



CNR: KAHC010436032023

NC: 2026:KHC:43342
MFA No. 5816 of 2023
C/W MFA No. 5206 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 5816 OF 2023 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 5206 OF 2023 (MV-D)

IN MFA No. 5816/2023

BETWEEN:

1. SMT HEMALATHA
W/O MANJE GOWDA N H,
AGED ABOUT 49 YEARS,
2. SRI.SACHIN KUMAR M
S/O MANJEGOWDA N H,
AGED ABOUT 25 YEARS,

NOTE; SINCE THE PETITIOENR NO.1 MANJE GOWDA
NH DIED AND DELETED BEFORE THE TRIAL COURT
HENCE GIVE UP

ALL ARE R/AT
NYAMANAHALLI, MAVINAKERE POST,
HOLENARASIPURA TALUK,
HASSAN DISTRICT.

APPELLANTS

(BY SRI. SHRIPAD V SHASTRI.,ADVOCATE)

AND:

1. SRI RAVI KUMAR
S/O JAVARE GOWDA,



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R/AT NO.31, 4TH CROSS,
MEI LAYOUT EXTENSION,
BEHIND KPTCL SUB STATION,
HESARAGHATTA ROAD,
BANGALORE-73.

2. ICICI LOMBARD GENERAL
INSURANCE COMPANY LIMITED
NO.121, 9TH FLOOR,
THE ESTATE BUILDING, DICKENSON ROAD,
M.G.ROAD, BENGALURU-560001
BY ITS MANAGER.
3. SRI. SHYLENDRA KUMAR H.V.
S/O VENKATESH H.V.,
R/AT NO.3, HARAGADDE AT POST,
JIGANI HOBLI, ANEKAL TALUK,
BENGALURU DISTRICT.
4. RELIANCE GENERAL INSURANCE COMPANY LTD
NO.28, EAST WING,
CENTENARY BUILDING, 5TH FLOOR,
M.G.ROAD, BENGALURU-560001
BY ITS MANAGER.

RESPONDENTS

(BY SRI. S KRISHNA KISHORE.,ADVOCATE FOR R2;
SRI. ASHOK N PATIL., ADVOCATE FOR R4 (VK NOT FILED);
V/O DTD 28.08.2023 NOTICE TO R1 AND R3 ARE
DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 13.04.2023 PASSED IN MVC
NO. 219/2021 ON THE FILE OF THE VII ADDITIONAL SMALL
CAUSES JUDGE AND ACMM, MEMBER, MACT-3, COURT OF



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SMALL CAUSES, BENGALURU, PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT
OF COMPENSATION AND ETC,.

IN MFA NO. 5206/2023

BETWEEN:

1. RELIANCE GENERAL INSURANCE
COMPANY LIMITED
NO. 28, 5TH FLOOR, CENTENARY BUILDING,
EAST WING, M.G. ROAD, BANGALORE-560001
REPRESENTED BY MANAGER LEGAL

...APPELLANT

(BY SRI. ASHOK N PATIL.,ADVOCATE)

AND:

MANJE GOWDA N H
S/O LATE HARDURE GOWDA
AGED ABOUT 51 YEARS
(SINCE DEAD HENCE DELETED
AS PER ORDER DATED 08.03.2022)

1. SMT HEMALATHA
W/O MANJE GOWDA N H
AGED ABOUT 49 YEARS,
2. SRI SACHIN KUMAR M
S/O MANJE GOWDA N H
AGED ABOUT 25 YEARS,
ALL R/AT NYAMANAHALLI MAVINAKERE POST,
HOLENARASIPURA TALUK,
HASSAN DISTRICT-573211.



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3. SRI RAVI KUMAR
S/O JAVARE GOWDA
R/AT NO.31, 4TH CROSS,
MEI LAYOUT EXTENSION,
BEHIND KPTCL SUB STATION,
HESARUGHATTA ROAD BENGALURU-560073.
4. ICICI LOMBARD GENERAL
INSURANCE COMPANY LIMITED
NO.121, 9TH FLOOR, THE ESTATE BUILDING,
DICKENSON ROAD, M G ROAD
BENGALURU-560001.
REP BY DIVISIONAL MANAGER.
5. SRI SYLENDAR KUMAR H V
S/O VENKATESH H V
R/AT NO.3,
HARAGADDE AT POST,
JIGANI HOBLI,
ANEKAL TALUK BENGALURU DISTRICT-560105.

...RESPONDENTS

(BY SRI. SHRIPAD V SHASTRI.,ADVOCATE FOR R1 AND R2
(VC);

SRI. KRISHNA KISHORE S., ADVOCATE FOR R4;

V/O DTD 08.06.2026 NOTICE TO R3 AND R5 ARE
DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 13.04.2023 PASSED
IN MVC NO. 219/2021 ON THE FILE OF THE VII
ADDITIONAL SMALL CAUSES JUDGE AND ACMM, MEMBER,
MACT-3, COURT OF SMALL CAUSES, BENGALURU,
AWARDING COMPENSATION OF RS. 25,85,968/- WITH



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INTEREST AT 6 PERCENT P.A. FROM THE DATE OF RESTORATION TILL THE DATE OF DEPOSIT AND ETC,.

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

These appeals are filed by the claimants and the insurer challenging the judgment and award dated 13.04.2023 passed in MVC.No.219/2021 by the learned Motor Accident Claims Tribunal, VII Additional SCJ and ACMM Member, MACT-3 (SCCH-3)¹, wherein the Tribunal has partly allowed the claim petition and awarded a total compensation of Rs.25,85,968/- together with interest at 6% pa. Being aggrieved by the same, the claimants filed MFA.No.5816/2023 seeking for enhancement of compensation and the reliance general insurance company limited - insurer filed MFA.No.5206/2023 challenging the

¹ Hereinafter referred to as 'Tribunal'



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liability of 20% contributory negligence fastened on the insurer of lorry bearing No.AP-21-TU-3962.

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

3. Brief facts of the case are that, in an accident occurred on 11.12.2020 about 8.10 a.m,. inmate of car bearing No.KA-02-MG-5512 namely Darshan Kumar.M, succumbed to injuries on the spot. The case of the claimant was that the deceased was proceeding as inmate in the Car from Hesarghatta road towards Bommasandra Industrial Area, on NICE road, after crossing the toll the car collided with stationed lorry on the left side of the road causing multiple fatal injuries resulting in death of Darshan Kumar. The parents and sibling of Darshan kumar filed claim petition claiming compensation of Rs.75,00,000/- along with interest.

4. The both insurers of car as well as the lorry appeared and filed their statement of objections. The



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insurer of car denied the claim petition averments and submitted that the lorry was parked without observing any traffic rules as such contributed to the accident and any liability is subject to policy conditions. So far as the objection by the insurer of lorry is concerned apart from denying the averments in the claim petition, a specific objection raised by the insurer, stating that the lorry was parked on the extreme left side of the road. As per the documents i.e., Police records the driver of the car in an haste to overtake the ongoing vehicle from left side, lost control over the vehicle and dashed the stationed lorry. In that view of the matter, entire negligence is attributed to the driver of the car and there is no negligence on the part of the driver of the lorry and sought to absolve the insurer of the lorry by dismissing the claim petition filed by the insurer.

5. The Tribunal having considered the material on record answered the issues framed in favour of the claimants holding that the insurer of both car and lorry are



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liable to pay compensation at the ratio of 80% : 20% and awarded a total sum of Rs.25,85,968/- along with interest at the rate of 6% per annum from the date of petition till the date of deposit. This judgment and award passed by the Tribunal called in question both by the insurer of the lorry challenging the liability of 20% fastened on it and by the claimant for enhancement.

6. Heard the submissions of learned counsel Sri.Shripad V.Shastri, for appellant/claimants, learned counsel Sri.S.Krishna Kishore, for insurer of car and learned counsel Sri.Ashok N Patil, for insurer of lorry.

7. Learned counsel Sri. Shripad V Shastri, with all vehemence submits that the deceased was a BE graduate and working as a trainee under PW3. He was paid a salary of Rs.16,044/- per month as wages. He further submits that PW3 assured to pay Rs.30,000/- per month after completing training, but the Tribunal has failed to consider this aspect of the matter. He further submits that the



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Tribunal has awarded loss of finial consortium only at the rate of Rs.40,000/-, whereas there were three claimants before the Tribunal seeking compensation and each are entitled for Rs.40,000/- under the said head. He further submits that the under the settled position of law of the Hon'ble Supreme Court in the case of ***NATIONAL INSURANCE COMPANY LTD V.S PRANAY SETHI AND OTHERS²***, the claimants are also entitled for 10% escalation under the conventional heads and in the case on hand, claimants are entitled for two terms of three years from the date of accident till date and accordingly, sought to allow the appeal and sought for enhancement.

8. Learned counsel Sri. Ashok N Patil, taking this Court through the observation of the Tribunal especially at paragraph No.16 submits that, in view of cross-examination of PW2 - eyewitness to the incident, the driver of the car was proceeding at a speed of 100 km per

² (2017)16 SCC 680



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hour and while overtaking another vehicle moving ahead from left side he collided with the stationed lorry. Further, it is clearly admitted that as per the sketch the lorry was stationed on extreme left side of mud road. He further admitted that the accident occurred due to the negligence driving of driver of the car, in which PW.2 was also proceeding as an inmate. He further submits that all the Police records are against the driver of the car. However, the Tribunal on wrong appreciation of the Police records as well as sketch fastened the liability of 80% : 20% on the insurer of car and lorry which is *per se* illegal and not sustainable in law. Therefore, sought to allow the appeal only to the extent of fastening the liability of 20% on the insurer of the lorry.

9. Sri.Ashok N.Patil, further submits that the appellant has deposited a sum of Rs.25,000/- as a statutory deposit before this Court and in compliance of the interim order granted by this Court, the Insurer has deposited balance 20% liability fastened on it before the



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Tribunal and the claimant was permitted to withdraw the same. In that view of the matter, a direction may be issued to the Insurer of the Car to indemnify 20% liability fastened on the Insurer of the Lorry.

10. Learned counsel Sri.Krishna Kishore.S, argued in support of the judgment and award of the Tribunal and submits that both appeals required to be dismissed as merit less.

11. Having considered the rival submissions, this Court has perused both the appeal memorandum and the Trial Court record. The points that would arise for consideration of this Court are:

- i) Whether the Tribunal is right in fastening contributory negligence at the ratio of 80% : 20% on insurer of car as well as on the insurer of lorry?*
- ii) Whether the claimants have made out any case for enhancement?*



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12. Answer of the Court so far as point No.i is concerned is in the **Negative** and in respect of point No.ii is **Partly-in-Affirmative**.

13. The quantum is not in challenge in the appeal filed by the insurance company, this Court considers to dwell on Point No.ii at the first instance. As seen from the cause title of the order passed by the Tribunal, there are three claimants, but the fact remains that claimant No.1 died on 08.03.2022 i.e., one year earlier to passing of the order by the Tribunal. In that view of the matter, the Tribunal ought to have considered to award loss of consortium to other claimants i.e., claimant Nos.2 and 3. Further, the Tribunal has failed to award 10% escalation on conventional heads. In that view of the matter, compensation assessed by the Tribunal required reconsideration, only under these two heads.

14. Accordingly, the total compensation under various heads is re-assessed as follows:



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Sl. No	Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1.	Loss of dependency	25,15,968.00	25,15,968.00
2.	Loss of estate	15,000.00	15,000.00
3.	Towards consortium	40,000.00	80,000.00
4.	Transportation of dead body and funeral expenses	15,000.00	15,000.00
5	10% escalation on conventional heads, for every completed three years.	00.00	11,000.00
	Total	25,85,968.00	26,36,968.00

15. Hence, the claimant is entitled for enhanced compensation of **Rs.51,000/-** (26,36,968 – 25,85,968).

16. Though learned counsel for the Insurer of the Car vehemently submitted that the Tribunal after considering the record has saddled liability at the rate of 20% on the Insurer of the Lorry. However, contends that paragraph No.16 goes against the contentions of learned counsel for the Insurer of the Car, in view of categorical admission by the inmate of the car, who has stated that the speed of the vehicle, negligent act of the driver while



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driving the vehicle and while trying to overtake ongoing vehicle from the left side collided with the lorry which was parked on the extreme left side of the mud road. In view of admission by the inmate of the car i.e., PW.2 that the accident occurred due to the negligence of the car driver. The Tribunal has committed an error in fastening the contributory negligence of 20% on the insurer of the lorry. In that view of the matter, the finding of the Tribunal requires to be set aside. Accordingly, set aside. For the forgoing reasons, this court proceeds to pass the following:

ORDER

- i. MFA.No.5816/2023 is ***allowed-in-part***.
- ii. MFA.No.5206/2023 is ***allowed***.
- iii. The finding of the Tribunal fastening the liability of 20% on the insurer of lorry is set aside;
- iv. The judgment and award dated 13.04.2023 passed in MVC.No.219/2021 by the learned Motor Accident Claims Tribunal, VII Additional



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SCJ and ACMM Member, MACT-3 (SCCH-3), is modified.

- v. The claimants are entitled for enhanced compensation of Rs.51,000/- with interest at the rate of 6% p.a. from the date of petition till its realization in addition to the compensation awarded by the Tribunal;
- vi. The Insurer of the Car is directed to deposit the entire enhanced compensation amount along with interest stated supra before the concerned Tribunal within six weeks from the date of receipt of certified copy of this Order.
- vii. Further, the Insurer of the Car is also directed to deposit entire 20% liability along with interest @ 6% per annum fastened on the Insurer of Lorry, from the date of petition till the date of deposit before the Tribunal.
- viii. Upon deposit of enhanced compensation as well as 20% liability saddled on the Insurer of



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the Lorry, by the Insurer of the Car, the Tribunal shall release enhanced compensation along with interest accrued in favor of the claimant. So far as 20% liability along with interest deposited by Insurer of Car, shall be released in favor of Insurer of the Lorry.

- ix. The amount in deposit by Insurer of the Lorry shall be transmitted to the Tribunal for disbursement.
- x. Upon transfer, the same shall be released in favor of the claimant.
- xi. Registry is directed to send back the TCR forthwith, without causing further delay.

Sd/-
(T.M.NADAF)
JUDGE