



CNR: KAHC010141342018

NC: 2026:KHC:36584-DB
M.F.A. No.7078/2018
C/W M.F.A. No.2/2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH 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.7078/2018 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.2/2021 (MV-D)

IN M.F.A. No.7078/2018:

BETWEEN:

UNITED INDIA INSURANCE COMPANY LTD
KARKALA BRANCH
PB NO. 29, 2ND FLOOR
SUSHILA SANJIV ENCLAVE
NEAR KARNATAKA BANK
MARKET ROAD, KARKAL
REP. BY ITS MANAGER.

...APPELLANT

(BY SRI. A.M. VENKATESH, ADV.,)

AND:

1. T. KUNYYAPPU
S/O LATE MARAKKAR
AGED ABOUT 68 YEARS.
2. SMT. JEMEELA
W/O T. KUNYYAPPU
AGED ABOUT 54 YEARS.

Digitally signed
by RUPA V
Location: HIGH
COURT OF
KARNATAKA



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3. SMT. SHAYIRA BANU
W/O DAVOOD
AGED ABOUT 38 YEARS.
4. KUMARI ZEENATH
AGED ABOUT 35 YEARS
5. KUMARI RAMLATH
AGED ABOUT 34 YEARS.
6. KUMARI BASRIYA
AGED ABOUT 31 YEARS
7. KUMARI SEMEERA
AGED ABOUT 25 YEARS.

RESPONDENT NOS.3 TO 7 ARE
CHILDRENS OF T. KUNYYAPPU
R/AT 2/32, D ARKASU
KERVASHE POST AND VILLAGE
KARKALA TALUK - 574 122.

8. SMT. NAGALAXMI ADYANTHAYA
AGED ABOUT 57 YEARS
W/O JEEVANANDAS ADYANTHAYA
VISHAL MOTORS, BUPASS
PULKERI KARKALA, KASABA VILLAGE
KARKALA TALUK - 574 122.

...RESPONDENTS

(BY SRI. H. PAVANA CHANDRA SHETTY, ADV., FOR R1 TO R7)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO
CALL FOR RECORDS AND TO SET ASIDE THE JUDGMENT AND
AWARD DATED 21.03.2018 PASSED BY THE SENIOR CIVIL
JUDGE AND MACT KARKALA IN MVC NO.927/2017 AND TO
PASS SUCH OTHER ORDER OR ORDERS AS THIS HON'BLE
COURT DEEMS FIT UNDER THE FACTS AND CIRCUMSTANCES
OF THE CASE, INCLUDING THE COSTS, IN THE INTEREST OF
JUSTICE AND EQUITY.



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IN M.F.A. NO.2/2021:

BETWEEN:

1. T. KUNYYAPPU
AGED ABOUT 70 YEARS
S/O LATE MARAKKAR.
2. JEMEELA
AGED ABOUT 57 YEARS
W/O T. KUNYYAPPU.
3. SHAYIRA BANU
AGED ABOUT 40 YEARS
W/O LATE DAVOOD.
4. KUMARI ZEENATH
AGED ABOUT 37 YEARS.
5. KUMARI RAMLATH
AGED ABOUT 36 YEARS.
6. KUMARI BASRIYA
AGED ABOUT 33 YEARS.
7. KUMARI SEMEERA
AGED ABOUT 27 YEARS.

APPELLANT NOS.3 TO 7 ARE
CHILDRENS OF T. KUNYYAPPU
ALL ARE R/AT 2/32, DARKASU
KERVASHE POST AND VILLAGE
KARKALA TALUK-574122.

...APPELLANTS

(BY SRI. H. PAVANA CHANDRA SHETTY, ADV.,)



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AND:

1. NAGALAXMI ADYANTHAYA
AGED ABOUT 60 YEARS
W/O JEEVANDAS ADYANTHAYA
VISHAL MOTORS, BYPASS
PULKERI, KARKALA KASBA VILLAGE
KARKALA KASBA VILLAGE
KARKALA TALUK-574122.
2. THE BRANCH MANAGER
UNITED INDIA INSURANCE CO. LTD.,
KARKALA BRANCH, PB NO.29
2ND FLOOR, SUSHILA SANJIV ENCLACE
NEAR KARNATAKA BANK
MARKET ROAD, KARKALA-574122.

...RESPONDENTS

(BY SRI. A.M. VENKATESH, ADV., FOR R2
R1 SERVICE OF NOTICE IS D/W V/C/O DTD:12.4.2021)

- - -

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 21.03.2018 PASSED BY THE SENIOR CIVIL JUDGE AND AMACT AT KARKALA IN MVC NO.927/2017 TO THE EXTENT OF DISALLOWED CLAIM AND ALLOW THIS APPEAL BY ENHANCING THE COMPENSATION, IN THE INTEREST OF JUSTICE.

