

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.5677 OF 2021(MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.7036 OF 2021(MV-D)

IN MFA No. 5677/2021

BETWEEN:

THE BRANCH MANAGER
M/S THE ORIENTAL INSURANCE
COMPANY LIMITED
NO 44/45, RESIDENCY ROAD
LEO SHOPPING COMPLEX,
BANGALORE- 560 001
REPRESENTED BY ITS DEPUTY MANAGER

...APPELLANT

(BY SRI. SHANTHARAJ.K, ADVOCATE)

AND:

1. JAYAMMA
W/O PALANAIAK
AGED ABOUT 52 YEARS
R/AT KENCHAMMANAHALLI,
SASALU KUNTE
Y.N HOSAKOTE HOBLI
PAVAGADA TALUK
PRESENTLY RESIDEING AT
4TH CROSS, HANUMANTHAPPA
TUMKUR - 572101
2. SUBBURAYAPPA
S/O SANNA THIMAPPA
AGED ABOUT 46 YEARS
RESIDING AT PAVAGADA ROPPA
PAVAGADA, TUMKUR DISTRICT - 561 202

...RESPONDENTS

(BY SRI. B.S. UMESH, ADVOCATE FOR R2,

VIDE ORDER DATED 04.01.2024, NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 18.01.2021 PASSED IN MVC
NO. 285/2011 ON THE FILE OF THE VI ADDITIONAL DISTRICT
JUDGE AND MACT, TUMAKURU, AWARDING COMPENSATION
OF RS. 6,36,000/- WITH PROPORTIONATE COST OF FUTURE
INTEREST AT THE RATE OF 6 PERCENT P.A. FROM THE DATE
OF THE PETITION TILL REALIZATION OF ENTIRE AMOUNT.

IN MFA NO. 7036/2021

BETWEEN:

JAYAMMA
W/O. PALANAIAK R,
R/AT KENCHAMMANAHALLI,
SASALUKUNTE,
Y.N HOSAKOTE HOBLI,
PAVAGADA TALUK,
NOW RESIDING AT 4TH CROSS,
HANUMANTHAPURA,
TUMKUR 572101

...APPELLANT

(BY SRI. SHANTHARAJ K, ADVOCATE)

AND:

1. SUBBARAYAPPA
S/O. SANNATHIMMAPPA,
AGED 55 YEARS
RESIDING AT PAVAGADA ROPPA.
PAVAGADA-561 202

2. ORIENTAL INSURANCE CO LTD
BY ITS BRANCH MANAGER,
T.G.M.C BUILDING, JC ROAD,
TUMKUR-572 101

...RESPONDENTS

(BY SRI. B.S. UMESH, ADVOCATE FOR R2,
VIDE ORDER DATED 04.01.2024, NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 18.01.2021 PASSED IN MVC NO. 285/2011 ON THE FILE OF THE VI ADDITIONAL DISTRICT JUDGE AND MACT, TUMAKURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS HAVING BEEN RESERVED FOR JUDGMENT ON 12.08.2026 COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

These two appeals arise out of the judgment and award dated 18.01.2021 passed in MVC No.285/2011 by the VI Additional District Judge and Motor Accident Claims Tribunal, Tumakuru (for short, "the Tribunal"), whereby the Tribunal has partly allowed the claim petition filed by the claimants and awarded compensation of Rs.6,36,000/- with interest at 6% per annum.

2. The factual matrix of the case is that on 06.04.2010 at about 3.00 p.m., the deceased K.P.Srinivas was travelling along with his friends in a Tata Sumo bearing registration No.KA-16-7191 towards Muthyalampalli in Andhra Pradesh. When the said vehicle reached near the land of Govindappa situated at Valluru, Kyathaganacharlu, the driver of the said vehicle drove the vehicle in a rash and negligent manner, lost

control over the same and the vehicle turned turtle. Due to the impact, the deceased sustained grievous injuries and was shifted to a nearby hospital and thereafter to NIMHANS, Bengaluru, where he succumbed to the injuries on 07.04.2010. Thereafter, the jurisdictional Police registered FIR, and laid the charge sheet against the driver of the Tata Sumo. Subsequently, the claimant, being the mother of the deceased, filed the claim petition before the Tribunal for adequate compensation.

3. Upon appreciation of oral and documentary evidence available on record, the Tribunal partly allowed the claim petition and awarded a total compensation of Rs.6,36,000/- with interest at the rate of 6% per annum. Aggrieved by the same, Insurance Company has preferred MFA No.5677/2021, assailing the liability fastened upon it as well as the quantum of compensation awarded by the Tribunal and the claimant has preferred MFA No.7036/2021 seeking enhancement of the compensation.

4. Heard learned counsel Sri. B.S. Umesh for the Insurance Company and learned counsel Sri. Shantharaj K. for

the claimant and also perused the materials available on record.

