



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 6340 OF 2014 (MV)

BETWEEN:

1. SMT. AMANA BIVI
W/O LATE AMIN ANSARI,
AGED ABOUT 40 YEARS,
2. SRI NASURUDDIN ANSARI,
S/O LATE AMIN ANSARI,
AGED ABOUT 23 YEARS,
3. KUM.MADINA,
D/O LATE AMIN ANSARI,
AGED ABOUT 13 YEARS,
4. PHIROJ ANSARI,
S/O LATE AMIN ANSARI,
AGED ABOUT 9 YEARS,

SINCE PETITIONER, NO.3
AND 4 ARE MINOR,
REPRESENTED BY
THEIR MOTHER AND
NATURAL GUARDIAN,
SMT. AMANA BIVI,

ALL ARE R/AT CHANDPARASA VILLAGE
AND POST, SHIVANA DISTRICT,
BIHAR STATE PIN-451332.

...APPELLANTS

(BY SRI. A S GIRISH, ADVOCATE)

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH
COURT OF
KARNATAKA



AND:

THE DEPUTY DIRECTOR GENERAL,
GEOLOGICAL SURVEY OF INDIA,
KARNATAKA-GOA,
VASUDHA BHAVAN,
KUMARSWAMY LAYOUT,
BANGALORE-78.
(OWNER OF JEEP BEARING
NO.KA-05-MA-2673)

...RESPONDENT

(BY SRI. B PRAMOD, ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.04.2014 PASSED IN MVC
NO.7352/2012 ON THE FILE OF THE XVI ADDITIONAL JUDGE,
MEMBER, MACT, COURT OF SMALL CAUSES, BANGALORE,
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

1. The above appeal is filed by the claimants impugning the
judgment and award dated 30.04.2014 passed in MVC
No.7352/2012 passed by XVI Additional Judge, Member, MACT,



Court of Small Causes, Bangalore¹ whereunder, the Tribunal has partly allowed the claim petition and awarded a compensation of ₹5,25,000/-. The said compensation was awarded on the basis of the finding of contributory negligence wherein, the deceased was held to be negligent to the extent of 30% and the driver of the vehicle in question was negligent to the extent of 70%. The finding of the Tribunal on negligence as well as the adequacy of quantum of compensation has been challenged in the present appeal.

2. The relevant facts in a nutshell are that Amin Ansari² was proceeding in a Honda Activa scooter as a pillion rider and when the driver of a Bolero jeep, which was proceeding ahead of the scooter suddenly turned to his right, the driver of the scooter hit the said jeep causing the accident in question wherein, the deceased, who was riding on the scooter as a pillion rider, sustained grievous injuries and succumbed to the same. The wife and children of the deceased filed a claim petition, arraying the owner of the jeep as the respondent. The Tribunal noticing the manner of occurrence of the accident,

¹ hereinafter referred to as the 'Tribunal'

² hereinafter referred to as the 'deceased'



recorded a finding that the driver of the jeep was negligent to the extent of 70% and the rider of the scooter was negligent to the extent of 30%. Further, the Tribunal has assessed the compensation payable at ₹7,49,450/- (which was rounded off as ₹7,50,000/-). Having regard to the finding of contributory negligence, the Tribunal has ordered for payment of compensation of ₹5,25,000/-.

3. Heard the submissions of the learned counsel for the claimants and the learned counsel for the respondent.

4. The Tribunal has noticed the manner of the occurrence of the accident. The relevant portion of the same is extracted hereunder:

"9. Combined perusal of evidence of PW.2, RW.2, Ex.P1 to 4, 6, Rx.R2 to 6 clearly go to show that RW.2 took his vehicle from Karnataka garage and entered K.R.road by taking a right turn from the road divider and proceeds further, that the Honda Activa ridden by PW.2 came from the back side of Bolero vehicle in high speed, that PW.2 was intending to overtake the Bolero vehicle and at that time, RW.2 took his vehicle to right side by changing the lane, that sudden change of lane by RW.2 confused PW.2 who tried to stop his Honda Activa instantly, but could not stop and resulting in the accident, that the Honda Activa dashed the Bolero on its right rear corner, that due to the accident, the pillion rider thrown forward and fell down and sustained grievous injuries on his ribs and leg. The accident has occurred due to sudden change of lane of Bolero by RW.2. At thee same time, PW.2 could have avoided the



accident if he was little slow and cautious. His act of riding the Honda active in high speed was a factor contributed to the accident. The degree of negligence of RW.2 may be assessed at 70%, whereas the degree of negligence of PW.2 may be assessed at 30%. Therefore, I hold that both the drivers were negligent in driving their respective vehicles. However, the degree of negligence of driver of Bolero was higher than that of rider of Honda Activa."

