



CNR: KAHC010298722018

NC: 2026:KHC:39242-DB
MFA No. 10532 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JULY, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.10532 OF 2018
(MV-D)

BETWEEN:

1. NARAYANAPPA
S/O KUNJAPPA @ MUNIYAPPA
AGED ABOUT 47 YEARS,
 2. VENKATARAMAPPA
S/O KUNJAPPA @ MUNIYAPPA
AGED ABOUT 42 YEARS,
 3. M SATHISHA
S/O KUNJAPPA @ MUNIYAPPA
AGED ABOUT 32 YEARS,
- ALL ARE RESIDENTS OF
DODDAGURKI VILLAGE
MULBAGAL TALUK
KOLAR DISTRICT – 563 131

...APPELLANTS

(BY SRI. H PAVANA CHANDRA SHETTY, ADVOCATE)

AND:

1. S. P. SHANMUGAM
S/O PUTTASWAMY M
R/O NO.62, BRAMMANAR STREET

Digitally
signed by JAI
JYOTHI
Location
HIGH COURT
OF KARNATAKA



CNR: KAHC010298722018

NC: 2026:KHC:39242-DB
MFA No. 10532 of 2018

NALLUR VILLAGE,
KALAVAI POST
ARCOT TALUK
VELLOR DISTRICT

2. ICICI LOMBARD GENERAL
INSURANCE CO. LTD.,
9TH MAIN, 22ND CROSS,
3RD BLOCK, JAYANAGARA
BENGALURU – 560 041
REP: BY ITS MANAGER

...RESPONDENTS

(BY SRI. K.PURUSHOTHAM, ADVOCATE FOR R2;

VIDE ORDER DATED 30.05.2022, NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED
12/02/2018, PASSED IN MVC NO.200/2016, ON THE FILE OF
THE SENIOR CIVIL JUDGE AND MACT, MULBAGAL, TO THE
EXTENT OF DISALLOWED CLAIM AND ALLOW THIS APPEAL BY
ENHANCING THE COMPENSATION, IN THE INTEREST OF
JUSTICE.

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

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



CNR: KAHC010298722018

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MFA No. 10532 of 2018

ORAL JUDGMENT

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

1. The present appeal seeks to challenge the Judgment and Award dated 12.02.2018, in MVC No.200/2016, passed by the Senior Civil Judge and Motor Vehicles Accident Claims Tribunal, Mulbagal (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded compensation to the appellants/claimants in a sum of Rs.53,000/-, along with interest at 6% per annum from the date of the petition till its realisation.

2. Briefly, the facts are that on 23.06.2016, one Mr.Muniyappa @ Kunjappa was returning to his village from Kolar and walking on a footpath near the bus stand, at about 3.30 p.m. At that time, a car bearing Reg.No.TN-73, K-8089 came from behind and hit the said Muniyappa. As a result of this accident, the said Muniyappa sustained grievous injuries and was shifted to Maruthi Nursing Home



CNR: KAHC010298722018

NC: 2026:KHC:39242-DB
MFA No. 10532 of 2018

and thereafter was shifted to SNR Hospital, Kolar, where he succumbed to his injuries.

3. A claim petition was filed by the three adult sons of the deceased as appellants/claimants under Section 166 of the Motor Vehicles Act, 1988, (hereinafter referred to as the 'MV Act'). It was stated therein that they have spent money on medicines and funeral and that due to the death of the deceased they have been put through a great hardship.

4. Despite service, none appeared for respondent No.1/ owner of the offending vehicle, and he was proceeded with *ex-parte*. The only contest was made by the respondent No.2/Insurance Company.

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

"1. Whether the petitioners prove that the accident occurred on 23.06.2016 at 3.30 p.m. in front of Nachikethana Nilaya and Petrol Bunk, College Circle to civil Bus stand Road, Kolar is due to rash and negligent driving of the driver of Car bearing No.TN 73 K 8089 due to which the deceased Muniyappa @ Kunjappa has



CNR: KAHC010298722018

sustained grievous injuries and succumbed to the injuries in the hospital?

2. Whether the respondent No.2 proves that the driver of the Car do not possess valid and effective driving license to drive the same on the date of accident?

3. Whether the petitioners are entitled for compensation? If so, to what extent and from whom?

4. What order or award?"

6. The appellant No.3/claimant examined himself as PW1 and marked nine documents as Exhibits-P1 to P9 including Exhibit-P1 (FIR), Exhibits-P3 and P4 (spot and seizure mahazar), Exhibit-P5 (Rough Sketch), Exhibits-P6 (I.M.V. report), Exhibits-P7 and P8 (Post Mortem report and Inquest report), Exhibit-P9 (Charge-sheet). The respondent No.2/Insurance Company did not adduce any evidence or file any documents.

7. Based on the evidence produced, the learned Tribunal found that the accident and the death of the deceased occurred due to the rash and negligent driving of the offending car bearing Reg.No.TN-73-K-8089, by the Respondent No.1. It was also found that based on the



CNR: KAHC010298722018

copy of the FIR, charge-sheet, seizure mahazar along with rough sketch, the negligence of the offending car stood proved.

