



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.3328/2021 (MV-D)

BETWEEN:

1. SMT. NAGARATHNA DEVADIGA
W/O LATE ISHWAR NARAYAN DEVADIGA
AGED ABOUT 31 YEARS.
2. MASTER SKANDA
S/O LATE ISHWAR NARAYAN DEVADIGA
AGED ABOUT 1 YEARS.

SINCE APPELLANT NO.2 IS MINOR
HE IS REP. BY HIS MOTHER, GUARDIAN
APPELLANT NO 1.

BOTH ARE R/AT GOVEHITHLU
BAILUR POST, BHATKAL TALUK
U K DISTRICT.

...APPELLANTS

(BY SRI. NAGARAJA HEGDE, ADV.,)

AND:

1. SRI. A. MADHU
S/O LATE K. ARMUGAM
AGE MAJOR
R/O M/S AMP FISHERIES
SANJAY COLONY

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:35446-DB
M.F.A. No.3328/2021

OPP KEP, UMBLEBILU ROAD
BHADRAVATHI
SHIVAMOGA DISTRICT.

2. THE UNITED INDIA INSURANCE CO LTD
BRANCH OFFICE, KUNDAPURA
SRI LAXMI VENKATESH COMPLEX
NH -66, VADERHOBOLI, KUNDAPURA
REP BY ITS BRANCH MANAGER.

...RESPONDENTS

(BY SRI. P.B. RAJU, ADV., FOR R2
NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO CALL FOR THE ENTIRE RECORDS PERTAINING TO THE PROCEEDINGS IN MVC NO.636/2018, ON THE MOTOR ACCIDENT CLAIMS TRIBUNAL, UDUPI (SITTING AT KUNDAPURA) KUNDAPURA. AFTER PERUSING THE RECORDS ENHANCE THE COMPENSATION BY MODIFYING THE JUDGMENT AND AWARD DATED 16.09.2020, PASSED BY THE MOTOR ACCIDENT CLAIMS TRIBUNAL, UDUPI (SITTING AT KUNDAPURA) KUNDAPURA, IN MVC NO.636/2018 AND AWARD JUST AND REASONABLE COMPENSATION CONSIDERING THE GRAVITY AND OTHER SURROUNDING CIRCUMSTANCES, WHICH IS PRODUCED AT ANNEXURE-A & ETC.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This appeal is filed by the claimants challenging the judgment and award dated 16.09.2020 passed in M.V.C.No.636/2018 by the Additional District Judge and Addl. MACT, Udupi, (sitting at Kundapura), Kundapura (for short, '***the Tribunal***').

2. Sri.Nagaraja Hegde, learned counsel appearing for the appellants submits that the Tribunal has committed a grave error in assessing the income of the deceased at ₹12,000/- per month by ignoring the oral and documentary evidence on record. It is submitted that the deceased was aged about 38 years and was a Class-1 Electrical Contractor by vocation and to substantiate the same, the claimants have examined PW3, who is the employee of the KEB and also a colleague of the deceased, he has clearly deposed to substantiate the income and vocation of the deceased. It is further submitted that the Tribunal, contrary to the law laid down by the Hon'ble



Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and Others¹***, has awarded the compensation under the conventional heads. Hence, he seeks to allow the appeal by enhancing the compensation appropriately.

3. Per contra, Sri.P.B.Raju, learned counsel appearing for respondent No.2-insurance company, supports the impugned judgment and award of the Tribunal and submits that the oral evidence of PW3 as well as the documentary evidence on record do not substantiate the income as the appellants failed to produce any documentary evidence before the Tribunal to substantiate the income. Hence, the Tribunal has rightly assessed the income of the deceased at ₹12,000/- per month and awarded just compensation which does not call for any interference. Hence, he seeks to dismiss the appeal.

¹ (2017) 16 SCC 680



4. We have heard the arguments of the learned counsel appearing for the appellants-claimants, learned counsel appearing for the respondent-insurance company and meticulously perused the material available on record.

5. The point that arises for consideration in this appeal is:

"Whether the impugned judgment and award of the Tribunal calls for any interference?"

6. The aforementioned point is answered in the affirmative for the following reasons.

7. The appellants-claimants are the wife and son of the deceased Ishwara Narayan Devadiga. The appellants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the death of Sri.Ishwara Narayan Devadiga in the road accident dated 26.01.2018. The said claim petition was opposed by the respondent-insurance company by denying the assertions made in the claim petition. The Tribunal recorded the evidence. The claimant No.1 examined



herself as PW1 and examined other two witnesses as PWs.1 and 2 and got marked Exs.P1 to P15. The respondent did not adduce any evidence. The Tribunal, on appreciation of the oral and documentary evidence, assessed the income of the deceased at ₹12,000/- per month and awarded total compensation of ₹22,13,015/- along with the interest at the rate of 6% p.a.

