



CNR: KAHC010373972024

NC: 2026:KHC:44315
MFA No. 4387 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.4387 OF 2024(MV-D)

BETWEEN:

1. SMT. VEENA P.G.,
W/O. LATE PRAKASH,
AGED ABOUT 49 YEARS,
2. SMT. ANUSHA J.P.,
D/O. LATE PRAKASH,
AGED ABOUT 31 YEARS,
3. SMT. MANISHA J.P.,
D/O. LATE PRAKASH,
AGED ABOUT 27 YEARS,
4. SMT. PARVATHAMMA,
W/O GOPALAGOWDA,
AGED ABOUT 70 YEARS,
5. SRI. GOPALAGOWDA,
S/O LATE MUTTEGOWDA,
AGED ABOUT 75 YEARS,

ALL ARE RESIDING AT
KANNAGI VILAGE,
THIRTHAHALLI TALUK,
SHIVAMOGGA DISTRICT.

...APPELLANTS

(BY SRI. K.V. SATEESHCHANDRA., ADVOCATE)

Digitally
signed by
REKHA R
Location:
High Court of
Karnataka



CNR: KAHC010373972024

NC: 2026:KHC:44315
MFA No. 4387 of 2024

AND:

1. SRI. SUNIL CHATRA,
S/O. SACHHIDANANDA CHATRA,
AGE NOT KNOWN,
R/O. MAIN ROAD,
KUNDAPURA TOWN,
UDIPI DISTRICT - 576 201.
2. SRI. RAGHAVENDRA,
S/O. SHANKAR,
AGED ABOUT 36 YEARS,
R/O. IRU BYLU, SIDDAPURA,
KUNDAPURA TALUK,
UTTARA KANNADA DISTRICT.
3. THE ORIENTAL INSURANCE
COMPANY LIMITED,
R/O. SRI VINAYAKA COMPLEX,
1ST CROSS, GARDEN AREA,
SHIVAMOGGA - 577 201.
REP BY ITS MANAGER.

...RESPONDENTS

(BY SRI. B.C. SEETHARAMARAO, ADVOCATE FOR R3,
R1 AND R2 ARE SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:06.04.2018
PASSED IN MVC NO.596/2014 ON THE FILE OF THE I
ADDITIONAL SENIOR CIVIL JUDGE AND ADDITIONAL MACT,
VII, SHIVAMOGGA, PARTLY ALLOWING THE CLAIM PETITION
FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.



CNR: KAHC010373972024

NC: 2026:KHC:44315
MFA No. 4387 of 2024

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

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

ORAL JUDGMENT

This appeal is by the claimants, assailing the Judgment and Award dated 06.04.2018, passed by the I Addl. Senior Civil Judge & Addl. Motor Accident Claims Tribunal-VII, Shivamogga¹ in MVC No.596/2014.

2. The Tribunal under the impugned Judgment and Award, awarded compensation of Rs.11,37,800/- with interest @ 6% per annum from the date of petition till the date of deposit. However, fastened the entire liability on respondent No.1 - Insured on the ground of violation of the permit.

3. The date of accident, involvement of vehicle, death of Mr.Prakash are not in dispute. The only dispute is

¹ the Tribunal, for short



CNR: KAHC010373972024

NC: 2026:KHC:44315
MFA No. 4387 of 2024

with regard to quantum and the liability fastened on the Insured.

4. Heard, Sri.K.V.Sateeshchandra, learned counsel appearing for the appellants/ claimants and Sri.B.C.Seetharama Rao, learned counsel appearing for respondent No.3 - Insurer.

5. Sri.K.V.Sateeshchandra, argued this matter on two grounds. Firstly, the Tribunal though allowed the claim petition in part and granted compensation, but erred in exonerating the Insurer absolutely, thereby fastening entire liability on the Insured on the premise that there is a violation of permit. He further submits that in view of settled position of law, the Tribunal ought to have directed the Insurer to pay compensation primarily with a liberty to recover the same from the Insurer. Secondly, the compensation awarded by the Tribunal is on the lower side. The Tribunal has erred in taking the monthly income of the deceased at Rs.6,000/-. He submits that in view of



CNR: KAHC010373972024

the chart prepared by Karnataka State Legal Services Authority for settling the dispute before Lok-Adalat, for the accident occurred in the year 2014, for an unskilled labour, the income is fixed at Rs.8,500/-. The Tribunal has erred in not considering this aspect of the matter. He further submits that in view of settled position of law, the claimants are also entitled for 10% escalation on the compensation awarded under the conventional heads.

6. Sri.P.S.Jagadish, learned counsel appearing for the Insurer with all vehemence submits that the Tribunal is right in holding that the Insured is liable to pay the compensation. The reason being there is violation of permit. As such, the first ground of learned counsel for the claimant does not hold any water and required to be rejected. Learned counsel further submits that the compensation awarded by the Tribunal is just and proper. As such the entire Judgment and Award passed by the Tribunal does not call for any interference. With this, he sought to dismiss the appeal.



CNR: KAHC010373972024

7. Having considered the rival submissions, this Court has perused the entire appeal memorandum.

8. The following points would arise for my consideration:

- (1) Whether the claimants have made out any case for enhancement?
- (2) Whether the Tribunal is right in exonerating the insurer absolutely?

9. My answer to the above points for consideration are as under:

Point No.1 : ***Partly in the Affirmative.***

Point No.2: ***Partly in the Affirmative,*** for the following:

REASONS

10. **POINT NO.1:** This Court finds force in the submission of learned counsel for the appellants that, as per the chart prepared by Karnataka State Legal Services Authority, for the accident occurred in the year 2014, the



CNR: KAHC010373972024

Tribunal ought to have been considered the income at Rs.8,500/- with respect to an unskilled labor, in the absence of proof of income. Further, the Tribunal despite taking note of the fact that the deceased was 45 years of age at the time of death, but added 30% of the income towards future prospectus. This Court is of the opinion that, in view future prospectus should have been considered at 25%, taking into consideration of age of the deceased. The deceased survived by his wife, children and parents, the Tribunal has rightly deducted 1/4 towards personal expenses. Further, as rightly contended by learned counsel for the appellants, the claimants are also entitled for 10% escalation on conventional heads for every completed three years, in view of settled position of law. Accordingly, the point for consideration is answered ***partly in the affirmative.***

11. **POINT NO.2:** So far as liability to pay the compensation is concerned, the Tribunal has fastened the entire liability on the Insured, exonerating the Insurer only



CNR: KAHC010373972024

on the ground that there is a violation of permit. In view of settled position of law by the Hon'ble Supreme Court in ***AMRIT PAUL SINGH VS. TATA AIG GENERAL INSURANCE CO. LTD.***², the Insurer is primarily made liable to pay the compensation with a liberty to recover the same from the Insured. In these circumstances, the finding of the Tribunal exonerating the Insurer absolutely is erroneous. Accordingly, the point for consideration is answered ***Partly in the Affirmative*** and the finding of the Tribunal is modified. In view of answering Point No.2 in favor of the claimants, the Insurer is directed to pay the compensation primarily with a liberty to recover the same from the owner of the vehicle i.e., Insured.

12. So far as quantum is concerned, in view of the reasons stated supra, the claimants are entitled for the following re-determined compensation.

² AIR 2018 SC 2662



CNR: KAHC010373972024

NC: 2026:KHC:44315
MFA No. 4387 of 2024

Sl. No	Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1.	Loss of dependency	9,82,800-00	13,38,750-00 (8,500+25% $\times$ 12 $\times$ 14 $\times$ 3/4)
2.	Loss of estate	15,000-00	15,000-00
3.	Towards consortium	40,000.00	2,00,000-00 (40,000 $\times$ 5)
4.	Transportation of dead body and funeral expenses	20,000-00	15,000-00
5.	Love and affection + filial love and affection	80,000-00	-
6.	10% escalation on conventional heads, for every completed three years.	-	46,000-00
	Total	11,37,800-00	16,14,750-00

13. Accordingly, the claimants are entitled for reassessed compensation of **Rs.16,14,750/-** rounded off at **Rs.16,15,000/-**, which shall carry interest @ 6% per annum from the date of petition till realization.

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



CNR: KAHC010373972024

NC: 2026:KHC:44315
MFA No. 4387 of 2024

ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The Judgment and Award dated 06.04.2018, passed by the I Addl. Senior Civil Judge & Addl. Motor Accident Claims Tribunal-VII, Shivamogga in MVC No.596/2014 is modified and the compensation is reassessed.
- (iii) The Claimants are entitled for reassessed compensation of **Rs.16,15,000/-** with interest @ 6% per annum from the date of petition till realization.
- (iv) Respondent No.3 - Insurer is directed to deposit the entire reassessed compensation along with accrued interest supra '**primarily**' before the Tribunal within six weeks from the date of receipt of certified copy of this order, '**with a liberty to recover the same from the Insured**'.
to recover the same from the Insured'.
- (v) The apportionment and disbursement is as per the order of the Tribunal.



NC: 2026:KHC:44315
MFA No. 4387 of 2024

CNR: KAHC010373972024

- (vi) The Trial Court Record secured if any, shall
be transmitted forthwith to the concerned
Tribunal.
- (vii) No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

TKN
List No.: 1 Sl No.: 24
ct-vn