



CNR: KAHC010290222023

NC: 2026:KHC:50770
MFA No. 3973 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 3973 OF 2023 (MV-D)

BETWEEN:

1. SMT. ASHABAI
W/O LATE KUMAR NAIK
AGED ABOUT 31 YEARS

SMT. LAKSHMIBAI
W/O RAMANAIAKA
AGED ABOUT 57 YEARS
APPELLANT NO.2 DIED ON
06-05-2021 REMAINING
APPELLANTS ONLY LRS OF
APPELLANT NO.2.

2. AMRUTHA
D/O LATE KUMAR NAIK
AGED ABOUT 10 YEARS

3. RESHMA
D/O LATE KUMAR NAIK
AGED ABOUT 9 YEARS

4. YATHIN
S/O LATE KUMAR NAIK
AGED ABOUT 5 YEARS

SINCE THE APPELLANT NO. 2 TO 4 ARE

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CNR: KAHC010290222023

NC: 2026:KHC:50770
MFA No. 3973 of 2023

THE MINORS REP BY THEIR
NATURAL GUARDIAN MOTHER
ASHA BAHU,
ALL ARE R/AT BARAKANALU
HULIYAR HOBLI
CHIKKANAYAKANAHALLI TALUK
TUMKUR DISTRICT.

...APPELLANTS

(BY SRI. JAGADEESH H.T, ADVOCATE)

AND:

1. G. P. NAGABHUSHANA
S/O PUTTASWAMY
AGED ABOUT 53 YEARS
HOUSE NO.163, DARGA ROAD
MADHUGIRI TOWN,
TUMKUR DISTRICT.
2. IFFCO-TOKIO GENERAL INSURANCE CO. LTD.,
HAVING ITS BRANCH OFFICE
AT MBAV MANSION,
3RD CROSS, ABOVE UCO BANK
M.G. ROAD, TUMKUR
REPRESNETED BY ITS MANAGER.

...RESPONDENTS

(BY SRI. B. PRADEEP, ADVOCATE FOR R2)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.07.10.2021 PASSED IN MVC
NO.991/2020 ON THE FILE OF THE SENIOR CIVIL JUDGE AND
JMFC, XIX MACT, CHIKKANAYAKANAHALLI, PARTLY ALLOWING
THE CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

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CNR: KAHC010290222023

NC: 2026:KHC:50770
MFA No. 3973 of 2023

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL JUDGMENT

This appeal is filed under Section 173 (1) of the Motor Vehicles Act, 1988 (for short, "MV Act"), by the appellants/claimants, not satisfied with the quantum of compensation awarded in MVC.No.991/2020 dated 07.10.2021 on the file of Senior Civil Judge and JMFC, XIX MACT, Chikkanayakanahalli (for short, "the Tribunal").

2. Parties would be referred with their ranks as they were before the Tribunal for sake of convenience and clarity.

3. The claimants being the wife, mother and minor children of deceased Kumara Naik, have filed the claim petition under Section 166 of M.V. Act, before the Tribunal, seeking compensation in respect of the death of Kumara Naik, who was the husband of claimant No.1, in a road traffic accident that has taken place on 22.01.2020 at about 07.30 p.m. involving the Motor Bike bearing registration No.KA-03-HX-1354 and an Ashoka Layland stage carriage bus, namely, Maruthi Krupa,

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K B GEETHA



CNR: KAHC010290222023

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MFA No. 3973 of 2023

bearing No.KA 06-B-7188 (for short, 'the offending bus'), on Sira Huliya Road, near Bellara Village Forest Area, at Sri Anjaneyaswamy temple.

4. The claimants would further contend that only because of rash and negligent driving of the driver of the offending bus, the accident has taken place. In the said accident, the husband of claimant No.1 sustained grievous injuries and succumbed to the injuries at the spot. Thus, the claimants have sought compensation under different heads. Respondent No.1 is the owner of the offending vehicle, whereas respondent No.2 is its insurer.

5. After service of notice, respondent No.2 appeared through its counsel and failed to file objections.

6. After framing issues, recording evidence and hearing arguments of both sides, the Tribunal came to the conclusion that claimants are entitled for total compensation of Rs.26,84,160/- under following heads:

Loss of dependency	Rs.25,04,160/-
Towards Love & Affection	Rs.50,000/-

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CNR: KAHC010290222023

NC: 2026:KHC:50770
MFA No. 3973 of 2023

Funeral expenses	Rs.15,000/-
Loss of Consortium	Rs.40,000/-
Filial Consortium	Rs.60,000/-
Loss of estate	Rs.15,000/-
Total	Rs.26,84,160/-

7. Not satisfied with the said compensation, claimants are before this Court.

8. Heard arguments of both sides.

9. Sri H.T.Jagadeesh, learned counsel for the appellants, would submit that the deceased was working as Water Salesman in Druthi Enterprises and was getting salary of Rs.24,000/- per month. In this regard, he has produced two salary slips as per Exs.P24 and 25. However, the Tribunal has failed to consider the said documents and thus, the compensation awarded by the Tribunal is on the lower side. He would further submit that the Tribunal has also failed to award appropriate compensation under the conventional heads. Hence, he prays for enhancement of the compensation.

