



NC: 2026:KHC:25934-DB
MFA No. 1964 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JUNE, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.1964 OF 2021(MV-D)

BETWEEN:

1. DEEPA
W/O LATE SHANTHAKUMAR,
AGED ABOUT 26 YEARS,
2. AKASH.S
S/O LATE SHANTHAKUMAR,
AGED ABOUT 12 YEARS,
3. GAJA.S
S/O LATE SHANTHAKUMAR,
AGED ABOUT 10 YEARS,

APPELLANT 2 & 3 ARE MINORS REP BY
HER MOTHER NATURAL GUARDIAN
DEEPA-APPELLANT NO.1,

4. PARVATHAMMA
W/O RAMU,
AGED ABOUT 52 YEARS,
R/AT O.B.C. COLONY,
UMMATHUR, NALLURU PALA,
HANAGODU HOBLI, HUNSUR TALUK,
MYSURU DISTRICT.

...APPELLANTS

(BY SRI. SYED ABDUL SABOOR., ADVOCATE)

Digitally signed
by AJ JYOTHI J
Location: HIGH
COURT OF
KARNATAKA



AND:

1. M/S. SHYAM TOURIST PVT LTD.,
SHAYM CHAMBER, NO.4140,
11TH CROSS, 2ND MAIN, 80 FEET ROAD,
GIRINAGAR, NEAR SEETHA CIRCLE,
BENGALURU-560 085.
BY ITS MANAGER.
2. THE MANAGER,
TATA AIG GENERAL INSURANCE COMPANY LTD.,
374, SANNI CENTRE, NEW K.D.ROAD,
MYSURU-570 017.

...RESPONDENTS

(BY SRI. PRADEEP., ADVOCATE FOR R2;
NOTICE TO R1-DISPENSED WITH V/O/D:14.07.2023)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 31.10.2019 PASSED IN MVC NO. 1719/2018 ON THE FILE OF THE II ADDITIONAL DISTRICT JUDGE AND MACT, MYSURU, 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

ORAL JUDGMENT

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

1. The present appeal seeks to challenge the Judgment and Award dated 31.10.2019, in MVC No.1719/2018, passed by the II Additional District Judge and MACT,



Mysuru (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded compensation to the appellants/claimants in a sum of Rs.19,89,400/- along with interest at 6% per annum from the date of petition till its realisation.

2. Notice to respondent No.1/owner was dispensed with by an order dated 14.07.2023. The appeal has been contested by the appellants/claimants and learned counsel for the respondent No.2/Insurance Company. With the consent of the parties, the matter is taken up for hearing and final disposal at the stage of admission.

3. Briefly, the facts of the case are that on 09.12.2018, at about 10.00 a.m., when the deceased Shanthakumar was visiting Shanidevara Temple, Hunsuru – K.R.Nagar Main Road, on a motorcycle bearing No.KA.45-Y-2509, along with another person, when the driver of the offending vehicle bearing No.KA.51-AA-8314, belonging to the respondent No.1/owner came in a high speed, rash and negligent manner and collided with the motorcycle on



which the deceased was riding. As a result of the accident, the deceased sustained multiple injuries and was taken first taken to a hospital at Hunsuru and thereafter to B.R.M. Hospital. However, he passed away while undergoing treatment at the hospital on 13.12.2018.

3.1 A claim petition under Section 166 of the MV Act was filed by the appellants/claimants, who are the wife, two minor children and the mother of the deceased filed a claim petition before the Tribunal. The respondent no.1/owner of the offending vehicle although was served did not appear before the learned Tribunal and was proceeded ex-parte. The claim was contested by respondent no. 2/insurance company.

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

"1. Whether petitioners prove that on 09.12.2018 at 10.00 a.m. near Shanidevara temple, Hunsuru – K.R. Nagar Main Road when the Petitioner in MVC.No.1717/2018 was proceeding in the motor cycle bearing No.KA.45-Y-2509 along with the deceased Shanthakumar as the pillion rider on the left side of the road, the driver of the vehicle bearing No.KA-51-AA-8314



belonging to the 1st Respondent was driven by its driver in a rash and negligent manner and caused the accident?

2. Whether the Petitioner in MVC.No.1717/2018 further proves that he has sustained injuries in the said accident as stated in the petition ?

3. Whether the Petitioners in MVC.No.1719/2018 further prove that Late Shanthakumar succumbed to the injuries sustained in the said accident as stated in the petition ?

4. Whether the Petitioners MVC.No.1719/2018 prove the occupation and income of the deceased and their dependency on the deceased?

