



CNR: KAHCO10236892020

NC: 2026:KHC:39850-DB
MFA No. 3583 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 3583 OF 2020 (MV-D)

BETWEEN:

1. SMT.DIVYA.V.M.
W/O LATE B.J.VIJAYAKUMAR,
AGED ABOUT 29 YEARS,
2. NISCHITH V.GOWDA
S/O LATE B.J.VIJAYAKUMAR,
AGED ABOUT 6 YEARS,
MINOR REPRESENTED BY
HIS MOTHER AS GUARDIAN,

APPELLANT NO.1 & 2 ARE RESIDING AT
D.NO 372, 2ND MAIN ROAD, 7TH CROSS,
B.M.SRI.NAGARA, METAGALLI,
MYSURU-570 016.

3. NAGAMMA
W/O JAVAREGOWDA,
AGED ABOUT 58 YEARS,
4. JAVAREGOWDA
S/O NANJUNDEGOWDA,
AGED ABOUT 66 YEARS,
(BENEFIT OF SENIOR CITIZENSHIP
IS NOT CLAIMED),

APPELLANT NO.3 & 4 ARE
RESIDING AT D.NO.115,

Digitally signed by
SUMATHY
KANNAN
Location: HIGH
COURT OF
KARNATAKA



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2ND MAIN ROAD, 6TH CROSS,
B.M.SRI.NAGARA, METAGALLI,
MYSURU-570 016.

...APPELLANTS

(BY SRI. PRAKASHA.H.C., ADVOCATE)

AND:

1. VEERABHADRASHETTI.K.C.,
S/O CHANDRASHETTY,
AGED ABOUT 38 YEARS,
NO 104, HALLICHIKKA HUNSURU,
HUNSURU TALUK,
MYSURU DISTRICT-571 105.
2. THE MANAGER,
IPCO TOKIYO GENERAL INSURANCE CO.LTD.,
NO.846, NEW KANTHARAJ URS ROAD,
KUVEMPUNAGARA, MYSURU-570 023.

...RESPONDENTS

(BY SRI. B.PRADEEP., ADVOCATE FOR R2;
V/O/DTD:16.07.2021-NOTICE TO R1-DISPENSED WITH)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 28.06.2019 PASSED IN MVC NO.392/2017 ON THE FILE OF THE JUDGE, PRINCIPAL COURT OF SMALL CAUSES, AS A PRESIDING OFFICER, MOTOR ACCIDENTS CLAIMS TRIBUNAL, MYSURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

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



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ORAL JUDGMENT

(PER: HON'BLE MR.JAYANT BANERJI)

With the consent of learned Counsel for the parties, and since the trial Court records are available, though the matter is listed for admission, it is finally heard and taken up for final disposal. We note from the records that notice on respondent No.1 has been dispensed with vide order of this Court dated 16.07.2021.

2. This is the claimants' appeal impugning the award passed by the Principal Court of Small Causes, Motor Vehicles Claims Tribunal, Mysuru dated 28.06.2019 in M.V.C.No.392/2017.

3. Heard learned counsel for the appellants and learned counsel for respondent No.2/ Insurance Company.

4. For the sake of convenience, the parties are being referred to by their designation before the Tribunal.

5. The contention of learned counsel for the appellants is that the appeal has been filed seeking enhancement of the compensation. He states that the



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notional income has been incorrectly calculated, and escalation has not been provided for. Further, it is stated that consortium has not been properly calculated inasmuch as, there are four dependants of the deceased.

6. Learned counsel for the respondent No.2/Insurance Company, though has opposed the appeal, however, admits that there are four dependents of the deceased and that the notional income, given the fact that the deceased died on 25.05.2017 and his age as on the date of the accident was 31 years, the multiplier of '16' is to be applied.

7. The facts of the case in brief are, that a petition under Section 166 of the Motor Vehicles Act, 1988 was filed by the petitioners against the respondents, claiming compensation.

8. The background of the case is that on 25.05.2017 around 4.30 p.m., the husband of the petitioner No.1 by the name of B.J. Vijayakumar, who is



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the father of petitioner No.2 and son of petitioner Nos.3 and 4 was proceeding towards Kannamgali on his motorcycle bearing Reg.No.KA-54-K-0885 near Akkigudlu gate. At that time, the rider of the offending motorcycle bearing Reg.No.KA-45-X-0405, rode in high speed and also in a rash and negligent manner and dashed against the vehicle of the deceased. As a result, the deceased sustained severe head injuries. He was immediately shifted to Periyapatna Government Hospital and then shifted to K.R.Hospital, Mysuru. But he succumbed to his injuries at the Hospital. It was stated in the claim petition that he was a Laboratory Technician at Bhanavi Hospital, Mysuru and earning a sum of Rs.25,000/- per month and out of his income, he was maintaining himself and his whole family.

9. After service of notice of the petition, the respondent No.2 / Insurance Company appeared through his counsel, but did not file objection despite sufficient time being granted and hence the objection was taken as



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Nil. In spite of service of notice of the petition, the respondent No.1, who is the owner of the offending vehicle did not appear and hence he was placed *ex-parte*.

10. On the basis of pleadings, the following points were framed by the Tribunal:

- "1. Whether the Petitioners prove that they are the dependent of deceased B.J.Vijayakumar who died in a road traffic accident arising out of use of vehicle bearing Reg.No.KA-45-X-0405 occurred on 25.05.2017 at about 4.30 p.m., due to the actionable negligence on the part of the driver?*
- 2. Whether the petitioners are entitled for any compensation? If so, at what quantum?*
- 3. What Order or award?"*

11. Petitioner no.1 got himself examined as PW1 and one witness as PW2. As documentary evidence, Exhibits P1 to P13 were marked. Answering the point Nos.1 and 2 in the 'affirmative' and 'partly in the affirmative' respectively, the judgment was passed and the award made.

