



NC: 2026:KHC:34663-DB  
MFA No. 593 of 2021

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 9<sup>TH</sup> DAY OF JULY, 2026**

**PRESENT**

**HON'BLE MR. JUSTICE JAYANT BANERJI**

**AND**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**MISCELLANEOUS FIRST APPEAL NO. 593 OF 2021 (MV-D)**

**BETWEEN:**

1. KRISHNA MOOILY  
AGED ABOUT 59 YEARS,  
S/O CHANDU DEVADIGA,
2. AMANI  
AGED ABOUT 51 YEARS,  
W/O KRISHNA MOOILY,
3. DEEPIKA  
AGED ABOUT 29 YEARS,  
W/O LATE SUKESHA,
4. KUMARI SANVI  
AGED ABOUT 6 YEARS,
5. KUMARI SATHVI  
AGED ABOUT 3 YEARS,

APPELLANT NO.4 AND 5 ARE MINOR  
CHILDREN OF LATE SUKESHA  
REPRESENTED BY THEIR  
NEXT FRIEND/MOTHER DEEPIKA,

ALL ARE RESIDING AT 1-165,  
KAMALASADANA, PADIBETTU,  
SHIRLALU VILLAGE, HADIYANGADY POST,  
KARNATAKA TALUK-574 101.

...APPELLANTS

(BY SRI. PAVANA CHANDRA SHETTY.H., ADVOCATE)

Digitally signed by  
SUMATHY  
KANNAN  
Location: HIGH  
COURT OF  
KARNATAKA



**AND:**

1. PRAVEEN POOJARY  
AGED ABOUT 36 YEARS,  
S/O PADMAPPA SALIAN,  
R/AT PADYAR, RENJALA VILLAGE,  
KARKALA TALUK.
2. THE BRANCH MANAGER,  
UNIVERSAL SAMPO GENERAL INSURANCE CO. LTD.,  
MANGALORE BRANCH, CITY TRADE CENTER,  
1ST FLOOR, OPP. CITY HOSPITAL,  
KADRI, MANGALORE.

...RESPONDENTS

(BY SRI. D.VIJAYAKUMAR., ADVOCATE FOR R2;  
NOTICE TO R1-DISPENSED WITH V/O/DTD:25.03.2021)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED: 17.01.2020 PASSED IN MVC NO. 391/2019 ON THE FILE OF THE SENIOR CIVIL JUDGE AND AMACT, KARKALA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, 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. The present appeal seeks to challenge the Judgment and Award dated 17.01.2020 in M.V.C.No.391/2019 passed by the Senior Civil Judge and AMACT, Karkala, (hereinafter referred to as the 'Impugned Award'). By the



Impugned Award, the learned Tribunal has awarded Rs.19,71,940/- to the appellants/claimants along with interest at 8% per annum from the date of petition till its realisation.

2. The Appeal though listed for admission, given the pendency of this appeal for five years, with the consent of the parties, this Court has heard and decided the appeal finally today itself.

3. Heard the learned Counsel for the appellants/claimants and learned Counsel for respondent No.2/Insurance Company. Notice to respondent No.1 has been dispensed with, by an order dated 25.03.2021.

4. The brief facts are that, on 18.03.2019 at about 03.00 p.m., the deceased Sukesh K., was riding his Hero Honda Passion Pro two wheeler bearing registration No.KA-20-EM-9118 from Bajagoli towards Hadyalu of Mudaru village and when the said two wheeler reached near Bunnadi, one Eicher Tipper Lorry bearing registration No.KA-20-D-3119 stated to be driven in a rash and



negligent manner and in a high speed, collided with the deceased. As a result of the collision, the deceased sustained grievous injuries to the head and other parts of the body. Immediately, he was shifted to Government Hospital, Karkala, however, he was declared as dead on the spot of the accident.

5. A claim petition was filed by the parents, wife and two minor children of the deceased under Section 166 of the Motor Vehicles Act, 1988. It was stated in the claim petition that the deceased was aged about 32 years and working as a driver of heavy goods Lorry and earning Rs.45,000/- per month.

6. The claim petition was contested by the owner as well as the Insurance Company by denying the averments made in the claim petition.

7. On the basis of the pleadings between the parties, the following issues were framed:

*1) Whether the petitioners prove that Sukesh K. the son of petitioners No.1 and 2, husband of petitioner No.3 and father of petitioners No.4 and 5 died in a Motor*



*Vehicle Accident on 18.03.2019 at 3.00 P.M., near Gunnadi, Mudralu Hadyalu Road, Mudaru Village, due to rash and negligent driving of Tipper Lorry bearing Reg.No.KA-20-3119 by its driver as contended?*

*2) Whether respondent No.2 proves that driver of Tipper Lorry bearing Reg.No.KA-20-D-3119 had no valid and effective driving licence at the time of alleged accident?*

*3) Whether the petitioners are entitled for the compensation amount. If so, what is the amount and from whom it is recoverable?*

*4) What Order or Award?"*

8. The appellant No.3/petitioner No.3, wife of the deceased was examined herself as PW1 and the employer of the deceased as PW2. Twenty seven documents were tendered by the appellants/claimants which included the FIR (Ex.P1), Spot Mahazar (Ex.P3), sketch (Ex.P4), Accident Motor Vehicles Inspection Report (Ex.P5), Post Mortem Report (Ex.P8) and charge sheet (Ex.P14) qua the accident. In addition, the Inquest Mahazar (Ex.P7), identity documents (Aadhar Card) of the appellants/claimants (Exs.P8 to P13), photographs (Ex.P15) as well as copy of the driving licence (Ex.P17) were also placed on record. In addition, for the proof of income of the deceased, five documents were placed on record, which



included the bank pass book (Ex.P22), a certificate issued by the employer (Ex.P23), Trade licence (Ex.25), Auditors Report (Ex.P26) as well as Letter of Authority (Ex.P27).

8.2 No document or evidence was placed on record by the respondents being owner and insurer of the offending vehicle.

8.3 The learned Tribunal after examining the documents in respect of the accident including the charge sheet (Ex.P14) and Inquest Mahazar (Ex.P7) found that the case was registered by Karkala Rural Police against the driver of the offending vehicle under Sections 279 and 304A of the Indian Penal Code, 1860. The learned Tribunal also relied on the oral evidence of PW.1 to conclude that rash and negligent driving stood proved.

8.4 On the aspect of compensation, the learned Tribunal took the monthly income of the deceased at Rs.10,000/- and after adding future prospects at 40% and deducting 1/3<sup>rd</sup> towards personal expenses and applying the



multiplier '16', calculated the loss of dependency as follows:

$$\begin{aligned} &[\text{Rs.}10,000+40\%=\text{Rs.}14,000/- \\ &\text{Rs.}14,000 - 1/3^{\text{rd}} = \text{Rs.}9,333/- \\ &\text{Rs.}9,333 \times 12 \times 16 = \text{Rs.}17,91,936/-] \end{aligned}$$

8.5 In addition, amounts were awarded for loss of estate, funeral expenses, loss of love and affection and consortium. Accordingly, the following compensation was awarded by the learned Tribunal:

| Sl.No. | Heads of Compensation      | Amount (Rs.)                                                           |
|--------|----------------------------|------------------------------------------------------------------------|
| 1      | Loss of dependency         | 17,91,936-00                                                           |
| 2      | Loss of love and affection | 1,00,000-00                                                            |
| 3      | Loss of consortium         | 30,000-00                                                              |
| 4      | Loss of estate             | 15,000-00                                                              |
| 5      | Obsequies ceremony         | 25,000-00                                                              |
| 6      | Conveyance                 | 10,000-00                                                              |
|        | <b>TOTAL</b>               | <b>19,71,936-00</b><br><b>rounded off to</b><br><b>Rs.19,71,940-00</b> |

8.6 Thus, an amount of Rs.19,71,940/- along with interest at 8% per annum was awarded by the learned Tribunal. As stated above, challenge in the present appeal is by the claimants/legal representatives of the deceased



on the quantum of compensation awarded by the learned Tribunal.

9. Learned counsel for the appellants/claimants raises three contentions. Firstly, he submits that documents qua the income of the deceased had been placed on record including deposition by his employer. He submits that the employer has in her evidence stated that she was paying salary of Rs.1,92,000/- per annum and has also set out that deceased has been awarded bonus. Thus, he contended that the monthly income of the deceased could not be less than Rs.16,000/- per month. Secondly, it was contended that the deduction for personal expenses has only been made at 1/3<sup>rd</sup> instead of 1/4<sup>th</sup>. Lastly, it was contended that the loss of consortium has not been awarded in accordance with the settled legal principles.

10. On the other hand, learned Counsel for the respondent No.2/Insurance Company while fairly submits that the 1/3<sup>rd</sup> deduction is incorrect and it should have been taken at 1/4<sup>th</sup>, he submits that there is no question of fixing the income as Rs.16,000/- per month since there were no



proper documents produced by the appewllant/claimants. He submits a notional income of Rs. 14,000/- may be taken by this Court for the purpose of calculation of loss of dependency.

11. Based on the contention of the parties, the issue which arises for determination is, whether the appellants/claimants were entitled to any amount of enhanced compensation?

12. This Court has examined the documents placed on record by the appellants/claimants. The appellants/claimants have produced the bank passbook of the deceased at Ex.22. In addition, they have produced a document on a letterhead signed by the Proprietor of M/s Ashritha Cashew Industries, Karkala, as Ex.P23 which certifies that the deceased worked as a driver in the proprietorship concern and his salary was Rs.1,92,000/- per annum, along with 16% bonus each year as well. It further states that the deceased was working for



M/s Ashritha Cashew Industries since 01.02.2008. This document is dated 03.10.2019 and is extracted below:

*"To Whom It may Concern*

*Dear Sir/Madam,*

*The purpose of this letter is to provide income verification for Mr.Sukesh s/o Krishna Chandu who is worked as a Driver at Ashritha Cashew Industries.*

**I can confirm that Mr.Sukesh's annual salary is Rs.192000.00 which is equally distributed over 12 months. Ashritha Cashew Industries gives all its employees a 16% bonus each year which may also be considered as part of his annual income.**

**Mr.Sukesh has been worked for Ashritha Cashew Industries since 01.02.2008 and is considered an employee in good standing.**

*If I can be of any further assistance, please feel free to contact.*

*Best regards,*

*Sd/-*

Anila S.Raj  
Proprietor  
Ashritha Cashew Industries  
Shirlal, Hadiyangadi Post  
Karkala-574 101  
09740765623  
[Ashrithashirlal@gmail.com](mailto:Ashrithashirlal@gmail.com)

[Emphasis Supplied]

12.1 In addition, the identity aadhar card of the Proprietor has been produced at Ex.P24. The Auditors report for the year 2019 has also been produced at Ex.P26, which



includes Trading and Profit & Loss Account and balance sheet for the year ended 31.03.2019 showing an income of Rs.2.20 Crores. Ex.P27 is a Letter of Authority given by the proprietor of the Firm authorizing her son to depose before the Court, in response to the summons received by the Court and the son of the Proprietor was also examined as PW.2. Given this overwhelming evidence, there is no doubt in our mind that the deceased was in fact employed and earning Rs.16,000/- per month.

13. The Supreme Court in ***Rajwati Rajjo and Others Vs. United India Insurance Company Ltd. And Others***<sup>1</sup>, has held that proceedings under the Motor Vehicles Act are summary in nature and the Act being a beneficial legislation, strict rules of pleadings and evidence are inapplicable. The standard of proof is one of preponderance of probabilities, and once the occurrence of the accident is established, the Tribunal is required to award just compensation. Accordingly, the Court held that the salary certificate and pay slip, corroborated by the oral

---

<sup>1</sup> 2022 SCC OnLine SC 1699



testimony of the dependants and co-workers, constitute reliable and corroborative proof of the income of the deceased and cannot be rejected merely on the ground that the author of such documents was not examined.

The relevant extract is set out below:

**"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]



14. Accordingly, the income of the deceased shall be taken as Rs.16,000/- per month. The future prospects at 40% is to be added to the said income. The applicable multiplier is '16'. Since there are five dependents, i.e., parents, wife and two children,  $\frac{1}{4}^{\text{th}}$  of the income instead of  $\frac{1}{3}^{\text{rd}}$  has to be deducted towards personal expenses, in the income of the deceased for calculation of loss of dependency. Accordingly, the loss of dependency is recalculated as follows:

|                           |                                                                                                                  |
|---------------------------|------------------------------------------------------------------------------------------------------------------|
| <b>Loss of dependency</b> | Rs.16,000 +40%=Rs.22,400/-<br>Rs.22,400- $\frac{1}{4}$ =Rs.16,800/-<br>Rs.16,800x12 x 16<br>= <b>32,25,600/-</b> |
|---------------------------|------------------------------------------------------------------------------------------------------------------|

15. Since the deceased was survived by five family members being his parents, wife and two children, they would also be entitled to filial consortium in terms of the judgment of the Supreme Court in **National Insurance Co.Ltd. Vs. Pranay Sethi**<sup>2</sup> at Rs.40,000/- per person, with escalation granted thereon. The amounts towards loss of estate and funeral expenses will be awarded at

---

<sup>2</sup> (2017)16 SCC 680



Rs.15,000/- each and an amount Rs.10,000/- awarded by the learned Tribunal towards conveyance charges is not disturbed. However, 10% escalation is to be added on the conventional heads. Accordingly, the compensation is recalculated as follows:

| Sl.No. | Heads of Compensation                 | Amount (Rs.)        |
|--------|---------------------------------------|---------------------|
| 1      | Loss of dependency                    | 32,25,600-00        |
| 2      | Loss of love and affection            | 1,00,000-00         |
| 3      | Loss of estate                        | 16,500-00           |
| 4      | Loss of consortium<br>(Rs.44,000 x 5) | 2,20,000-00         |
| 5      | Funeral expenses                      | 16,500-00           |
| 6      | Attendant and conveyance charges      | 10,000-00           |
|        | <b>TOTAL</b>                          | <b>35,88,600-00</b> |
|        | <b>Less: Awarded by Tribunal</b>      | <b>19,71,940-00</b> |
|        | <b>Enhanced Compensation</b>          | <b>16,16,660-00</b> |

15.1 Thus, the appellants/claimants are entitled to total compensation of **Rs.35,88,600/-** along with interest at the rate of 8% per annum as awarded by the learned Tribunal from the date of petition till the date of realization.

16. Accordingly, the Court proceeds to pass the following:



**ORDER**

- (i) The appeals are ***allowed in part;***
- (ii) The Impugned Judgment and Award dated 17.01.2020 in M.V.C.No.391/2019 passed by the Senior Civil Judge and AMACT, Karkala is modified, to the extent that appellants/claimants are entitled to total compensation of **Rs.35,88,600/-** along with interest at the rate of 8% per annum from the date of petition till the date of realization.
- (iii) The remaining portion of the Impugned Award of the learned Tribunal remains undisturbed.
- (iv) The respondent No.2/Insurance Company shall deposit the enhanced compensation with interest applicable thereon, as awarded by the learned Tribunal, within a period of eight weeks from the date of receipt of a copy of this judgment;
- (v) On such deposit of compensation, the same shall be released in favour of the appellants/claimants on filing of an appropriate application by them for withdrawal of the enhanced amount.



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

(vii) The Registry is directed to transmit a copy of this judgment and records to the concerned Tribunal.

(viii) Pending application(s), if any, stand closed. No order as to costs.

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

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

YN  
List No.: 1 Sl No.: 8