



CNR: KAHC010377962019

NC: 2026:KHC:53403
MFA No. 4585 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.4585 OF 2019(MV-D)

BETWEEN:

1. SMT.SUGANDHI
W/O LATE VISHWANATHA
AGED ABOUT 51 YEARS
2. KUMARI SHWETHA
D/O LATE VISHWANATHA
AGED ABOUT 26 YEARS
3. KUMARI ARPITHA
D/O LATE VISHWANATHA
AGED ABOUT 21 YEARS

ALL ARE RESIDING AT
NADAKA SULTYAME
KODLAMOGARU POST, PATHUR
KASARAGODU DISTRICT
KERALA - 671 122.

...APPELLANTS

(BY Ms.POOJA PARVATHI U., ADVOCATE FOR
SRI RAVISHANKAR SHASTRY G., ADVOCATE)

AND:

1. K.ABBAS
S/O LATE ABDUL KHADAR
AGED ABOUT 36 YEARS
R/A D.NO.2-143

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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PODDOLU GUDDE HOUSE
AMTOOR VILLAGE
KARINGANA POST
BANTWAL TALUK
DK DISTRICT - 574 222.

2. NATIONAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE AT
OPP: CENTRAL MARKET ROAD
RASIK CHAMBERS
MANGALORE,
DK DISTRICT - 575 001
REPRESENTED BY ITS
DIVISIONAL MANAGER.

...RESPONDENTS

(BY SMT.MANJULA N. TEJASWI, ADVOCATE FOR R2;
V/C/O DATED 07.11.2023 NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 12/03/2019, PASSED IN MVC
NO.814/2018, ON THE FILE OF THE VI ADDITIONAL DISTRICT
& SESSIONS JUDGE AND MACT, D.K. MANGALURU, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 12.03.2019 passed
by VI Additional District and Sessions Judge and MACT, DK,
Mangaluru, in MVC no.814/2018, this appeal is filed.



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2. Miss Pooja Parvati, learned counsel appearing for Sri Ravishankar Shastry G, advocate for appellant submitted that appeal was by claimant for enhancement of compensation.

3. Brief facts leading to this appeal as per claimant are that at 12.15 p.m. on 05.12.2017 when Vasanti, sister of claimant no.1 was standing by side of Manjanady - Mudipu road, rider of motorcycle no.KA-19-ER-2742 rode it in rash and negligent manner it dashed against her. In accident she sustained greivous injuries and despite treatment at Justice KS Hegde Charitable Hospital, Mangaluru, she did not recover and succumbed to same. Stating that deceased was a widow and was residing with claimants and they were dependent on her and as such lost dependency claim petition was filed by sister and nieces of deceased under Section 166 of MV Act against owner and insurer of motorcycle.

4. On contest claim petition was opposed on all grounds including question of dependency of claimants. Based on pleadings, Tribunal framed issues and recorded evidence.



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5. To establish contentions, claimant along with another deposed as PW1 and PW2 and got marked Exs.P1 to P19. Respondents did not lead any evidence.

6. On consideration, Tribunal held that accident had occurred due to rash and negligent riding of injured motorcycle and insurer was liable to pay compensation of Rs.88,400/-. Dissatisfied with same, appeal was filed. It was submitted that occurrence of accident leading to death of Vasanti due to negligent riding of insured vehicle and claimants being entitled for compensation from insurer were not in dispute. On ground that deceased was sister of claimant no.1 and claimants were not dependent on deceased and by referring to decision of this Court in **Chamansab v Parappa and Ors.** reported in **2008 ACJ 321** and **Manjuri Bera v Oriental Insurance Company Ltd., and Anr.** reported in **(2007) 10 SCC 643**, Tribunal held that claimants as legal heirs were entitled to statutory amount of Rs.50,000/- apart from Rs.8,400/- spent towards medical expenses and Rs.15,000/- each towards funeral expenses and loss of estate, i.e., Rs.88,400/-. It was submitted that same would not be justified. Hon'ble High Court of Kerala in case of



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New India Assurance Co. Ltd. V. Devaki and Ors.

[2026:KER:38133] had assessed compensation in favour of sibling of deceased by deducting 50% of income of deceased and therefore compensation was required to be enhanced. On said ground sought for allowing appeal.

7. It was submitted that to establish dependency and common residence claimant had produced ration card as Ex.P11, Aadhar card, EPF cards and bank passbook of deceased showing her place of residence as same as that of claimants. On above ground sought for allowing appeal.

8. On other hand Smt. Manjula N Tejaswi, learned counsel for respondent no.2 insurer opposed appeal. It was submitted that Hon'ble Supreme Court in case of **Sarla Verma and Ors. v. Delhi Transport Corporation and Anr.** reported in **(2009) 6 SCC 121** and **New India Assurance Co. Ltd., v. Anand Pal [Diary no.10672/2022]** had held siblings were not entitled for compensation. It was alternatively submitted that even in case of common residence, claimants were required to substantiate dependency on income of deceased. It was submitted that in Ex.P1-complaint, complainant-claimant



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no.1 had specifically stated that she was herself working as housekeeper in Justice KS Hegde Charitable Hostel. Therefore, claimants could not be held to be dependent on income of deceased and there was no merit in appeal and sought for dismissal.

9. Heard learned counsel, perused impugned judgment and award and record.

10. From above and since only claimants are in appeal, point that would arise for consideration is:

"Whether claimant is entitled for enhancement of compensation?"

11. Same is answered partly in affirmative for following reasons:

There is no dispute about occurrence of accident leading to death of sister of claimant no.1. In order to establish that deceased was residing with claimants, they produced ration card, Aadhar card as well as EPF registration card as Exs.P11 to 14. It was stated that deceased was earlier working as a beedi roller. But since four years prior to accident, was doing beedi rolling at home and earning income. However, in absence of



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any specific material to substantiate income, income has to be assessed notionally at Rs.11,000/- corresponding to year 2017.

12. Indeed as pointed out by learned counsel for appellant, claimants established that they were residing with deceased. Next question would be whether they were dependent on income of deceased. Claimants had pleaded that after widowhood of deceased, she had no other house and was residing with them. Even if claimants were not Class-1 heirs of deceased indisputably they are Class-II heirs. Division Bench of this Court in case of **A Manavalagan v A Krishnamurthy and Ors.** reported in **ILR 2004 KAR 3268** had held that in case of claims by dependent siblings, on specific evidence about common residence and dependency, they could claim compensation under head of loss of estate at 15% of compensation awardable in case of death. Claimant was 56 years of age at time of death. As per **National Insurance Co. Ltd., v. Pranay Sethi** reported in **(2017) 16 SCC 680**, future prospects of 10% has to be added and multiplier applicable would be '9', which would yield a sum of Rs.13,06,800/-. As



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held, claimant would be entitled to 15% of same, which would be Rs.1,96,020.

13. Apart from above claimant no.1 would be entitled to Rs.40,000/- towards consortium and Rs.15,000/- towards funeral expenses. As held by Hon'ble Supreme Court in **Pranay Sethi's** case (supra) claimant no.1 would be entitled for addition of 10% every 3 years on compensation under conventional heads i.e., 20% since more than 6 years have lapsed. Same would be Rs.11,000/-. Thus, total compensation would be Rs.2,62,020/-.

14. Consequently, appeal is ***allowed in part***. Claimant no.1 is entitled for total compensation of Rs.2,62,020/-. Insurer is directed to deposit same and on deposit entire compensation with interest at 6% p.a. is ordered to be released in favour of claimant no.1.

Sd/-
(RAVI V HOSMANI)
JUDGE

YKL
List No.: 1 Sl No.: 56