THESE APPEALS, 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



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ORAL JUDGMENT

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

M.F.A.No.7078/2018 is filed by the Insurance Company and M.F.A.No.2/2021 is filed by the claimants challenging the judgment and award dated 21.03.2018 passed in M.V.C.No.927/2017 by the Senior Civil Judge and AMACT, Karkala (for short, 'the Tribunal').

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

3. The brief facts leading to filing of these appeals are that on 25.06.2017 at 4.15 p.m., the deceased Abdul Azeez @ Abdul Ashis @ Aseef was driving his Maruthi 800 car bearing registration No.KA-20-M-3465 from Karkala towards Belthangady side in Karnataka State Highway and when the said car reached near Katte of Nallur Village, Karkala Taluk, one Stage Carriage Bus bearing registration No.KA-20-D-7949 came from Belthangady towards



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Karkala side in a rash and negligent manner and dashed against the car driven by the deceased, which resulted in the grievous injuries to the deceased, who later succumbed to those injuries on his way to the Government General Hospital, Karkala. The claimants filed a claim petition before the Tribunal seeking compensation. The Insurance Company entered appearance and filed a written statement denying the petition averments. The Trial Court considered the material on record and proceeded to allow the same by awarding compensation of Rs.19,56,400/- along with interest at the rate of 8% p.a. Being aggrieved, the Insurance company has filed the appeal seeking to scale down the compensation awarded whereas the claimants are in appeal seeking for enhancement of compensation.

4. Sri.A.M.Venkatesh, learned counsel appearing for the Insurance Company submits that the Tribunal has passed the impugned order without considering the



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material on record in its proper perspective. It is submitted that the Tribunal, without any proof of avocation has considered the income of the deceased at Rs.14,000/- p.m. and further added Rs.4,200/- p.m. towards future prospects, which are on the higher side and the same is required to be considered at Rs.9,000/- p.m. along with Rs.3,600/- p.m. towards future prospects. It is further submitted that the interest awarded at 8% p.a. by the Tribunal is also on the higher side and the same is required to be scaled down to 6% p.a. Hence, he seeks to allow the appeal filed by the Insurance Company and seeks to dismiss the appeal filed by the claimants.

5. *Per contra*, Sri.H.Pavana Chandra Shetty, learned counsel for the claimants submits that the Tribunal has erred in considering the income of the deceased at Rs.14,000/- p.m. as the deceased was doing business of buying and selling daily use consumer durable items, gas pipe, gas fitting material and was earning Rs.60,000/-



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p.m., hence, the same is required to be enhanced. It is submitted that the Tribunal has committed an error in deducting 50% towards the personal and living expenses of the deceased as though the deceased was a bachelor, there are a total of 7 dependents, hence, the personal and living expenses of the deceased ought to be deducted at 1/4th. In support of the said contention, he placed reliance on the decision of the Hon'ble Supreme Court in the case of **NEW INDIA ASSURANCE CO. LTD. Vs. GOPALI AND OTHERS¹**. 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 filed by the claimants and dismiss the appeal filed by the Insurance Company.

6. We have heard the arguments of the learned counsel for the Insurance Company, the learned counsel

¹ AIR 2012 SC 3381



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for the claimants and meticulously perused the material available on record including the Tribunal records.

7. The only point that would arise for consideration in these appeals is:

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

8. The parties to the proceedings do not dispute that on 25.06.2017 at 4.15 p.m., the deceased Abdul Azeez @ Abdul Ashis @ Aseef was driving his Maruthi 800 car bearing registration No.KA-20-M-3465 from Karkala towards Belthangady side in Karnataka State Highway and when the said car reached near Katte of Nallur Village, Karkala Taluk, one Stage Carriage Bus bearing registration No.KA-20-D-7949 came from Belthangady towards Karkala side in a rash and negligent manner and dashed against the car driven by the deceased, which resulted in grievous injuries to the deceased, who later succumbed to those injuries on his way to the Government General



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Hospital, Karkala. The claimants filed the claim petition before the Tribunal seeking compensation. The Insurance company entered appearance and filed a written statement denying the petition averments. In order to prove their claim, the claimants examined the claimant No.2 as PW-1 and also got marked Exs.P1 to P27, whereas the respondents neither examined any witness nor marked any documents. The Trial Court considered the material on record and proceeded to allow the same by awarding compensation of Rs.19,56,400/- along with interest at the rate of 8% p.a.

