



CNR: KAHC010352862023

NC: 2026:KHC:44713
MFA No. 4859 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.4859 OF 2023(MV-D)

BETWEEN:

M/S NATIONAL INSURANCE CO. LTD
NO.371/A, 1ST FLOOR,
PREISTIGE SHOPPING ARCADE,
NEAR RAMASWAMY CIRCLE,
MYSURU - 570 023.

REP BY REGIONAL OFFICE SITUATE AT NO.144,
2ND FLOOR,
SHUBRAM COMPLEX,
M.G. ROAD,
BANGALORE - 560 001,
REP BY REKHA S MENON,
DEPUTY MANAGER.

...APPELLANT

(BY SRI. GEETHA R., ADVOCATE)

AND:

1. MRS. THAYAMMA,
W/O NAGARAJU,
D/O LATE KEMPAJOGEGOWDA,
AGED ABOUT 41 YEARS,
RESIDENT OF SHIVALLI VILLAGE,
MANDYA DISTRICT.
2. MRS LAKSHMI,
W/O KUMARA,
D/O LATE KEMPAJOGEGOWDA,
AGED ABOUT 39 YEARS,

Digitally
signed by
REKHA R
Location:
High Court of
Karnataka



NC: 2026:KHC:44713
MFA No. 4859 of 2023

CNR: KAHC010352862023

R/AT KALAHALLI VILLAGE,
JAYAPURA HOBLI,
MYSURU TALUK AND DISTRICT.

3. MR. JAVAREGOWDA,
S/O LATE KEMPAJOGEGOWDA,
AGED ABOUT 38 YEARS,
R/AT HOUSE NO.249/2,
1ST CROSS,
WATER TANK ROAD,
BELAVADI,
MYSURU CITY.
4. MR. PRAVEEN KUMARA B.S.
S/O SHIVARAMEGOWDA,
AGED ABOUT 44 YEARS,
8TH MAIN, 1ST BLOCK,
BELAVADI VILLAGE,
MYSURU TALUK AND DISTRICT.
5. MR SHIVARAMEGOWDA,
S/O LATE CHIKKATHAMMEGOWDA,
AGED ABOUT 71 YEARS,
R/AT HOUSE NO.127,
8TH MAIN, 1ST BLOCK,
BELAVADI VILLAGE,
MYSURU TALUK AND DISTRICT.

...RESPONDENTS

(BY SRI. ROOPESHA B., ADVOCATE FOR R4 TO R5,
SRI. VIJAYAKUMAR T., ADVOCATE FOR R1 TO R3)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:02.03.2023
PASSED IN MVC NO. 1235/2021 ON THE FILE OF THE MOTOR
ACCIDENTS CLAIMS TRIBUNAL, MYSURU, AWARDING



CNR: KAHC010352862023

NC: 2026:KHC:44713
MFA No. 4859 of 2023

COMPENSATION OF RS.9,62,028/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL ITS ENTIRE REALIZATION.

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 02.03.2023, in MVC.No.1235/2021 passed by the Motor Accident Claims Tribunal and Additional Small Causes Judge, Mysuru¹.

2. The parties are referred to as per their ranking before the Tribunal.

3. Facts germane to file the present appeal are as under:

¹ "Tribunal" for short



CNR: KAHC010352862023

NC: 2026:KHC:44713
MFA No. 4859 of 2023

3.1 In an unfortunate accident occurred on 24.11.2020 deceased Kempajogowda a sexagenarian, (65 years), succumbed to the injuries due to the rash and negligent driving of car bearing number KA-09-MD-0612 by its driver. The Tribunal after consideration of entire evidence placed on record, awarded total compensation of Rs.9,62,028/- deducting 1/3rd towards the personal expenses of the deceased along with interest at the rate of 6% per annum from the date of petition till realization and fastened the entire liability on the insurer to pay the compensation. It is this judgment and award passed by the Tribunal is called in question in this appeal.

4. Heard Madam Geetha.R, learned counsel appearing for the Insurer and Sri Roopesha, learned counsel representing the Injured and Sri.Vijaykumar.T, learned counsel representing the claimants.

5. Madam Geetha.R, argued on two points on liability as well as quantum:



CNR: KAHC010352862023

NC: 2026:KHC:44713
MFA No. 4859 of 2023

(1) Firstly Madam Geetha submits that the initial police records that is, in FIR is stated that the driver of the vehicle was driving in an inebriated condition and provision under Section 185 of MV Act invoked against the said driver along with other penal provisions under IPC. However, in the charge sheet though the provision under the MV Act is retained, the Tribunal has failed to consider the same and however wrongly observed that in the charge sheet, the police have dropped the charge under Section 185 of MV Act. She further submits that there is no record to show that the driver has been examined by the concerned doctor, in order to ascertain the percentage of alcohol in the blood, at the time of accident for the reason that the police has stated that the person was not available for subjecting him to medical test. For the failure of the Police Department to investigate the case in accordance with law, the insurance company shall not be saddled, with a direction to pay the compensation in view of the fact that the driver was driving the vehicle in an inebriated condition



CNR: KAHC010352862023

which is established as per the FIR. As such she submits that the liability fastened on the insurance company be set aside.

