



CNR: KAHC010313752024

NC: 2026:KHC:44316
MFA No. 3678 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.3678 OF 2024(MV-D)

BETWEEN:

THE BRANCH MANAGER,
CHOLAMANDALAM MS GIC LTD.,
BRANCH OFFICE AT RAJAJINAGAR,
BENGALURU.
NOW REP BY ITS THE MANAGER,
CHOLAMANDALAM MS GIC LTD.,
BRANCH OFFICE, UNIT NO.4,
9TH FLOOR, GOLDEN HEIGHTS COMPLEX,
59TH 'C' CROSS, INDUSTRIAL SUPERB,
4TH 'M' BLOCK, RAJAJINAGAR,
BANGALORE - 560 010.

...APPELLANT

(BY SRI. PRADEEP B., ADVOCATE)

AND:

1. HALAPPA,
S/O. LATE YOGAIAH GOWDA,
AGED ABOUT 57 YEARS.
R/AT LINGAPURA VILLAGE,
MANDAGADDE,
THIRTHAHALLI TALUK,
SHIVAMOGGA DISTRICT.
2. NAGARAJA. B.Y.,
S/O. LATE YOGAIAH GOWDA,
AGED ABOUT 50 YEARS.
R/AT IKKERI BELURU,
NERATURU,
SANKADHOLE POST,



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THIRTHAHALLI TALUK,
SHIVAMOGGA DISTRICT.

3. SMT. YASHODHA,
W/O. ARUNA,
AGED ABOUT 46 YEARS,
R/AT MUNDAS KOPPA-ADINSARA,
KESHAVAPURA VILLAGE,
THIRTHAHALLI TALUK,
SHIVAMOGGA DISTRICT.
4. SMT. AMBIKA S.S.,
W/O. LATE SOMASHEKHAR,
AGED ABOUT 46 YEARS,
R/AT IKKERI BELURU,
SANKADHOLE POST,
THIRTHAHALLI TALUK,
SHIVAMOGGA DISTRICT.
5. ASHIK. S. S.
S/O LATE SOMASHEKHAR,
AGED ABOUT 22 YEARS,
R/AT IKKERI BELURU,
SANKADHOLE POST,
THIRTHAHALLI TALUK,
SHIVAMOGGA DISTRICT.
6. SURYANARAYANACHARI,
PRORRIETOR,
VISHWAKARMA TRANSLINK,
R/AT NO. 792,
10TH MAIN ROAD,
05TH BLOCK,
BHUVANESHWARI,
BENGALURU.
7. LOKESH R.S.,
S/O. RAMAIAH M.,
MAJOR,



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R/AT H. NO.598,
1ST MAIN ROAD,
RAGHAVENDRA BLOCK,
B.S.K. SRINAGAR,
BENGALURU.

...RESPONDENTS

(BY SRI. ASHWATH C.M., ADVOCATE FOR R1 TO R5,
VIDE ORDER DATED 22.07.2026 NOTICE TO R6 AND R7
ARE DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:19.09.2023
PASSED IN MVC NO. 1010/2018 ON THE FILE OF THE SENIOR
CIVIL JUDGE AND JMFC, MACT, THIRTHAHALLI, AWARDING
COMPENSATION OF RS.11,94,000/- WITH INTEREST AT 6
PERCENT P.A. FROM THE DATE OF PETITION TILL DEPOSIT.

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

CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

This appeal by the Insurer, assailing the Judgment
and Award dated 19.09.2023, passed by the Senior Civil
Judge and JMFC, MACT, Thirthahalli¹, in MVC
No.1010/2018.

¹ the Tribunal, for short



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2. One Smt.Rathnamma - a Sexagenarian (65 years) died on the spot in an accident occurred on 09.04.2018, along with her son who were in a Maruti Omni Car bearing registration No.KA-14/N-560 proceeding from Ikkeri towards Dharmasthala, when met with an accident with the offending vehicle Toyota Innova bearing Registration No.KA-05/AG-0567, due to the actionable rash and negligent driving by its driver. The claimants 1 to 3 are the children and claimants 4 and 5 are the daughter in law and grandson of Smt.Rathnamma, were before the Tribunal seeking compensation for untimely death of Rathnamma.

3. The Tribunal after appreciating the evidence, both oral and documentary, considered the deduction towards personal expenses of Rathnamma at 1/5th, added 10% towards future prospectus to the existing income of Rs.12,500/- and awarded total compensation of Rs.9,24,000/- towards 'loss of dependency' and Rs.2,00,000/- towards 'loss of consortium', Rs.20,000/-



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towards funeral and transportation expenses and Rs.50,000/- towards 'attendant charges, conveyance, food and nourishment'. In total a sum of Rs.11,94,000/- with interest @ 6% per annum from the date of petition till realization. The Insurer is in appeal calling in question the quantum, which according to the Insurer is exorbitantly awarded.

4. Heard, Sri.B.Pradeep, learned counsel appearing for the appellant-Insurer and Sri.Ashwath.C.M, learned counsel appearing for respondents 1 to 5. Vide order dated 22.07.2026, notice to respondents 6 and 7 is dispensed with.

5. Sri.B.Pradeep, submits that the Tribunal having considered the age of the deceased at 65 years, erred in considering the case to add 10% towards future prospectus, which is impermissible, in view of settled position of law by the Hon'ble Supreme Court in **NATIONAL INSURANCE CO. LTD., VS. PRANAY**



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SETHI². He submits that future prospectus 10% as per the law declared by the Hon'ble Supreme Court is only to the persons aged within 60 years and not more than that in the case of self-employment. Further, the Tribunal through considered that the claimants are major and married children, daughter-in-law and grandson, erred to consider the deduction at 1/5 towards personal expenses. Since the deceased was a married woman, in terms of the law laid down by the Hon'ble Supreme Court in **SARLA VERMA & ORS VS. DELHI TRANSPORT CORP. & ANR**³, deduction should have been 1/3 instead of 1/5. The Tribunal has awarded sum of Rs.50,000/- towards 'attendant charges, conveyance, food and nourishment', but as per the Police records and case of the claimants, the deceased died on the spot and there is no incidental charges, which requires to be awarded.

² 2017 (16) SCC 680

³ 2009 (6) SCC 121



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6. Learned counsel fairly submits that the Tribunal ought to have awarded Rs.15,000/- each under the head 'loss of estate' and 'funeral expenses, transportation of dead body', however has awarded Rs.20,000/- under 'funeral expenses and transportation' and sought to allow the appeal and reduce the compensation.

7. In contrast, Sri.Ashwath.C.M, learned counsel with all vehemence submits that the Tribunal having considered the income of the deceased as family income and looking at the number of claimants survived the deceased, deducted 1/5 towards personal expenses, which is just and proper. However, learned counsel fairly concedes that 10% added towards future prospectus is untenable and requires consideration. He further submits that, though the Tribunal has awarded compensation under the head 'funeral expenses and transportation expenses' at Rs.20,000/-, but failed to award any compensation under the head 'loss of estate' and in view of settled position of law in **PRANAY SETHI**, the



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claimants are also entitled for 10% escalation on compensation awarded under the conventional heads, which the Tribunal has failed to consider and in the event, this Court is of the view that the compensation awarded by the Tribunal requires reconsideration, the compensation ought to have been awarded within the meaning of just compensation, may be and compensation may be re-determined.

8. Having considered the rival submissions, this Court has perused the entire appeal papers.

9. This Court finds force in the argument of learned counsel Sri.B.Pradeep, towards deduction at 1/5 towards personal expenses of the deceased. Further, this Court is of the opinion that compensation of Rs.50,000/- awarded under 'attendant charge, conveyance, food and nourishment' is impermissible in law, as the record speaks itself that the deceased succumbed to injuries on the spot. This Court is of the opinion that loss of consortium



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awarded to five claimants is just and proper. The claimants are also entitled for 10% escalation on compensation awarded under conventional heads, for every completed three years, in view of settled position of law in ***PRANAY SETHI***.

10. Further, this Court appreciating the submission of learned counsel Sri.Ashwath.C.M that, claimants are not entitled for addition of future prospectus on existing income of deceased, proceeds to re-assess the compensation, which is as under:

Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Loss of dependency	9,24,000-00	7,00,000-00 (12,500x12x7x2/3)
2.	Loss of consortium	2,00,000-00	2,00,000-00
3.	Loss of estate	-	15,000-00
4.	Towards transportation and funeral expenses	20,000-00	15,000-00
5.	20% escalation (for two terms of three completed years on conventional heads)	-	46,000-00
6.	Attendant charges, conveyance, food and nourishment charges	50,000-00	-
	TOTAL	11,94,000-00	9,76,000-00



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11. Accordingly, the claimants are entitled for re-assessed compensation of **Rs.9,76,000/-**, as against Rs.11,94,000/-, which shall carry interest @ 6% per annum from the date of petition till realization.

12. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The Judgment and Award dated 19.09.2023, passed by the Senior Civil Judge and JMFC, MACT, Thirthahalli, in MVC No.1010/2018 is modified and the compensation is reduced.
- (iii) The claimants are entitled for reassessed reduced compensation of **Rs.9,76,000/-** along with interest @ 6% per annum from the date of petition till realization.



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- (iv) Amount in deposit, if any, shall be transmitted to the concerned Tribunal forthwith.
- (v) The appellant - Insurer shall deposit the balance reassessed reduced compensation along with interest supra, within six weeks from the date of receipt of certified copy of this order.
- (vi) The apportionment and disbursement is as per the order passed by the Tribunal.
- (vii) The trial Court record secured if any, shall be transmitted forthwith to the concerned Tribunal without causing any delay.
- (viii) No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

TKN
List No.: 1 Sl No.: 16
ct-vn