



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.5634/2015 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.8572/2015 (MV-D)

IN M.F.A No.5634/2015:

BETWEEN:

M/S. RELIANCE GENERAL INSURANCE
COMPANY LTD,
REGIONAL OFFICE, NO.28, 5TH FLOOR
EAST WING, CENTENARY BUILDING
M.G. ROAD, BANGALORE-560 001.

...APPELLANT

Digitally signed
by RUPA V

Location: HIGH
COURT OF
KARNATAKA

(BY SRI. B. PRADEEP, ADV.,)

AND:

1. S. SUNILA KUMARI
W/O LATE DR. PRAVEEN KUMAR .S
NOW AGED ABOUT 44 YEARS.
2. MASTER S. SATHWIK ABRAHAM
S/O LATE DR. PRAVEEN KUMAR S
NOW AGED ABOUT 11 YEARS.
3. SRI. S. BHASKAR RAO
S/O LATE VENKATASWAMY SILLAY
NOW AGED ABOUT 68 YEARS.



4. SMT. SHANTHA B. RAO
W/O S. BHASKAR RAO
NOW AGED ABOUT 63 YEARS.

ALL ARE RESIDING AT NO.21
5TH "C" CROSS, 16TH MAIN
MCHS COLONY, BTM 2ND STAGE
BANGALORE-560076.

SINCE 2ND PETITIONER IS MINOR
REP. BY HIS MOTHER, RESPONDENT NO.1.

5. SRI. RAMESH .R
S/O RAMASWAMY
NO.209, A.S.P. PUDUR MAIN ROAD
NAMAKKAL-637001
TAMIL NADU STATE.

6. SRI. KANGATHARAN .K
S/O KUPPANNA
NO.46A, GANESHAPURAM
MADHA KOVIL STREET
NAMAKKAL DISTRICT-637001
TAMILNADU.

...RESPONDENTS

(BY SRI. K.M. SOMASHEKARA, ADV., FOR R1 & R2
R3 – S. BHASKAR RAO – SD
R4 – SHANTHA B. RAO - SD
R5 – RAMESH R – SD V/O/DTD:15.11.2022
NOTICE AGAINST R6 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO
CALL FOR RECORDS AND SET ASIDE THE ORDER DATED
04.06.2015 PASSED IN MVC NO.5743/2013 BY THE MOTOR
ACCIDENT CLAIMS TRIBUNAL AT BANGALORE (SCCH-08)
AWARDING COMPENSATION TO THE
PETITIONERS/RESPONDENTS IN A SUM OF RS.76,91,072/-
WITH INTEREST AT 8% BY ALLOWING THE ABOVE APPEAL, IN
THE INTEREST OF JUSTICE AND EQUITY.



IN M.F.A. NO.8572/2015:

BETWEEN:

1. SMT. S. SUNILA KUMARI
W/O LATE DR. PRAVEEN KUMAR .S
AGED ABOUT 44 YEARS
R/AT NO.21, 5TH C CROSS
16TH MAIN, MCHS COLONY
BTM 2ND STAGE, BENGALURU-560 076.
2. MASTER S. SATHWIK ABRAHAM
S/O LATE DR. PRAVEEN KUMAR S
AGED ABOUT 8 YEARS.

SINCE 2ND APPELLANT IS MINOR
REP. BY HIS MOTHER I.E.,
THE APPELLANT NO.1.

BOTH ARE R/AT NO.21, 5TH C CROSS
16TH MAIN, MCHS COLONY
BTM 2ND STAGE, BENGALURU-560 076.

...APPELLANTS

(BY SRI. K.M. SOMASHEKARA, ADV.,)

AND:

1. RELIANCE GENERAL INSURANCE CO. LTD
REGIONAL OFFICE, NO.28, 5TH CROSS
CENTENARY BUILDING, M.G. ROAD
BENGALURU-560 001
REP. BY ITS GENERAL MANAGER.
2. SRI. RAMESH .R
S/O SRI. RAMASWAMY, MAJOR
NO.209, A.S.P. PUDUR MAIN ROAD
NAMAKAL
TAMIL NADU STATE-637 001.



3. SRI. KANGATHARAN .K
S/O SRI KUPPANNA, MAJOR
NO.46 A, GANESHAPURAM
MADHA KOVIL STREET
NAMAKKAL DISTRICT
TAMIL NADU STATE -637 001.