12. As regards loss of dependency, given the fact that the deceased was a salaried person, PW2 did produce



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the appointment letter and the salary certificates, which were marked as Exhibits P12 and P13. PW2, who is the Human Resources Executive of Bhanavi Hospital, Mysuru deposed that the deceased was working as a Laboratory Technician and he was drawing a net salary of Rs.10,842/- per month. Therefore, the monthly income of the deceased was taken as Rs.10,842/- per month. The Tribunal noted that the deceased was married and living with the petitioners. The annual financial loss and future prospects were considered.

13. Taking into account the judgment of the Supreme Court in the case of ***National Insurance Co. Ltd. Vs. Pranay Sethi***,¹ noting that the deceased was below 40 years, 40% of the annual income was added towards 'future prospects'. Considering the age of the deceased, multiplier of 16 was applied, 1/3rd of the amount was deducted towards 'personal and living

¹(2017) 16 SCC 680



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expenses', and the total loss of financial dependency was thus assessed as Rs.19,42,886/-. Towards loss of love and affection, a sum of Rs.40,000/- was awarded and the petitioner's wife was held entitled to another sum of Rs.40,000/- under the head of loss of consortium. Rs.15,000/- was awarded on account of funeral expenses and for transportation of the cadaver of the deceased and the total compensation was assessed as Rs.20,52,886/-, which was rounded off to Rs.20,55,000/- along with interest at the rate of 6% per annum was awarded.

14. The point for consideration in the instant appeal would be, whether the compensation has been correctly assessed by the Tribunal?

15. A perusal of the record reveals that Exhibits P1 to P13 were filed, which are as follows:

Exhibit-P1	FIR
Exhibit-P2	COMPLAINT
Exhibit-P3	SPOT MAHAZAR
Exhibit-P4	SKETCH
Exhibit-P5	POSTMORTEM REPORT
Exhibit-P6	INQUEST MAHAZAR



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Exhibit-P7	FINAL REPORT
Exhibit-P8	SALARY SLIP
Exhibit-P9	DRIVING LICENCE
Exhibit-P10	MOTOR VEHICLES ACT REPORT
Exhibit-P11	AUTHORISATION LETTER
Exhibit-P12	APPOINTMENT LETTER
Exhibit-P13	PAYSLIP

16. We note from Exhibit P12, which is a letter of probationary appointment, was issued by Bhanavi Hospital, that the deceased was appointed as a Lab Technician in the hospital from 13.12.2016 on a gross salary of Rs.12,000/- per month, 10% of one month's salary was to be deducted as caution deposit.

17. Exhibit P13 is the pay slip of the deceased for the month of January 2017. The total wages earned for that month is reflected as Rs.12,000/- and after deductions towards ESI and provident fund, the net payable amount comes to Rs.10,842/-. Therefore, when the aforesaid wage slip, as well as the appointment letter, clearly reflect that the gross salary is Rs.12,000/- per month, it is taken as such. On this amount, 40% is to be



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added towards future prospects. Given the number of defendants being four in number, $1/4^{\text{th}}$ deduction towards the personal expenses of the deceased is required to be made and multiplied by 12. The multiplier of 16 is to be added. Thus, the loss of dependency is calculated as follows:

$$(\text{Rs.}12,000 + 40\%) - 1/4 \times 12 \times 16 = \text{Rs.}24,19,200/-$$

18. Since there are four dependants, the consortium would be Rs.1,60,000/- (Rs.40,000 x 4) plus 20% enhancement, which would total to a sum of Rs.1,92,000/-.

19. As far as towards loss of estate and funeral expenses are concerned, it would be a sum of Rs.18,000/- (Rs.15,000 x 2) + 20%) each i.e., totaling Rs.36,000/-. The total amount of compensation, thus, would be as follows:

Sl.No.	Particulars	Amount (Rs.)
1	Loss of Dependency (12,000 - $\frac{1}{4}$) + 40% x 12 x 16)	24,19,200/-



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2	Loss of Consortium (Rs.40,000 x 4 + 20%)	1,92,000/-
3	Loss of Estate	18,000/-
4	Funeral Expenses	18,000/-
	TOTAL	26,47,200/-
	Less: Awarded by the Tribunal	20,55,000/-
	Enhanced compensation	5,92,200/-

20. As far as the rate of interest is concerned, one of us, Justice Tara Vitasta Ganju, has in a recent judgment captioned ***United India Insurance Co. Ltd. vs. Sri. Malyadri. M And Others***², after analyzing the precedents of the Supreme Court and this Court, has found that an award of 9% interest is in accordance with the settled provisions in the present day scenario, especially in cases of death and permanent disability.

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

ORDER

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

² 2026 SCC Online Kar 4090



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(ii) The judgment and award Principal Court of Small Causes, Motor Vehicles Claims Tribunal, Mysuru dated 28.06.2019 in M.V.C.No.392/2017 is modified to the effect that respondent No.2-Insurance Company is liable to pay the amount of compensation along with interest at the rate of 9% per annum from the date of petition till realization.

(iii) The remaining portion of the impugned award of the Tribunal remains undisturbed.

(iv) Respondent No.2/Insurance Company is directed to pay the compensation with interest as awarded by the Tribunal within eight weeks from today.

(v) 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 in the proportion as set out in the Impugned Award.



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

(vii) The Registry is directed transmit a copy of this judgment and the records to the concerned Tribunal.

(viii) Pending applications, if any, shall stand disposed of. No order as to costs.

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

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

JJ

List No.: 1 Sl No.: 8