5. Learned counsel appearing for the Insurance Company, apart from urging several contentions, primarily contended that the Tribunal has committed an error in not properly appreciating Ex.R3, being the Police intimation issued by the Casualty Medical Officer of NIMHANS, wherein the history of injury is recorded as "Road Traffic Accident – two wheeler riding fall". Though the Insurance Company had made an attempt to examine the author of Ex.R3, the Tribunal did not afford sufficient opportunity for the said purpose. According to learned counsel, the contents of Ex.R3 are contrary to Ex.P1-FIR, Ex.P2-complaint and the evidence of PW.1. It was further contended that the deceased was not an inmate of the Tata Sumo at the time of the accident.

6. Without prejudice to the aforesaid contention, learned counsel further submitted that, even assuming that the deceased was travelling in the Tata Sumo as an inmate, the said vehicle was not a transport vehicle or taxi and, therefore, the owner-cum-driver had committed breach of the policy conditions. Hence, the Insurance Company cannot be fastened

with the liability to pay the compensation and the liability ought to have been saddled upon the owner/insured. It was also contended that the Tribunal has awarded exorbitant compensation without properly appreciating the evidence available on record. Accordingly, learned counsel sought to allow the appeal preferred by the Insurance Company.

7. *Per contra*, learned counsel appearing for the claimant supported the impugned judgment and award passed by the Tribunal except the quantum of compensation. He contended that a perusal of Ex.P2-complaint lodged by respondent No.1-owner of the vehicle clearly depicts that one Ganesh was driving the Tata Sumo along with the deceased and another inmate, namely, Suryanarayana. Accordingly, the FIR came to be registered as per Ex.P1 and, after investigation, the charge sheet was filed against the driver Ganesh.

8. Learned counsel further submitted that, in the very same accident, another inmate Suryanarayana also sustained injuries, later succumbed due to the same and his legal representatives filed a claim petition against the owner and the Insurance Company of the Tata Sumo. The said claim petition came to be allowed and the Insurance Company has satisfied

the award passed therein. In such circumstances, the Insurance Company cannot now take a contrary stand that the deceased was not an inmate of the Tata Sumo and that the accident occurred due to fall from a two-wheeler.

9. It was further contended that, though the Insurance Company relied upon Ex.R3, it has neither examined the author of Ex.R3 nor the Investigating Officer to substantiate its defence or to discredit the charge sheet filed against the driver of the Tata Sumo. Learned counsel further contended that the Tribunal has awarded meagre compensation by failing to properly appreciate Ex.P9-salary certificate. According to him, the deceased was a Diploma graduate and was working as a Computer Operator at YUVA.com and earning Rs.8,000/- per month. It was also submitted that the father of the deceased was no more and the claimant-mother was a widow. Hence, according to learned counsel, only one-third of the income ought to have been deducted towards personal and living expenses. Accordingly, he sought enhancement of the compensation awarded by the Tribunal.

10. I have given my anxious consideration to the submissions made by the learned counsel for the respective parties and perused the documents available on record.

11. As could be gathered from records, the death of deceased - K.P. Srinivas in a road traffic accident is not in dispute. The primary contention urged by the learned counsel for the Insurance Company is that the deceased died due to fall from a two-wheeler and that the Tata Sumo has been falsely implicated. In support of the said contention, reliance is placed on Ex.R3 by the Insurance Company, wherein the history of accident is stated as "RTA - two wheeler riding fall".

12. However, a careful examination of the entire materials available on record would indicate that Ex.R3, by itself, cannot be considered in isolation so as to disbelieve the Investigation/Police records. Ex.P2-complaint was lodged by respondent No.1, who is admittedly the owner of the Tata Sumo. In the said complaint, it is specifically stated that one Ganesh was driving the Tata Sumo and that the deceased was travelling in the said vehicle along with another inmate, Suryanarayana. Based on the said complaint, the jurisdictional Police registered the FIR as per Ex.P1 and, after completion of

investigation, laid the charge sheet against the driver of Tata Sumo.

13. Significantly, another inmate of the very same vehicle had also sustained injuries in the said accident and later succumbed to the same, his legal representatives had filed M.V.C.No.686/2010 and in the said claim petition, the Insurance Company did not dispute the occurrence of the accident and involvement of the offending Tata Sumo vehicle. Accordingly, the said claim petition came to be allowed and the Insurance Company had admittedly satisfied the award passed therein. The Tribunal has noticed that the accident involved in the said proceedings and the accident in the present case are one and the same and that the deceased in both cases were travelling in the very same Tata Sumo.

14. In such circumstances, the subsequent attempt of the Insurance Company to contend that the deceased was not travelling in the Tata Sumo and that he sustained injuries by falling from a two-wheeler cannot be accepted. Though reliance has been placed on Ex.R3, the Insurance Company has not examined the author of the said document to explain the circumstances in which the alleged history came to be recorded

as such. The Investigating Officer has also not been examined to discredit the charge sheet filed against the driver of the Tata Sumo.

