



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

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

**BEFORE**

**THE HON'BLE MR. JUSTICE C.M. POONACHA**

**MISCELLANEOUS FIRST APPEAL NO. 4509 OF 2017 (MV-D)**

**BETWEEN:**

MR SHIVA PRASAD  
S/O LATLE CHINNAYYA MOOLYA  
@ CHENNAIAH  
AGED ABOUT 26 YEARS,  
R/AT D.NO.3-71/4,  
MARDHOLI HOUSE  
NARIKOMBU VILLAGE  
BANTWAL TALUK  
PRESENTLY R/AT DEVIKRIPA HOUSE  
PADEEL POST AND VILLAGE  
MANGALORE TALUK.

...APPELLANT

(BY SRI. GURUPRASAD B R.,ADVOCATE)

**AND:**

1. THE IFFCO TOKIO GENERAL  
INSURANCE CO LTD  
3RD FLOOR, LALBAGH TOWER  
BALLALBAGH, M.G.ROAD  
MANGALORE 575001  
REPRESENTED BY ITS MANAGER.
2. MR. K ABDUL BASHEER  
S/O K MOHAMMED RIYAZ  
AGED ABOUT 23 YEARS,  
R/O D.NO.1-45/1A,  
GUDDMELU HOUSE, ULI VILLAGE,  
BANTWAL TALUK 574153.

...RESPONDENTS

(BY SRI. E.I. SANMATHI., ADVOCATE FOR R1  
NOTICE TO R2 IS DISPENSED WITH V/O DTD 24.05.2023)

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signed by  
NIRMALA  
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Location:  
HIGH  
COURT OF  
KARNATAKA



THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 06.01.2017 PASSED IN MVC NO.1036/2015 ON THE FILE OF THE IV ADDITIONAL DISTRICT JUDGE AND MEMBER, MACT, DAKSHINA KANNADA, MANGALORE, 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 C.M. POONACHA

**ORAL JUDGMENT**

This appeal is filed by the claimant impugning the judgment and award dated 06.01.2017 passed in MVC No. 1036/2015 by the IV Additional District Judge And Member, MACT, Mangaluru, D.K<sup>1</sup>, whereunder the Tribunal has partly allowed the claim petition and awarded a compensation of Rs. 2,91,200/- together with interest at 6% p.a.

2. The primary contention urged by the learned counsel for the appellant/claimant is that the deceased is the mother of the claimant and the Tribunal did not award any

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<sup>1</sup> hereinafter referred to as 'Tribunal'



amount towards loss of dependency by recording a finding that the claimant is not dependent on the deceased. It is contended that having regard to the judgment of the Hon'ble Supreme Court in the case of ***National Insurance Company Ltd., v. Birender and Ors.***<sup>2</sup> the claimant is entitled to be treated as a dependent and compensation be awarded accordingly. It is also contended that the compensation on various other heads is on the lower side.

3. Per contra, the learned counsel for the insurer justifies the judgment and award passed by the Tribunal.

4. It is forthcoming that the deceased was aged 50 years as on the date of the accident, i.e., on 08.06.2015. Admittedly, the claimant was the son of the deceased. In the cross examination, the claimant has deposed that he was unmarried and was working as a coolie. He has further deposed that there was no bank account in the name of his mother-deceased.

5. The Hon'ble Supreme Court in the case of ***Birender and Ors.***<sup>2</sup>, considering a fact situation wherein the claimant

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<sup>2</sup> (2020) 11 SCC 356



was a married son and was also earning held that he was required to be construed as a legal representative.

Accordingly, it held as under:

*"It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependant on the deceased and not the limit the claim towards conventional heads only. The evidence on record in the present case would suggest that the claimants were working as agricultural labourers on contract basis and were earning meagre income between Rs. 1,00,000/- and Rs1,50,000/- per annum. In that sense, they were largely dependent on the earning of their mother and in fact, were staying with her, who met with an accident at the young age of 48 years."*

6. Having regard to the judgment in the case of **Birender and Ors,**<sup>2</sup> the claimant is entitled to compensation by adopting the multiplier method.

7. The deceased was stated to be doing coolie work and earning ₹9,000/- per month. However, no documents have been produced to demonstrate her income. Keeping in mind



the date of the accident, it is just and proper that the notional income of the deceased be assessed as ₹9,000/- per month. Having regard to the fact that the claimant is the son of the deceased, 50% of her income is required to be deducted for personal expenses. 10% is required to be added towards future prospects having regard to the judgment of the Supreme Court in the case of **National Insurance Company Ltd v. Pranay Sethi**<sup>3</sup>. Since the deceased was 50 years the applicable multiplier is assessed as 13. Accordingly, loss of dependency is re-assessed as (₹9,000/- -50% +10% x 12 x13) ₹7,72,200/-.

8. The claimant is entitled to loss of consortium at ₹40,000/- in terms of judgment of Supreme Court in the case of **Magma General Insurance Co., Ltd., v. Nanu Ram**<sup>4</sup> together with increment at 10% every three years. Accordingly, the loss of consortium is reassessed as ₹48,000/-.

9. The claimant is entitled to compensation towards funeral expenses and loss of estate at ₹15,000/- per month

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<sup>3</sup> AIR 2017 SC 5157

<sup>4</sup> (2018) 18 SCC 130



each with increment at 10% at every three years. Accordingly, the compensation is reassessed at ₹18,000/- each.

10. The Tribunal has recorded a finding that the claimant has incurred medical expenses of ₹16,200/-. Accordingly, a sum of ₹17,000/- is awarded towards the same.

11. In view of the same, the compensation is reassessed as under:

| Sl.No. | Heads              | Amount awarded by the Tribunal (₹) | Amount awarded by this Court (₹) |
|--------|--------------------|------------------------------------|----------------------------------|
| 1.     | Loss of dependency | 0.00                               | 7,72,200.00                      |
| 2.     | Loss of consortium | 50,000.00                          | 48,000.00                        |
| 3      | Funeral expenses   | 25,000.00                          | 18,000.00                        |
| 4.     | Loss of estate     | 2,00,000.00                        | 18,000.00                        |
| 5.     | Medical expenses   | 16,200.00                          | 17,000.00                        |
|        | Total              | 2,91,200.00                        | 8,73,200.00                      |

12. Hence, the claimant is entitled to enhanced compensation of (₹8,73,200/- - ₹2,91,200/-) ₹5,82,000/- in addition to the compensation awarded by the Tribunal.



13. Taking judicial notice of the interest awarded towards Fixed Deposits, the interest on the enhanced compensation is awarded at 7%.

14. In view of the aforementioned, the following:

ORDER

- i) The above appeal is allowed in part;
- ii) The judgment and award dated 06.01.2017 passed in MVC No. 1036/2015 by the IV Additional District Judge And Member, MACT, Mangaluru, D.K, is modified to the extent of holding that Respondent No.1 - insurer is liable to pay a further compensation of ₹5,82,000/- together with interest at 7% pa., from the date of petition till date of realization, in addition to the compensation awarded by the Tribunal. In all other respects the impugned judgment and award remains unaltered;
- iii) The Registry to draw the modified decree accordingly.
- iv) No costs.

**Sd/-**  
**(C.M. POONACHA)**  
**JUDGE**