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CNR: KAHC010290222023

NC: 2026:KHC:50770
MFA No. 3973 of 2023

10. Sri B. Pradeep, learned counsel for respondent No.2 would submit that the compensation awarded by the Tribunal is just and reasonable and requires no interference.

11. Having heard arguments of both sides, verifying the appeal papers, the point that arise for consideration is:

"Whether the claimants are entitled for enhancement of compensation?"

12. Finding of this Court is in '**Affirmative**' for the following:

REASONS

13. The facts established before the Tribunal are that the husband of claimant No.1, who was the father of claimant Nos.3 to 5 and son of claimant No.2, succumbed to the injuries sustained by him in the road traffic accident caused due to rash and negligent driving of driver of the offending bus.

13. The accident has taken place in the year 2020. Though the claimants have produced the salary slips as per Exs.P24 and P25, they have not examined the author of the said salary slips to substantiate that the deceased was working

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K B GEETHA



CNR: KAHC010290222023

NC: 2026:KHC:50770
MFA No. 3973 of 2023

in Dhruti Enterprises and getting salary as mentioned therein. Hence, there is no other documentary evidence on record to establish the actual income of deceased as on the date of the accident. Therefore, by placing reliance on the chart prepared by Karnataka State Legal Services Authority for the purpose of Lok-Adalath, this Court is of the view that the income of the deceased is required to be taken at Rs.14,500/-. But, the Tribunal has assessed the income at Rs.13,250/-, which is on lower side.

14. As far as deduction towards personal expenses, applying a multiplier, the Tribunal has taken those facts properly. Hence, the claimants are entitled to Rs.14,500/- +40% towards future prospects and hence, the income of deceased for the purpose of assessment of loss of dependency is Rs.20,300/- p.m. 1/4 of income is required to be deducted towards personal expenses, hence, claimants are entitled for Rs.27,40,500/- (Rs.15,225x12x15) towards 'loss of dependency'.

15. As regards the compensation towards loss of consortium, the Hon'ble Supreme Court, in **Magma General**

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CNR: KAHC010290222023

NC: 2026:KHC:50770
MFA No. 3973 of 2023

Insurance Co. Ltd. v. Nanu Ram & Others, reported in **2018 ACJ 2783**, has held that not only the wife, but also the mother and children of the deceased are entitled to compensation towards loss of consortium, namely, spousal consortium, parental consortium and filial consortium. Hence, by placing reliance on the judgment of the Hon'ble Supreme Court in the case of ***National Insurance Company Limited v. Pranay Sethi & Others***, reported in **(2017) 16 SCC 680**, the claimants would be entitled to compensation of Rs.2,42,000/- (40,000x5) along with 10%+10% escalation charges=2,42,000/-.

16. Further, the claimants are also entitled for compensation of Rs.18,150/- (Rs.15,000/- along with 10% + 10% escalation charges and Rs.18,150/- (Rs.15,000/-+10% +10%) is awarded under the head 'loss of estate' and towards 'transportation of dead body and funeral expenses'. Thus, claimants are entitled for total compensation of **Rs.30,18,800/-** instead of Rs.26,84,160/- awarded by the Tribunal along with interest at the rate of 6% per annum from the date of petition till realization.

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CNR: KAHC010290222023

NC: 2026:KHC:50770
MFA No. 3973 of 2023

17. Hence, the claimants are entitled for compensation under the following heads:

Loss of dependency	Rs.27,40,500/-
Loss of Consortium	Rs.2,42,000/-
Loss of estate	Rs.18,150/-
Transportation of dead body and funeral expenses	Rs.18,150/-
Total	Rs.30,18,800/-

18. Hence, this Court passes the following:

ORDER

- a. The appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is ***allowed in part.***
- b. Judgment and award dated 07.10.2021 passed in M.V.C.No.991/2020 on the file of Senior Civil Judge and JMFC, Chikkanayakanahalli is modified holding that the claimants are entitled for total compensation of **Rs.30,18,800/-** as against Rs.26,84,160/- along with interest at the rate of 6% per annum on enhanced compensation.

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CNR: KAHC010290222023

NC: 2026:KHC:50770
MFA No. 3973 of 2023

- c. The respondent No.2/insurance company is hereby directed to deposit the compensation amount within eight weeks from the date of receipt of certified copy of the judgment and award.
- d. Apportionment, disbursement and deposit shall be as per the order of the Tribunal.
- e. No order as to costs.
- f. Draw modified award accordingly.

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(GEETHA K.B.)
JUDGE

GJM
List No.: 1 Sl No.: 4