5. It is clear from the factual matrix as appreciated by the Tribunal that the accident occurred when the driver of the jeep took his vehicle to the right side, by changing the lane, with an intention to take a right turn from the road divider, at which time, the rider of the scooter, which was proceeding in the same direction as the jeep, hit the Jeep on its right rear corner causing the accident in question. The Tribunal has further recorded a finding that the accident occurred due to the sudden change of lane by the driver of jeep. However, the Tribunal has erroneously held that the accident could have been avoided if the rider of the scooter was little slow and cautious. The said finding recorded by the Tribunal is *ex-facie* erroneous.

6. The undisputed position is that the driver of the jeep changed the lane to his right side suddenly, as a result of which, the accident occurred. There was no material on record



even to indicate that the driver of the jeep had given any indication of change of lane. In view of the same, merely assuming that if the driver of the scooter was slow and cautious, the accident could not have been caused, when the error was on the part of the driver of the jeep for having changed the lane suddenly, will not absolve the driver of the jeep from being held negligent in causing the accident in question. Hence, the finding of negligence recorded by the Tribunal is erroneous and liable to be interfered with. It is required to be held that the driver of the jeep was entirely negligent in causing the accident in question.

7. With regard to the quantum of compensation, it is forthcoming that the deceased was aged 48 years as on date of the accident i.e., as on 15.10.2012. The deceased was stated to be a Mason earning ₹10,000/- p.m. However, no documents have been produced to demonstrate his income. The Tribunal has assessed the income of the deceased as ₹4,500/- p.m. However, having regard to the date of accident, the notional income of the deceased is re-assessed as ₹7,000/- p.m. 25% is to be added towards future prospects in terms of judgment of



the Supreme Court in the case of ***National Insurance Company Ltd v. Pranay Sethi***³.

8. The claimants are the wife and three children of the deceased. Hence, 1/4th is required to be deducted towards personal expenses. Accordingly, the loss of dependency is reassessed as (₹7,000/- +25% -1/4th x12x13) ₹10,23,828/- as against ₹6,84,450/- awarded by the Tribunal.

9. The claimants are entitled to loss of consortium in terms of the judgment of the Supreme Court in the case of ***Magma General Insurance Co., Ltd., v. Nanu Ram***⁴ at ₹40,000/- each. Accordingly, a sum of (₹40,000/-x4) ₹1,60,000/- is awarded towards the same as against ₹10,000/- awarded by the Tribunal.

10. The claimants are entitled to ₹15,000/- towards funeral expenses and ₹15,000/- towards loss of estate. Accordingly, the award of compensation by the Tribunal on conventional heads is modified.

³ AIR 2017 SC 5157

⁴ (2018) 18 SCC 130



11. Accordingly, the total compensation under various heads is re-assessed as follows:

Sl.No.	Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1.	Loss of dependency	684450.00	1023828.00
2.	Loss of consortium	10000.00	160000.00
3.	Loss of love and affection	20000.00	0.00
4.	Loss of life expectancy	20000.00	0.00
5.	Transportation of dead body and funeral expenses	15000.00	0.00
6.	Loss of estate	0.00	15000.00
7.	Funeral expenses	0.00	15000.00
	Total	749450.00	1213828.00

12. Although, the Tribunal has assessed the compensation at ₹7,49,450/- (which was rounded off as ₹7,50,000/-) having regard to the finding of contributory negligence, the owner of the jeep was directed to pay 70% of the compensation i.e., a sum of ₹5,25,000/-. Hence, the said sum of ₹5,25,000/- already having been ordered, is required to be deducted.



Accordingly, the enhanced compensation is re-assessed as
(₹12,13,828/- - ₹5,25,000/-) ₹6,88,828/-.

13. In view of aforementioned, the following:

ORDER

- i. The above appeal is partly allowed;
- ii. The judgment and award dated 30.04.2014 passed in MVC No.7352/2012 passed by XVI Additional Judge, Member, MACT, Court of Small Causes, Bangalore, is modified to the extent of holding that the respondent is liable to pay the appellants - claimants a further sum of ₹6,88,828/- together with interest at 6% p.a., from date of petition till date of payment, in addition to the compensation awarded by the Tribunal;
- iii. The respondent shall deposit the enhanced compensation together the accrued interest within a period of 6 weeks from date;
- iv. The enhanced compensation together with accrued interest shall be disbursed in terms of the judgment and award of the Tribunal;
- v. The modified award to be drawn accordingly;



HC-KAR

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vi. The Records be returned to the Tribunal forthwith;

vii. No costs.

Sd/-
(C.M. POONACHA)
JUDGE

BS,ND
List No.: 1 SI No.: 18