



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.3641 OF 2020 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.1955 OF 2021 (MV-D)

IN MFA No. 3641/2020

BETWEEN:

M/S. RELIANCE GENERAL INSURANCE COMPANY
LIMITED, RELIANCE CENTRE
19, WALCHAND, HIRACHAND MARG,
BALLARD ESTATE, MUMBAI-400001.
BY ITS AUTHORIZED OFFICER
REP BY ITS MANAGER LEGAL
NO.28, EAST WING ROAD
5TH FLOOR, CENTENARY BUILDING
M G ROAD, BENGALURU-560001

...APPELLANT

(BY SRI. D.VIJAYAKUMAR, ADVOCATE)

AND:

1. SMT. BHAVANI VASANTHA MOGER
W/O LATE VASANTHA NAGAPPA MOGER
AGED ABOUT 40 YEARS,
2. KUMARI BHAVYASHRI
D/O LATE VASANTHA NAGAPPA MOGER
AGED ABOUT 20 YEARS,



3. KUMARI SHOBHA
D/O LATE VASANTHA NAGAPPA MOGER
AGED ABOUT 18 YEARS,
4. KUMARI THRIVENI
D/O LATE VASANTHA NAGAPPA MOGER
AGED ABOUT 16 YEARS,
5. MASTER SANDESH
S/O LATE VASANTHA NAGAPPA MOGER
AGED ABOUT 14 YEARS,
RESPONDENT NO.4 AND 5 ARE MINORS,
REPRESENTED BY THEIR MOTHER AND
NATURAL GUARDIAN SMT.BHAVANI R-1
ALL RE RESIDING AT
SHIROOR POST,
KUNDAPURA TALUK-576214
UDUPI DISTRICT
CORRECT ADDRESS AT:
NERLE SAL, HEBBALE POST,
BATKAL TALUK, U.K.DISTRICT-581320
6. SRI HAFIZA S MULLA
S/O SHAKUR MULLA
MAJOR
R/AT KARKARMATH
ANKOLA POST, U.K.DISTRICT-581314.
7. THE NEW INDIA ASSURANCE CO. LTD.,
KUNDAPURA BRANCH,
PUSHPA BUILDING, Y.M. SHETTY ROAD,
KUNDAPURA-530017, REP BY ITS BRANCH
MANAGER.

...RESPONDENTS

(BY SRI.NAGARAJA HEDGE, ADVOCATE FOR R-1 TO R-5;



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MFA No. 3641 of 2020
C/W MFA No. 1955 of 2021

SRI.A.R.LAKSHMINARAYANA, ADVOCATE FOR R-7;
R-6 SD AND UNREPRESENTED)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.17.03.2020 PASSED IN MVC
NO.218/2018 ON THE FILE OF THE ADDITIONAL DISTRICT
JUDGE AND ADDITIONAL MACT, UDUPI (SITTING AT
KUNDAPURA), KUNDAPURA).

IN MFA NO. 1955/2021

BETWEEN:

1. SMT. BHAVANI VASANTHA MOGER,
AGED ABOUT 38 YEARS,
W/O. LATE VASANTHA NAGAPPA MOGER,
2. KUMARI BHAVYASHRI
AGED ABOUT 18 YEARS,
3. KUMARI SHOBHA
AGED ABOUT 16 YEARS,
4. KUMARI THRIVENI
AGED ABOUT 14 YEARS,
5. MASTER SANDESH
AGED ABOUT 12 YEARS,
NOS. 3 TO 5 ARE MINORS AND
THEY ARE REPRESENTED BY MOTHER
GUARDIAN SMT. BHAVANI, P-1,
ALL ARE RESIDING AT SHIROOR POST,
KUNDAPURA TALUK-576 201.

...APPELLANTS

(BY SRI. NAGARAJA HEGDE, ADVOCATE)



AND:

1. MR. HAFIZA S MULLA (MAJOR),
S/O. SHUKUR MULLA,
R/O. KAKARMATH,
ANKOLA POST,
U.K. DISTRICT-581 314.
2. RELIANCE GENERAL INSURANCE CO. LTD.,
RELIANCE CENTRE,
19, WALCHAND, HIRACHAND MARG,
BILLARD ESTATE, MUMBAI-400 001,
REP BY ITS AUTHORIZED OFFICER.
3. THE NEW INDIA ASSURANCE CO. LTD.,
KUNDAPURA BRANCH,
PUSHPA BUILDING,
Y. M. SHETTY ROAD,
KUNDAPURA-576 201,
REP. BY ITS BRANCH MANAGER.

...RESPONDENTS

(BY SRI.A.R.LAKSHMINARAYANA, ADVOCATE FOR R-3;
SRI.D.VIJAYAKUMAR ADVOCATE FOR R-2 (VK NOT
FILED);
R-1 SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST
THE JUDGMENT AND AWARD DT.17.03.2020 PASSED IN
MVC NO.218/2018 ON THE FILE OF THE ADDITIONAL
DISTRICT JUDGE, ADDITIONAL MACT, UDUPI, (SITTING AT
KUNDAPURA), KUNDAPURA.

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



CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

These two appeals arise out of the judgment and award passed in MVC No.218/2018 dated 17.03.2020 by the Addl. MACT Udupi, sitting at Kundapura.

2. The facts in brief which are necessary for disposal of these appeals are that, On 21.07.2017, at about 6:40 p.m., one Vasantha Nagappa Mogera was riding his motorcycle bearing Reg. No.KA-47-L-8725 from Honnavar towards Bhatkal. When he reached Venkatapura, opposite Lakshmi Venkatesh Temple, Bhatkal, a lorry bearing Reg.No. KA-30-A-0788, which was also proceeding in the same direction, was allegedly driven in a rash and negligent manner. While attempting to overtake the motorcycle, the driver of the lorry dashed against the motorcycle of the deceased. As a result, the deceased fell onto the road and sustained grievous injuries. Thereafter he was shifted to the Government Hospital, Bhatkal, where he succumbed to the injuries sustained in the accident. Thereafter, the jurisdictional police registered a F.I.R. against the driver of the offending lorry and, upon completion of the



investigation, filed a charge sheet against him. The legal representatives of the deceased filed a claim petition before the Tribunal seeking compensation for the death of deceased.

3. Upon appreciation of the oral and documentary evidence on record, the Tribunal partly allowed the claim petition and awarded compensation of Rs.19,87,000/- together with interest at the rate of 6% p.a.

4. Being dissatisfied with the judgment and award passed by the Tribunal, the claimants have filed MFA No.1955/2021 seeking enhancement of the compensation. The Insurance Company has filed MFA No.3641/2020 challenging the judgment and award, so also the quantum of compensation and also claiming the negligence on the part of the rider of the motorcycle i.e., deceased.

5. Heard the learned counsel appearing for both the parties in both the appeals.

6. The learned counsel for the Insurance Company primarily contended that the Tribunal grossly erred in saddling the entire negligence on the driver of the offending lorry, despite the fact



that the rider of the motorcycle, i.e., the deceased, had also equally contributed to the occurrence of the accident. Placing reliance on the spot mahazar and the rough sketch marked as Ex.P2 and Ex.P3, respectively, he submitted that the driver of the truck was proceeding on the extreme left side of the road from Honnavara towards Bhatkal. At that juncture, the deceased, while riding on the motorcycle, suddenly entered the main road from a mud road on the left side. It was further submitted that there was an elevation between the mud road and the highway, and while crossing the elevation, the deceased lost control of the motorcycle, fell on the road, and sustained head injury. Notwithstanding the said contention, the learned counsel further submitted that the Tribunal has awarded exorbitant compensation to the claimants without properly considering the age, avocation, and income of the deceased. With these submissions he prays to allow the appeal filed by the Insurance Company and also to reject the appeal filed by the claimants.

