



NC: 2026:KHC:26437-DB
MFA No. 4996 of 2020
C/W MFA.CROB No. 31 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

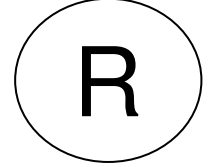
AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.4996 OF 2020(MV-D)

C/W

MFA CROSS OBJECTION NO. 31 OF 2021 (MV-D)



IN MFA No. 4996/2020

BETWEEN:

KARNATAKA STATE ROAD
TRANSPORT CORPORATION,
1ST DEPOT, OFFICE, BEJAI,
MANGALURU, BY ITS DIVISIONAL CONTROLLER,
REPRESENTED BY ITS CHIEF LAW OFFICER.

...APPELLANT

(BY SMT. RENUKA.H.R., ADVOCATE)

AND:

1. K.S.PAVITHRA
W/O LATE K.J.SUSHANTH RAI,
AGED ABOUT 34 YEARS,

2. MASTER UDIT RAI
S/O LATE K.J.SUSHANTH RAI,
AGED ABOUT 3 YEARS 3 MONTHS,

REPRESENTED BY HIS MOTHER
AND NATURAL GUARDIAN
K.S.PAVITRA,
BOTH ARE RESIDING AT
C/O RAGHUNATH RAI,
PAVITRA NILAYA, BORU GUDDE,
KONCHADY, MANGALURU-575 008.

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SUMATHY KANNAN
Location: HIGH
COURT OF
KARNATAKA



3. ARUN KUMAR
S/O S.T.BASAVARAJAPPA,
R/AT HATHIRAGONDANA HALLI,
HOSADURGA TALUK, KAREHALLI POST,
CHITRADURGA DISTRICT-577 533.

...RESPONDENTS

(BY SRI. VIJAYAKRISHNA BHAT., ADVOCATE FOR R1;
(R2-MINOR), R3-SERVED)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 03.03.2020 PASSED IN MVC
NO.94/2017 ON THE FILE OF THE MEMBER MACT-III AND II
ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K.,
MANGALURU, AWARDING COMPENSATION OF RS. 22,41,200/-
WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF
PETITION TILL REALIZATION.

IN MFA.CROB NO. 31/2021
BETWEEN:

1. SMT. K.S.PAVITHRA
AGED ABOUT 34 YEARS,
W/O LATE K.J.SUSHANTH RAJ,
2. MASTER UDITH.S.RAI
AGED ABOUT 7 YEARS,
S/O LATE K.J.SUSHANTH RAI,
REPRESENTED BY HIS MOTHER
AS HIS NATURAL GUARDIAN,
MRS. K.S.PAVITHRA,

BOTH ARE RESIDING AT
C/O RAGHUNATH RAI,
PAVITRA NILAYA, BORU GUDDE,
KONCHADY, MANGALURU-575 008.

...PETITIONERS

(BY SRI. VIJAYAKRISHNA BHAT., ADVOCATE)



NC: 2026:KHC:26437-DB
MFA No. 4996 of 2020
C/W MFA.CROB No. 31 of 2021

AND:

1. THE DIVISIONAL CONTROLLER,
KARNATAKA STATE ROAD
TRANSPORT CORPORATION,
1ST DEPOT, OFFICE BEJAI,
MANGALURU-575 001.
2. MR. ARUN KUMAR.B.
BADGE NO.5913/BUS DRIVER,
S/O S.T.BASAVARAJAPPA,
R/AT HATHIRAGONDANA HALLI,
HOSADURGA TALUK, KAREHALLI POST,
CHITRADURGA DISTRICT-577 533.

...RESPONDENTS

(BY SMT. RENUKA.H.R., ADVOCATE FOR R1;
NOTICE TO R2-DISPENSED WITH)

THIS MFA.CROB IN MFA NO. 4996/2020 FILED UNDER ORDER XLI RULE 22 OF THE CPC READ WITH SECTION 173(1) OF MOTOR VEHICLE ACT, AGAINST THE JUDGMENT AND AWARD DATED 03.03.2020 PASSED IN MVC NO. 94/2017 ON THE FILE OF THE MEMBER MACT-III AND II ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAKSHINA KANNADA, MANGALURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS ARE COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU



ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. These appeals have been filed seeking to challenge the Judgment and Award dated 03.03.2020 in MVC No.94/2017 passed by the II Additional District Judge & III Addl. MACT, Mangaluru (DK) (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded compensation to the respondents/claimants in a sum of Rs.22,41,200/- along with interest at 6% per annum from the date of petition till its realisation.

2. While MFA No.4996/2020 has been filed by the Karnataka State Road Transport Corporation (hereinafter referred to as the 'KSRTC') seeking to reduce the compensation awarded by the learned Tribunal, the appeal in MFA Crob.No.31/2021 has been filed by the claimants seeking for enhancement of the compensation awarded by the learned Tribunal.



3. The appeals though listed for admission, with the consent of the learned counsel for the parties, are taken up for final hearing and disposal today itself.

4. Briefly the facts of the case are that on 04.10.2016 at about 14.45 hours, the deceased K.J. Sushanth Rai was proceeding on his motorcycle from B.C. Road towards Belthangady and when he reached a place called Jakribettu near Bantwal Kasba Grama, the driver of the KSRTC bus bearing Registration No.KA-19-F-3258, who was driving at a high speed and in a rash and negligent manner, came from Belthangady to B.C. Road and when trying to overtake another vehicle, had gone to the wrong side of the road and dashed against the motorcycle of the deceased. In view of the impact, the deceased was thrown on to the road and sustained grievous injuries and succumbed to his injuries on the way of the hospital. The deceased was aged 31 years at the time of the accident.

4.1 A claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereafter referred to as the 'MV Act')



was filed by the wife and the minor son of the deceased. It was stated in the claim petition that the deceased died just a few days before the birth of his son and that the family suffered from a lot of mental agony in view of the untimely death of the deceased. It was stated that the deceased was working as an RSSM in the Rajatha Distributor at B.C. Road and was earning a sum of Rs.18,000/- per month.

4.2 On notice of the claim petition, the Divisional Controller of the KSRTC bus appeared through counsel and filed his written statement. The driver who was served, remained absent and was proceeded with exparte.

5. Based on the pleadings between the parties, the following issues were framed by the learned Tribunal:

"1. Whether the petitioners prove that on 04.10.2016 at about 14.45 noon when the deceased K.J. Sushanth Rai was riding his motorbike bearing Reg.No.KA-19-EQ-6294 near Jakribettu of Bantwal Kasba village, Bantwal Taluk, a KSRTC bus bearing Reg.No.KA-19-F-3258 driven by its driver at a very high speed, in a rash and negligent manner, from Belthangady to Mangaluru side, overtaking another vehicle came to the wrong side of the road and dashed against the motorbike of the deceased thrown to the road and



sustained injuries and succumbed to the injuries on the way to the hospital?

2. Whether the petitioners are entitled for compensation? If so, what is the amount and who is liable to pay?

3. What order or award?"

6. The claimant/wife of the deceased examined petitioner No.1 as PW1, an eye-witness as PW2 and the employer of the deceased as PW3. The claimants marked a copy of the FIR [Exhibit P1], complaint [Exhibit P2], spot mahazar [Exhibit P3], spot sketch [Exhibit P4], P.M. report [Exhibit P5], notice under Section 160 of the MV Act [Exhibit P6], death certificate [Exhibit P7], salary certificate, [Exhibit P8], birth certificate [Exhibit P9] and driving licence [Exhibit P10]. The appellant/KSRTC had examined respondent No.3/driver of the KSRTC bus as RW-1.