4. SRI. S. BHASKAR RAO
S/O LATE VENKATASWAMY SILLAY
AGED ABOUT 67 YEARS.

RESPONDENT NO.5 AND APPELLANT
NOS.1 & 2 ARE LR'S OF DECEASED
REPENDENT NO.4.

[AMENDED AS PER ORDER DTD:15.11.2022]

5. SMT. SHANTHA B. RAO
W/O SRI. S. BHASKAR RAO
AGED ABOUT 62 YEARS.

RESPONDENT NOS.4 & 5 ARE
RESIDING AT NO.21
5TH C CROSS, 16TH MAIN
MCHS COLONY, BTM 2ND STAGE
BENGALURU-560 076.

...RESPONDENTS

(BY SRI. B. PRADEEP, ADV., FOR R1
V/C/O DTD:15.11.2022, R5, A1 & A2 ARE TREATED
AS LR'S OF DECEASED R4
R5 SERVED
V/O/DTD:15.11.2022, NOTICE AGAINST R2 & R3 ARE D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING
TO CALL FOR THE RECORDS IN MVC NO.5743/2014 ON
THE FILE OF THE XII ADDITIONAL SMALL CAUSES JUDGE &
MACT, BENGALURU (SCCH-8). MODIFY THE IMPUGNED
JUDGMENT AND AWARD PASSED BY THE XII ADDITIONAL
SMALL CAUSES JUDGE & MACT, BENGALURU (SCCH-8),
DATED 04.06.2015 IN MVC NO.5743/2014,



NC: 2026:KHC:35430-DB
M.F.A. No.5634/2015
C/W M.F.A. No.8572/2015

CONSEQUENTLY ENHANCING THE COMPENSATION AT RS.20,00,000/- TOGETHER WITH INTEREST AT THE RATE OF 12% PER ANNUM OVER AND ABOVE THE COMPENSATION ALREADY AWARDED, IN THE INTEREST OF JUSTICE AND EQUITY & ETC.

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

ORAL JUDGMENT

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

MFA.No.5634/2015 is by the Insurance Company and MFA.No.8572/2015 is by the claimants challenging the judgment and award dated 04.06.2015 passed in MVC.No.5743/2013 by the XII Additional Small Causes Judge and Member, MACT Bengaluru (SCCH-8) (for short 'the Tribunal').

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

3. The brief facts leading to the filing of these appeals are that, Sri.Praveen Kumar S., was travelling in a



Hyundai i20 car bearing Reg.No.KA-51-MC-8365, by following traffic rules and proceeding on the extreme left side of Krishnagiri-Hosur NH-7. When he reached near Medupalli bus stop, the driver of the lorry bearing Reg.No.TN-28-AE-8348, which was moving ahead of the car, suddenly applied brake without giving any indicator or signal. As a result, the car, which was behind the lorry, dashed to the lorry, causing grievous injuries to Sri.Praveen Kumar S., and he succumbed to those injuries. It is averred that the injured was shifted to the Govt. Hospital, Hosur, Krishnagiri District, Tamil Nadu, where he was declared dead. It is further averred that the deceased was hale and healthy, working as an Assistant Professor in the Department of Anesthesiology at Sapthagiri Institute of Medical Sciences and was earning Rs.50,070/- per month, and due to untimely death, the claimants suffered financially as well as emotionally. Hence, they filed the claim petition seeking compensation.



4. The respondent/Insurance Company entered appearance and filed a written statement denying the claim averments. The Tribunal formulated the points for consideration and recorded the evidence of the parties. The claimants examined PW1 to PW3 and got marked Exs.P1 to P33. The respondent examined RW1 and got marked Ex.R1. The Tribunal, on appreciation of the oral and documentary evidence on record partly allowed the claim petition by awarding a total compensation of Rs.76,91,072/- with interest @ 8% from the date of claim petition till its realization. Being aggrieved, both the Insurance Company and the claimants are in these appeals.

5. Sri.B.Pradeep, learned counsel appearing for the appellant/Insurance Company in MFA.No.5634/2015 submits that the accident occurred on 17.05.2013 at about 08.45 a.m., when the driver of the insured lorry was proceeding on the left side of the road on the national highway, and just behind the said lorry, the deceased was



