



CNR: KAHC010357332024

NC: 2026:KHC:45615
MFA No. 4274 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 4274 OF 2024 (MV-D)

BETWEEN:

M/S ICICI LOMBARD GENERAL
INSURANCE COMPANY LIMITED
NO.89, 2ND FLOOR,
SVR COMPLEX,
MADIWALA, KORAMANGALA,
BANGALORE – 560 068.

REPRESENTED BY
M/S ICICI LOMBARD GENERAL
INSURANCE COMPANY LIMITED, NO. 121, THE
ESTATE BUILDING,
9TH FLOOR, DICKENSON ROAD,
BANGALORE - 560 042.

REPRESENTED BY ITS MANAGER

...APPELLANT

(BY SRI. JAGADISH P.S, ADVOCATE)

AND:

1. SMT JAYAMMA
W/O LATE. BYLAPPA,
AGED ABOUT 58 YEARS,
2. HANUMANTHA
S/O LATE. BYLAPPA,
AGED ABOUT 32 YEARS,
3. SMT GANGAMMA
W/O PUNEETH
AGED ABOUT 37 YEARS,

Digitally
signed by
REKHA R
Location:
High Court
of Karnataka



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4. MANJUNATH
S/O LATE. BYLAPPA,
AGED ABOUT 38 YEARS,

ALL ARE R/AT NO.51,
MYLSANDRA, MANJUNATH COLONY,
R.V COLLEGE POST,
KENGARI HOBLI,
BANGALORE – 560 059.

5. SRI. JAGANATHAN .A,
S/O ARMUGAM GOWDER.C,
MAJOR IN AGE, R/AT NO.930,
1ST FLOOR, 2ND MAIN, 2ND CROSS,
MUNESHWAR LAYOUT, LAGGERE,
BANGALORE – 560 058.

...RESPONDENTS

(BY SRI. LATUR SURESH MAHALINGAPPA, ADVOCATE FOR R1
TO R4;
V/O DATED 29/10/2025 NOTICE TO R5 DEEMED SERVICE
TO NOTICE)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 01.03.2024 PASSED IN MVC
NO.2250/2018 ON THE FILE OF THE IV ADDITIONAL SCJ AND
ACMM, MEMBER, MACT, BENGALURU SCCH-6, AWARDING
COMPENSATION OF RS.11,20,900/- WITH INTEREST AT 6
PERCENT P.A. FROM THE DATE OF PETITION TILL
REALIZATION.

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

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



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ORAL JUDGMENT

This appeal by the Insurer assailing the judgment and award dated 01.03.2024 in MVC.No.2250/2018 passed by the IV Additional SCJ and ACMM, Member-Motor Accident Claims Tribunal, Bengaluru (SCCH-6)¹, calling in question the liability as well as the quantum.

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

3. Heard Sri.Jagadish P.S., learned counsel appearing for the appellant and Sri. Lathur Suresh Mahalingam, learned counsel for respondent Nos.1 to 4. Vide order dated 29.10.2025, notice to respondent No.5 is deemed serve of notice.

4. Sri.Jagadish P.S., with all vehemence submits that, the Tribunal has failed to consider Ex.P22-Histopathological report, wherein the impression stated, reads as under:

¹ 'Tribunal' for short



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"LUNG: SHOW FEATURES OF ASPIRATION PNEUMONIA.

LIVER: SHOWS FEATURES OF STEATOSIS.

*HEART: SHOW FEATURES OF CORONARY ARTERY DISEASE WITH
CRITICAL NARROWING OF LEFT ANTERIOR DESCENDING ARTERY
AND NON CRITICAL NARROWING OF LEFT CORONARY ARTERY."*

5. According to the learned counsel, the death was due to infection of lungs due to Pneumonia and other ailments which the deceased was suffering. In that view of the matter, there is no nexus between the injuries suffered and the death resulted, though the Ex.P2-Post mortem report, states that death is consequent upon the injuries sustained in the injury. The Tribunal has failed to consider this aspect of matter while awarding the compensation, considering that the death is due to the injuries suffered.

