



CNR: KAHC010350992026

NC: 2026:KHC:38358
MFA No. 3611 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 3611 OF 2026

(MV-D)

BETWEEN:

1. MR ABUBAKKAR
S/O LATE ISMAIL,
AGED 52 YEARS.
2. MR NAZEER
S/O LATE ISMAIL,
AGED 47 YEARS.
3. ATHIKA, D/O LATE ISMAIL,
AGED 45 YEARS.
4. MR ABDUL HAMEED
S/O LATE ISMAIL,
AGED 44 YEARS.
5. Mr.BELLACHAR ISMAIL MOHIDDIN
S/O LATE ISMAIL, AGED 41 YEARS.

ALL ARE R/AT D.NO.1-68(1),
BELLECHCHAR SITE HOUSE,
BADAGAYEDAPADAVU VILLAGE,
BADAGAYEDAPADAVU,
MANGALURU TALUK, PIN-574267

...APPELLANTS

(BY Miss.POOJA PARVATHI, ADVOCATE FOR
SRI. G. RAVISHANKAR SHASTRY.,ADVOCATE)



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AND:

1. THE HEAD MASTER
ALVAS ENGLISH MEDIUM PRIMARY
SCHOOL,
VIVEKANANDA NAGAR,
PUTTIGE, MOODABIDRI.
PIN-574227.
2. BAJAJ ALLIANZ GENERAL
INSURANCE CO.LTD.,
SHOP NO.25 AND 26,
2ND FLOOR, ESSEL WILCON COMPLEX
BENDORWELL, MANGALURU.
REPRESENTED BY ITS MANAGER.
PIN-575002

...RESPONDENTS
(BY SRI.MALLIKARJUNA REDDY N A.,ADVOCATE FOR SRI B
PRADEEP, ADVOCATE FOR R2,
V/O DTD 05.06.2026 NOTICE TO R1 D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED 30.10.2025
PASSED IN MVC NO. 325/2024 ON THE FILE OF THE VI
ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MACT,
DAKSHINA KANNADA, MANGALURU, 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 SHIVASHANKAR AMARANNAVAR



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ORAL JUDGMENT

This appeal is filed by the claimants seeking enhancement of compensation awarded in the judgment and award dated 30.10.2025 passed in MVC No.325/2024 by the learned VI Additional District and Sessions Judge and MACT, D K, Mangaluru.

2. Though this appeal is listed for admission, it is taken up for disposal with the consent of learned counsel for the appellants/claimants and the learned counsel for respondent No.2/Insurer.

3. The appellants/claimants made a claim petition praying to award compensation for the death of their mother, Smt.Alimamma in a road traffic accident occurred on 09.10.2023, contending that the accident occurred due to the rash and negligent driving of a bus bearing Regn. No.KA.19/AD-7234. The Tribunal after recording the evidence of the parties, appreciating the evidence on



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record, assessed the compensation and awarded compensation under various heads as under:

Towards funeral expenses and transportation charge	Rs. 15,000/-
Towards loss of estate	Rs. 15,000/-
Towards Parental consortium	Rs.2,00,000/-
Total	Rs.2,30,000/-

4. The Tribunal has also awarded interest at the rate of 7% per annum from the date of petition till realisation and directed respondent No.2/Insurer to deposit the award amount with interest. The claimants seeking enhancement have filed the present appeal.

5. Heard the learned counsel for appellants and learned counsel for respondent No.2/Insurer.

6. The learned counsel for appellants would contend that the Tribunal has not awarded loss of dependency on the ground that the claimants are major children of the deceased. She is placing reliance on the decision of the Hon'ble Apex Court in the case of **Jitender**



Kumar & Anr. -vs- Sanjay Prasad and ors. reported in **2025(2) TNMAC 433**, contends that if the claimants are not dependents, 50% is to be deducted in the income of the deceased and compensation is to be awarded for loss of dependency.

7. She further contends that even though the Tribunal has awarded consortium, loss of estate and funeral expenses, it has not taken into consideration in escalation and also as per the decision of National Insurance Co. Ltd. v. Pranay Sethi and Others, AIR 2017 SC 5157 escalation at 20% is to be taken into consideration as the accident occurred after six years of the decision of Pranay Sethi's case. With this, she prayed to allow the appeal and enhance the compensation.

8. The learned counsel for the respondent No.2/Insurer would contend that the compensation awarded by the Tribunal is just and proper and there are



no grounds for enhancement of compensation awarded by the Tribunal.

9. Having heard the learned counsel, the Court has perused the impugned judgment and award.

10. The accident occurred on 09.10.2023 and as on the date of accident, the deceased was aged 76 years. The claimants are five children of the deceased, and they are all majors. The Tribunal has not awarded the loss of dependency on the ground that the claimants are major children of the deceased. The Hon'ble Apex Court in the case of Jitender Kumar (supra) has held as under:

"15. Therefore, in view of the above, while the claimant-appellant(s) were not dependent upon the deceased, they are entitled to receive compensation as his legal representatives, in accordance with law. Thus, the deduction towards the loss of personal and living expenses is to be 1/2 (50% of the income of the deceased) in accordance with law."

11. Considering the said decision, the claimants are entitled to loss of dependency and deduction in the income of the deceased is to be taken as 50%. The accident



having occurred in the year 2023, the notional income to be adopted is Rs.16,250/- per month. Further, as the deceased was aged 76 years at the time of the accident, the applicable multiplier is '5'.

12. In view of the above, loss of dependency is calculated as under:

$$\text{Rs.16,250} - 50\% = 8,125 \times 12 \times 5 = \text{Rs.4,87,500/-}$$

13. The Tribunal has awarded compensation under conventional heads but has not taken into consideration the escalation. As per decision of the Hon'ble Apex Court in the case of Pranay Sethi, escalation at 10% every three years is to be taken into consideration. The accident occurred after six years of the said decision and therefore escalation is to be taken at 20% on conventional heads.

14. Considering the said aspect, the claimants are entitled to consortium of Rs.40,000/- each with 20%



escalation, that is, Rs.48,000/- x 5 = Rs.2,40,000/- as against Rs.2,00,000/- awarded by the Tribunal.

15. The claimants are entitled to loss of estate of Rs.15,000/- and funeral expenses and transportation of Rs.15,000/- with 20% escalation, which comes to Rs.18,000/- each. In view of the above, the claimants are entitled to the compensation under various heads as under:

Towards loss of dependency	Rs.4,87,500/-
Towards loss of consortium	Rs.2,40,000/-
Towards funeral expenses	Rs. 18,000/-
Towards loss of estate	Rs. 18,000/-
Total	Rs.7,63,500/-

16. The claimants are entitled to total compensation of Rs.7,63,500/- as against Rs.2,30,000/- as awarded by the Tribunal. Consequently, the claimants are entitled to enhanced compensation of Rs.5,33,500/- with interest at the rate of 6% p.a. from the date of petition till realisation.



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17. The respondent No.2/Insurer is liable to pay the said enhanced compensation with interest.

In view of the above, the following:

ORDER

- i) The appeal is allowed in part
- ii) The appellants/claimants are entitled to enhanced compensation of Rs.5,33,500/- with interest at the rate of 6% per annum from the date of petition till the date of realization.
- iii) The respondent No.2/Insurer shall deposit the enhanced compensation with interest before the Tribunal within a period of six weeks from this day, filing which, it is liable to pay the interest at the rate of 9% p.a. from this day till payment.
- iv) The claimants are entitled to release the entire enhanced compensation in equal shares.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

BKM
List No.: 1 Sl No.: 44