8. It is to be noticed that in the claim petition, the appellants-claimants have specifically made assertion that the deceased was a Class-1 Electrical Contractor, he used to take electrical work and used to earn ₹50,000/- per month, and due to the untimely death of Ishwara Narayan Devadiga, the claimants suffered financially as well as emotionally.

9. It is required to be noticed that in order to prove the averments of the claim petition, claimant No.1 has examined herself by reiterating the claim averments,



PW2-Nagesha, is an eye witness to the incident to substantiate the aspect of negligence. PW3 is a colleague of the deceased, who is working in the KEB, who has deposed before the Tribunal that the deceased was a Class-1 Electrical Contractor and used to take electrical work.

10. It is required to be noticed that in order to substantiate the income, the claimants have failed to produce cogent and acceptable evidence before the Tribunal to prove the income. The Tribunal, based on the oral and documentary evidence, assessed the income of the deceased at ₹12,000/- per month and awarded compensation. It is further required to be noticed that the deceased was a Class-1 Contractor and to prove his vocation, PW3 has spoken before the Tribunal that the deceased was a Class-1 Contractor and he used to take private work and earn income. Considering the oral evidence of PWs.1 to 3 and taking note of Ex.P8 - Electrical Contract Licence and Ex.P9 - Electrical Wireman



Grade I Permit of the deceased and other documentary evidence on record, we are of the considered view that it would be just and appropriate to assess the income of the deceased at ₹18,000/- per month for the purpose of awarding just compensation.

11. Having reassessed the income of the deceased at ₹18,000/- the compensation under the head of loss of dependency is required to be reassessed appropriately. The deceased was aged 38 years as on the date of accident, hence, the appropriate multiplier would be 15 and there should be an addition of 40% of the assessed income towards the loss of future prospects, which has been rightly considered by the Tribunal. The deceased was having two dependents i.e., wife and son, hence, the deduction would be 1/3rd towards personal and living expenses. Hence, the appellants-claimants are entitled to compensation under the head of loss of dependency as under:

$$\text{Rs.}18,000 + 40\% \times 12 \times 15 \times \frac{2}{3} = \textbf{Rs.30,24,000/-}.$$



12. Further, we are of the view that the compensation under the conventional heads is required to be enhanced appropriately as per the law laid down by the Hon'ble Supreme Court in the case of ***Pranay Sethi*** referred supra. The appellants are the wife and minor son of the deceased, hence they would be entitled to loss of consortium at **₹48,000/- each** which includes 20% escalation. The appellants-claimants would be entitled to a sum of **₹18,000/-** under the head of 'loss of estate' and **₹18,000/-** under the head of 'funeral expenses & transportation of dead body' which includes 20% escalation.

13. It is also required to be noticed that immediately after the accident, the deceased was provided treatment, however, he succumbed to the injuries in the hospital. Considering the said aspects, Tribunal has awarded ₹97,015/-, which was incurred towards medical expenses, and the same is retained as it is. Thus, in all,



the appellants-claimants shall be entitled to modified compensation as under:

HEADS	AMOUNT (in Rs.)
Loss of dependency	30,24,000
Loss of estate	18,000
Funeral expenses and transportation of dead body	18,000
Loss of consortium (Rs.48,000 x 2)	96,000
Medical expenses	97,015
Total	32,53,015

Thus, the appellants-claimants shall be entitled to a total compensation of **₹32,53,015/-** as against ₹22,13,015/- awarded by the Tribunal. The Tribunal has awarded interest at the rate of 6% p.a. from the date of petition till payment, however, the enhanced compensation amount shall carry interest at the rate of 8% p.a.

14. Hence for the aforementioned reasons, we proceed to pass the following:

ORDER

a) Appeal is ***allowed in part.***



- b) The impugned judgment and award of the Tribunal is modified to an extent that the appellants-claimants would be entitled to total compensation of **₹32,53,015/-** as against ₹22,13,015/- awarded by the Tribunal.
- c) The enhanced compensation amount shall carry interest at the rate of 8% per annum from the date of petition till the date of payment.
- d) The Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of certified copy of this judgment.
- e) The apportionment, deposit and disbursement shall be made as per award of the Tribunal.
- f) Draw modified award accordingly.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE