



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.3954 OF 2020 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.3802 OF 2020 (MV-D)

IN MFA No. 3954/2020

BETWEEN:

1. SMT. T. NAYANA
D/O VEERABADRAPPA
W/O T.RAJENDRA
AGED 32 YEARS,

2. KUMARI PRAKRUTHI
D/O SMT.T.NAYANA
AGED 3 YEARS,

APPELLANT NO.2 IS THE MINOR,
REP BY MOTHER AND
NATURAL GUARDIAN
SMT.T.NAYANA,
APPELLANT NO.1,
R/AT KATAMNALLUR,
BENGALURU,
VIRGONAGAR - 560 049
KARNATAKA.

...APPELLANTS

(BY SRI. LOKESH MALAVALLI, ADVOCATE)

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by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

AND:

1. THE BRANCH MANAGER,
ORIENTAL INSURANCE COMPANY LIMITED
NO.44 (45), 4TH FLOOR,
LEO COMPLEX, BEHIND SHANKARNAG THEATER,
M.G.ROAD, BENGALURU-560 01
(POLICY NO.211200/31/2017/18081
VALID FROM 12-03-2017 TO 11-03-2018)
2. NARAYANA SWAMY.S.
S/O SANJEEVAPPA
AGED 53 YEARS,
NO.28, DODDAGUBBI VILLAGE,
BIDARALLI HOBLI,
DR.SHIVARAMKARANTH NAGARA
BENGALURU-560 077.
3. THE ORIENTAL INSURANCE COMPANY LIMITED
NO.20, 2ND FLOOR,
9TH MAIN, OPP PAI VICEROY HOTEL,
JAYANAGAR 3RD BLOCK,
BENGALURU-560 011
(POLICY NO.421600/31/20178356 VALID FROM 25-
12-2016 TO 25-12-2017)
4. M.ABDUL RAFEEQ
S/O ABDUL RAZAK,
AGED MAJOR,
M/S JAI BHARATH BUS SERVICE
M.B.S. BUILDING, M.C.ROAD,
MULBAGAL, KOLAR DISTRICT.

...RESPONDENTS

(BY SRI. A.M.VENKATESH, ADVOCATE FOR R1;
R2 TO R4 NOTICE SERVED)



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 04.02.2020 PASSED IN MVC NO.607/2018 ON THE FILE OF THE VII ADDITIONAL SCJ AND ACMM, MEMBER, MACT-3, BENGALURU.

IN MFA NO. 3802/2020

BETWEEN:

THE ORIENTAL INSURANCE COMPANY LTD.,
NO. 20, 2ND FLOOR, 9TH MAIN
OPP. PAI VICEROY HOTEL
JAYANAGAR 3RD BLOCK
BENGALURU - 560 011

NOW REP. BY ITS
REGIONAL OFFICE
NO. 44/45, 4TH FLOOR,
LEO COMPLEX, BEHIND SHANKARNAG THEATRE
RESIDENCY ROAD, BENGALURU - 560 025
REP. BY ITS AUTHORIZED SIGNATORY

...APPELLANT

(BY SRI. A M VENKATESH, ADVOCATE)

AND:

1. SMT.T.NAYANA
D/O VEERABHADRAPPA
W/O T. RAJENDRA
AGED ABOUT 32 YEARS

2. KUMARI PRAKRUTHI
D/O SMT. T.NAYANA
3 YEARS

RESPONDENT NO.2 IS THE MINOR,



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

REPRESENTED BY MOTHER AND NATURAL GUARDIAN
SMT. T. NAYANA
RESPONDENT NO. 1 HEREIN

BOTH ATE RESIDING AT
KATAMANALLUR, BENGLAURU
VIRGONAGAR
KARNATAKA

3. SRI. NARAYANA SWAMY S
S/O SANJEEVAPPA
AGED ABOUT 53 YEARS
NO.28, DODDAGUBBI VILLAGE
BIDARALLI HOBLI,
DR. SHIVARAMKARANTH NAGARA
BENGALURU - 560 077.
4. SRI M. ABDUL RAFAEQ
S/O ABDUL RAZAK
M/S JAI BHARATH BUS SERVICE
M.B.S. BUILDING
M.C. ROAD, MULBAGAL
KOLAR DISTRICT

...RESPONDENTS

(BY SRI. LOKESH MALAVALLI, ADVOCATE FOR R1 & R2;
R2 IS MINOR R/BY R1;
R3 AND R4 NOTICE SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 04.02.2020 PASSED
IN MVC NO. 607/2018 ON THE FILE OF THE VII
ADDITIONAL SCJ AND ACMM, MEMBER, MACT-3,
BENGALURU.