9. The learned counsel for the Insurance Company contends that the income of the deceased has been considered at Rs.14,000/- p.m. without any basis and the same is required to be scaled down. It is to be noticed that the Tribunal, while considering the material on record has placed reliance on the oral evidence of PW-1 and Ex.P18 and considering the material on record, has rightly



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come to the conclusion that the income of the deceased is to be considered at Rs.14,000/- p.m. which does not call for any interference. Insofar as the contention of the learned counsel for the claimants that the income ought to be considered at Rs.60,000/- p.m. by considering the avocation of the deceased, the same is also required to be rejected as the said contention is without any supporting evidence or material.

10. The learned counsel for the claimants contends that the deduction towards the personal and living expenses of the deceased is required to be considered at 1/4th instead of 50% in view of the law laid down by the Hon'ble Supreme Court in the case of **NEW INDIA ASSURANCE CO. LTD.** referred *supra*. In order to appreciate the said contention, it would be useful to refer to the decision of the Hon'ble Supreme Court in the case of **SARLA VERMA AND OTHERS Vs DELHI TRANSPORT**



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CORPORATION AND ANOTHER², which was subsequently followed in the decision of the Hon'ble Supreme Court in the case of **NATIONAL INSURANCE COMPANY LTD. Vs. PRANAY SETHI AND OTHERS³**.

The relevant paragraph of the decision in the **SARLA VERMA AND OTHERS** referred *supra* is extracted herein below for reference:

"31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be

² 2009 (6) SCC 121

³ 2017 (16) SCC 680



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independent and earning, or married, or be dependent on the father.

32. *Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.*

(emphasis supplied)

11. The aforesaid enunciation of law makes it clear that though the norm of deduction of personal and living expenses for bachelors is 50%, an exception may be made in instances where the family of the deceased-bachelor is large and there are many dependants and the deduction may be restricted to 1/3rd of the total income. In the instant case, there are total of 7 claimants, who are



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financially dependent on the bachelor deceased. The claimants are parents and the siblings of the deceased. Hence, it would be appropriate to deduct 1/3rd of the total income towards personal and living expenses of the deceased. It is required to be noticed that when the dependents are more in number, the earning member would have a tendency of spending lesser amount towards his personal expenses. In the case on hand, the claimants are aged parents and dependent siblings, hence, the deduction towards the personal and living expenses of the deceased bachelor is required to be considered at 1/3rd keeping in mind the position of law referred *supra*.

12. Furthermore, in view of the law laid down by the Hon'ble Supreme Court in the case of **PRANAY SETHI** referred *supra*, we are of the view that each of the claimants are entitled to compensation under the head of loss of consortium at Rs.48,000/-, which includes 20% escalation. The compensation awarded under the head of



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loss of estate as well as the head of transportation and funeral expenses is also modified to Rs.18,000/- each including 20% escalation.

13. Hence, the claimants shall be entitled to compensation as follows:

HEADS	AMOUNT (in Rs.)
Loss of dependency [(14,000 + 40%) x 12 x 17 - 1/3]	26,65,600
Loss of consortium (48,000 x 7)	3,36,000
Transportation of dead body and funeral expenses	18,000
Loss of estate	18,000
Total	30,37,600

Thus, the appellants-claimants shall be entitled to total compensation of **Rs.30,37,600/-** as against Rs.19,56,400/- awarded by the Tribunal.

14. Insofar as the interest on the enhanced compensation is concerned, the same is required to be enhanced to 9% p.a. in view of the decision of this Court



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

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

ORDER

- a) M.F.A.No.7078/2018 is ***dismissed*** and M.F.A.No.02/2021 is ***allowed-in-part.***
- b) The impugned judgment and award dated 21.03.2018 passed in M.V.C.No.927/2017 by the Senior Civil Judge and AMACT, Karkala, is modified to an extent that the appellants-claimants would be entitled to compensation of **Rs.30,37,600/-** as against Rs.19,56,400/- awarded by the Tribunal.
- c) The enhanced compensation amount shall carry interest at the rate of 9% p.a. from the date of petition till realisation.

⁴ MFA.No.10401/2018 and connected matter dtd 09.06.2026



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- d) The Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of certified copy of this judgment.
- e) The rest of the judgment and award of the Tribunal with respect to apportionment, deposit and release shall remain unaltered.
- f) Registry shall transmit the records to the Tribunal forthwith.

Draw the modified award accordingly.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

RV
List No.: 1 Sl No.: 6