



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.6066 OF 2021 (MV-D)

BETWEEN:

1. NASREEN TAJ
W/O LATE AKBAR AHAMED,
AGED ABOUT 54 YEARS,
2. AZAM PASHA
S/O LATE AKBAR AHAMED,
AGED ABOUT 29 YEARS,
3. IMRANA BANU,
D/O LATE AKBAR AHMED,
AGED ABOUT 26 YEARS,

ALL ARE R/AT 7TH CROSS,
NEAR URDU SCHOOL
GANDHI NAGARA
MANDYA CITY 571 401.

...APPELLANTS

(BY SRI. SREENIVASAN M.Y., ADVOCATE)

AND:

1. UMESH J.N.,
MAJOR,
R/O JAYAPURA VILLAGE,
HULLENAHALLI POST,
DUDDA HOBLI,
MANDYA TQ AND DIST 571407.



2. THE DIVISIONAL MANAGER,
THE NEW INDIA ASSURANCE CO., LTD.,
J L B ROAD,
CHAMUNDIPURAM,
MYSURU 570 004.

...RESPONDENTS

(BY SMT.MANJULA N. TEJASWI, ADVOCATE FOR R2;
V/O/D 01.08.2025 NOTICE TO R1 H/S)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.28.02.2018 PASSED IN MVC
NO.769/2015 ON THE FILE OF THE I ADDITIONAL SENIOR
CIVIL JUDGE, CJM, MANDYA.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

Being dissatisfied with the compensation awarded by the
Tribunal in MVC No.769/2015 dated 28.02.2018 by the I
Additional Senior Civil Judge and CJM, Mandya, the claimants
filed this appeal for enhancement of award amount.

2. The brief facts of the case are that on 23.11.2014,
the deceased, Akbar Ahmed, was riding his motorcycle bearing
Registration No.KA-11-K-1967 from Shivalli towards Mandya on
the Melukote-Mandya Road. When he reached near Konanahalli



Gate, Holalu, the rider of the motorcycle bearing Registration No.KA-11-ED-7782, who was proceeding from the opposite direction, rode the vehicle in a rash and negligent manner and dashed against the motorcycle of the deceased. As a result, Akbar Ahmed sustained grievous injuries and he succumbed to the injuries at NIMHANS Hospital, Bengaluru. Subsequently, the jurisdictional police registered an FIR against the rider of the offending motorcycle bearing Registration No.KA-11-ED-7782 and charge sheet was also filed against the said rider for causing the accident by his rash and negligent riding. Thereafter, the legal representatives of the deceased, filed the claim petition seeking compensation.

3. Upon appreciation of the oral and documentary evidence placed on record, the Tribunal partly allowed the claim petition and awarded a total compensation of Rs.11,84,050/- along with interest at the rate of 9% per annum. However, the Tribunal held that the deceased had also contributed to the occurrence of the accident and attributed 30% contributory negligence to him. Aggrieved by the said judgment and award of the Tribunal, the claimants have preferred the present appeal before this Court.



4. The learned counsel for the appellants contended that the Tribunal has committed error in attributing 30% contributory negligence to the deceased. It is further submitted that the Tribunal has awarded inadequate compensation under various heads without properly considering the age, income, occupation, and other relevant aspects of the deceased. The learned counsel further contended that the Tribunal has also erred in exonerating the Insurance Company from its liability on the ground that the rider of the offending motorcycle did not possess a valid and effective driving licence at the time of the accident. With these submissions, he prays to allow the appeal.

5. *Per contra*, the learned counsel appearing for the Insurance Company, while supporting the impugned judgment and award, contended that the Tribunal, upon a meticulous appreciation of the oral and documentary evidence on record, has passed the reasoned judgment. She submitted that upon perusal of the investigation materials, it clearly establish that the deceased had also contributed to the occurrence of the accident and, therefore, the Tribunal was justified in attributing 30% contributory negligence to him. She further contended



that the evidence on record establishes that the rider of the offending motorcycle was not possessing a valid and effective driving licence as on the date of the accident. The learned counsel further contended that the principle laid down by the Hon'ble Apex Court in the case of **NATIONAL INSURANCE CO. LTD. V. SWARAN SINGH & OTHERS** reported in **2004 (3) 297**, is not applicable to the facts and circumstances of the present case, inasmuch as the Insurance Company has successfully establishes that the rider of the offending vehicle did not possess a valid driving licence at the relevant point of time. She also submitted that the Tribunal has awarded just and reasonable compensation upon a proper appreciation of the evidence on record. Accordingly, she prayed for dismissal of the appeal.

6. I have given my anxious consideration both on the submission of the learned counsel for the parties and perused the materials on record.

7. As could be gathered form the records, the accident in question and the coverage of the Insurance Policy to the offending vehicle are not in dispute. Insofar as the contention



of the learned counsel for the appellants regarding the attribution of 30% contributory negligence to the deceased, who was riding the motorcycle bearing Reg.No.KA-11-K-1967, is concerned, on a careful examination of the FIR- Ex.P1, the spot mahazar - Ex.P3, and the other material evidence available on record, I am of the considered opinion that the Tribunal was justified in holding that the deceased had contributed to the occurrence of the accident to the extent of 30%. The said finding is based on the evidence on record and does not warrant interference by this Court. The other contention raised by the learned counsel for the appellants is that the Tribunal has erred in exonerating the Insurance Company from its liability on the ground that the rider of the offending motorcycle was not holding a valid and effective driving licence at the time of the accident. The said question is no longer *res integra* in view of the law laid down by the Hon'ble Apex Court in the case **PAPPU AND OTHERS VS. VINOD KUMAR LAMBA AND ANOTHER**, reported in **AIR 2018 SC 592**. The Hon'ble Apex Court in the above decision, clearly held that if driver of the offending vehicle had no driving license, then the Insurance Company has to make good the



compensation initially and thereafter recover the same from the owner of the offending vehicle. Placing reliance on the above judgment, I am of the considered view that said finding of the Tribunal has to be set aside.

8. Thus, the claimants, in modification of the impugned award, would be entitled to the following sums:

Sl. No.	Particulars	Amount (In Rs.)
1.	Loss of Dependency and future prospectus	15,60,000
2.	Loss of Consortium (Rs.48,400 x 3)	1,45,200
3.	Conventional Heads	36,300
	Sub Total	17,41,500
	Less 30% contributory negligence	5,22,450
	Total	12,19,050

9. The Tribunal has erred while awarding interest to the compensation. As per the law laid down by Division Bench of this Court in MFA No.5896/2018 the rate of interest to be awarded shall be 6%. Hence the same is reduced to 6% as against 9% awarded by the Tribunal.



10. For the above forgoing reason, I pass the following:

ORDER

The appeal is ***allowed in-part***.

Thus, the claimant would be entitled for compensation of **Rs.12,19,050/-** as against Rs.11,84,050/- awarded by the Tribunal, along with interest at the rate of 6% per annum from the date of petition till its realization. It is made clear the appellants-claimants are not entitled for interest for the delay period of 700 days.

For the discussion *supra*, the Insurance Company has to make good the compensation and thereafter company is at liberty to recover the same from the respondent No.1 - owner of the offending vehicle.

**SD/-
(RAJESH RAI K)
JUDGE**

GPG
List No.: 1 Sl No.: 1