

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE R DEVDAS

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 3444 OF 2025 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 8370 OF 2024 (MV-D)

IN MFA No. 3444/2025

BETWEEN:

1. SMT. SHAKUNTHALA
W/O LATE SHIVAKUMAR G.
AGED ABOUT 48 YEARS
2. SRI S. SUKUMAR
S/O LATE SHIVAKUMAR G.
AGED ABOUT 23 YEARS

BOTH ARE RESIDING AT
RANGENANALLI VILLAGE
CHITRADURGA TALUK
CHITRADURGA DISTRICT

PRESENTLY RESIDING AT
PAVAN BUILDING
BEHIND VINODAPPA BAKERY
MAGADI MAIN ROAD
SUNKADAKATTE.

...APPELLANTS

(BY SRI RANGANATHAPRASAD B.S., ADVOCATE)

AND:

1. THE GO DIGIT GENERAL
INSURANCE CO LTD.,

Digitally signed
by G.
SHREEBRAKSHA
Location: HIGH
COURT OF
KARNATAKA

NO.95, 4TH B CROSS ROAD
KORAMANGALA INDUSTRIAL LAYOUT
5TH BLOCK, KORAMANGALA
BENGALURU.
POLICY NO.D056024978/29012022
VALID FROM 31-1-2022 TO 30-1-2023.

2. SRI SHIVAJI RAO
NO.1348/3, 2ND CROSS
2ND MAIN, L.N. COLONY
YESHWANTHAPURA
BENGALURU - 560 022
OWNER OF THE AUTO RICKSHAW
REG.NO.KA-03-AJ-5403.

...RESPONDENTS

(BY SRI MURALIDHAR NEGAVAR, ADVOCATE FOR R1;
V/O/D.16.12.2025, NOTICE TO R2 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 21.10.2024 PASSED IN MVC
NO. 3084/2023 ON THE FILE OF THE I ADDITIONAL SMALL
CAUSES JUDGE AND ACJM AND MEMBER, MACT, BENGALURU
(SCCH-11), PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

IN MFA NO. 8370/2024

BETWEEN:

1. THE GO DIGIT GENERAL INSURANCE CO. LTD.,
NO.95, 4TH B CROSS ROAD
KORAMANGALA INDUSTRIAL LAYOUT
5TH BLOCK, KORAMANGALA
BENGALURU - 560 095
REPRESENTED BY ITS
MANGER, LEGAL CLAIMS.

...APPELLANT

(BY SRI MURALIDHAR NEGAVAR., ADVOCATE)

AND:

1. SMT. SHAKUNTHALA
W/O. LATE SHIVAKUMAR G.
AGED ABOUT 47 YEARS.

2. SRI S. SUKUMAR
S/O. LATE SHIVAKUMAR G.
AGED ABOUT 22 YEARS

BOTH ARE RESIDING AT
RANGENAHALLI VILLAGE
CHITRADURGA TALUK
AND DISTRICT - 577 545.
PRESENTLY RESIDING AT
PAVAN BUILDING
BEHIND VINODAPPA BAKERY
MAGADI MAIN ROAD
SUNKADAKATTE - 577 217.

3. SRI SHIVAJI RAO
MAJOR IN AGE
NO 1348/3, 2ND CROSS
2ND MAIN, L N COLONY
YESHWANTHAPURA
BENGALURU – 560 022.

...RESPONDENTS

(BY SRI RANGANATHAPRASAD B.S., ADVOCATE
FOR R1 & R2;
V/O DATED 16.12.2025 NOTICE TO R3 D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 21.10.2024 PASSED
IN MVC NO.3084/2023 ON THE FILE OF THE I ADDITIONAL
SMALL CAUSES JUDGE AND ACJM AND MEMBER, MACT,
BENGALURU (SCCH-11), AWARDING COMPENSATION OF
RS.22,28,204/- WITH INTEREST AT 6 PERCENT P.A. FROM

THESE APPEALS HAVING BEEN HEARD AND RESERVED
FOR ORDERS ON 18.08.2026 AND COMING ON FOR
PRONOUNCEMENT THIS DAY, THE COURT MADE THE
FOLLOWING:

CORAM: HON'BLE MR. JUSTICE R DEVDAS
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

(PER: HON'BLE DR. JUSTICE K.MANMADHA RAO)

These appeals are filed by the claimants and the Insurance Company respectively under Section 173(1) of Motor Vehicles Act, 1988 (hereinafter referred to as 'MV Act' for short), challenging the judgment and award passed in MVC No.3084/2023 dated 21.10.2024 by the I Additional Small Causes Judge and ACJM and Motor Vehicles Accident Claim Tribunal, Bengaluru ('the Tribunal' for short). The claimants are seeking for enhancement of compensation and the Insurance Company has challenged the negligence attributed on the part of the driver of the offending vehicle respectively.

2. For the sake of convenience, the parties herein are referred to as claimants and Insurance Company.

3. The brief facts of the case in both the appeals are that:-

On 27.01.2023 at about 9.45 p.m., while the deceased was crossing Sunkadakatte Main Road to

purchase medicines, an Autorickshaw bearing Reg. No.KA-03-AJ-5403 driven in a rash and negligent manner, dashed against him, resulting in grievous injuries. The deceased was shifted to Lakshmi Hospital, wherein he was treated as an inpatient for one day, but subsequently succumbed to the injuries.

4. According to the claimants, the deceased was doing Vegetable Business and was earning Rs.35,000/- per month prior to the accident. His death deprived the claimants of their breadwinner and caused them financial hardship. Asserting that the accident occurred on account of the rash and negligent driving of the Autorickshaw, the claimants sought compensation from the owner and insurer of the offending vehicle.

5. Upon service of notice, the owner of the offending vehicle remained absent and was placed *ex parte*. The insurer entered appearance and filed its written statement denying the material averments of the claim petition, including the manner of accident, age, occupation

and income of the deceased. While admitting that the offending vehicle was covered by a policy of insurance which was in force as on the date of accident, the insurer disputed negligence, liability and the quantum of compensation claimed by the claimants and sought for dismissal of the claim petition.

6. To substantiate the case of the claimants, claimant No.1 got examined herself as P.W.1 and got marked documents at Exs.P1 to P14. On the other hand, in support of the defence, two witnesses were examined as R.W.1 and R.W.2 and got marked one document at Ex.R1.

7. Having considered the material on record, the Tribunal allowed the claim petition with cost and awarded the compensation amount of Rs.22,28,204/- with interest at the rate of 6% per annum from the date of petition till its realization. It was further held that the respondents No.1 and 2 are jointly and severally liable to pay the compensation to the claimants.

8. The appellants/claimants in MFA No.3444/2025 would contend that the Tribunal erred in assessing the income of the deceased at Rs.16,000/- per month despite the appellants' case that he was doing Vegetable Business and earning Rs.35,000/- per month, resulting in inadequate compensation under the head of 'loss of dependency'. The appellants further contend that the amounts awarded towards spousal and parental consortium, loss of estate and funeral expenses, as well as the rate of interest, are inadequate and seek enhancement of the compensation. Hence, prays for allowing the appeal.

9. The appellant/Insurance Company in MFA No.8370/2024 would contend that the Tribunal has failed to appreciate the Spot Sketch, Complaint and Spot Panchanama and the evidence of RW-1, the driver of the insured vehicle, with regard to the deceased having crossed the double road by jumping the centre median, and consequently, the Tribunal erred in not considering attributing contributory negligence to the deceased.

10. It is further contended that the Tribunal erred in determining the age of the deceased as 50 years on the basis of the post-mortem report, despite the Aadhaar Card showing his date of birth as 01.01.1972, wherein he was aged 51 years and 26 days as on the date of the accident. Consequently, the applicable multiplier and future prospects ought to have been '11' and '10%' respectively. The Insurance Company also contends that the claimants did not produce the Voter ID and Ration Card despite the admission of PW-1 regarding their availability and that respondent No.2 in MFA No.8370/2024, being a major son, was not dependent on the deceased. Hence, prays for setting aside the impugned judgment and award of the Tribunal.

11. Heard learned counsel appearing on either side and perused the entire material on record.

12. It is contended that the deceased was doing Vegetable Business and was earning a sum of Rs.35,000/- per month. However, since the claimants failed to prove

the income of the deceased, the Tribunal rightly took the notional income at Rs.16,000/- per month. The accident has taken place in the year 2023 and as per the chart prepared by the Karnataka State Legal Services Authority, income of the deceased is taken at Rs.16,000/- per month. As the deceased was aged 51 years as on the date of accident as per Ex.P.11 - Aadhaar Card, showing his date of birth as 01.01.1972, the multiplier applicable is '11'. 10% has to be added to the income of the deceased towards future prospects as per ***National Insurance Company Limited vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680***. Since there are two dependents on the deceased, $1/3^{\text{rd}}$ of his income has to be deducted towards personal expenses. Accordingly, on re-determination of the 'loss of dependency', the same works out to be:

$$16,000 + 10\% \times 12 \times 11 \times 2/3 = \mathbf{Rs.15,48,800/-}$$

13. The Tribunal has awarded a sum of Rs.48,400/- each towards 'Loss of spousal consortium' and 'Loss of parental consortium'. The claimants are the wife and son