7. The learned Tribunal, based on the testimony of the eye-witnesses (PW2) as well as the complaint, FIR, spot mahazar, etc., found that the rash and negligent driving was proved. It was thus held that the deceased died on account of the injuries sustained in the motor vehicle



accident. So far as concerns the compensation, the learned Tribunal calculated the compensation based on the salary of the deceased and awarded future prospects. Since the deceased was aged about 31 years, the multiplier of '16' was used. Accordingly, the 'loss of dependency' was calculated as $[11000 + 4400 \text{ (future prospects)}] \times 16 \times 12 \times \frac{2}{3}$ (as $\frac{1}{3}$ rd income deducted towards personal expenses)]. The Tribunal also awarded amounts towards 'loss of estate' as well as funeral and other expenses in the following manner:

	Heads of compensation	Amount
A	Loss of dependency	Rs.19,71,200/-
B	Loss to estate	Rs. 15,000/-
C	Loss of consortium	Rs. 40,000/-
D	Funeral & obsequies expenses & transportation of dead body, etc.	Rs. 15,000/-
E	Loss of love and affection	Rs. 2,00,000/-
	TOTAL	Rs.22,41,200/-

7.1 The learned Tribunal thus awarded a sum of Rs.22,41,200/- along with interest at 6% per annum.



8. The challenge to the Impugned Award has been made by both the appellant/KSRTC in MFA.No.4996/2020 as well as the claimants/Cross objectors in MFA Crob.No.31/2021. The learned counsel appearing on behalf of the appellant/KSRTC raises two grounds for challenge in the present appeal. Firstly, she submits that the income was wrongly taken at Rs.11,000/-. She submits that although there existed a salary certificate of the deceased, the employer of the deceased, M/s. Rajatha Distributors did not prove that they were actually in business. In addition, the learned counsel submits that the amount awarded for 'loss of love and affection' in the sum of Rs.2,00,000/- are excessive as 'loss of consortium' has also been awarded by the learned Tribunal. Hence, the learned counsel for the appellant/KSRTC submits that the award amount is required to be reduced.

9. The learned counsel for the claimants on the other hand submits that the amounts were awarded based on a salary certificate produced. He submits that Mr. Gangadhara Shetty who was a partner of the employer



M/s. Rajatha Distributors, was produced as a witness, namely PW.3 to certify the employment and salary of the deceased. The learned counsel further submits that amounts for 'loss of love and affection' have rightly been accorded, given the circumstances of the case. It is contended that the claimant No.1 lost her husband 3 days before the delivery of their minor child and in such a situation, additional amounts ought to be awarded.

10. Based on the contentions of the parties, the question that arises for determination by this Court is whether the amount of compensation awarded by the learned Tribunal is in accordance with the settled principles of law or requires any modification?

11. So far as concerns the aspect of rash and negligent driving, there is no challenge. The challenge is only on the aspect of the income as well as on the award of compensation in respect of non-pecuniary heads.

12. An examination of the record reflects that Exhibit P8 has been placed on record, which is the Salary Certificate



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issued by M/s. Rajatha Distributors. The Certificate is on the letterhead of M/s. Rajatha Distributors. It also bears the signature of PW3/Mr. Gangadhara Shetty and reads as follows:

"TO WHOMSOEVER IT MAY CONCERN

Salary Certificate

This is to certify that, Mr. K.J. SUSHANTH RAI, S/o. K.R. JAGANNATH RAI, Resident of Kodenjaru House, Nayanadu Post, Bantwal T.Q. D.K. was working as a 'RSSM' in our firm since 5 years. He was expired on 04th Oct. 2016.

During this period he was drawing a monthly Salary of Rs.11,000/- [Rupees Eleven Thousand only]. In addition to the Salary, he was given as Incentive around Rs.4000/- [Rupees Four Thousand only] and a Daily Allowance of Rs.100/-.

FOR RAJATHA DISTRIBUTORS

Sd/-

Partner"

[Emphasis Supplied]

12.1 The salary certificate (Exhibit P8) sets out that the deceased was drawing a salary of Rs.11,000/- per month. In addition, it further sets out he was also drawing additional allowances such as incentive and daily allowance.