15. It is well settled that the proceedings under the Motor Vehicles Act are required to be decided on the touchstone of preponderance of probabilities. In the present case, the contemporaneous police records, the complaint lodged by the owner himself, the registration of FIR, the charge sheet being laid against the driver and, more importantly, the fact that the Insurance Company had already satisfied the award arising out of the same accident in respect of another inmate, collectively establish the involvement of the Tata Sumo in the accident. Therefore, merely on the basis of the entry contained in Ex.R3, the entire case of the claimant cannot be discarded.

16. The contention of the Insurance Company that the Tribunal did not afford sufficient opportunity to examine the author of Ex.R3 also cannot come to its aid in the absence of any material demonstrating that such denial of opportunity has resulted in prejudice to its case. The Insurance Company had examined RW.1 and had opportunity to place the necessary

material before the Tribunal. In the cross-examination, RW.1 has also admitted that the driver of the offending vehicle was possessing a valid and effective driving licence as on the date of the accident. The Insurance Company has not produced any contrary material to establish breach in that regard.

17. The next contention of the Insurance Company is that the Tata Sumo was a private vehicle and was allegedly being used as a taxi or for hire, and therefore there was breach of policy conditions. In this regard, the Tribunal has specifically considered the said contention and noticed that the Insurance Company has failed to establish that the deceased was travelling in the vehicle on hire. The Tribunal has also noticed that Ex.R4 is a package policy. Further, the fact that the Insurance Company had satisfied the award passed in M.V.C.No.686/2010 arising out of the very same accident assumes significance. The Insurance Company has not produced any material to demonstrate that the said award has been set aside by a competent Court. In such circumstances, the Insurance Company cannot be permitted to take a different stand in the present proceedings without placing any cogent evidence establishing the alleged breach of policy conditions.

18. Therefore, upon overall re-appreciation of oral and documentary evidence on record, I am of the considered view that the Tribunal was justified in holding that the deceased was an inmate of Tata Sumo and that the accident occurred due to the rash and negligent driving of its driver. The finding of the Tribunal fastening liability upon the Insurance Company is based on proper appreciation of the evidence and does not call for interference. Accordingly, MFA No.5677/2021, insofar as liability is concerned, is liable to be dismissed.

AS REGARDS QUANTUM OF COMPENSATION :

19. In order to arrive at the loss of dependency, the Tribunal has determined the monthly income, notionally at Rs.5,500/-. The claimant has produced Ex.P9-salary certificate to establish that the deceased was working as a Computer Operator at YUVA.com and was earning Rs.8,000/- per month. Merely because the employer has not been examined, the evidentiary value of Ex.P9 cannot be discarded on hyper-technical grounds. It is well settled that the proceedings under the Motor Vehicles Act are summary in nature and the claim of the parties is required to be adjudicated on the touchstone of preponderance of probabilities. The documentary evidence

placed on record cannot be rejected merely for want of formal proof, particularly when there is no material on record to demonstrate that Ex.P9 is fabricated or otherwise unreliable.

20. Having regard to the nature of proceedings before the Tribunal, the evidence available on record and the fact that the deceased was admittedly working as a Computer Operator, I am of the considered view that the income of the deceased ought to be taken at **Rs.8,000/- per month**, as evidenced by Ex.P9, instead of Rs.5,500/- per month assessed by the Tribunal.

21. The deceased was aged 28 years at the time of accident. Hence, 40% is required to be added towards future prospects. Thus, the monthly income would work out to Rs.11,200/-.

22. The contention of learned counsel for the claimant that, claimant, being a widow and the only dependent upon the deceased, deduction towards personal and living expenses ought to be restricted to $1/3^{\text{rd}}$ instead of $1/2$, merits consideration. Having regard to the peculiar facts of the case and the dependency of the widowed mother upon the

deceased, I deem it appropriate to restrict the deduction to 1/3rd.

23. Since the deceased was 28 years at the time of accident, applying the multiplier of '17', the claimant would thus be entitled to **Rs.15,23,200/-** (Rs.11,200 × 12 × 17 × 2/3) towards '*loss of dependency*'.

24. The claimant, being the dependent, would be entitled to a sum of **Rs.48,400/-** towards "*loss of consortium*". and she would also be entitled to a sum of **Rs.36,300/-** under the "*conventional heads*".

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

Sl. No.	Particulars	Amount (In Rs.)
1.	Loss of Dependency	15,23,200/-
2.	Loss of Consortium	48,400/-
3.	Conventional Heads	36,300/-
	Total	16,07,900/-

26. Thus, the claimant would be entitled for compensation of **Rs.16,07,900/-** as against Rs.6,43,000/-

awarded by the Tribunal, along with interest at the rate of 6% per annum from the date of petition till its realization.

27. 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.

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

29. The amount in deposit shall be transferred to the concerned Tribunal.

Accordingly, MFA No.5677/2021 filed by the Insurance Company is ***dismissed*** and MFA No.7036/2021 filed by the claimant is accordingly ***allowed in part***.

SD/-
(RAJESH RAI K)
JUDGE

PKS