of the deceased. As per ***Magma General Insurance Company Limited v. Nanu Ram and Others***, reported in ***2018 ACJ 2782***, Rs.40,000/- is to be awarded under the head 'loss of consortium'. As per the dictum of Hon'ble Apex Court in the case of ***Rasmita Biswal vs. Div. Manager, National Insurance Co., Ltd.***, reported in ***AIR 2022 SC 85***, for every three years 10% income is to be raised. The accident is of the year 2023. Hence, 20% is added towards the conventional heads. Therefore, a sum of Rs.48,000/- each is awarded under the head 'loss of consortium'. Accordingly, a sum of **Rs.96,000/-** is awarded under the head 'loss of consortium'.

14. The Tribunal has awarded a sum of Rs.36,300/- towards 'loss of estate' and 'funeral expenses', which is on the higher side. It is just and reasonable to award a sum of **Rs.16,500/- each** under the head 'Transportation of dead body, funeral expenses, etc.,' and 'Loss of estate'.

15. The Tribunal has awarded a sum of **Rs.15,000/-** towards 'Medical Expenses' which is as per medical bills and the same is just and reasonable.

16. Thus, the total compensation re-determined by this Court under various heads are as follows:

1.	Loss of dependency	:	Rs.	15,48,800/-
2.	Loss of consortium	:	Rs.	96,000/-
3.	Loss of estate and funeral expenses	:	Rs.	33,000/-
4.	Medical expenses	:	Rs.	15,000/-
	TOTAL	:	Rs.	16,92,800/-

17. The total compensation re-determined by this Court works out to Rs.16,92,800/- as against Rs.22,28,204/- awarded by the Tribunal.

18. The Insurance Company has taken contention that the Tribunal has failed to appreciate the Spot Sketch, Complaint and Spot Panchanama and the evidence of RW-1, the driver of the insured vehicle, with regard to the deceased having crossed the double road by jumping the

centre median and consequently, erred in not attributing contributory negligence to the deceased.

19. The complaint at Ex.P.2, Spot Sketch at Ex.P.4 and Spot Panchanama at Ex.P.5 are undisputed documents clearly mark the exact topography of the accident. The accident occurred on a busy double road divided by a permanent center median. The physical evidence corroborated by the complaint at Ex.P.2 establishes that the deceased crossed the double road by physically jumping over the center median. There was no pedestrian crossing, gap, or designated provision for pedestrians at that spot. The Insurance Company argued that the deceased voluntarily invited the risk. While a strict, absolute application of *Volenti Non Fit Injuria* rarely operates as a complete defense in motor accident welfare legislations, the principle heavily informs the assessment of contributory negligence. The deceased knowingly and dangerously exposed himself to fast-moving traffic.

20. A pedestrian crossing a high-speed double road by jumping over a median divider acts in utter disregard

for personal safety. Concurrently, the driver of an Auto Rickshaw cannot be absolved of all liability; drivers are expected to maintain a vigilant lookout and control their speed, especially in urban/semi-urban stretches. Accordingly, contributory negligence of 20% is attributed on the deceased and 80% is attributed on the driver of the offending Auto Rickshaw.

21. The appellants – claimants are entitled for total compensation of **Rs.13,54,240/-** along with interest at the rate of 6% per annum on the compensation from the date of filing of the petition till realization.

22. Accordingly, for the foregoing reasons, we proceed to pass the following:

ORDER

- i) MFA No.3444/2025 filed by the claimants is ***dismissed;***
- ii) MFA No.8370/2024 filed by the Insurance Company is ***allowed-in-part;***

- iii) The judgment and award passed by the Tribunal in MVC.No.3084/2023, dated 21.10.2024, passed by the I Additional Small Causes Judge & ACJM & Motor Vehicles Accident Claims Tribunal, at Bengaluru (SCCH-11) is modified;
- iv) The appellants – claimants are entitled for total compensation of **Rs.13,54,240/-** along with interest at the rate of 6% per annum on the compensation from the date of filing of the petition till realization;
- v) The compensation amount along with accrued interest if any, shall be deposited by the Insurance Company, within eight weeks from the date of filing of the petition till realization;
- vi) Apportionment and disbursement of the compensation amount shall be as per the impugned Award of the Tribunal.

- vii) Amount in deposit along with accrued interest, if any shall be transmitted to the Tribunal.
- viii) Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the judgment passed by this Court forthwith without any delay.
- ix) No order as to costs.

Sd/-
(R DEVDAS)
JUDGE

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

MH/-