



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 2501 OF 2016 (MV-D)

BETWEEN:

NATIONAL INSURANCE CO. LTD.,
MOSQUE ROAD, UDUPI,
NOW REPRESENTED BY ITS
REGIONAL MANAGER,
NATIONAL INSURANCE CO. LTD.,
REGIONAL OFFICE, SUBHARAM
COMPLEX, 144, M.G.ROAD,
BENGALURU-560 001.

...APPELLANT

(BY SRI. VIJAYA PHANEENDRA .T.B., ADVOCATE FOR
SRI. A N KRISHNA SWAMY., ADVOCATE)

AND:

Digitally signed
by
PADMA SHREE
SHEKHAR
DESAI
Location: High
Court of
Karnataka

1. SHARIEF @ MOHAMMED SHARIEF
S/O C.H.MOIDHINABBA,
NOW AGED ABOUT 44 YEARS,
2. SMT. REHAMATH
W/O SHARIEF,
NOW AGED ABOUT 42 YEARS,
3. MOHAMMED IRFAN
S/O SHARIEF,
NOW AGED ABOUT 23 YEARS,
4. IRSHANA BEGUM
D/O SHARIEF,
NOW AGED ABOUT 18 YEARS,



ALL ARE R/AT C.H.HOUSE,
K.S.RAO NAGAR, KARNAD,
MULKI, MANGALURU-574 154.

5. FRANCIS D'SOUZA
S/O LATE MATHIAS D'SOUZA,
NOW AGED ABOUT 60 YEARS,
R/AT FERRY ROAD,
HEJAMADY POST,
UDUPI PIN-574 103.
6. ABDUL VAJIR
S/O U.K.IBRAHIM, MAJOR,
R/AT NO.19/89/A/126A,
KARNAD, MULKI,
MANGALURU-574 154.
7. UNITED INDIA INSURANCE CO. LTD.,
UDAYAVANI BUILDING,
MANIPAL-576 107.

...RESPONDENTS

(BY SRI. M. H SAWKAR, ADVOCATE FOR R1 TO R4,
SMT. HARINI SHIVANANDA, ADVOCATE FOR R7,
R5 AND R6 ARE SERVED BUT UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED:11.01.2016 PASSED IN MVC
NO.940/2014 ON THE FILE OF THE I ADDITIONAL DISTRICT &
SESSIONS JUDGE, MACT, D.K., MANGALORE, AWARDED
COMPENSATION OF Rs.4,74,000/- WITH INTEREST @ 6% P.A.
FROM THE DATE OF PETITION TILL DEPOSIT IN TRIBUNAL.

THIS APPEAL COMING ON FOR HEARING THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA



ORAL JUDGMENT

This appeal is filed by the appellant/claimant under Section 173(1) of Motor Vehicles Act, 1988, challenging the judgment and award dated 11.01.2016 passed in MVC No.940/2014 on the file of the I Addl. District Judge & II Addl. MACT, Mangalore, D.K., for enhancing the compensation.

2. Heard the arguments of the learned counsel for the appellant and learned counsel for respondents. The ranks of the parties are retained as per tribunal for the sake of convenience.

3. This appeal is filed by Insurance Company against the judgment and award in MVC No.940/2014 in which Sheikh Imran met with an accident on 07.01.2012 and died subsequently. His parents and siblings filed claim petition claiming compensation of Rs.20,00,000/-. The Tribunal considered the entire evidence on record and



granted amount of Rs.4,74,000/- along with interest at the rate of 6% per annum from date of petition till deposit.

4. Aggrieved by the said award Insurance Company/R2 before the tribunal mainly contended that Sheik Imran was aged 21 years and earning Rs.40,000/- per month. It was brought to the notice of the tribunal that the rider of the motorcycle was carrying more than 1 pillion rider and it is contrary to Section 128 of the MV Act. There were 3 persons travelling on the motorcycle at the time of the accident and charge sheet is filed against the rider of the motorcycle. As it is an Act policy, the Tribunal fastened the entire liability on the owner and insurer of the car and further held that as there is violation of Section 128 of the MV Act, claim petition is not maintainable. There is no negligence on the part of the driver of the car. As such, it is to be dismissed against him. But the claim petition is filed under section 163-A MV Act under fault liability. When there are more than one vehicle is involved in the accident and all the vehicle owners are directed to



pay compensation in equal proportion, the Tribunal has no power to determine negligence under 163-A of the MV Act. The age of the parents is to be considered. Hence, requested for modification of the order.

5. The manner of accident shows that Sheikh Imran, who was aged 21 years, was travelling as a pillion rider on the motorcycle bearing Reg.No.KA-20/U-874 and the rider of the vehicle was Mohammed Akram and the motorcycle dashed the car coming from the opposite direction. As a result, the pillion rider fell down and died subsequently and the charge sheet is filed against rider of the two wheeler.

6. Learned counsel for the appellant argued that as it was a case of triple riding, contributory negligence is to be fixed on the rider of the motorcycle. But as per the citation relied by the learned counsel for appellant reported in **2004(1) KANT 498** in case of **P.S Somaiah and Anr Vs The Director, Bnaglore Diary and Ors.**



dated 01.01.2003, if it is a case of triple riding, they are liable to pay fine and therefore the contributory negligence cannot be fixed against them. Learned counsel for the appellate further stated that, as it is a case filed under Section 163-A of the MV Act, he is not disputing the loss of dependency calculated as **Rs.4,54,000/-**, but he further stated that he is entitled for **Rs.2,000/-** towards funeral expenses and **Rs.2,500/-** towards loss of estate. Amount of **Rs.10,000/-** for loss of love and affection is not valid and is deleted. Therefore, this court finds that it is just and reasonable to modify the order.

Accordingly, this appeal is ***partly allowed.***

Hence, the compensation granted by tribunal is reduced from Rs.4,74,000 /- to **Rs.4,58,500/-** along with interest at the rate of 6% p.a.



**NC: 2026:KHC:28865
MFA No. 2501 of 2016**

As the Insurance Company deposited 50% of the compensation, they are directed to deposit the balance compensation along with interest at the rate of 6% p.a., within one month from the date of the order.

On such deposit respondent Nos.1 and 2 are parents of the deceased and they are permitted to withdraw the entire amount along with interest accrued on the same.

**Sd/-
(P SREE SUDHA)
JUDGE**

AKV
CT:NR
List No.: 1 Sl No.: 38