8. On the aspect of compensation, the learned Tribunal found that the appellant/claimant No.1 at the time of the accident of his father was aged 45 years. The post-mortem report, Exhibit P7, showed that the deceased Muniyappa was aged 70 years. The learned Tribunal also found that the contention that the deceased/father was working as a Coolie and earning Rs.15,000/- per month was not proved.

8.1 The learned Tribunal further found that the age of the appellants/claimants was between 45 and 30 years and as per the evidence deduced all the appellants/claimants were married and doing coolie work. Hence, the learned Tribunal held that they were not dependent on the income of the deceased. On the medical expenses, the learned Tribunal found that the



CNR: KAHC010298722018

appellants/claimants are entitled for compensation on non-conventional heads including loss of estate, loss of consortium and funeral expenses and awarded the following amounts:

Sl.No.	Heads	Amount (Rs.)
1	Loss of Estate	15,000/-
2	Love and Affection	20,000/-
3	Funeral & Obsequies Expenses	15,000/-
4	Conveyance	3,000/-
	Total	53,000/-

8.2 Thus, it was held that the appellants/claimants were entitled to a sum of Rs.53,000/- along with 6% interest per annum.

9. The learned counsel for the appellants/claimants raises two contentions. Firstly, he submits that the appellants/claimants were dependent on their father and that 'loss of dependency' should have been awarded by the learned Tribunal. Secondly, he submits that the amounts awarded on non-conventional heads are not in



CNR: KAHC010298722018

accordance with the Supreme Court judgment in the case of ***National Insurance Co. Ltd. Vs. Pranay Sethi***¹.

10. The learned counsel for the respondent No.2/Insurance company submits that the appellants/claimants are majors and thus they were not dependent on the income of the deceased.

11. The only point for determination before this Court is: whether there is any material on record to reflect dependency on behalf of the appellants/claimants on the deceased.

12. The learned Tribunal examined the evidence and found that the appellants/claimants were three adult sons aged 45 years, 40 years and 30 years respectively. The evidence also showed that all these appellants/claimants were married and doing 'Coolie' work in their village. The learned Tribunal has also held that the appellants/

¹(2017) 16 SCC 680



CNR: KAHC010298722018

claimants are not dependent on the income of the deceased and have their independent income.

13. The appellants/claimants are unable to show to the Court any evidence contrary to this finding. Thus, so far as concerns the ground of non-award of loss of dependency, the same is without any basis.

14. However, the compensation on the 'loss of estate' and 'funeral expenses' has been awarded at Rs.15,000/- each and an amount of Rs.20,000/- was awarded for 'loss of love and affection'. In this behalf, in terms of the settled law in this behalf by the Supreme Court in the judgment of the ***Pranay Sethi*** case wherein it was held that the 'loss of consortium' at the rate of Rs.40,000/- per person should be awarded along with escalation. Since there are three appellants/claimants who are sons of the deceased they are entitled for a sum of **Rs.1,20,000/- (40,000 x 3)**.



CNR: KAHC010298722018

15. Given that the accident happened in the year 2016, the Tribunal award was passed in the year 2018 and appeal was challenged in the year 2018, this Court needs to award escalation at the rate of 30% on the non-pecuniary heads as laid down in ***Pranay Sethi*** case Accordingly, the amounts awarded by the learned Tribunal are recalculated as follows:

Sl. No.	Particulars	Amount (Rs.)
1	Loss of Consortium [(40,000 x 3) + 30%]	1,56,000/-
2	Loss of Estate (Rs.15,000 + 30%)	19,500/-
3	Funeral Expenses (Rs.15,000 + 30%)	19,500/-
4	Conveyance	3,000/-
	TOTAL	1,98,000/-
	Less: Awarded by the Tribunal	53,000/-
	Enhanced compensation	1,45,000/-

16. Hence, the appellants/claimants shall be entitled to a sum of Rs.1,98,000/- along with interest at 6% per annum from the date of petition till its realization.



CNR: KAHC010298722018

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

ORDER

- (i) The appeal is ***partly allowed;***
- (ii) The Judgment and Award dated 12.02.2018, in MVC No.200/2016, passed by the Senior Civil Judge and Motor Vehicles Accident Claims Tribunal, Mulbagal is modified by awarding a sum of **Rs.1,98,000/-** along with interest at the rate of 6% 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 respondent No.2/Insurance company is directed to pay the enhanced compensation with interest as awarded by the Tribunal within eight weeks from today;
- (v) On such deposit of compensation, the same shall be released in favour of the appellants/claimants, on filing of



**NC: 2026:KHC:39242-DB
MFA No. 10532 of 2018**

CNR: KAHC010298722018

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) Pending applications, if any, stand disposed.

(ix) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

JJ

List No.: 1 Sl No.: 23