7. *Per contra*, learned counsel for the claimants contended that the Tribunal erred in awarding meager compensation without properly considering the income, age and avocation of



the deceased. He submitted that the employer of the deceased was examined as PW.2 and documents at Exs.P.18 to P.22 were produced to establish the avocation and income of the deceased. Despite the same, the Tribunal has taken the monthly income at Rs.12,000/-. He further contended that the Tribunal has failed to award appropriate compensation under the heads of *loss of consortium* and *loss of estate*. He also supported the finding of the Tribunal in fastening the entire negligence on the driver of the offending truck. According to him, Ex.P.3 - spot sketch clearly depicts that the deceased was riding his motorcycle from Honnavara towards Bhatkala on the extreme left side of the road and that the driver of the offending truck, while overtaking the motorcycle in a rash and negligent manner, caused the accident. Further PW.3, the eye-witness to the accident, has categorically deposed that the accident occurred solely due to the rash and negligent driving of the driver of the offending lorry. Accordingly, he prayed for allowing the appeal filed by the claimants and to dismiss the appeal filed by the Insurance Company.



8. I have given my anxious consideration on the submissions made by the learned counsel for both the parties in both the appeals and perused the entire materials on record.

9. As could be gathered from records, the accident in question and the coverage of insurance policy to the offending lorry are not in dispute. Insofar as the contention of the learned counsel for the Insurance Company that the deceased had equally contributed negligence to the accident is concerned, a careful examination of Ex.P3-spot sketch reveals that the accident occurred on the extreme left side of the road. Ex.P3 further depicts that both the vehicles were proceeding from Honnavara towards Bhatkal, i.e., from north to south. There is no indication of any elevation or free entry from the mud road to the highway. Therefore, the contention of the Insurance Company that the deceased suddenly entered the highway from the left side and thereby caused the accident cannot be accepted. Ex.P3 also corroborates the testimony of PW.3, eye-witness, who has categorically deposed that the accident occurred when the driver of the offending truck attempted to overtake the motorcycle. Hence, in my considered view the Tribunal is justified by holding that the accident was



caused due to the negligent driving of the driver of the offending lorry. Hence the claimants have to be adequately compensated.

10. Insofar as the quantum of compensation is concerned, the accident is occurred in the year 2017. The Tribunal, upon examination of the evidence of PW.2, the employer of the deceased, and the documents at Exs.P18 to P22, particularly the salary certificate, has rightly assessed the monthly income of the deceased at Rs.11,250/-, which requires no interference. As such, the petitioner is entitled for compensation of **Rs.18,90,000/-** (Rs.11,250 x 12 x 14) towards 'loss of dependency'.

11. The claimants being the dependents, they would each be entitled to a sum of **Rs.48,400/-** towards "*loss of consortium*" i.e., in all **Rs.2,42,000/-** and they would also be entitled to a sum of **Rs.36,300/-** under the "*conventional heads*".

12. Thus, the claimants, in modification of the impugned award, would be entitled to the following sums:



Sl. No.	Particulars	Amount (In Rs.)
1.	Loss of Dependency	18,90,000
2.	Loss of Consortium (48,400 x 5 dependants)	2,42,000
3.	Conventional Heads	36,300/-
	Total	21,68,300

13. Thus, the claimants would be entitled for compensation of **Rs.21,68,300/-** as against Rs.19,87,000/- awarded by the Tribunal, along with interest at the rate of 6% per annum from the date of petition till its realization.

14. The Insurance Company is directed to deposit the amount of compensation awarded within a period of six weeks from the date of receipt of a certified copy of this judgment.

15. The apportionment of compensation amount shall be in terms of the award of the Tribunal.

16. Accordingly, appeal filed by the Insurance Company, MFA.No.3641/2020 is **dismissed** and the appeal filed by the claimants, MFA.No.1955/2021 is **allowed in-part**.



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17. The amount in deposit shall be transmitted to the Tribunal for disbursement in terms of the award.

SD/-
(RAJESH RAI K)
JUDGE

GPG
List No.: 1 SI No.: 21