12.2 In addition, PW3/Mr. Gangadhara Shetty has appeared as a witness before the learned Tribunal and has deposed in the following terms:

**"EVIDENCE AFFIDAVIT FILED BY THE
SUMMONED WITNESS NO.2**

P.W-3

Duly sworn on 08.11.2019

Name : Gangadhara Shetty
Father name: Veerappa Shetty
Age : 50 years
Occupation : Proprietor of "Rajatha Distributors"
Residence : Office at "RAJATHA DISTRIBUTORS"
Bharath Commercial Center,
B.C. Road

"1. I say that I am the partner of the "RAJATHA DISTRIBUTORS", Bharath Commercial Center, B.C. Road and we are distributors for Bharti Airtel Ltd and R.S for Hindustan Unilever Ltd.

2. I say that one Mr. Shushanth Rai, S/o Jaganath Rai, working for our concerned and he was working as a 'RSSM' in our firm since 5 years and he was being paid a Monthly salary of Rs. 11,000/- and in addition to the salary he was being paid an incentive of Rs. 4000/- apart from the same he was also being paid a daily allowance of Rs.100/-.

3. I say that he died in a motor vehicle accident on 04-10-2016.

4. I say that I have issued him a salary certificate to produce before the court and same is true and correct."

[Emphasis Supplied]

13. The learned counsel for the appellant/KSRTC has contended that the salary certificate (Exhibit P8) cannot be taken into consideration, since the employer did not



produce any document such as licence, to show that he was in fact running a business.

14. This Court is unable to agree with the said contention. Both the testimony of the employer as well as the salary certificate evidences that the deceased was employed for the last 5 years and was earning Rs.11,000/- per month. In addition, the cross-examination has been read in open court. There is nothing elucidated from the cross-examination to show otherwise.

15. Even otherwise, the MV Act is a beneficial legislation and the claimant is not required to prove beyond reasonable doubt as to his employment. The Supreme Court in ***Rajwati v. United India Insurance Co. Ltd.***¹, has also held that while dealing with compensation cases, it is the role of the Tribunal to award just and fair compensation and a standard of proof such as beyond all reasonable doubt which is followed in criminal cases, is not requisite. It is further held by the Supreme Court in ***Rajwati*** case that even if a salary certificate or salary slip

¹ 2022 SCC OnLine SC 1699



is not proved in evidence, the Court is not justified in not awarding compensation on that basis. The relevant extract is set out below:

"17. In the case of Shila Datta (Supra), this Court held as under:—

"10. A claim petition for compensation in regard to a motor accident (filed by the injured or in case of death, by the dependant family members) before the Motor Accident Claims Learned Tribunal constituted under Section 165 of the Act is neither a suit nor an adversarial lis in the traditional sense. It is a proceeding in terms of and regulated by the provisions of Chapter XII of the Act which is a complete Code in itself. We may in this context refer to the following significant aspects in regard to the Learned Tribunals and determination of compensation by Learned Tribunals:

...

(ii) The rules of pleadings do not strictly apply as the claimant is required to make an application in a form prescribed under the Act. In fact, there is no pleading where the proceedings are suo moto initiated by the Learned Tribunal.

...

(vi) The Learned Tribunal is required to follow such summary procedure as it thinks fit. It may choose one or more persons possessing special knowledge of and matters relevant to inquiry, to the assist it in holding the enquiry (vide Section 169 of the Act)."

18. Reference in this connection may also be made to the observations **made by this Court in the case of Sunita v. Rajasthan State Road Transport Corporation, wherein it was observed as under:—**

"It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor



vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. **Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases."**

19. Similarly, in the case of Kusum Lata v. Satbir, this Court observed that it is well known that in a case relating to motor accident claims, the claimants are not required to prove the case as it is required to be done in a criminal trial. The Court must keep this distinction in mind.

20. It is well settled that Motor Vehicles Act, 1988 is a beneficial piece of legislation and as such, while dealing with compensation cases, once the actual occurrence of the accident has been established, the Tribunal's role would be to award just and fair compensation. As held by this Court in Sunita (Supra) and Kusum Lata (Supra), strict rules of evidence as applicable in a criminal trial, are not applicable in motor accident compensation cases, i.e., to say, "the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases".

21. In view of the above, we do not agree with the view taken by the High Court while rejecting the salary certificate (Exhibit 19) and pay slip (Exhibit 20) of the deceased merely on the ground that the person issuing the two aforementioned documents was not examined before the Learned Tribunal. The said documents are conclusive proof of the income of the deceased and were also corroborated by the statements of the deceased's wife (Appellant No. 1 herein) and his co-workers. **As such, the High Court was not justified in assessing the income of the deceased at Rs. 4,836/- per month on the basis of minimum wages fixed by the State at the relevant time. Resultantly, we affirm the findings of the Learned Tribunal so far as they relate to assessing the deceased's income at Rs. 11,225/- per month on the basis of aforementioned two documents.** Annual



income of the deceased, therefore, amounts to, Rs. 11,225/- × 12 = Rs. 1,34,700/-."

[Emphasis Supplied]

16. In the present case, the claimants have produced a salary certificate of the deceased in support of proof of earning. The certificate is on letterhead and is duly signed by one Mr. Gangadhara Shetty – Partner of M/s. Rajatha Distributors. The said Mr. Gangadhara Shetty has also been produced as a witness – PW.3 and has deposed in relation to the salary being earned by deceased. In these circumstances, this Court finds no reason to interdict the findings of the learned Tribunal.

17. Thus, the income of the deceased is taken at Rs.11,000/- in order to compute compensation towards 'loss of dependency'. Further, the deceased was aged 31 years at the time of the accident. Hence, the relevant multiplier to be adopted is '16' and 40% is to be added towards 'future prospects'. Hence, the compensation towards 'loss of dependency' is computed as under:

Heads	Amounts
Loss of dependency	Rs.11,000 + 40% = 15,400/- Rs.(15400 – 1/3) × 12 × 16 =(15400 – 5133) × 12 × 16 = 19,71,264/-



18. The learned Tribunal has awarded Rs.40,000/- towards 'loss of consortium'. However, in terms of the judgment in **National Insurance Co. Ltd., vs. Pranay Sethi**², since there are two dependant members namely the wife and the minor son, the 'loss of consortium' ought to be awarded at Rs.80,000/-.

19. The compensation towards 'loss of love and affection' which has been awarded in the sum of Rs.2,00,000/-, has been challenged by learned counsel for the appellant/KSRTC. The learned counsel submits that once compensation towards 'loss of consortium' has been awarded by the learned Tribunal, again granting compensation towards 'loss of love and affection' would be a duplication. In this behalf, the Supreme Court in **Pranay Sethi**, has held as follows:

"46. Another aspect which has created confusion pertains to grant of loss of estate, loss of consortium and funeral expenses. In Santosh Devi [Santosh Devi v. National Insurance Co. Ltd., (2012) 6 SCC 421 : (2012) 3 SCC (Civ) 726 : (2012) 3 SCC (Cri) 160 : (2012) 2 SCC (L&S) 167] , the two-Judge Bench followed the traditional method and granted Rs 5000 for transportation of the body, Rs 10,000 as funeral expenses and Rs 10,000 as

² (2017) 16 SCC 680



regards the loss of consortium. In *Sarla Verma* [*Sarla Verma v. DTC*, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] , the Court granted Rs 5000 under the head of loss of estate, Rs 5000 towards funeral expenses and Rs 10,000 towards loss of consortium. In *Rajesh* [*Rajesh v. Rajbir Singh*, (2013) 9 SCC 54 : (2013) 4 SCC (Civ) 179 : (2013) 3 SCC (Cri) 817 : (2014) 1 SCC (L&S) 149] , the Court granted Rs 1,00,000 towards loss of consortium and Rs 25,000 towards funeral expenses. It also granted Rs 1,00,000 towards loss of care and guidance for minor children. The Court enhanced the same on the principle that a formula framed to achieve uniformity and consistency on a socio-economic issue has to be contrasted from a legal principle and ought to be periodically revisited as has been held in *Santosh Devi* [*Santosh Devi v. National Insurance Co. Ltd.*, (2012) 6 SCC 421 : (2012) 3 SCC (Civ) 726 : (2012) 3 SCC (Cri) 160 : (2012) 2 SCC (L&S) 167] . On the principle of revisit, it fixed different amount on conventional heads. What weighed with the Court is factum of inflation and the price index. It has also been moved by the concept of loss of consortium. We are inclined to think so, for what it states in that regard. We quote : (*Rajesh case* [*Rajesh v. Rajbir Singh*, (2013) 9 SCC 54 : (2013) 4 SCC (Civ) 179 : (2013) 3 SCC (Cri) 817 : (2014) 1 SCC (L&S) 149] , SCC p. 63, para 17)

"17. ... In legal parlance, "consortium" is the right of the spouse to the company, care, help, comfort, guidance, society, solace, affection and sexual relations with his or her mate. That non-pecuniary head of damages has not been properly understood by our courts. The loss of companionship, love, care and protection, etc., the spouse is entitled to get, has to be compensated appropriately. The concept of non-pecuniary damage for loss of consortium is one of the major heads of award of compensation in other parts of the world more particularly in the United States of America, Australia, etc. English courts have also recognised the right of a



spouse to get compensation even during the period of temporary disablement. **By loss of consortium, the courts have made an attempt to compensate the loss of spouse's affection, comfort, solace, companionship, society, assistance, protection, care and sexual relations during the future years.** Unlike the compensation awarded in other countries and other jurisdictions, since the legal heirs are otherwise adequately compensated for the pecuniary loss, it would not be proper to award a major amount under this head. **Hence, we are of the view that it would only be just and reasonable that the courts award at least rupees one lakh for loss of consortium."**

xxx

xxx

xxx

49. As far as multiplier or multiplicand is concerned, the same has been put to rest by the judgments of this Court. Para 3 of the Second Schedule also provides for general damages in case of death. It is as follows:

"3. General damages (in case of death):

The following general damages shall be payable in addition to compensation outlined above:

(i)	Funeral expenses	Rs.2000
(ii)	Loss of consortium, if beneficiary is the spouse	Rs.5000
(iii)	Loss of estate	Rs.2500
(iv)	Medical expenses – actual expenses incurred before death supported by bills/vouchers but not exceeding	Rs.15000

xxx

xxx

xxx

52. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in *Rajesh* [*Rajesh v. Rajbir Singh*, (2013) 9 SCC 54 :



(2013) 4 SCC (Civ) 179 : (2013) 3 SCC (Cri) 817 : (2014) 1 SCC (L&S) 149] . It has granted Rs 25,000 towards funeral expenses, **Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist.** Though Rajesh [Rajesh v. Rajbir Singh, (2013) 9 SCC 54 : (2013) 4 SCC (Civ) 179 : (2013) 3 SCC (Cri) 817 : (2014) 1 SCC (L&S) 149] refers to Santosh Devi [Santosh Devi v. National Insurance Co. Ltd., (2012) 6 SCC 421 : (2012) 3 SCC (Civ) 726 : (2012) 3 SCC (Cri) 160 : (2012) 2 SCC (L&S) 167] , it does not seem to follow the same. **The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion.** Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. **Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric.** We think that it would be condign that the amount that we **have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years.** We



are disposed to hold so because that will bring in consistency in respect of those heads.”

[Emphasis Supplied]

19.1 Thus, the additional amounts awarded as ‘loss of love and affection’ would get subsumed in the award for ‘loss of consortium’.

20. The accident having occurred in the year 2016 and the Award having been made in the year 2020, it is just and proper to grant 10% escalation on the non-conventional heads.

21. Accordingly, in view of the foregoing discussions, the compensation would be revised in the following manner:

Sl.No.	Heads of compensation	Amount
1	Loss of dependency	Rs.19,71,264/-
2	Loss to Estate	Rs. 16,500/-
3	Loss of Consortium	Rs. 88,000/-
4	Funeral & obsequies expenses & transportation of dead body, etc.	Rs. 16,500/-
	TOTAL	Rs.20,92,264/-
	Amount awarded by the Tribunal	Rs.22,41,200/-
	Reduced compensation	Rs. 1,48,936/-

22. On the aspect of the interest at 6% awarded by the learned Tribunal, one of us Tara Vitasta Ganju J., in a recent judgment in the case of **United India Insurance**



Co. Ltd. vs. Sri.Malyadri.M And Others³ has examined this issue in detail and found that the award of interest @ 9% per annum in cases of death and in cases of permanent disability has been regularly upheld by the Supreme Court. It is apposite to extract the relevant portion of the judgment below:

"29. An analysis of the foregoing discussions of the Supreme Court, reflects that the Supreme Court has consistently held that the award of interest is intended to recompensate the claimant for being deprived of the use of money, which ought to have been paid at the time of occurrence of the accident. The rate of interest, therefore, must be just, fair and reasonable, having regard to the prevailing economic conditions and bank rates.

29.1. The award of interest is usually determined at the prevailing bank rate of interest on a case-to-case basis and at the rate which is just and fair and reasonable.

29.2 There cannot be any 'straitjacket formula' in determining the rate of interest and that the same must depend on the facts and circumstances of each case. The guiding principle remains that the rate must neither be punitive nor non-existent but must strike a balance between fairness to the claimant and reasonableness to the insurer.

29.3 The rate of interest 9% is more appropriate in case involving death and serious injury especially, where there is a long delay in the claimants receiving the compensation.

30. In the present case, the accident occurred in the year 2016 leading to the death of the wife of respondent No.1 and mother of respondent Nos.2 and 3. The award came to be passed in the year 2018. The learned

³ NC: 2026: KHC: 25458



Tribunal has deemed it apposite to award interest on the compensation @ 9% per annum. The award of interest is not punitive as is fair considering the prevailing economic condition and bank rates. In addition, it is now 10 years since the date of the accident.

31. The learned Trial Court has awarded interest at the rate of 9% per annum. This Court finds no infirmity with the Impugned Award of 9% interest in the circumstances of the present case.

[Emphasis Supplied]

23. It is also observed that the learned Tribunal has awarded interest at the rate of 6% per annum. Since the present case involved the death of a young man aged 31 years old, his claimants are his wife and his minor son who never got to see his father at all. In these circumstances, we deem it apposite to enhance the interest to 8%.

24. Hence, the claimants are entitled to a total compensation of **Rs.20,92,264/-** along with interest at 8% p.a. as awarded by the learned Tribunal, from the date of petition till its realization.

25. Smt. H.R. Renuka, learned counsel for the appellant/KSRTC submits that 75% of the amount originally awarded in terms of the order dated 09.12.2020 has been paid by the appellant/KSRTC by way of a cheque



on 15.12.2020. Given that the interest is usually awarded for delay in compensation, since 75% of the award amount was deposited by the claimant, interest of 8% will be calculated only in respect of the balance 25% from the date of the claim petition.

26. Accordingly, this Court proceeds to pass the following:

ORDER

- (i) The appeals are ***allowed in part;***
- (ii) The Judgment and Award dated 03.03.2020 in MVC No.94/2017 passed by the II Additional District Judge & III Addl. MACT, Mangaluru (DK) is modified, reducing the compensation by **Rs.1,48,936/-** along with interest at the rate of 8% per annum as awarded by the learned Tribunal from the date of petition till realization.
- (iii) The remaining portion of the Impugned Award of the Tribunal remains undisturbed.
- (iv) The appellant/KSRTC is directed to pay interest on the said amounts as is set out forth in



paragraph 25 above, within eight weeks from today.

(v) On such deposit of compensation, the same shall be released in favour of the respondents/claimants, on filing of an appropriate application for withdrawal of the enhanced amount.

(vi) The Registry is directed to draw the modified Award accordingly.

(vii) The Registry is directed transmit a copy of this judgment to the concerned Tribunal, along with its records.

(viii) No order as to costs.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

KS
List No.: 1 Sl No.: 18