parte* decree was later set aside by the Family Court.

16. Thus, the points that would arise for determination by this Court are:

- (i) Whether the compensation awarded by the learned Tribunal requires to be enhanced?
- (ii) Whether this Court would deem it apposite to interfere with the apportionment of the compensation?

17. The record shows that the certified copy of the order passed in Misc.No.59/2012 [Exhibit R2], was not examined



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by the learned Tribunal. This is an order dated 16.04.2005 passed by the Court of the Prl. Civil Judge (Sr.Dn), Davanagere in a petition filed under Order 9 Rule 13 read with Section 151 of CPC, praying the Court to set aside the *ex parte* decree passed on 13.09.2001 in M.C.No.2/2000 [Exhibit P10]. The Learned Prl. Civil Judge (Sr.Dn), Davangere (hereinafter referred to as 'the Family Court'), after examining the Miscellaneous petition and the circumstances therein, allowed the petition and directed that the *ex parte* judgment and decree of divorce passed in M.C.No.2/2000 be set aside and that the petition be restored to file. The relevant extract of the order is set out thus:

"8. ... Accordingly the petition is to be allowed and I answer the above point in the affirmative and I proceed to pass the following:

ORDER

*The Miscellaneous petition filed by the petitioner is allowed. **The exparte judgment and decree passed in M.C.2/2000 dt. 13.9.2001 on the file of this Court is set aside. M.C.2/2000 is restored to its original number. The parties are directed to proceed with this case.***

[Emphasis Supplied]



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17.1 It is not disputed by the parties that subsequently the divorce proceedings did not culminate into a decree since the deceased passed away.

17.2 The record also reflects that the appellant No.2 / Ganesh was 16 years old when the claim petition was filed. Thus, he was not a major and the apportionment of amounts awarded among the children of the deceased Manjunath, should have been uniform. While the two minor children of Smt. Manjula (second wife) have been awarded compensation of Rs.5,00,000/- each, appellant No.2/Ganesh who was also a minor son of the first wife Smt. Latha has been awarded compensation of only Rs.3,00,000/-. The Respondent No.4 who was the blind spinster sister of the deceased was also awarded a sum of Rs.5,00,000/-. Given that there are six claimants for apportionment of compensation, and the status of both the wives as on date is of dependents, this Court deems it apposite to apportion the compensation amount equally



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between the two wives as well as the three children of the deceased.

18. Now for the purposes of calculation, since the deceased was a Jewellery shop owner, the average of the two years of Income Tax Returns of the deceased would have to be considered for taking the income of the deceased, as per the latest legal position in the judgment of ***Rashmirekha Tripathy v. Sriram General Insurance Co. Ltd.***² The relevant extract of the said judgment is set out below:

"19. When it comes to self-employed/individuals carrying out their own business, in our view, the average of the income specified in the ITRs of up to the previous three years is to be taken as a reference point for assessment of annual income from their business. There may also be a scenario where only one or two ITRs have been filed. **Given such scenarios and the fluctuation of income in these professions,** surrounding circumstances are also to be taken into consideration. These would include:

a) The nature of the business (including geographic location, category etc.);

²2026 SCC OnLine SC 1256



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b) Growth pattern of the business and impact of death on the business;

c) Potential growth of business (for instance certain businesses are capital intensive at the outset and are profitable at scale/in the future);

d) Negative income (certain businesses may require losses in the initial years, which may not reflect the true financial standing); and

e) Any other relevant factor relating to the business.”

[Emphasis Supplied]

18.1 As per the Income tax returns of AY 2008-09 [Exhibit P21], the income is Rs.2,13,950/-. Further, as per the Income Tax Returns of AY 2009-10 [Exhibit P20], the income is Rs.2,59,307/-. The total of both the amounts would come to Rs.4,73,257/- and the average of both the income is Rs.2,36,629/- per annum. After deducting Rs.4,674/- towards the average tax paid and deducting a further amount of Rs.2,400/- towards Professional tax, the net annual income of the deceased Manjunath would be:

$$\text{Rs.2,36,629} - \text{Rs.4674} = \text{Rs.2,31,955/-}$$

$$\text{Rs.2,31,955} - \text{Rs.2,400} = \text{Rs.2,29,555/-}$$

18.2 After deducting 1/5th of the said amount towards personal expenses, the amount would be as follows:



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$$(2,29,555 - 45,911) = \text{Rs.}1,83,644/-.$$

18.3 Thus, the net annual income of the deceased would be taken as Rs.1,83,644/-.

19. Since the deceased was aged 42 years at the time of his death, according to the decision of the Supreme Court in ***National Insurance Co. Ltd., vs. Pranay Sethi***³ as well as ***Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr.***⁴, future prospects ought to have been awarded at 25%. Hence, adding 25% towards 'future prospects', the compensation towards 'loss of dependency' would be re-calculated as follows:

Loss of Dependency	Amount (in Rs.)
$[(2,29,555 - 1/5 = 1,83,644) + 25\% = 2,29,555 \times 14]$	Rs.32,13,770/-

19.1 There being six dependent members, as per the judgment of the ***Pranay Sethi*** case Rs.40,000/- each, i.e., Rs.2,40,000/- (40,000 x 6) ought to have been awarded

³ (2017) 16 SCC 680

⁴ (2009) 6 SCC 121



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towards 'loss of consortium'. Then adding escalation at 30% on the non-conventional heads, the compensation towards 'loss of consortium' comes to Rs.2,40,000/- + 30% = Rs.3,12,000/-. The claimants are also entitled to escalation of 30% in respect of 'funeral expenses'.

19.2 In addition, the dependents are also entitled for compensation towards 'loss of estate' at Rs.25,000/- along with 30% escalation.

20. Accordingly, the compensation is recalculated in the following manner:

Sl.No.	HEADS OF COMPENSATION	AMOUNT (IN Rs.)
1	Loss of dependency	32,13,770/-
2	Funeral Expenses	32,500/-
3	Loss of Estate	32,500/-
3	Loss of consortium	3,12,000/-
	TOTAL	35,90,770/-
	AMOUNT AWARDED BY THE TRIBUNAL	33,79,886/-
	ENHANCED COMPENSATION	2,10,884/-

21. On the aspect of the interest at 6% awarded by the learned Tribunal, one of us Tara Vitasta Ganju J., in a recent judgment in the case of **United India Insurance Co. Ltd.**



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vs. Sri.Malyadri.M And Others⁵ has examined this issue in detail and found that the award of interest @ 9% per annum in cases of death and in cases of permanent disability has been regularly upheld by the Supreme Court. It is apposite to extract the relevant portion of the judgment below:

*"24. Thus, an analysis of the precedents shows that the award of interest **over the last 5-10 years has infact consistently been awarded @ 9% p.a. or upholding such an award.***

xxx

xxx

xxx

*29. An analysis of the foregoing discussions of the Supreme Court, **reflects that the Supreme Court has consistently held that the award of interest is intended to recompensate the claimant for being deprived of the use of money, which ought to have been paid at the time of occurrence of the accident.** The rate of interest, therefore, must be just, fair and reasonable, having regard to the prevailing economic conditions and bank rates.*

29.1. The award of interest is usually determined at the prevailing bank rate of interest on a case-to-case basis and at the rate which is just and fair and reasonable.

29.2 There cannot be any 'straitjacket formula' in determining the rate of interest and that the same must depend on the facts and circumstances of each case. The guiding principle remains that the rate must neither be punitive nor non-existent but must strike a balance

⁵ 2026 SCC OnLine Kar 4090



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between fairness to the claimant and reasonableness to the insurer.

29.3 The rate of interest 9% is more appropriate in case involving death and serious injury especially, where there is a long delay in the claimants receiving the compensation.

30. In the present case, the accident occurred in the year 2016 leading to the death of the wife of respondent No.1 and mother of respondent Nos.2 and 3. The award came to be passed in the year 2018. The learned Tribunal has deemed it apposite to award interest on the compensation@ 9% per annum. The award of interest is not punitive as is fair considering the prevailing economic condition and bank rates. In addition, it is now 10 years since the date of the accident.

[Emphasis Supplied]

21.1 The present case involved the death of a man aged 42 years old with six dependents being his two wives, children and blind spinster sister, all of whom have lost their only source of income. It has also been 16 years since the accident. In these circumstances and given the settled legal position, we deem it apposite to enhance the interest to 8%.

22. Hence, the dependants of the deceased Manjunath are entitled to a total compensation of **Rs. 35,90,770/-** along with interest at 8% p.a. from the date of petition till its realization.



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23. As far as the apportionment of compensation is concerned, the said compensation shall be apportioned in the following manner:

Sl.No.	NAME & RELATIONSHIP WITH DECEASED MANJUNATH	PERCENTAGE
1	Smt. Latha / Appellant No.1 / first (divorced) wife	25%
2	Smt. Manjula / Respondent No.1 / second wife	25%
3	Master Ganesh / Appellant No.2 (son of first wife)	13%
4	Master Preetham / Respondent No.2 / son of second wife	13%
5	Kum. Aadya / Respondent No.3 / daughter of second wife	13%
6	Savitri / Respondent No.4 / blind spinster sister	11%
	TOTAL	100%

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

ORDER

- (i) The appeal is partly allowed.
- (ii) The Impugned Judgment and Award dated 03.09.2014 in MVC No.1143/2010 passed by the II Additional District & Sessions Judge and Member, MACT-III, Davanagere is modified by awarding total compensation of **Rs.35,90,770/-** along with



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interest at the rate of 8% per annum from the date of petition till realization.

(iii) The apportionment shall be in accordance with the Table set out at paragraph No.22 above.

(iv) The remaining portion of the Impugned Award of the learned Tribunal shall remain undisturbed.

(v) Amounts deposited before this Court if any, shall be sent to the learned Tribunal, for onward transmission.

(vi) The Insurance Company shall deposit the enhanced compensation with interest applicable thereon, within eight weeks from the date of receipt of a copy of this judgment.

(vii) On such deposit of compensation, the same shall be released in favour of the dependents/ two wives, three children and unmarried sister as per the percentage of shares as specified in paragraph No.22 of this judgment, on filing of an appropriate application for withdrawal of the enhanced amount.



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

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

(x) No order as to costs.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

KS
List No.: 1 Sl No.: 13