



CNR: KAHC010383902023

NC: 2026:KHC:48193  
MFA No. 5151 of 2023

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 3<sup>RD</sup> DAY OF SEPTEMBER, 2026**

**BEFORE**

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

**MISCELLANEOUS FIRST APPEAL NO. 5151 OF 2023 (MV-D)**

**BETWEEN:**

1. KUM. SANJANA  
D/O. BASAYYA MATHPATI,  
AGED ABOUT 22 YEARS.
2. MASTER. SHASHANK  
S/O. BASAYYA MATHPATI,  
AGED ABOUT 14 YEARS,

SINCE APPELLANT NO.2 IS MINOR,  
HENCE APPELLANT NO.1 IS REPRESENTED BY  
NATURAL GUARDIAN (HER SISTER)  
i.e., APPELLANT NO. 1.

BOTH ARE RESIDING AT:  
BANASHANKARI COLONY,  
JAYANAGARA,  
GULBARAGA-585102.

...APPELLANTS

(BY SRI.TEJAS N., ADVOCATE)

**AND:**

1. SRI. BASAYYA M. MATHAPATHI  
S/O. MALLAYYA MATHAPATHI,  
AGE MAJOR,  
R/AT NO. 3RD CROSS, NEAR HP GAS,

THEJAS  
KUMAR  
N

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signed by  
THEJAS  
KUMAR N  
Date:  
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VIVEKANADA NAGAR,  
RAMANAGARA-562159.

(OWNER OF BIKE BEARING  
REG NO. KA-42-Y-8226)

2. THE MANAGER  
TATA AIG GENERAL INSURANCE CO. LTD.,  
2ND FLOOR, J.P. AND DEVI JAMBUKESHAWARI  
ARCADE,  
NO.69, MILLER'S ROAD,  
BAGALORE-560052.

(POL .NO. 064001/ABIL/0187441420/000000/00  
VALID FROM 24-09-2018 TO 23-09-2019)

...RESPONDENTS  
(BY SRI.MURALIDHAR NEGAVAR, ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE  
JUDGMENT AND AWARD DATED 25.01.2023 PASSED IN MVC  
NO.1345/2019 ON THE FILE OF THE XXIV ADDITIONAL SCJ  
AND ACMM, MEMBER, MACT, BENGALRU SCCH-26 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 T.M.NADAF



### **ORAL JUDGMENT**

This appeal by the claimant, seeking enhancement of compensation, assailing the Judgment and Award dated 25.01.2023 in MVC.No.1345/2019 passed by the Court of XXIV Additional Small Causes Judge and the Motor Accident Claims Tribunal and ACMM (SCCH-26) Bengaluru<sup>1</sup>.

2. The parties are referred to as per their ranking before the Tribunal.

3. Facts germane to file the present appeal are as under:

3.1 In an unfortunate accident occurred on 25.11.2018, late Smt.Shailaja, a pillion on the motorcycle bearing registration No.KA-42-Y-8226, succumbed to the injuries sustained due to the rash and negligent riding of bike, bearing registration No.KA-42-Y-8226 by its rider.

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<sup>1</sup> the Tribunal, for short



Immediately after the accident she was shifted to BGS Hospital, Kengeri and later shifted to SSNMC Hospital, Rajarajeshwari Nagar, but the deceased succumbed to injuries on 27.11.2008, while undergoing treatment. The claimants have spent more than Rs.10,00,000/- towards treatment of the deceased and funeral and other ceremonies.

3.2 As per the evidence on record, the deceased was earning Rs.80,000/- per month and was contributing the entire amount towards the maintenance of her family. Accordingly, the claimants have filed claim petition seeking compensation of Rs.2 Crores on account of the death of late Smt.Shailaja, mother of the claimants.

3.3 Upon receipt of notice, the Insurance Company appeared before the Tribunal and filed their statement of objections, contending that any liability to pay compensation would be subject to the terms and conditions of the Insurance policy. The Insurance



Company also raised contentions with regard to the existence of a valid and effective driving license and the negligence attributable to the rider, and accordingly sought for dismissal of the claim petition.

3.4 The Tribunal, upon consideration of the evidence placed on record, assessed the monthly income of the deceased at Rs.80,000/- per month. After deducting the income tax, the net monthly income was taken at Rs.75,319/-. Thereafter, 30% was added towards future prospectus, and the Tribunal awarded a total compensation of Rs.1,05,11,618/- and fastened the entire liability on respondent No.2/Insurer.

3.5 The Insurer, having admitted its liability, deposited the compensation awarded in terms of order passed by the Tribunal. The claimants being aggrieved by inadequate compensation are before this Court in this appeal.



3.6 The claimants filed IA.No.2/2023 under Order XLI Rule 27 read with Section 151 of Code of Civil Procedure, 1908, seeking to produce additional evidence, namely, the letter and bank statements issued by the concerned college wherein the deceased was working as a Lecturer. According to Document No.1 produced along with the said application, the monthly salary of the deceased had been revised to Rs.1,06,450/- with effect from 01.09.2018, i.e., prior to the date of the accident.

3.7 In view of the revision in the salary of the deceased, the claimants seek to consider the revised salary to award appropriate compensation under the concept of just compensation. This application is opposed by the respondent-Insurer by filing objections. The respondent-Insurer contended that they had approached the concerned College for verification of the documents produced by the claimants, however, the College had refused to confirm the authenticity of the same and further the Insurer contended that the claimants have not



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produced any supporting documents, such as Bank statements for having received the said amount, to corroborate the same and the validity of the document is under suspicion and in the event the application is considered, it requires a remand for the claimants to prove the same before the Tribunal and affording an opportunity to the respondent-Insurer to test the veracity of the same in the cross-examination and sought to dismiss the appeal.

4. Heard Sri.Tejas.N, learned counsel appearing for the appellant and Sri.Muralidhar Negavar, learned counsel for respondent No.2. Vide order dated 02.08.2023, Notice to respondent No.1 is dispensed with.

5. Learned counsel appearing for the claimant relied on judgment of the Hon'ble Supreme Court in Civil Appeal No. 10755-10758/2026 disposed on 19.08.2026 to contend that the applications for production of additional evidence which is very much required to adjudicate upon



the issues between the party. The Hon'ble Supreme Court  
in paragraph No.24 as held as under:

*"24. In our view, the High Court ought to have allowed the additional evidence, at least for the limited purpose of determining the just and fair compensation to which the Claimant is entitled. Under Order XLI Rule 27(1)(b) of the Code of Civil Procedure, 1908, an Appellate Court is empowered to take additional evidence on record if it requires the documents "to enable it to pronounce judgment" or for "any other substantial cause." Further, the MV Act is a beneficial, welfare-oriented legislation designed to protect accident victims and their families. Section 169 of the MV Act states that Tribunals may follow a summary procedure as they may deem fit. The documents, such as the Bank of Baroda current account inquiry record and commercial software invoices, are relevant to determine the statutory mandate of "just compensation" under Section 168 of the MV Act."*

6. The application is filed seeking to produce the documents which were issued subsequent to the judgment i.e., on 26.06.2023, wherein the salary of the deceased revised in view of revised UGC scale for the year 2016. The said information was furnished on 26.06.2023 i.e., subsequent to passing of the judgment and award by the Tribunal.



7. In that view of the matter, the case is made out within the ingredients contained under Order XLI Rule 27 of CPC. In that view of matter, the application is allowed and documents are taken on record. However, in view of the objection raised by the Insurance Company, the matter is remanded before the Tribunal only to consider the veracity or authenticity of the document now taken on record by providing opportunity to both the parties to lead evidence in support of their contentions. Accordingly, the appeal is ***allowed-in-part***. The matter stands remanded to the Tribunal only to consider the revised salary of the deceased as on 01.09.2018, after affording opportunity to both the parties to lead evidence and produce documents in support of the said document. Since both the parties have appeared before this Court, they shall appear before the Tribunal on 30.09.2026, without expecting any fresh notice from the Tribunal.

8. The Tribunal shall dispose of the matter within 3 months from the date of first appearance i.e.,



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30.09.2026, only on the claim of revised pay scale and escalation of 10% on conventional head as laid down by the Hon'ble Supreme Court in the case of ***NATIONAL INSURANCE CO. LTD., Vs. PRANAY SETHI (2017) 16 SCC 680.***

9. Both the parties shall co-operate with the trial without seeking any unnecessary adjournments.

10. The Tribunal shall pass reasonable speaking order while granting adjournment.

11. The trial Court records received, along with documents produced with IA for additional documents, shall be transmitted to the concerned Tribunal, before the date of appearance fixed before the Tribunal without causing any delay.

**Sd/-  
(T.M.NADAF)  
JUDGE**

PK  
List No.: 1 Sl No.: 30