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

THESE APPEALS, COMING ON FOR FINAL HEARING, 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 dated 04.02.2020 in MVC No.607/2018 passed by the MACT, Bengaluru, (hereinafter referred to as 'the Tribunal'). whereby the Tribunal, partly allowed the claim petition filed by the claimants and awarded a compensation of Rs.16,82,800/- with 9% interest.

2. The brief facts necessary for the disposal of these appeals are that, on 26.06.2017 at about 11:00 a.m., the deceased, namely V.Naveenkumar, was proceeding towards Battamadoddi on a Bajaj Pulsar motorcycle bearing Reg.No.KA-01-ET-8307. When he reached near Palamaner-Bengaluru NH-69 Road, the driver of an Innova car bearing Reg.No.KA-03-AA-1966, which was proceeding from behind, drove the vehicle in a rash and negligent manner and, while attempting to overtake the motorcycle of the deceased, dashed against it. Due to the



NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

CNR: KAHC010266072020

impact, the deceased Naveenkumar was fell on the road. At that point of time, a Jaibharata private bus bearing Reg.No.KA-07-A-4752, coming from the Bengaluru side, ran over the head of the deceased. As a result of the injuries sustained in the accident, Naveenkumar succumbed to the injuries at the spot. Thereafter, the legal representatives of the deceased filed claim petitions seeking compensation on account of the accidental death of Naveenkumar.

3. The Tribunal upon appreciation of oral and documentary evidence, partly allowed the claim petition and awarded a compensation as stated *supra*. The said judgment is challenged by the Insurance Companies as well as the claimant.

4. The Insurance Company has preferred appeal in MFA No.3802/2020 disputing legality of the award, whereas the claimant preferred appeal in MFA No.3954/2020 for enhancement of compensation.

5. Heard the learned counsel for the respective parties.



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

6. Apart from urging several other contentions, the learned counsel appearing for the Insurance Company, primarily contended that the claim petition filed by the claimant is not maintainable, on the ground that the claimant is not a dependent of the deceased. It is contended that the claimant is the married sister of the deceased and is living separately with her husband and, therefore, she cannot be treated as a dependent upon the deceased. Accordingly, it is argued that the claimant is not entitled to maintain the claim petition or seek compensation on account of the death of the deceased.

7. The learned counsel further contended that the Tribunal erred in assessing the income of the deceased at Rs.12,000/- per month for the year 2017, which, according to him, has resulted in an excessive and exorbitant award of compensation. It is also contended that the Tribunal erred in awarding interest at the rate of 9% per annum instead of 6% per annum. With these submissions he prays to allow the appeal filed by the Insurance Company by rejecting the appeal filed by the claimant.



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

8. *Per contra*, the learned counsel appearing for the claimant contended that the Tribunal, upon meticulous appreciation of the oral and documentary evidence on record, has rightly held that the claimant is entitled to maintain the claim petition and that she was dependent upon the deceased, who was her brother. However, he contended that the Tribunal grossly erred in awarding meager compensation by failing to properly assess the income of the deceased. Placing reliance upon Ex.P9, the pay slips of the deceased, learned counsel for the claimant contended that, as on the date of the accident, the deceased was working with Scope Amra Logistics India Pvt. Ltd., Bengaluru, and was drawing a salary of Rs.26,000/- per month. The pay slips for the months of April 2017, May 2017 and June 2017, produced at Ex.P9, clearly establish the income of the deceased at the relevant point of time. Despite the same, the Tribunal, without assigning sufficient reasons, assessed the monthly income of the deceased notionally at Rs.12,000/-, which has resulted in substantial reduction of the compensation payable to the



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

claimant. as such, he prays to enhance the compensation dismissing the appeal filed by the Insurance Company.

9. I have given my anxious consideration both on the submission and perused the entire evidence and documents placed on record.

10. As could be gathered from the records, the occurrence of the accident on 26.06.2017, when the deceased Naveenkumar was proceeding on his Bajaj Pulsar motorcycle, and the fact that the accident occurred due to the rash and negligent driving of the drivers of the Innova car bearing Reg.No.KA-03-AA-1966 and the bus bearing Reg.No.KA-07-A-4752, are not in dispute. It is also not in dispute that both the offending vehicles were duly covered by valid insurance policies as on the date of the accident. The principal contention urged by the learned counsel appearing for the Insurance Company is that the claimant could not maintain the claim petition, as she is the married sister of the deceased and was living separately with her husband and, therefore, was not dependent upon the deceased. While considering the said contention, the Tribunal,



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

placing reliance upon the judgment of the Hon'ble Apex Court in the case of **"National Insurance Company Ltd. v. Birender & Others"** in **Civil Appeal Nos.242-243 of 2020**, held that the claimant, being the sister of the deceased and the deceased having been a bachelor, was entitled to be treated as a dependent. Be that as it may, the question as to whether a major or married member of the family can maintain a claim petition is no longer *res integra* in view of the subsequent judgment of the Hon'ble Apex Court in the case of **"Jitender Kumar & Anr. v. Sanjay Prasad & Ors."**, in **Civil Appeal No.7199 of 2025, arising out of SLP(C) No.27779 of 2023** that even a married sons and daughters can maintain a claim petition and they come within the bracket of dependents, though they are earning their independent income. In the present case, the claimant is the sister of the deceased and the deceased was a bachelor. The evidence on record also indicates that the claimant was dependent upon the deceased. Therefore, merely because the claimant is a married sister, the same cannot, by itself, be a ground to reject her claim. The status of the claimant as a legal representative and the question of



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

actual dependency are required to be considered having regard to the facts and circumstances of each case. Accordingly, in view of the principles laid down in the aforesaid judgments, I am of the considered view that the contention advanced by the learned counsel for the Insurance Company that the claimant could not maintain the claim petition for compensation does not hold much water and is liable to be rejected.

11. As far as the quantum of compensation is concerned, the Tribunal has assessed the income of the deceased notionally at Rs.12,000/- per month. However, on perusal of the documents available on record, particularly Ex.P9, it is evident that the claimant has produced three pay slips of the deceased pertaining to the months of April to June, 2017. The accident occurred on 26.06.2017. The said pay slips disclose that, as on the date of the accident, the deceased Naveenkumar was employed with Scope Amra Logistics India Pvt. Ltd., Bengaluru. The pay slips consistently disclose that the deceased was drawing a gross salary of Rs.26,000/- per month, with a deduction of Rs.2,000/-, resulting in a net salary of Rs.24,000/- per month. All three pay slips reflect the same salary



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

particulars. The learned counsel appearing for the Insurance Company, however, contended that no evidentiary value could be attached to Ex.P9 on the ground that the employer of the deceased was not examined before the Tribunal to prove the said documents. The said contention cannot be accepted in the facts of the present case.

12. The claimant is the sole sister of the deceased, and it would be unreasonable to expect her to secure the presence of the employer before the Court merely for the purpose of formally proving the pay slips, particularly when the said documents were produced on record and no contrary evidence has been adduced by the Insurance Company to discredit or disprove their contents. When the three consecutive pay slips pertaining to the period immediately preceding the accident are available on record and consistently disclose the salary of the deceased, and when there is no material placed by the Insurance Company to establish that the said documents are fabricated or otherwise unreliable, there is no sufficient reason to discard the same merely because the employer has not been examined. Therefore, I am of the considered view that the



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

Tribunal erred in assessing the income of the deceased at Rs.12,000/- per month instead of taking the income evidenced by Ex.P9. Having regard to the deductions reflected in the pay slips, the net monthly income of the deceased is appropriately taken at Rs.24,000/- per month. Accordingly, for the purpose of computation of compensation, the monthly income of the deceased is determined at Rs.24,000/- per month.

13. Since the deceased was aged 31 years and had a permanent job, 40% requires to be added to his monthly income towards future prospects, which would result in the income to be Rs.33,600/- ($\text{Rs.24,000} + 40\% = \text{Rs.33,600/-}$).

14. Since the deceased is a bachelor, 50% of his income has to be deduced towards his personal expenses. Hence, The income of the deceased for the purposes of determining the loss of dependency would thus be **Rs.16,800/-** ($\text{Rs.33,600} - 50\%$)

15. As the deceased was aged 31 years, a multiplier of '**16**' would have to be applied.



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

16. Consequently, the claimant would be entitled to a sum of **Rs.32,25,600/-** (Rs.16,800 x 12 x 16) towards "*loss of dependency*".

17. The claimant No.1 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*".

18. 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	32,25,600
2.	Loss of Consortium	48,400
3.	Conventional Heads	36,300
	Total	33,10,300

19. Thus, the claimant would be entitled for compensation of **Rs.33,10,300/-** as against Rs.16,82,800/- awarded by the Tribunal along with interest.



CNR: KAHC010266072020

NC: 2026:KHC:46099
MFA No. 3954 of 2020
C/W MFA No. 3802 of 2020

20. The Tribunal has erred while awarding interest to the compensation. As per the law laid down by Division Bench of this Court in MFA No.5896/2018 the rate of interest to be awarded shall be 6%. Hence the same is reduced to 6% as against 9% awarded by the Tribunal.

21. 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.

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

Accordingly, the appeals are ***disposed of***.

Amount in deposit shall be transmitted to the Tribunal.

**SD/-
(RAJESH RAI K)
JUDGE**

GPG
List No.: 1 SI No.: 2