5. Whether the Petitioner in for MVC.No.1717/2018 is entitled compensation? If so, what is the amount and from whom?

6. Whether the petitioners in MVC No.1719/2018 is entitled for compensation? If so, what is the amount and from whom?

7. What order or award?"

4.1 Before the learned Tribunal evidence was led in MVC No.1717/2018 and 1719/2018. The wife of the deceased/claimant No.1 was examined as PW-2 and several documents were marked by the claimants as Exhibit-P1 to P20, including Wound Certificate, IMV Report, Inquest report, etc.

5. The learned Tribunal examined the documents and evidence produced before it, based on which, it found that



there was rash and negligent driving and in addition, it found that applying the judgments in the case of ***Sarla Verma (Smt) and others Vs. Delhi Transport Corporation and another¹*** and ***National Insurance Co. Ltd. Vs. Pranay Sethi²***, compensation was granted including 'loss of dependency' in the following amounts:

Sl.No.	Particulars	Amount (Rs.)
1	Loss of Dependency	18,14,400/-
2	Medical Expenses	1,05,000/-
3	Loss of Estate	15,000/-
4	Loss of Consortium	40,000/-
5	Funeral Expenses	15,000/-
	TOTAL	19,89,400/-

6. The learned counsel for the appellants/claimants submits that the challenge in the present appeal is on two grounds. Firstly, he submits that the 'loss of dependency' has wrongly been calculated since the accident took place in the year 2018, the notional income should have been taken at Rs.12,500/- per month, as per the Notional

¹ (2009) 6 SCC 121

² (2017) 16 SCC 680



Income Chart of Karnataka State Legal Services Authority, whereas the learned Tribunal has awarded at Rs.9,000/- per month. Secondly, he contends that the amounts on non-pecuniary heads like 'loss of consortium' the escalation has not been provided for by the learned Tribunal.

7. The learned counsel for the respondent No.2/insurance company fairly concedes that the notional income for the year 2018 was Rs.12,500/-, however, on the other aspect of non-pecuniary grant of compensation, he submits that the Impugned Order does not suffer from any infirmity.

8. Based on the contentions of the parties, the question that arises for consideration is, whether the appellants/claimants are entitled to any amounts as enhanced compensation?

9. An examination of the records shows that the deceased was aged 32 years and the accident took place



in the year 2018. Accordingly, the notional income for the year 2018 is taken at Rs.12,500/- per month and 40% future prospects is required to be added. In addition, since there are four dependents in the family being his wife, mother and two minor children, $1/4^{\text{th}}$ of his income is required to be deducted towards personal expenses. The appropriate multiplier to calculate the 'loss of dependency' would be '16'. Thus, the 'loss of dependency' is recomputed as follows:

Heads	Amounts
Loss of dependency	Rs.12,500 + 40% = 17,500/- Rs.17,500 – Rs.4,375 ($1/4$) x 12 x 16 = 25,20,000/-

9.1 Further, in view of the law laid down by the Supreme Court in ***National Insurance Co. Ltd. Vs. Pranay Sethi***, loss of consortium is payable at Rs.40,000/- each, to the four appellants/claimants totalling to **Rs.1,60,000/-** (Rs.40,000 x 4). The appellants/claimants are entitled to compensation under the conventional heads. **Loss of estate** and **funeral expenses** are to be awarded at



Rs.15,000/- each. The appellants/claimants are also entitled for a sum of **Rs.1,05,000/-** towards **medical expenses**, which is as per the medical bills produced as Exhibit-P12 issued by the DRM Multi-Speciality Hospital.

10. This Court agrees with the submission of the learned counsel for the appellants that the accident was of the year 2018 and although the judgment of the learned Tribunal was passed in the year 2019, no escalation has been awarded. Accordingly, escalation at the rate of 10% is also awarded on the conventional heads of compensation. Thus, the revised calculation would be as follows :

Sl.No.	Particulars	Amount (Rs.)
1	Loss of Dependency	25,20,000/-
2	Medical Expenses	1,05,000/-
3	Loss of Consortium	1,76,000/-
4	Loss of Estate	16,500/-
5	Funeral Expenses	16,500/-
	TOTAL	28,34,000/-
	Less: Awarded by the Tribunal	19,89,400/-
	Enhanced compensation	8,44,600/-



11. Hence, the appellants/claimants are entitled to an enhancement in the sum of Rs.8,44,600/- along with interest at 6% per annum as awarded by the learned Tribunal, from the date of petition till its realization.

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

ORDER

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

(ii) The Judgment and Award dated 31.10.2019, in MVC No.1719/2018, passed by the II Additional District Judge and MACT, Mysuru is modified, enhancing the compensation by **Rs.8,44,600/-** along with interest at the rate of 6% per annum as awarded by the learned Tribunal from the date of petition till realization;

(iii) The remaining portion of the Impugned Award of the Tribunal remains undisturbed;

(iv) The respondent No.2/Insurance company is directed to pay the enhanced 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;

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

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

(viii) No order as to costs.

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

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

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List No.: 1 Sl No.: 13