driving the car without maintaining any distance and when the lorry slowed down, the driver of the car dashed the lorry insured with the appellant from the hind side. It is submitted that Ex.P2, the spot sketch, clearly indicates that the accident occurred due to the negligence of the driver of the car as well. It is further submitted that the driver of the car required to maintain a safe distance from the vehicle ahead, and when the lorry slowed down, he would have overtook the lorry from the right side and crossed the lorry. Instead, as the car was being driven very close behind the lorry, it dashed to the lorry resulting in accident, which clearly established that there was contributory negligence on the part of the deceased as well. It is also submitted that the finding of the Tribunal with regard to the negligence of the driver of the lorry to the entire extent is required to be modified by recording the finding that the deceased also contributed to the accident to the extent of 50%. It is contended that the interest awarded by the Tribunal is on the higher side. In



support of his contentions, he placed reliance on the decision of the Hon'ble Supreme Court in the case of ***Nishan Singh and Others v. Oriental Insurance Co. Ltd. Through Regional Manager and Others***¹. Accordingly, he seeks to allow the appeal filed by the Insurance Company by dismissing the appeal of the claimants.

6. Sri.K.M.Somashekar, learned counsel appearing for the appellants in MFA.No.8572/2015 supports the impugned judgment and award insofar as it relates to the finding on negligence and liability. It is submitted that the jurisdictional police, after investigation, filed the charge sheet against the driver of the lorry insured with the appellant - Insurance Company and no evidence was adduced by the Insurance Company to disbelieve the same. Therefore, the finding of the Tribunal with regard to negligence and liability is correct. He seeks to sustain the same. It is further submitted that the Tribunal has

¹ AIR 2018 SC 2118



committed a grave error in assessing the income of the deceased on the lower side and the claimants have produced the income tax returns of the deceased and the said documents should be the basis to assess the income and re-determine the compensation. It is also submitted that the deduction by the Tribunal towards the personal and living expenses of the deceased at one-third is also incorrect and the same should be one-fourth as there are four claimants. Accordingly, he seeks to allow the appeal filed by the claimants by enhancing the compensation appropriately by dismissing the appeal of the Insurance Company.

7. We have heard the arguments of the learned counsel for the appellant/Insurance Company, the learned counsel for the appellants/claimants and meticulously perused the material available on record including the Tribunal records.



8. The only point that arises for consideration in these appeals is :

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

9. The aforementioned point is answered in affirmative for the following reasons:

a. The wife, children and parents of the deceased, Sri.Praveen Kumar S., filed a claim petition under section 166 of the Motor Vehicle Act, 1988 seeking compensation. It is averred that the deceased was proceeding in a car on NH-7 behind the lorry bearing Reg.No.TN-28-AE-8348. When the driver of the lorry suddenly applied the brake without giving any indicator or signal, leaving the driver of the car not having enough time to avoid the lorry by overtaking the same, as a result, the car driven by the deceased Sri.Praven Kumar S., dashed the lorry, which resulted in grievous injuries and he succumbed to those injuries. The material on record indicates that the accident occurred at about 8:45 am on 17.05.2013. To substantiate



the aspect of negligence, claimant Nos.1 and 3 have been examined as PW1 and PW2 and got marked the charge sheet materials as Exs.P1 to P20(a). Admittedly, the jurisdictional police registered the crime against the driver of the lorry and after investigation, filed the charge sheet against him for negligence.

b. It is required to be noticed that in order to prove the aspect of negligence of the driver of the lorry, the claimants have not examined any independent witness. The Tribunal had fully relied on the charge sheet material and recorded its finding that the driver of the lorry was negligent and saddled the liability on the insurer of the lorry. The appellant/Insurance Company has denied the negligence of the driver of the lorry by contending that the sketch does not indicate any tyre skid marks to substantiate the contention of the claimants that the driver of the lorry applied the brake suddenly. However, a perusal of the sketch on record indicates that there are no tyre marks shown in the sketch at Ex.P2 and mahazar at



P3(a). Further, the sketch on record indicates that the accident occurred on the left side of the road and that there was sufficient space available towards the right side of the road, through which the car could have passed. The aforesaid aspects clearly indicate that the deceased was driving his car just behind the lorry without properly maintaining the required distance and when the lorry slowed down, the deceased could not reduce the speed which resulted in the deceased dashing his car to the lorry which was moving ahead of him.

c. The Hon'ble Supreme Court in the case of **Nishanth Singh** referred *supra* has considered the aspect of maintaining sufficient distance between two vehicles. In the case on hand, the accident occurred as a result of the deceased dashing the lorry from the hind side which was ahead of him. The said aspect makes it clear that the deceased had failed to maintain the requisite safe distance between the two vehicles, thereby contributing to the occurrence of the accident and the said aspect cannot be



ignored while determining negligence. Hence, on reappraisal of the oral and documentary evidence available on record and in the absence of evidence of eyewitness to support the case of claimants with regard to negligence, we are of the view that the deceased has also been negligent to certain extent and contributed to the accident. Considering the aforesaid aspect and evidence on record, we are of the view that it would be appropriate to apportion the liability between the driver of the offending lorry and the deceased at the ratio of 80:20 respectively. Accordingly, the finding of the Tribunal on negligence is modified by holding that the driver of the offending lorry was negligent to the extent of 80%, while the deceased was negligent to the extent of 20%.

