



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

MISCELLANEOUS FIRST APPEAL NO. 2259 OF 2015

(MV-D)

C/W

MFA CROSS OBJECTION NO. 95 OF 2015 (MV-D)

IN MFA No. 2259/2015

BETWEEN:

M/S. THE ORIENTAL INSURANCE
COMPANY LIMITED
REGIONAL OFFICE, NO.43/44,
4TH FLOOR,
LEO SHOPPING COMPLEX,
RESIDENCY ROAD CROSS,
BANGALORE-560025,
REPRESENTED BY ITS REGIONAL MANAGER.

...APPELLANT

(BY SRI. SURESH K.,ADVOCATE)

AND:

1. SMT. MAHALAKSHMI
W/O.LATE.SRI.DODDAIAH @ DODDANNA,
AGED ABOUT 33 YEARS,

Digitally
signed by
NIRMALA
DEVI
Location:
HIGH
COURT OF
KARNATAKA



2. KUM. D.ANITHA
D/O.LATE SRI.DODDAIAH @ DODDANNA,
AGED ABOUT 13 YEARS,
3. D RANGANATH
S/O.LATE SRI.DODDAIAH @ DODDANNA,
AGED ABOUT 9 YEARS,

ALL ARE R/AT C/O NARAYANASWAMY
SONNAPPANAHALLI,
BETTAHALASUR POST,
BANGALORE.

SINCE THE R2 AND 3 ARE MINOR
REPRESENTED BY THEIR MOTHER,
THE RESPONDENT NO.1

4. M/S AKBAR TRAVELS OF INDIA
REP. AUTHORISED SIGNATORY,
RENTAL SERVICES,
NO.131, SHOOLAY CIRCLE,
RICHMOND ROAD,
BANGALORE-560020.

...RESPONDENTS

(BY SRI. RAGHAVENDRA E. P., ADVOCATE FOR
SMT. GAYATHRI E P FOR R1.,ADVOCATE FOR R1;
R2 & R3 ARE MINORS REP BY R1;
SRI. SURESH M, ADVOCATE FOR R4)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 1.1.2015 PASSED IN
MVC NO.32/2014 ON THE FILE OF THE III ADDITIONAL



SENIOR CIVIL JUDGE, COURT OF SMALL CAUSES,
BANGALORE, AWARDING A COMPENSATION OF
RS.13,40,000/- WITH INTEREST @ 8% P.A FROM THE
DATE OF PETITION TILL THE DATE OF DEPOSIT.IN
TIME.C.F. SUFFICIENT.IA 1/2015 FOR STAYIA 1/2015
FILED U/O 41, RULE 5, R/W SEC 151 OF CPC.

IN MFA.CROB NO. 95/2015

BETWEEN:

1. MAHALAKSHMI & OTHERS
W/O LATE DODDAIAH @ DODDANNA
AGED ABOUT 33 YEARS
2. KUM D ANITHA SATHISH
D/O LATE DODDAIAH @ DODDANNA
AGED ABOUT 12 YEARS
3. D RANGANATH
S/O LATE DODDAIAH @ DODDANNA
AGED ABOUT 08 YEARS

ALL ARE R/A C/O NARAYANASWAMY
SONNAPPANAHALLI,
BETTAHALASUR POST
BANGALORE

...CROSS OBJECTORS

(BY SRI. RAGHAVENDRA E. P, ADVOCATE FOR
SMT. GAYATHRI E P.,ADVOCATE)



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AND:

1. THE ORIENTAL INSURANCE CO LTD
REGIONAL OFFICE,
NO. 44/45, LEO SHOPPING COMPLEX,
RESIDENCY ROAD
BANGALORE-560025
POLICY ISSUED AT BRANCH OFFICE
NO.7, ORIENTAL HOUSE,
4TH FLOOR, CHURCH GATE
MUMBAI-400020
2. M/S AKBAR TRAVELS OF INDIA
REP AUTHORIZED SIGNATORY
RENTAL SERVICES,
NO. 131, SHOOLY CIRCLE
RICHMOND ROAD,
BANGALORE-560020

...RESPONDENTS

(BY SRI. SURESH K, ADVOCATE FOR R1;

V/O DATED 12.03.2026, NOTICE TO R2 IS D/W)

THIS MFA CROB IS FILED PRAYING TO ENHANCE
THE JUDGMENT AND AWARD IN M.V.C.No.32/2014
DATED 01/01/2015 PASSED BY THE LEARNED ASCJ
JUDGE, MACT BANGALORE.

THIS APPEAL AND MFA CROB COMING ON FOR
ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN
AS UNDER:

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA



ORAL JUDGMENT

The above appeal and the cross objection are filed calling in question the judgment and award dated 01.01.2015 in M.V.C.No.32/2014 passed by the III Additional Senior Civil Judge and Motor Accident Claims Tribunal, Bengaluru¹, whereunder the Tribunal has partly allowed the claim petition and awarded a total compensation at Rs.13,40,000/- together with interest at 8% per annum. The appeal is filed by the insurer of the offending car impugning the judgment of the Tribunal on the ground that the finding on negligence is erroneous as well as that the quantum of compensation is on the higher side. The cross objection is filed by the claimants seeking for enhancement of the quantum of compensation.

2. For the sake of convenience, the parties herein are referred as per their rank before the Tribunal.

3. The relevant facts are that on 05.10.2013, one Mr. Doddaiiah @ Doddanna was traveling in the tractor - trailer as a cleaner when the offending car came and hit the said

¹ Hereinafter referred as to 'the Tribunal'



vehicle causing the accident in question, as a result of which, the deceased sustained grievous injuries and succumbed to the same. The wife and children of the deceased filed the claim petition arraying the owner and insurer of the offending car as the respondents. The wife of the deceased [claimant No.1] examined herself as PW.1 and marked Exhibit - P1 to Exhibit - P11. No oral or documentary evidence were adduced on behalf of the respondents. The Tribunal, by the impugned judgment partly allowed the claim petition by holding that the driver of the car was solely negligent in causing the accident. Further, the compensation of Rs.13,40,000/- was awarded together with interest at 8% per annum. Being aggrieved, the above appeal and cross-objection are filed.

4. It is the vehement contention of the learned counsel for the insurer that having regard to the manner of occurrence of the accident as is averred in the FIR [Ex.P1] and having regard to the spot sketch [Ex.P3] that has been marked in evidence, the finding of the Tribunal holding that the driver of the car was solely negligent in causing the accident in



question is erroneous. It is also contended that the quantum of the compensation awarded is excess.

5. *Per contra*, learned counsel for the claimants justifies the award of the Tribunal on negligence and seeks for enhancement of the compensation.

6. The Tribunal, appreciating the oral and documentary evidence on record, noticed that PW.1 has been examined and the records, including the FIR, complaint and chargesheet [Ex.P10] were marked as evidence. It was noticed that the chargesheet has been filed by the police authorities against the driver of the car. It is further noticed that the insurer, apart from cross examining PW.1 has not produced any oral or documentary evidence. Hence, the Tribunal rightly held that the driver of the car was negligent in causing the accident in question.

7. Although, it is the vehement contention of the learned counsel for the claimants that a plain reading of the manner of occurrence of the accident as enumerated in the FIR and as forthcoming from the sketch would



indicate that the driver of the tractor-trailer was negligent in causing the accident, the said contention is not liable to be accepted in view of the admitted position that the police authorities, after investigation have filed the charge sheet against the driver of the car. Further, the Insurer has not examined any eyewitness to the accident or adduced either oral or documentary, to impeach the charge sheet filed by the police authorities. Under the circumstances, the contention put forth by the insurer, calling in question the finding of the Tribunal is not liable to be accepted.

8. With regard to the quantum of compensation, it is noticed that the deceased was aged 38 years as on the date of the accident. It is averred that the deceased was working as a cleaner earning Rs.10,000/- per month. However, no material is produced to demonstrate the income. The Tribunal has assessed the income of the deceased as Rs.7,000/-. In view of the aforementioned,



the notional income of the deceased is reassessed as Rs.8,000/- per month.

9. The Tribunal has applied 50% towards future prospects. The learned counsel for the Insurer is justified in contending that future prospects is rendered to be applied at 40% having regard to the judgment of the Supreme Court in the case of **NATIONAL INSURANCE COMPANY LTD V/S PRANAY SETHI AND ORS²**. 1/3rd is to be deducted towards personal expenses. In view of the aforementioned, the loss of dependency is reassessed as Rs.13,44,060/- [8,000/- - 1/3 + 40% x 12 x 15] as against Rs.12,60,000/-.

10. Loss of consortium is required to be assessed in terms of the judgment of the Hon'ble Supreme Court in the case of **MAGMA GENERAL INSURANCE COMPANY V/S NANU RAM ALIAS CHUBRU RAM AND ORS³**, at Rs.40,000/- for each of the claimants. Hence, loss of

² "(2017)16 SCC 680"

³ "(2018)18 SCC 130"



consortium is re-assessed at $(40,000 \times 3) = \text{Rs.}1,20,000/-$ as against Rs.25,000/- awarded by the Tribunal.

11. The compensation towards funeral expenses and loss of estate is to be awarded at ₹15,000/- each. Accordingly, the compensation awarded by the Tribunal towards loss of love and affection and transportation of dead body and funeral expenses is modified.

12. In view of the aforementioned, the compensation re-assessed is as follows:

Sl.No	Compensation Head	Amount Awarded by the Tribunal (₹)	Amount awarded by this Court (₹)
1	Loss of dependency	12,60,000.00	13,44,060.00
2	Loss of consortium	25,000.00	1,20,000.00
3	Loss of love and affection	30,000.00	30,000.00
4	Transportation of dead body, funeral and obsequies ceremony expenses	25,000.00	
	Total	13,40,000.00	14,94,060.00



13. Taking judicial notice of the rate of interest awarded towards fixed deposits, interest on the total compensation is awarded as 7% per annum.

14. In view of the aforementioned, the following:

ORDER

- i) The appeal and cross objection are allowed in part;
- ii) The judgment and award dated 01.01.2015 passed in MVC.No.32/2014 by the III Additional Senior Civil Judge and Motor Accident Claims Tribunal, Bengaluru, is hereby modified to the extent of holding that the total compensation payable shall be Rs. 14,94,060/- together with interest @ 7% per annum from the date of petition till the date of payment. In all other respects, the judgment and award of the Tribunal remains unaltered;



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- iii) The amount deposited by the Insurer in M.F.A.No.2259/2015 shall be transmitted to the Tribunal for disbursal in terms of the judgment and award by the Tribunal;
- iv) The Insurer shall deposit the balance compensation together with accrued interest within a period of six weeks;
- v) The Registry to draw the modified award accordingly;
- vi) Records of the Tribunal be transmitted to the Tribunal forthwith.

No costs.

Sd/-
(C.M. POONACHA)
JUDGE

RB