



NC: 2026:KHC:49991
MFA No. 3439 of 2016

CNR: KAHC010290922016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.3439 OF 2016(MV-D)

BETWEEN:

1. SMT.BASAMMA
W/O DASAPPA,
AGED ABOUT 68 YEARS,
2. SRI DASAPPA
AGED ABOUT 78 YEARS,
S/O LATE VENKATARAMAPPA,

BOTH ARE R/A NO.36,
7TH CROSS, 7TH MAIN,
SUBBANNA GARDEN,
VIJAYANAGAR,
BANGALORE - 560 040.

...APPELLANTS

[BY SRI NAGENDRA SHETTY, ADVOCATE (AB)]

AND:

1. BRANCH MANAGER
NEW INDIA ASSURANCE CO. LIMITED,
NO.40, LAKSHMI COMPLEX,
OPPOSITE VANI VILAS HOSPITAL,
K.R. ROAD, BANGALORE-560 002.
2. SRI MANJUNATH
S/O MAHADEVAPPA,
MAJOR IN AGE,
R/A NO.28, 3RD CROSS,
9TH MAIN, SUBBANNA GARDEN,
BANGALORE - 560 040.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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3. SMT.GOWRAMMA
W/O LATE D.VENKATESH,
AGED ABOUT 40 YEARS,
4. SMT.RAMYA
D/O LATE D.VENKATESH,
AGED ABOUT 22 YEARS,
5. KUM.DIVYABHARATHI
D/O LATE D.VENKATESH,
AGED ABOUT 20 YEARS,
6. MASTER RAGHAVENDRA PRASAD
S/O LATE D.VENKATESH,
AGED ABOUT 19 YEARS,

ALL ARE R/AT NO.28,
3RD CROSS, 9TH MAIN,
SUBBANNA GARDEN,
BANGALORE - 560 040.

...RESPONDENTS

[BY SRI B.M.BHUVAN, ADVOCATE,
SRI SEETHA RAMA RAO B.C., ADVOCATE AND
SRI ANUP SEETHARAM RAO, ADVOCATE FOR R1;
R2 - NOTICE SERVED; V/C/O DATED 16.12.2024
NOTICE TO R3 TO R6 IS DISPENSED WITH]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 10.3.2010 PASSED IN MVC
NO.8136/2008 ON THE FILE OF THE MEMBER, MACT, 10TH
ADDITIONAL JUDGE, BENGALURU, PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

THIS APPEAL IS COMING ON FOR *HEARING ON I.A.*, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI



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ORAL JUDGMENT

Sri BM Bhuvan, learned counsel appearing for Sri BC Seetha Rama Rao, learned counsel for respondent no.1 is present and none appears for appellant. Since this matter is of year 2016, it is taken up for disposal.

2. Challenging judgment and award dated 10.03.2010 passed by MACT, Bengaluru in MVC no.8136/2008, this appeal is filed.

3. Brief facts leading to this appeal as stated are that at 09.30 p.m. on 04.08.2008, Venkatesh along with others was walking near Vinayaka layout, Vijayanagar, Bengaluru, when rider of motorcycle no.KA-02-EM-4237 rode it in rash and negligent manner and it dashed against Venkatesh. Due to severe impact, he sustained fatal injuries and died during treatment. Alleging loss of dependency on account his sudden death, his wife, 3 minor children and parents, filed claim petition under Section 166 of Motor Vehicles Act, 1988 (**MV Act**) against owner and insurer of motorcycle.



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4. On contest, claim petition was opposed on all grounds. Based on pleadings, Tribunal framed following issues:

- "1. Whether the petitioners prove that on 04-08-2008 at about 09.30 p.m. near I Main, Vinayaka Layout, Vijayanagar, Bangalore, the road traffic accident took place, due to actionable negligence by the rider of the Motorcycle bearing registration no.KA-02-EM-4237, by which the deceased succumbed to injuries in the hospital?*
- 2. Whether the petitioners prove that they are entitled for compensation? If so, what amount and from whom?*
- 3. What Order or Award?"*

5. Claimant no.1 deposed as PW.1 and got marked Exhibits P1 to P16. Respondents did not lead any evidence. On consideration, Tribunal answered issues in favour of claimants, assessed compensation and held claimants entitled for compensation of Rs.4,22,000/- with interest at 6% p.a. from date of petition till deposit and held insurer liable to pay same. Dissatisfied with award, claimants no.5 and 6 were in appeal.