(ii) Secondly, she submits in the alternative that in the event this Court is of the view that the insurance company is liable to pay the compensation, the Tribunal has considered deduction of 1/3rd towards the personal expenses of the deceased, though the claimants are major married daughter and son of Late Kempajogegowda. The Tribunal ought to have deducted 50% towards the personal expenses.

6. In order to substantiate her arguments, she has relied on the judgment of Supreme Court in the case of **DEEP SHIKHA AND ANOTHER VS NATIONAL INSURANCE COMPANY LIMITED AND OTHERS** in Special Leave Petition (Civil) Nos. 22265-22266/2018, disposed of on 13.05.2025, and referred to paragraph



CNR: KAHC010352862023

Nos.13, 14 and 15, to contend that 50% be deducted towards personal expenses.

7. Refuting the submissions of Madam Geetha, Sri.Roopesh as well as Sri.Vijay Kumar, in unison submits that though the FIR was registered, stating that the driver of the vehicle was in an inebriated condition, but the fact remains that there was no medical document placed on record to show the percentage of alcohol in the blood of the person at the time of incident. This clearly presupposes that the driver was not in an inebriated condition. The contention of the police that the driver was not available shows the in competency of the Investigation Officer inasmuch as he being the Investigation Officer under his command should have secured the presence of the person. The FIR registered is not an Encyclopedia. It is just an information setting the criminal law in motion in respect of an incident. He further submits that in the absence of any document to the effect regarding the percentage of alcohol



CNR: KAHC010352862023

in the blood, and only on the FIR, it is not permissible in law for the Insurer to claim exoneration from paying the compensation.

8. So far as second contention of Madam Geetha is concerned on quantum of compensation, both the learned counsel in unison submits that the deceased was married persons. In that view of the matter, the Tribunal has considered $1/3^{\text{rd}}$ towards the personal expenses of the deceased, as the amount earned by the deceased was contributed to the entire family and sought to dismiss the appeal.

9. Having considered the rival submission, this Court perused the entire appeal paper and trial Court record.

10. In view of the documents produced before the Tribunal, this Court considers that it is hard to accept the contention of learned counsel, Madam Geetha, on her first limb of argument towards liability to pay the compensation.



CNR: KAHC010352862023

NC: 2026:KHC:44713
MFA No. 4859 of 2023

In the absence of any medical record to the effect, regarding the percentage of alcohol in the blood of the driver at the time of accident, it is even impermissible for the Court to direct the Insurer to pay and recover since the deceased was a third party. In that view of the matter, the first limb of contention argued by Madam Geetha is liable to be rejected and accordingly, is rejected.

11. So far as second limb of argument on quantum is concerned, this Court finds some force in the argument, in view of the law laid down by the Hon'ble Supreme Court in **Deep Shikha** supra, that the Tribunal ought to have deducted 50% towards personal expenses. In that view of the matter the compensation awarded by the Tribunal requires re-consideration in terms of law laid down by the Hon'ble Supreme Court as well as law laid down by the Hon'ble Supreme Court in **NATIONAL INSURANCE COMPANY LIMITED VS. PRANAY SETHI**², wherein the

² (2017) 16 SCC 680



CNR: KAHC010352862023

NC: 2026:KHC:44713
MFA No. 4859 of 2023

claimants are entitled for 10% escalation for one term of three completed years on the conventional heads.

12. In that view of the matter, this Court 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	8,12,028-00	06,09,000-00 (14,500x12x7x50%)
2.	Loss of estate	15,000-00	15,000-00
3.	Loss of consortium	1,20,000-00	1,20,000-00
4.	20% escalation on two terms of three completed years.	-	30,000-00
	TOTAL	9,62,028-00	7,74,000-00

13. Accordingly, the claimants are entitled for reduced compensation of **Rs.7,74,000/-** which shall carry interest at the rate of 6% per annum from date of petition till realization.

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

ORDER

- (i) The appeal is ***allowed in part.***



CNR: KAHC010352862023

NC: 2026:KHC:44713
MFA No. 4859 of 2023

- (ii) The judgment and award dated 02.03.2023 passed by the Tribunal in MVC.No.1235/2021 is modified and reduced to **Rs.7,74,000/-** which shall carry interest at the rate of 6% per annum from date of petition till realization.
- (iii) The amount deposited in this appeal shall be transmitted to the concerned Tribunal forthwith for disbursement.
- (iv) The appellant-Insurer shall deposit the balance reduced compensation along with interest at the rate of 6% per annum stated supra within six weeks from the date of receipt of copy of this order, before the concerned Tribunal.
- (v) Upon deposit, the entire amount shall be released in favour of claimants equally on proper identification.



CNR: KAHC010352862023

**NC: 2026:KHC:44713
MFA No. 4859 of 2023**

(vi) The Registry is directed to transmit the trial Court record, to the concerned Tribunal forthwith without causing any delay.

(vii) No order as to costs.

**Sd/-
(T.M.NADAF)
JUDGE**

RR
List No.: 1 Sl No.: 11