IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 6063 OF 2021 (MV-D)

BETWEEN:

1. KUMARI SHRUTI. D
   D/O DIVAKAR K.B.
   C/O RANGANATHA G.N.
   AGED ABOUT 28 YEARS,
   R/O GOVINAHALU VILLAGE,
   HARIHAR TALUK-577 530.

2. KUMARI. BHAGYASHREE.D
   D/O DIVAKAR K.B.
   AGED ABOUT 26 YEARS,
   NOW R/O C/O PRASHANTHA S.H.
   YAKKANAHALLI VILLAGE,
   HONNALI TALUK-577 219.

3. KUMARA SHASHIDHAR S.D.
   S/O DIVAKAR K.B.
   AGED ABOUT 21 YEARS,

4. KUMARI.SOUNDARYA S.D.
   D/O DIVAKAR K.B.
   AGED ABOUT 20 YEARS,

5. SRI.DIVAKARA K.B.
   S/O LATE BASAPPAGOWDA K
   AGED ABOUT 55 YEARS,

   APPELLANT NO.3 TO 5 ARE
   RESIDENTS OF
   SANGAHALLI VILLAGE,
   BELALAGERE POST,
   CHANNAGIRI TALUK,
   DAVANAGERE DISTRICT-577 231.

…APPELLANTS

(BY SRI. SATISHCHANDRA R.,ADVOCATE)

AND:

1. SRI HALESH G @ G HALESH
S/O GURUMURTHYAPPA
AGED ABOUT 30 YEARS,
OWNER CUM RIDER OF THE
VEHICLE PASSION PRO
KA-17-ED-4629 (HERO HONDA BIKE)
R/O KANIVEBILACHI VILLAGE,
CHANNAGIRI TALUK
DAVANAGERE DISTRICT-577 231.

2. THE MANAGER,
ORIENTAL INSURANCE COMPANY LTD.,
OFFICE; 1ST FLOOR, A.M.ARCADE,
C.G.HOSPITAL ROAD,
DAVANGERE-577 002.

…RESPONDENTS

(R2-ABSENT,
R1-SERVED,UNREPRESENTED)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.01.10.2021 PASSED IN MVC NO.873/2019 ON THE FILE OF THE SENIOR CIVIL JUDGE, AMACT, HARIHARA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 06.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

The present appeal is filed under Section 173(1) of the Motor Vehicles Act, 1988 (‘the MV Act’ for short) by

the claimants challenging the judgment and award dated 01.10.2021 passed in MVC No.873/2019, on the file of the Senior Civil Judge and AMACT, Harihara (hereinafter referred to as 'the Tribunal' for short) seeking for enhancement of compensation.

2. For the sake of convenience, the parties are referred to as per their rankings before the Tribunal.

3. The brief facts of the case before the Tribunal are that:

On 04.07.2019, at about 09.30 a.m., deceased Smt.Geethamma and respondent No.1 were proceeding on a Motorcycle bearing Reg.No.KA-17-ED-4629 from Sangahalli Village to Arundi Village for attending a funeral ceremony of their relative, at that time, the respondent No.1 was riding the offending vehicle in high speed and suddenly, one dog came across the road and as a result, the respondent No.1 lost his control over the offending vehicle and hit the dog and went on it. Due to which, the deceased fell down and sustained severe injuries. She

was admitted to SSIMS Hospital, Davangere but succumbed to the injuries at 9.00 p.m. The claimants are her husband and children. Hence, claimants filed claim petition under Section 166 of the MV Act, seeking compensation of Rs.29,00,000/-.

4. Upon service of notice, the respondent Nos.1 and 2 have appeared through their respective counsel and filed their separate statement of objections. Respondent No.1 in his statement of objections has denied the age, occupation and income of the deceased and contends that he had valid and effective driving licence to drive the class of the vehicle as on the date of accident and policy was in force and hence, Insurance Company is liable to pay the compensation and prays for dismissal of the petition against him.

5. Respondent No.2 in its statement of objections contends that owner cum rider of the offending motorcycle did not possess valid and effective driving licence at the time of the accident and has violated the terms and conditions of the policy. In view of the clear breach of

terms and conditions of the policy, respondent No.2 is not liable to pay the compensation to the claimants. Hence, prays for dismissal of the petition against it.

6. On the basis of the pleadings of the parties, the Tribunal framed issues and recorded the evidence. The petitioner No.1 was examined as PW-1 and got marked documents at Exs.P1 to P-9. The respondents have not let any evidence on there behalf and respondent No.2 has produced three documents and marked as Exs.R.1 to R.3.

7. After hearing the parties and on perusal of the documents, the Tribunal has allowed the petition in-part and awarded compensation of Rs.17,78,000/- with interest at the rate of 6% per annum from the date of petition till realization.

8. Heard learned counsel appearing for the appellants. Learned counsel appearing for the respondent No.2 is absent. Even though notice is served to respondent No.1, he remained unrepresented.

9. Learned counsel for the appellants submits that the occurrence of accident and death of said Geethamma is not in dispute. Therefore, there is no need to reconsider the same. The contention of the claimants is that the Tribunal has erred in taking the notional income as Rs.14,000/- per month as the deceased was doing Agriculture work along with Milk vending business and was earning a sum of Rs.25,000/- to Rs.30,000/- per month. Therefore, compensation under the head 'loss of dependency' may be re-calculated. He further submits that amount of compensation awarded under the conventional heads is on the lower side. It is also contended that the Tribunal committed an error in not adding 25% of future prospects to the notional income without considering or appreciating the law laid down by the Apex Court in the case of ***National Insurance Company Limited vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680***. It is also contended by him that the Tribunal has failed to consider the law laid down by the Apex Court in the case of ***Magma General***

Insurance Company Limited vs. Nanu Ram & Others reported in ***(2018) 18 SCC 130*** and reiterated by the Division Bench of this Court in M.F.A.No.1100/2019 & connected matters disposed of on 12.06.2019 in awarding compensation towards 'loss of consortium'. He therefore requests this Court to enhance the compensation by modifying the impugned judgment and award passed by the Tribunal. Therefore, prayed to allow the appeal and enhance the compensation.

10. It is contended that the deceased was doing Agricultural work and Milk Vending business and was also doing tailoring work and earning a sum of Rs.15,000/- per month. The accident has taken place in the year 2019 and as per the chart prepared by the Karnataka State Legal Services Authority, income of the deceased is taken at Rs.14,000/- per month. As the deceased was aged 48 years as on the date of accident, 25% has to be added to the income of the deceased towards future prospects as per ***Pranay sethi*** *supra*. The multiplier applicable is '13'. Since there are five dependants, 1/4th of her income has

to be deducted towards personal expenses. Accordingly, on re-determination of the 'loss of dependency', the same works out to be:

14,000 + 25% x 12 x 13 x 3/4 = **Rs.20,47,500/-**

11. The Tribunal has awarded compensation of Rs.1,00,000/- towards 'loss of love and affection' to the appellants. Hence, a sum of Rs.40,000/- each is awarded. Therefore, the appellants/claimants are entitled for a sum of **Rs.2,00,000/-** (Rs.40,000 x 5) as per the law laid down in ***Magma*** case *supra*.

12. The Tribunal has awarded a sum of **Rs.10,000/-** towards 'funeral expenses' and **Rs.10,000/-** towards 'transportation of dead body', and **Rs.20,000/-** towards 'loss of estate'. Hence, the same are just and reasonable.

13. Thus, the total compensation re-determined by this Court under various heads are as follows:

1.	Loss of Dependency	:	Rs.	20,47,500/-
2.	Loss of love and affection	:	Rs.	2,00,000/-

3.	Transportation of dead body	:	Rs.	10,000/-
4.	Towards funeral expenses	:	Rs.	10,000/-
5.	Loss of estate	:	Rs.	20,000/-
	TOTAL	:	**Rs.**	**22,87,500/-**

14. The total compensation re-determined by this Court works out to Rs.22,87,500/- as against Rs.17,78,000/- awarded by the Tribunal. The appellants – claimants are entitled for total compensation of **Rs.22,87,500/-** along with interest at the rate of 6% per annum on the enhanced compensation from the date of filing of the petition till realization.

15. Accordingly, for the foregoing reasons, I proceed to pass the following:

ORDER

i) The appeal is ***allowed-in-part****;*

ii) The judgment and award passed by the Tribunal in MVC.No.873/2019, dated 01.10.2021, passed by the Senior Civil Judge & Additional Motor Accident Claims Tribunal at Harihara is modified;

iii) The appellants – claimants are entitled for total compensation of **Rs.22,87,500/-** along with interest at the rate of 6% per annum from the date of filing of the petition till realization;

iv) The compensation amount along with accrued interest if any, shall be deposited by the respondent No.2 – Insurance Company, within a period of eight weeks from the date of filing of the petition till realization;

v) Apportionment and disbursement of the compensation amount shall be as per the impugned Award of the Tribunal.

vi) No order as to costs.

SD/-
(DR.K.MANMADHA RAO)
JUDGE

MH/-