6. Further learned counsel submits that, the compensation ought to have been awarded on considering proper method of calculation on the 'loss of estate'.

7. Sri.Jagadish P.S, further submits that the Tribunal has considered the deduction at $1/4^{\text{th}}$ instead of $1/3^{\text{rd}}$ considering the fact that the deceased survived by a



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wife, earning sons and married daughter. In the event, this Court comes to conclusion that the death has got a nexus to the injuries, the deduction ought to have been at $1/3^{\text{rd}}$ instead of $1/4^{\text{th}}$ towards personal expenses, and sought to allow the appeal and reduce the compensation.

8. Per contra, Sri.Latur, with all vehemence submits that the Ex.P2-Post-mortem report was marked without there being any objection. Had there been any objection raised by the Insurance Company at the time of marking the document, the claimants could have examined the Doctor to support the content stated in the Ex.P2.

9. Further, he submits that the Ex.P2 clearly indicates that the death is resulted due to the injuries suffered. He further submits that, though Ex.P22-Histopathological report contains the impressions. However, they are one of the reasons for the death, which



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are all the complications resulted due to the injuries suffered in the accident.

10. Sri. Latur, further submits that, the Tribunal after appreciating the entire material on record and has considered the deductions at 1/4th in view of the fact that the income is a family income, despite the fact that the sons are earning and daughters are married and sought to dismiss the appeal.

11. Having considered the rival submissions, this Court perused the entire appeal papers as well as trial Court record.

12. This Court is of the considered opinion that, the contentions raised by the learned counsel for Sri.Jagadish P.S, with respect to the nexus between the death and injury required to be 'negated' in the presence of medical evidence i.e., Ex.P2-Post-mortem report, which was marked without there being any objection raised. Having failed to do so, now it is not open for the Insurer to raise



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the said ground for the first time in this appeal, as it is the principle of law, that no fresh grounds for the first time raised shall be accepted before the appellate forum, which were not raised before the Tribunal in the original proceedings. Accordingly, the said contention is rejected.

13. So far as the contention of Sri.Jagadish, with reference to deduction towards personal expenses is concerned, the deceased survived by wife and earning sons and married daughter. In that view of the matter, the Tribunal ought to have considered the personal expenses instead of $1/4^{\text{th}}$ at $1/3^{\text{rd}}$. So far as quantum is concerned, the compensation awarded by the Tribunal requires modification. Accordingly, this Court proceeds to reassess 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	8,91,000-00	8,71,200-00 (Rs.11,000+10% $\times$ 12 $\times$ 9 $\times$ 2/3)
2.	Loss of Consortium	1,93,600-00	1,93,600-00
3.	Loss of estate	18,150-00	18,150-00
4.	Funeral Expenses	18,150-00	18,150-00
	TOTAL	11,20,900-00	11,01,100-00



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14. Accordingly, the compensation is reduced to ***Rs.11,01,100/-***, which shall carry interest at the rate of 6% from the date of petition till realization.

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

ORDER

- i. Appeal is ***allowed in part.***
- ii. The judgment and award 01.03.2024 in MVC.No.2250/2018 passed by the IV Additional SCJ and ACMM, Member-Motor Accident Claims Tribunal, Bengaluru (SCCH-6), is hereby modified and reduced to ***Rs.11,01,100/-***, which shall carry interest at the rate of 6% per annum from the date of petition till realization.
- iii. The amount in deposit shall be transmitted to the concerned Tribunal for disbursement.
- iv. The appellant-Insurer shall deposit balanced reduced compensation along with 6% interest from the date of petition



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till realisation, before the concerned Tribunal, within six weeks from the date of receipt of copy of this order.

- v. Upon deposit, entire amount shall be released in favour of the claimants on proper identification.
- vi. Registry is directed to transmit the Trial Court records forthwith to the concerned Tribunal without any delay.
- vii. In view of disposal of the appeal, interlocutory applications, if any, does not survive for consideration and accordingly dismissed.

Sd/-
(T.M.NADAF)
JUDGE

PK
List No.: 1 Sl No.: 33