



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.1954/2018 (MV-D)

BETWEEN:

1. SRI. S. GAVIYIAIAH @ GOVINDARAJ
S/O SIDDIAIAH
AGED ABOUT 55 YEARS.
2. SRI. MANU @ MANOHAR
S/O GAVIYIAIAH @ GOVINDARAJ
AGED ABOUT 22 YEARS.

BOTH ARE R/AT NO.53
1ST CROSS, SRI SIDDAPPAJI TEMPLE ROAD
MALGALU, KANAKAPURA TOWN
RAMANAGARA DISTRICT-562 117.

...APPELLANTS

(BY SRI. V. JAVAHAR BABU, ADV.,)

AND:

1. MAHABOOB PASHA
S/O KHADAR PASHA
NO.23, SORAHUNASE, VARTHUR
BENGALURU-560 087.

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:35429-DB
M.F.A. No.1954/2018

2. SMT. NIRMALA K.J.
W/O DAYANANDA K.G.
NO.2651, CHICKPET
DODDABALLAPUR TOWN
BENGALURU RURAL DISTRICT-561 203.
3. THE NATIONAL INSURANCE CO. LTD.,
REGIONAL OFFICE
SUBHARAM COMPLEX, II FLOOR
NO.144, M.G.ROAD,
BENGALURU-560 001.

...RESPONDENTS

(BY SRI. SUBASH REDDY V, ADV., FOR R2
SRI. B.A. RAMAKRISHNA, ADV., FOR R3
V/O/DTD:30.08.2021, NOTICE TO R1 IS H/S)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO
CALL FOR THE RECORDS. MODIFY THE JUDGMENT AND
AWARD PASSED BY THE COURT OF THE MOTOR VEHICLES
ACCIDENT CLAIMS TRIBUNAL, BENGALURU CITY SCCH-14, IN
MVC NO.3358/2015 DATED 28.09.2017, BY ENHANCING THE
COMPENSATION AND CONSEQUENTLY ALLOW THE CLAIM
PETITION & ETC.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This appeal is filed by the claimants seeking enhancement of compensation being aggrieved by the judgment and award dated 28.09.2017 passed in MVC No.3358/2015 by the Member MACT, XVI Additional Judge, Court of Small Causes, Bengaluru (for short, the 'Tribunal').

2. Though this appeal is listed for admission with the consent of learned counsel for the parties, it is taken up for final disposal.

3. The brief facts leading to the filing of this appeal are that on 04.07.2015 at about 7.30 A.M., the deceased Manjunath was riding the motor cycle bearing Reg.No.KA-40-U-1242 and was proceeding from S.S.Ghat towards Doddaballapur side on Doddaballapura Gowribidanur Road, near Melinanayakandrahalli, Doddaballapura Taluk. At that time, a Lorry bearing



Reg.No.KA-53-535 driven by its driver in a rash and negligent manner with high speed, came from the opposite direction and dashed to the motor cycle. Due to the impact, the deceased Manjunath fell down on the road and at the same time another Bus bearing Reg.No.KA-43-7295 driven by its driver in a rash and negligent manner with high speed driving in the same direction of the lorry, ran over the deceased and the motor cycle, resulting in the death of the deceased Manjunath on the spot. The claimants filed a claim petition in MVC No.3358/2015 seeking compensation. The Trial Court after considering the material on record proceeded to pass the impugned Judgment and award, awarding compensation of Rs.4,28,000/- along with interest @ 9% p.a. Being aggrieved, the claimants are in appeal seeking enhancement of compensation.

4. Sri.V.Javahar Babu, learned counsel for the appellants-claimants submits that the Tribunal has failed to consider the fact that the deceased was aged about 27



years and had a monthly income of Rs.15,000/- and Tribunal has erroneously assessed the income of the deceased at Rs.8,000/-, which was scaled down to Rs.2,000/- by considering only the savings. It is submitted that the Tribunal has failed to award compensation under the head of loss of future prospects. It is further submitted that the compensation awarded by the Tribunal under other heads is also on the lower side and the same is required to be enhanced. Hence, he seeks to allow the appeal.

5. *Per contra*, Sri.Subash Reddy V., learned counsel appearing for respondent No.2 and Sri.B.A.Ramakrishna, learned counsel appearing for the respondent No.3 supports the impugned judgment and award of the Tribunal and submits that the Tribunal has considered the material available on record in its proper perspective and awarded the compensation, therefore, the same does not call for any interference. Hence, he seeks to dismiss the appeal.



6. I have heard the arguments of learned counsel for the appellant, learned counsel for the respondent No.2, learned counsel for the respondent No.3 and meticulously perused the material available on record including the Tribunal records.

7. The only point that would arise for consideration in this appeal is :

"Whether the judgment and award passed by the Tribunal calls for any interference?"

8. The material on record indicates that the on 04.07.2015 at about 7.30 a.m., the deceased Manjunath was riding the motor cycle bearing Reg.No.KA-40-U-1242 and was proceeding from S.S.Ghat towards Doddaballapur side on Doddaballapura Gowribidanur Road, near Melinanayakandrahalli, Doddaballapura Taluk. At that time, a Lorry bearing Reg.No.KA-53-535 driven by its driver in a rash and negligent manner with high speed, came from the opposite direction and dashed to the motor



cycle. Due to the impact, the deceased Manjunath fell down on the road and at the same time another Bus bearing Reg.No.KA-43-7295 driven by its driver in a rash and negligent manner with high speed driving in the same direction of the lorry, ran over the deceased and the motor cycle, resulting in the death of the deceased Manjunath on the spot. The deceased Manjunath was shifted to the Government Hospital, Doddaballapur for conducting the postmortem examination. The claimants i.e. father and brother of the deceased, filed a claim petition in M.V.C.No.3358/2015 seeking compensation. The claimants examined PW1 and PW2 and got marked Exs.P1 to Ex.P14, whereas the respondents examined RW1 and RW2 and got marked Exs.R1 and R2. The Tribunal considered the evidence and material available on record and proceeded to pass the impugned order awarding a compensation of Rs.4,28,000/- along with interest at the rate of 9% per annum.



9. It is to be noticed that the Tribunal has concluded that there is no loss of dependency and by placing reliance on the decision of this Court in the case of ***A.Manavalagan v. A.Krishnamurthy and Others***¹ awarded compensation under the head of loss of estate. We are of the considered view that such a finding of the Tribunal is erroneous as the material on record clearly indicates that the claimants are the dependents of the deceased. Therefore, the said finding is required to be interfered with. Furthermore, the petitioners/claimants contend that the income of the deceased is required to be considered at Rs.15,000/- per month, however, no material is placed on record to prove the said claim. Hence, we are of the considered view that the income of the deceased is required to be assessed notionally at Rs.9,000/- per month by placing reliance on the notional income chart prepared by the Karnataka State Legal Services Authority.

¹ ILR 2004 KAR 3268



10. The petitioners/claimants would also be entitled to loss of future prospects at the rate of 40% of the assessed income of the deceased. The personal living expenses of the deceased are required to be deducted at 50% in view of the law laid down by the Hon'ble Supreme Court in the case of ***National Insurance Company Ltd v. Pranay Sethi and Others***² and ***Sarla Varma and Others v Delhi Transport Corporation and Another***³ respectively. Hence, the loss of dependency shall be calculated as under:

$$\text{Rs.9,000} + 40\% \times 12 \times 17 \times 50\% = \text{Rs.12,85,200/-}$$

11. It is also to be noticed that the Tribunal has erred in not awarding compensation under the head of loss of consortium, which is required to be awarded at Rs.48,000/- to each of the claimants including an escalation of 20%. Furthermore, the appellants/claimants

² 2017 (16) SCC 680

³ 2009 (6) SCC 121



are entitled to compensation of Rs.18,000/- under the head of loss of estate as well as Rs.18,000/- towards transportation of dead body and funeral expenses including an escalation of 20%. Thus, the appellants/claimants would be entitled to modified compensation as under:

HEADS	AMOUNT (in Rs.)
Loss of dependency	Rs.12,85,200/-
Loss of consortium (44000 x 2)	Rs.96,000/-
Transportation of dead body & funeral expenses (including escalation @ 20%)	Rs.18,000/-
Loss of estate (including escalation @ 20%)	Rs.18,000/-
Total	Rs.14,17,200/-

Thus, the appellant-claimant shall be entitled to a total compensation of **Rs.14,17,200/-** as against Rs.4,28,000/- awarded by the Tribunal. The enhanced compensation amount shall carry interest at the rate of 9% p.a. in view of the decision of the Co-ordinate Bench in



the case of ***SRI.BIMAL GOGAI AND ANOTHER Vs. MANAGING DIRECTOR, BMTC⁴*** .

12. In the result, this Court proceeds to pass the following:

ORDER

- a) Appeal is ***allowed in part.***
- b) The impugned judgment and award dated 28.09.2017 passed by the Tribunal is modified to an extent that the appellants-claimants would be entitled to total compensation of **Rs.14,17,200/-** as against Rs.4,28,000/- awarded by the Tribunal.
- c) The enhanced compensation shall carry interest at the rate of 9% p.a. from the date of petition till realisation.
- d) The respondent No.1 shall pay 50% of the enhanced compensation and deposit the same before the Tribunal and the respondent No.3 shall deposit the remaining 50% of the enhanced compensation amount before the Tribunal within a period of six weeks from the

⁴ MFA No.10401/18 & con. appeal dt.09.06.26



date of receipt of certified copy of this judgment.

- e) The appellant Nos.1 and 2 would be entitled to 50% each of the compensation amount.
- f) The Tribunal shall release 50% of the deposited amount in favour of the appellant Nos.1 and 2 and remaining 50% shall be invested in a Fixed Deposit in any Nationalised/Scheduled Bank for a period of three years.
- g) Registry shall transmit the records to the Tribunal forthwith.
- h) Draw modified award accordingly.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE