



CNR: KAHC010433902019

NC: 2026:KHC:49375  
MFA No. 8132 of 2019

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

**DATED THIS THE 10<sup>TH</sup> DAY OF SEPTEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE RAVI V HOSMANI**

**MISCELLANEOUS FIRST APPEAL NO.8132 OF 2019(MV-D)**

**BETWEEN:**

SMT.VENKATAMMA  
W/O LATE LAKKAPPA  
AGED ABOUT 49 YEARS  
R/AT BHEEMANA KUPPE VILLAGE  
RAMOHALLI POST  
KENGARI HOBLI  
BANGALORE SOUTH TALUK  
BENGALURU - 74.

...APPELLANT

[BY SRI PRAKASHA HC, ADVOCATE FOR  
SRI ANIL KUMAR MV., ADVOCATE]

**AND:**

1. CHOLAMANDALAM MS GENERAL  
INSURANCE CO.LTD.,  
6<sup>TH</sup> FLOOR, NEAR SUJATHA THEATER  
GOLDEN HEIGHTS BUILDING  
RAJAJINAGAR, BENGALURU - 10.
2. SRI RAMAKRISHNA B N  
S/O NARASIMHAIAH  
AGED ABOUT 43 YEARS  
R/AT NO.73,  
BHEEMANA KUPPE VILLAGE  
KENGARI HOBLI  
BANGALORE SOUTH TALUK  
BENGALURU - 74.

...RESPONDENTS

[BY SRI AN KRISHNA SWAMY, ADVOCATE FOR R1  
SRI RAJA V., ADVOCATE FOR R2 (ABSENT)]

Digitally signed  
by ANUSHA V  
Location: High  
Court of  
Karnataka



**NC: 2026:KHC:49375  
MFA No. 8132 of 2019**

**CNR: KAHC010433902019**

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST JUDGMENT AND AWARD DATED 13.02.2019 PASSED IN MVC NO.1474/2018 ON THE FILE OF THE XIX ADDITIONAL SMALL CAUSE JUDGE AND MACT, BENGALURU (SCCH-17), PARTLY ALLOWING CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL IS COMING ON FOR *DISMISSAL*, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

### **ORAL JUDGMENT**

Challenging judgment and award dated 13.02.2019 passed by XIX Addl. Small Causes Judge & MACT, Bengaluru (SCCH-17) in MVC no.1474/2018, this appeal is filed by claimant seeking enhancement of compensation.

2. Brief facts leading to this appeal are that at 4:30 p.m. on 01.01.2018, when Venkatesh was standing by side of road along with his friend, driver of Tractor no.KA-41/T-1385/1386 drove it in rash and negligent manner and dashed against Venkatesh, resulting in his death on spot. As on date of death, Venkatesh was 28 years of age earning Rs.15,000/- per month as Coolie and claimant had lost dependency, petition



CNR: KAHC010433902019

under Section 166 of Motor Vehicles Act, 1988 (**MV Act**) was filed.

3. On appearance, claim petition was opposed on all grounds denying age, occupation, income, dependency as well as alleging violation of policy conditions.

4. Based on pleadings, Tribunal framed following issues and recorded evidence.

*"1. Whether petitioner proves that on 23.1.18 at about 4.30 pm when the deceased was walking along with his friend on Gidadapalya road, Opp. Gurukula Ashrama, Chennanahalli, Tavarekere Taluk, met with an accident and succumbs to the same due to actionable negligence on the part of driver of tractor bearing No.KA-41-T-1386 as alleged?"*

*2. Whether petitioner is entitled for compensation? If so, at what rate and from whom?"*

*3. What order or award?"*

5. Thereafter, claimant examined herself as PW.1 and got marked Exhibits P1 to P11. Insurer did not lead evidence. On consideration, Tribunal answered issue no.1 in affirmative, issue no.2 partly in affirmative and issue no.3 by awarding compensation of Rs.17,43,600/- with interest at 7.5% per annum and holding insurer liable to pay same. Dissatisfied with quantum, claimant was in appeal.



**CNR: KAHC010433902019**

6. Sri Prakasha HC, learned counsel appearing for Sri MV Anil Kumar, advocate for appellant submitted that as on date of accident, deceased was working as Coolie and earning Rs.15,000/- per month. However, Tribunal assessed it at Rs.12,000/- notionally without justification and assessed inadequate compensation. It was submitted that compensation awarded under conventional heads was also inadequate and sought for enhancement.

7. On other hand, Sri AN Krishna Swamy, learned counsel for insurer opposed appeal. It was submitted that claimant had failed to produce any material regarding income of deceased. Therefore, assessment of compensation based on notional income was justified and did not call for interference. It was further submitted that since insurer did not choose to file appeal against award, compensation was immediately deposited. Therefore, escalation on compensation towards loss of estate and funeral expenses would not be justified.

8. None appears for respondent no.1.



CNR: KAHC010433902019

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

10. From above, occurrence of accident leading to death of Venkatesh, claimant sustaining loss of dependency and liability of insurer to pay compensation is not in dispute. Only dispute is about monthly income of deceased and award under conventional heads. Therefore, point that arises for consideration is -

*"Whether claimant is entitled for enhancement of compensation?"*

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

Though claimant stated that deceased was earning Rs.15,000/- per month as Coolie, for failure to produce any specific material, income was assessed notionally. Notional income for year 2018 will be Rs.12,500/- per month and same has to be taken. Claimant is mother of deceased. Deceased was a bachelor. As per decision of Hon'ble Supreme Court in ***National Insurance Co. Ltd v. Pranay Sethi*** reported in ***2017 (16) SCC 680***, claimant would be entitled for addition of



CNR: KAHC010433902019

40% to monthly income and deduction of 50% towards personal expenses. Deceased was aged 28 years. Thus, applicable multiplier would be 17. Hence, compensation under loss of dependency would be **Rs.17,85,000/-** (Rs.12,500 + 40% - 50% X 12 X 17). Tribunal has awarded Rs.17,13,600/- and thus, there would be enhancement of **Rs.71,400/-**.

12. However, Tribunal has not awarded consortium. Apart from above, claimant would be entitled for Rs.40,000/- towards consortium and since more than six years are lapsed, addition of 20% on same would be granted, which amounts to **Rs.48,000/-**. Since Tribunal has awarded Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses and same has been deposited, there would be no need for addition or escalation. Thus, total enhancement is **Rs.1,19,400/-** (Rs.71,400/- + Rs.48,000/-)

13. In view of above, following:

**ORDER**

- (i) Appeal is ***allowed***;
- (ii) Claimant is held entitled for enhanced compensation of Rs.1,19,400/-, in addition to



**NC: 2026:KHC:49375  
MFA No. 8132 of 2019**

**CNR: KAHC010433902019**

compensation awarded by Tribunal which shall also carry interest at 7.5% p.a. from date of claim petition till deposit;

(iii) Insurer is directed to deposit same within six weeks; and

(iv) On deposit, enhanced compensation is ordered to be released in favour of claimant electronically.

**Sd/-  
(RAVI V HOSMANI)  
JUDGE**

AV

List No.: 1 Sl No.: 9