6. It was stated that as on date of accident, deceased was working in a factory and earning Rs.7,800/- per month. However, Tribunal erroneously considered his monthly income



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at Rs.3,000/- only. It was further submitted, deduction of 1/3rd towards personal expenses was erroneous. It was submitted, no future prospects was added and even compensation awarded under 'Conventional heads' was on lower side.

7. On other hand, Sri Bhuvan, learned counsel appearing for Sri BC Seetharama Rao, advocate for respondent no.1-insurer opposed appeal. It was submitted that claimants no.1 to 4 had accepted award and only parents of deceased had filed appeal. It was submitted, Tribunal assessed compensation based on material on record and there was no scope for enhancement. On said ground, sought for dismissal of appeal.

8. Heard learned counsel and perused impugned judgment, award and record.

9. This appeal is by claimants no.5 and 6 for enhancement of compensation. Occurrence of accident involving insured vehicle due to rash and negligent driving by its rider, claimants sustaining loss of dependency and being entitled for compensation from insurer are not in dispute. Since



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appeal is for enhancement, point that arises for consideration is:

"Whether claimants are entitled for enhancement of compensation?"

Same is answered in *affirmative* for following reasons:

10. As on date of accident, deceased was 33 years of age and stated to be earning Rs.7,800/- per month by working in a factory. But his monthly income was not substantiated with any specific material. In absence, Tribunal assessed it notionally. Accident occurred on 04.08.2008 and notional income for year 2008 is Rs.4,500/- per month. Therefore, Tribunal was not justified in assessing it at Rs.3,500/- per month. Tribunal failed to follow decision of Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi*** reported in ***2017 (16) SCC 680***, insofar as addition of future prospects to monthly income and deduction of personal expenses. Since deceased was in private employment and aged below 40 years, future prospects at 40% has to be added. Claimants are wife, 3 minor children and parents i.e. six dependents. Therefore, deduction of personal expenses has to be at 1/4th and Tribunal was not justified in deducting 1/3rd.



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Proper multiplier applicable would be 16. Hence, compensation towards 'loss of dependency' would be **Rs.9,07,200/-** [Rs.4,500 + 40% - 25% X 12 X 16].

11. Apart from above, claimants would be entitled for compensation of Rs.40,000/- each i.e., **Rs.2,40,000/-** towards Consortium and **Rs.15,000/-** towards funeral expenses and **Rs.15,000/-** towards loss of estate. They would also be entitled for escalation on award under Conventional heads. Since insurer has not preferred appeal and deposited compensation, claimants would not be entitled for any escalation towards funeral expenses and loss of estate. Since more than 6 years have been lapsed, 20% i.e., **Rs.48,000/-** has to be added to compensation to remaining amount under Conventional heads Thus, claimants would be entitled for total compensation of **Rs.12,25,200/-** (Rs.9,07,200 + Rs.2,40,000 + Rs.15,000 + Rs.15,000 + Rs.48,000)

12. Hence, following:

ORDER

(i) Appeal is ***allowed in part;***



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(ii) Claimants would be entitled for enhanced compensation of Rs.12,25,200/- with interest at 6% per annum from date of claim petition till deposit excluding period of 2152 days being delay in filing this appeal.

(iii) Apportionment of award shall be in same ratio as per award of Tribunal.

(iv) Compensation apportioned in favour of claimants no.5 and 6 to be released in their favour electronically.

(v) Since claimants no.2 to 4 - children have attained age of majority, entire compensation apportioned in their favour is ordered to be released electronically.

Sd/-
(RAVI V HOSMANI)
JUDGE