



CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO.1607/2025 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.2962/2025 (MV-D)

IN MFA No.1607/2025:

BETWEEN:

UNITED INDIA INSURANCE CO. LTD.,
REGIONAL OFFICE, T.P HUB,
5TH AND 6TH FLOOR,
KRISHI SAMAJ BUILDING,
HUDSON CIRCLE,
OPP. BBMP HEAD QUARTERS,
NRUPATHUNGA ROAD,
BANGALORE- 560 001.

...APPELLANT

(BY SRI. L. SREEKANTA RAO, ADVOCATE)

AND:

1. MAHENDRA KUMAR SHARMA,
S/O BADRIPRASAD,
AGED ABOUT 64 YEARS.
2. SAROJ SHARMA,
W/O MAHENDRA KUMAR SHARMA,
AGED ABOUT 56 YEARS.

BOTH ARE RESIDING AT:
MADHUVAN PLOT NO. 1,
GHEESARAM MARG,
NEAR PATROL PUMP,

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AMARANNAVAR
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CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

WARD NO. 13, KHAIRTHAL,
ALWAR DISTRICT, RAJASTHAN - 301 404.

ALSO AT:
NO.10, KRISHNA NIVAS,
12/2, 1ST CROSS, SUBRAMANI LAYOUT,
VIJINAPURA, BENGALURU - 560 016.

3. RAJKUMAR M.,
MAJOR,
S/O MUNIBYRAPPA,
GORIBAGILU, NEAR OLD BUS STOP,
DEVANAHALLI TOWN,
BENGALURU RURAL - 562 110.

...RESPONDENTS

(BY SRI. SURESH K., ADVOCATE FOR R1 & R2
V/O/DTD:19.06.2025, NOTICE TO R3 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 10.01.2025 PASSED IN MVC
NO.1056/2023 ON THE FILE OF THE VIII ADDL. JUDGE AND
COURT OF SMALL CAUSES & ACJM, MOTOR ACCIDENT CLAIMS
TRIBUNAL, BENGALURU (SCCH-5). AWARDING
COMPENSATION OF RS. 99,41,356/- WITH INTEREST AT 6
PERCENT P.A. FROM THE DATE OF PETITION TILL ITS
REALIZATION & ETC.

IN MFA NO.2962/2025:

BETWEEN:

1. SRI. MAHENDRA KUMAR SHARMA,
AGED ABOUT 64 YEARS,
S/O LATE BADRIPRASAD.

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CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

2. SMT. SAROJ SHARMA,
AGED ABOUT 56 YEARS,
W/O SRI. MAHENDRA KUMAR SHARMA.
BOTH ARE R/AT PLOT NO.1,
GHEESARAM MARG,
NEAR PETROL PUMP, WARD NO.13,
KHAIRTHAL, KHAIRTHAL POST,
ALWAR DISTRICT, RAJASTHAN - 301 404.
AND ALSO AT :
NO.10, KRISHNA NIVAS, 12/2,
1ST CROSS, SUBRAMANI LAYOUT,
VIJINAPURA, BENGALURU - 560 016.

...APPELLANTS

(BY SRI. SURESH K., ADVOCATE)

AND:

1. SRI. RAJKUMAR .M.,
MAJOR,
S/O MUNIBYRAPPA,
R/AT GORIBAGILU,
NEAR OLD BUS STOP,
DEVANAHALLI TOWN,
BENGALURU RURAL DISTRICT - 562 110.
(OWNER OF THE TOYOTA QUALLIS
CAR BEARING NO.KA-04-Z-4704).
2. UNITED INDIA INSURANCE COMPANY LIMITED,
REGIONAL OFFICE, T.P. HUB,
5TH AND, 6TH FLOORS,
KRISHIK SAMAJ BUILDING,
HUDSON CIRCLE,
OPP. BBMP HEAD QUARTER,
NRUPATHUNGA ROAD,
BENGALURU - 560 001.

POLICY NO.0731003121P105251589,
VALID FROM 01-09-2021 TO 31-08-2022,

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CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

POLICY ISSUED AT ITS KOLAR BRANCH.

...RESPONDENTS

(BY SRI. L. SREEKANTA RAO, ADVOCATE, FOR R2;
V/O/DTD:19.06.2025, NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST
THE JUDGMENT AND AWARD DT.10.01.2025 PASSED IN
MVC NO.1056/2023, ON THE FILE OF THE VIII ADDITIONAL
SMALL CAUSES JUDGE AND THE MOTOR ACCIDENT CLAIMS
TRIBUNAL & ACJM, BENGALURU SCCH-5 PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION & ETC.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

MFA No.1607/2025 is filed by the insurer challenging
the judgment and award dated 10.01.2025 passed in MVC
No.1056/2023 by the VIII Additional Judge, Court of Small
Causes and MACT, Bengaluru (SCCH-5).

2. MFA No.2962/2025 is filed by the claimants
seeking enhancement of compensation awarded in
judgment and award dated 10.01.2025 passed in MVC

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CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

No.1056/2023 by the VIII Additional Judge, Court of Small Causes and MACT, Bengaluru (SCCH-5).

3. Even though the appeals are listed today for admission, they are taken up for disposal with the consent of learned counsel for insurer and learned counsel for claimants.

3. The claimants made a claim petition praying to award compensation for the death of Pratul Sharma in a road traffic accident occurred on 21.08.2022 contending that the accident occurred due to rash and negligent driving of the driver of Toyota Qualis Car bearing Regn.No.KA-04-Z-4704. The Tribunal after recording the evidence of the parties, appreciating the evidence assessed the compensation and awarded compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Loss of dependency	98,71,356/-
02.	Loss of filial consortium (Rs.20,000/- each to Petitioner No.1 and 2)	40,000/-
03.	Loss of estate	15,000/-

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JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

04.	Funeral expenses	15,000/-
	Total	99,41,356/-

4. The Tribunal also awarded interest @ 6% p.a. from the date of petition till realization and directed the insurer to deposit the award amount with interest. Aggrieved by the said judgment, the insurer has filed the appeal challenging fastening of liability on the insurer. The claimants have filed the appeal seeking enhancement of the compensation awarded by the Tribunal.

5. Heard learned counsel for the insurer and learned counsel for the claimants.

6. Learned counsel for the insurer would contend that Ex.P8 - charge sheet has been filed against the driver of Toyota Qualis car and also the deceased who was riding the motor cycle and that itself indicate that there is contributory negligence on the part of the deceased. He further submits that in Ex.P2 – complaint filed by the ASI of Devanahalli Traffic Police Station, it is mentioned that the deceased jumped the hump and thereafter entered the



CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

junction and at that time, the accident occurred. The motor cycle of the deceased dashed on the left side of the car and therefore, there is no negligence on the part of the driver of the insured car. Without considering this aspect, the Tribunal has erred in fastening the entire liability on the driver of the car insured with the appellant. With this, he prayed to allow the appeal filed by the insurer.

7. Learned counsel for the claimants would contend that PW.3 is the eye witness to the incident and he was the pillion rider on the motor cycle with the deceased. The evidence of PW.3 clearly indicates that the deceased was not negligent in riding the motor cycle and it is the negligent driving of the driver of the car which resulted in the accident. The complaint is filed by the ASI, Devanahalli Traffic Police Station and he is not the eye witness to the incident. Even though the charge sheet is filed against the deceased and the driver of the car but the evidence of PW.3 clearly indicate that the deceased has not contributed to the accident. Considering the said

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CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

aspect, the Tribunal has rightly held that the entire negligence on the part of the driver of the car. He further submits that the deceased was an Engineer working in Railways and his last pay i.e. for July, 2022 is to be taken into consideration. In the gross pay, professional tax and income tax are to be deducted. The Tribunal has not added escalation under conventional heads and consortium awarded is on lower side. With this, he prayed to allow the appeal filed by the claimants.

8. Having heard the learned counsels, the Court has perused judgment, award and trial Court records.

9. The accident occurred on 21.08.2022 at 3.55 a.m. in the night. The deceased was riding the motor cycle bearing Regn.No.WB-38-AY-8802 and PW.3 was the pillion rider on the said motor cycle of the deceased. Ex.P8 is the charge sheet and it is filed against the rider of the motor cycle/deceased and also the driver of the Toyota Qualis Car bearing Regn.No.KA-04-Z-4704 for the offence under

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JUDGE, HIGH COURT OF KARNATAKA



CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

Sections 279, 337, 304A of IPC. The deceased is shown as accused No.2 in the charge sheet and the driver of the Car has been shown as accused No.1. Ex.P3 is the spot mahazar and Ex.P4 is the spot sketch. The rider of the motor cycle was moving from Bengaluru towards Chikkaballapur in the National Highway. When he was entering the junction, the driver of Toyota Qualis Car entered the said National Highway from Vijayapura and going towards Doddaballapura. The accident occurred in the said junction. The driver of the Car who entered the National Highway in a junction ought to have been more careful. There was a hump prior to the spot of the accident on the road on which the deceased was coming and that indicate that deceased has crossed the hump. It is alleged that deceased has jumped the said hump by riding the motor cycle in speed and entered junction. There is no suggestion in that regard to PW.3 who is the pillion rider on the motor cycle of the deceased. The said accident has taken place in the middle of the said junction

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CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

on a National Highway. On perusal of damages noted in Ex.P5 – IMV report, there is damage on the front side of Toyota Qualis Car. Considering the damages on the front side of the Car, it cannot be said that the motor cycle has dashed to the side of the Car as contended by the learned counsel for the insurer. On considering the damages on the front side of the Car, the Car dashed to the motor cycle. The rider of the motor cycle also ought to have been careful while entering in a junction on a National Highway. Considering the said aspect, it clearly indicates that the rider of the motor cycle/deceased has also contributed to the accident and more so, the charge sheet has been filed against both the driver of the Car and the rider of the motor cycle/deceased for rash and negligent driving. Considering the said aspect, the contributory negligence on the part of the deceased is assessed at 10% and contributory negligence on the part of the driver of Toyota Qualis Car is assessed at 90%.

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CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

10. The deceased was an employee in Railways. The last pay slip of the deceased for the month of July, 2022 (accident taken place on 21.08.2022) indicate that the gross pay of the deceased is Rs.87,466/-. In the said gross pay income tax of Rs.7,975/- and professional tax of Rs.200/- are to be deducted. After deducting them, the net pay of deceased is Rs.79,291/-. Therefore, the income of the deceased is taken at Rs.79,291/- as against Rs.69,127/- taken by the Tribunal. Since the deceased is having permanent job in Railways and he is aged 26 years, future prospects are to be added at 50%. The deceased was a Bachelor and 50% is to be deducted towards his personal expenses. The Tribunal has rightly applied multiplier of 17 since the deceased was aged 26 years. In view of the above, the loss of dependency is calculated as under:

$$\text{Rs.79,291} + 50\%(\text{future prospects}) = 1,18,936 - 50\% = 59,468/-$$

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CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

Rs.59,468 x 12 x 17 = Rs.1,21,31,472/-

11. The claimants are parents of deceased and each of them are entitled to consortium in a sum of Rs.40,000/- each with 10% escalation. Therefore, the claimants are entitled to consortium in a sum of Rs.88,000/- (Rs.44,000 x 2) as against Rs.40,000/- awarded by the Tribunal. The Tribunal even though awarded loss of estate and funeral expenses but not added 10% escalation. Therefore, the claimants are entitled to loss of estate in a sum of Rs.16,500/- and funeral expenses in a sum of Rs.16,500/.

12. In view of the above, the claimants are entitled to compensation under various heads as under:

Sl.No.	Heads	Amount in (Rs.)
01.	Loss of dependency	1,21,31,472/-
02.	Loss of consortium	88,000/-
03.	Loss of estate	16,500/-
04.	Funeral expenses	16,500/-
	Total	1,22,52,472/-

13. Since the deceased has contributed to the accident at 10%, the claimants are entitled to 90% of

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CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

Rs.1,22,52,472/- i.e. Rs.1,10,27,225/-. Therefore, the claimants are entitled to total compensation of Rs.1,10,27,225/- as against Rs.99,41,356/- as awarded by the Tribunal with interest @ 6% p.a. from the date of petition till realization. Consequently, the claimants are entitled to enhanced compensation of Rs.10,85,869/- with interest @ 6% p.a. from the date of petition till realization. The insurer is liable to pay the said enhanced compensation with interest.

14. In view of the above, the following:

ORDER

- i) Both the appeals are allowed in part.
- ii) The claimants are entitled to enhanced compensation of Rs.10,85,869/- with interest @ 6% p.a. from the date of petition till realization.
- iii) The insurer shall deposit the enhanced compensation with interest before the Tribunal within a period of six weeks from

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CNR: KAHC010146772025

NC: 2026:KHC:55882
MFA No. 1607 of 2025
C/W MFA No. 2962 of 2025

this day including the amount already deposited.

- iv) The amount in deposit is ordered to be transmitted to the Tribunal.
- v) The claimants are entitled to release of entire enhanced compensation in the ratio of 50:50.

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

DKB
List No.: 2 Sl No.: 24