10. Insofar as the quantum of the compensation is concerned, the Tribunal assessed the monthly income of the deceased at Rs.49,870/- added 30% under the head of loss of future prospects by deducting $\frac{1}{3}^{\text{rd}}$ of the income towards his personal and living expenses. However,



Ex.P21, the salary certificate placed on record, indicates that the deceased was drawing Rs.50,070/- per month. It is required to be noticed that out of the aforesaid income, the income tax and professional tax are required to be deducted. The accident occurred in the year 2013, and the applicable income tax slabs for the relevant assessment year were: (i) no tax on income up to Rs.2,00,000/-; (ii) 10% on income between Rs.2,00,000/- and Rs.5,00,000/- ; and (iii) Rs.30,000/- plus 20% on the income exceeding Rs.5,00,000/- up to Rs.10,00,000/-. Applying the said tax structure, the annual income tax payable by the deceased works out to Rs.50,000/-, while the professional tax payable is Rs.2,400/- per annum. Hence, total deductions from annual income Rs.6,00,840/- would be Rs.52,400/- and after deduction, the income would be Rs.5,48,440/-. As there are four claimants, the appropriate deduction towards the personal and living expenses of the deceased would be $\frac{1}{4}^{\text{th}}$ of his income as against $\frac{1}{3}^{\text{rd}}$ considered by the Tribunal. The claimants are also entitled to an



addition of 30% of the income under the head of future prospects of the deceased, as rightly claimed. As the deceased was aged about 43 years, the appropriate multiplier is 14, which is rightly assessed by the Tribunal. Accordingly, the loss of dependency is reassessed as under:

$$\text{Rs.}5,48,440 + 30\% (1,64,532/-) = \text{Rs.}7,12,972/-$$

$$\text{Rs.}7,12,972/- \times 14 - 1/4 = \textbf{Rs.74,86,206/-}$$

11. The claimants are entitled to consortium at rate of Rs.48,000/- each, Rs.18,000/- towards the loss of estate and Rs.18,000/- and towards the transportation of dead body & funeral expenses which includes 20% escalation.

12. The Tribunal, considering the various aspects, awarded interest at 8% which requires no interference. We have taken note of the fact that the accident occurred in 2013, the claim petition was disposed of in 2015, and the present appeal is being disposed of in 2026, hence it



would be appropriate to retain the interest as awarded by the Tribunal.

13. Thus, the appellants/claimants are entitled to modified compensation as under:

HEADS	AMOUNT (in Rs.)
Loss of dependency	74,86,206/-
Loss of consortium	1,92,000/-
Transportation of dead body & funeral expenses	18,000/-
Loss of estate	18,000/-
Total	77,14,206/-
Minus 20% contributory negligence	15,42,841/-
Total	61,71,365/-

Thus, the appellants-claimants shall be entitled to a total compensation of **Rs.61,71,365/- (Rs.77,14,206 – Rs.15,42,841)** as against Rs.76,91,072/- awarded by the Tribunal.

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

ORDER

a) Appeals are ***allowed in part.***



- b) The impugned judgment and award dated 04.06.2015 passed in MVC.No.5743/2013 by the Tribunal is modified to an extent that the appellants-claimants would be entitled to 80% of the total compensation of **Rs.77,14,206/-** which is **Rs.61,71,365/-** with interest at the rate of 8% as against Rs.76,91,072/- awarded by the Tribunal.
- c) The Insurance Company shall deposit the compensation amount with the accrued interest, before the Tribunal within a period of six weeks from the date of receipt of the certified copy of this judgment, after deducting the amount, if any, already deposited. If any excess amount has been deposited,



the Insurance Company will be entitled to withdraw the same.

- d) The judgment and award of the Tribunal with respect to apportionment, deposit and release shall remain unaltered.
- e) Registry shall transmit the records to the Tribunal forthwith along with the amount in deposit.
- f) Draw modified award accordingly.

Sd/-
(JAYANT BANERJI)
JUDGE

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE