

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

MISCELLANEOUS FIRST APPEAL NO. 1612 OF 2018 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 8164 OF 2017 (MV-D)

IN MFA No. 1612/2018

BETWEEN:

1. SMT. SHOBHA @ SHOBHA KARIGOWDER
W/O LATE M.C. MANJUNATHA
AGED ABOUT 34 YEARS
HOUSEWIFE
2. KU. SHARVANI
D/O LATE M.C. MANJUNATH
AGED ABOUT 7 YEARS
STUDENT
REPRESENTED BY APPELLANT NO.1
AS NEXT FRIENT
3. CHANNABASAMMA
W/O CHANDRAPPA
AGED ABOUT 67 YEARS
HOUSEWIFE
- 4 SRI. CHANDRAPPA
S/O MADIHALLI SANGAPPA
AGED ABOUT 74 YEARS
AGRICULTURIST

ALL ARE PERMANENTLY
R/O BALAMURI VILLAGE
HONNALI TALUK

NOW RESIDING AT
C/O M. SANGAMESHA
NAGARAJAPPA BUDIHAL'S BUILDING
NEAR ANJANEYA TEMPLE
SHAMANUR VILLAGE
DAVANAGERE TALUK AND DISTRICT

...APPELLANTS

(BY SRI: SHANTHARAJA K G, ADVOCATE
V/O/DTD 04.06.2025, APPELLANT NO.4
IS SURVIVED BY APPELLANT NO.3)

AND:

1. SRI. K. PUGAZHANTHI KUPPAN GOWNDER
MAJOR
R/O PINNADURAI VILLAGE
POST: ODUGATHUR VIA VELLORE
TAMILNADU
(DRIVER OF LORRY BEARING
REG NO.KA-01/AA 9279)

2. SRI. R. SARAVANAN
#5/62, GANDHI STREET
ODUGATHUR
VELLOR DISTRICT
TAMILNADU STATE
(OWNER OF THE LORRY BEARING
REG NO.KA-01/AA 9279)

3. THE MANAGER
ORIENTAL INSURANCE CO. LTD.,
OLD NO.29/B, NEW NO.238
ARCOT ROAD, JAMBUBALA COMPLEX
1ST FLOOR, VELLORE
TAMILNADU-632 004
(POLICY NO.413500/31/2016/146
POLICY PERIOD 09.04.2015 TO 08.04.2016)

...RESPONDENTS

(BY SRI: K. SURESH, ADVOCATE FOR R3 - [VC];
R1 IS SERVED AND UNREPRESENTED;
VIDE ORDER DATED 04.06.2025, NOTICE TO R2
IS HELD SUFFICIENT)

THIS MFA IS FILED UNDER SECTIONN 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 03.03.2017 PASSED IN MVC NO.236/2016 ON THE FILE OF THE I ADDITIONAL SENIOR CIVIL JUDGE & V ADDITIONAL MACT, DAVANGERE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 8164/2017

BETWEEN:

THE MANAGER
THE ORIENTAL INSURANCE CO. LTD.,
OLD NO.29/B, NEW NO.238
ARCOT ROAD, JAMBUBALA COMPLEX
1ST FLOOR, VELLORE
TAMILNADU-632 004

NOW REPRESENTED BY
M/S THE ORIENTAL INSURANCE
COMPANY LIMITED
REGIONAL OFFICE
'SUMANGALA COMPLEX'
OPPOSITE TO HDMC, LAMINGTON ROAD
HUBLI-580 020
REPRESENTED BY ITS
REGIONAL MANAGER

...APPELLANT

(BY SRI: K SURESH, ADVOCATE - [VC])

AND:

1. SMT SHOBHA @ SHOBHA KARIGOWDER
W/O LATE M.C. MANJUNATHA
AGED ABOUT 33 YEARS
OCC: HOUSEWIFE
2. KU. SHARVANI
D/O LATE M.C. MANJUNATH
AGED ABOUT 06 YEARS

REPRESENTED BY RESPONDENT NO.1
AS NEXT FRIEND

3. SMT. CHANNABASAMMA
W/O SRI. CHANDRAPPA
AGED ABOUT 66 YEARS
HOUSEWIFE
4. SRI. CHANDRAPPA
S/O SRI. MADIHALLI SANGAPPA
AGED ABOUT 73 YEARS
OCC: AGRICULTURIST

ALL ARE PERMANENTLY
R/O BALAMURI VILLAGE
HONNALI TALUK-577 002

NOW RESIDING AT
C/O M. SANGAMESHA
NAGARAJAPPA BUDIHAL'S BUILDING
NEAR ANJANEYA TEMPLE
SHAMANUR VILLAGE
DAVANAGERE TALUK AND DISTRICT-577 002

5. SRI. K. PUGAZHANTHI KUPPAN GOWNDER
MAJOR
R/O PINNADURAI VILLAGE
POST: ODUGATHUR-632 004
VIA VELLORE, TAMILNADU
6. SRI. R. SARAVANAN
#5/62, GANDHI STREET
ODUGATHUR-632 004
VELLOR DISTRICT
TAMILNADU STATE

...RESPONDENTS

(BY SRI: SHANTHARAJA K G, ADVOCATE FOR R1, R3 & R4;
R2 MINOR REP. BY R1;
R5 IS SERVED AND UNREPRESENTED;
VIDE ORDER DATED 04.06.2025, NOTICE TO R6 IS
HELD SUFFICIENT)

THIS MFA IS FILED UNDEER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 03.03.2017 PASSED IN MVC NO.236/2016 ON THE FILE OF THE I ADDITIONAL SENIOR CIVIL JUDGE AND V ADDITIONAL MACT AT DAVANGERE, AWARDDING COMPENSATION OF RS.11,95,000/- WITH INTEREST AT THE RATE OF 8% P.A. FROM THE DATE OF CLAIM PETITION TILL ITS REALIZATION.

THESE MFAs, HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 18.09.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **T.P.VIVEKANANDA J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

MFA No.1612 of 2018 is filed by the claimants challenging the judgment and award dated 03.03.2017 in MVC No.236 of 2016 passed by the I Additional Senior Civil Judge and V Additional MACT at Davanagere, seeking enhancement of compensation.

2. MFA 8164 of 2017 is filed by the appellant - insurer challenging the judgment and award dated 03.03.2017 in MVC No.236 of 2016 passed by the I Additional Senior Civil Judge and V Additional MACT at Davanagere, on the ground that the

deceased has contributed to the accident occurred on 11.05.2015; the compensation awarded under the head loss of dependency and other grounds are on the higher side.

3. Brief facts of the case as narrated by the Tribunal are as follows:

The husband of claimant No.1, father of claimant No.2 and son of claimant Nos.3 and 4 viz., M C Manjunath, was seriously injured in the accident that occurred on 11.05.2015, while driving his motor cycle from K B cross towards Tumakuru and succumbed at the spot.

4. The appellants in MFA No.1612 of 2018 being the legal representatives of the deceased had approached the Claims Tribunal seeking compensation for the death of M C Manjunath. The claim petition was opposed by respondent No.3 - insurer. Respondent Nos.1 and 2 have not filed any objections.

5. In the objection filed by respondent No.3 - insurer, it was contended that the accident was occurred on account of the negligence of the deceased; the petition is bad for non-joinder of necessary parties, since the owner and insurer of motor cycle, which was involved in the accident was not

arrayed as parties to the petition; the lorry bearing No.KA-01-AA-9279 was not involved in the accident and the said vehicle has been implicated in order to get the compensation; the employment and the income asserted by the claimants were denied.

6. On behalf of the claimants, claimant No.1 - wife of the deceased was examined. She has deposed that her husband was working at VINUMAC Industries and was getting the salary of Rs.40,000/- per month; the accident was occurred only due to rash and negligent driving of the driver of the lorry; the criminal case has been registered against respondent No.1/driver of the lorry; she has lost her husband at the young age; she has to take care of her daughter as well as her in-laws, therefore, sought for allowing of the claim petition. In support of the claim, the documents at Exs.P1 to P11 were marked. Exs.P1 to P6 are the police records; Ex.P7 is the death certificate and Exs.P8 to P11 are the pay slips, which were marked subject to objection.

7. Though PW1 was cross examined at length, nothing important adverse to the claim made in the claim petition was elicited, except the suggestion regarding ownership of the

motor cycle, obtaining of BPL card, and the income being less than Rs.25,000/-, which is the precondition for obtaining the BPL card.

8. On behalf of the respondents, no evidence was led in. However, Ex.R1 which is the copy of Insurance policy was marked by consent. We have noticed the order sheet of the Tribunal dated 28.01.2017, wherein, it is recorded that respondent No.3 did not propose to lead any evidence.

9. Based on the pleadings and the evidence led in by the claimants, the Tribunal has proceeded to consider the matter and awarded compensation of Rs.11,95,000/- under various heads. The details of which is as follows:

Sl. No.	Particulars of Heads	Amount granted (Rs.)
1	Loss of dependency	8,10,000/-
2	Loss of love and affection in respect of petitioner Nos.2 to 4	2,25,000/-
3	Loss of consortium	1,00,000/-
4	Los of estate	10,000/-
5	Transportation of dead body and funeral expenses	50,000/-
	Total	11,95,000/-

10. We have heard learned counsel for the parties and perused the appeal papers, so also, the Trial Court records.

11. We propose to first consider the appeal of the insurer, which is filed on the ground of contributory negligence by the deceased and also challenging the quantum of compensation.

12. We have noticed from the records of the Tribunal that except taking a contention regarding contributory negligence in the statement of objections filed to the petition, no independent evidence was led in by the insurer to prove the said contention. A feeble attempt was made to suggest to PW1 in the course of cross examination that the accident was occurred due to the fault of husband of PW1, which suggestion has been denied by the witness. Except the same, neither there is any further cross examination nor any independent evidence led in by the insurer. As observed above, no evidence was led in on behalf of the insurer, however, the policy of insurance was marked by consent as Ex.R1.

13. At the time of hearing, learned counsel for the insurer invited our attention to Ex.P3 the spot mahazar, more particularly, paragraph 9 of the said document and contended

that the accident was occurred at the middle of the road. Therefore, an inference can be drawn that the deceased was riding his two wheeler at the middle of the road and contributed for the accident occurred.

14. We are afraid the reading of entire paragraph 9 of the spot mahazar, at any stretch of imagination does not suggest that the two wheeler was at the midst of the road and the deceased has contributed to the accident occurred. None of the signatories to the spot mahazar were the eye witnesses and none of them have been examined on behalf of the insurer. It is also necessary to notice that, if at all any person who has witnessed to the accident other than the deceased is only respondent No.1 the driver of lorry i.e., the offending vehicle. It is not known as to why the insurer has not made any attempt to examine the driver of the lorry.

15. We have also noticed from the Trial Court records that after investigation, the police have filed chargesheet against the driver of lorry. Therefore, we have no hesitation to hold that the contention regarding contributory negligence on the part of deceased is not proved and accordingly, the contention urged on behalf of the insurer in this appeal are

considered only for rejection. Accordingly, the appeal of the insurer does not merit consideration and liable to be rejected.

16. Since the claimants are also in appeal being not satisfied with the compensation awarded by the Tribunal and we are considering the said appeal separately, the contentions of the insurer as regards awarding of excess compensation need not be considered independently.

17. It is the contention of the appellants - claimants in MFA No.1612 of 2018 that, the deceased was an employee of VINUMAC Industries and was getting monthly salary of Rs.40,000/-. In support of the said contention, the claimants have produced the salary slip at Exs.P8 to P11. However, the Tribunal has not considered the said documents on the ground that the said salary slips are unsigned and not authenticated by the competent authority. It is the contention of the appellants that the salary slip at Exs.P8 to P11 are computer generated and it did not require signature. It is his further submission that in a case of motor accident claims, strict proof of evidence is not required since it is a summary proceedings, therefore, the claimants cannot be expected to examine the employer to prove the employment and payment of salary.

18. Learned counsel further pleaded that after the death of her husband, appellant No.1 who is an uneducated and homemaker was unable to procure the necessary documents relating to employment of her husband, so also, salary particulars. On these submissions, learned counsel prays that the compensation awarded under the head loss of dependency requires re-assessment.

19. On the contrary, learned counsel for the insurer has contended that Exs.P8 to P11 were marked subject to objection. Therefore, it was incumbent for the claimants to prove the authenticity and genuineness of the said documents, without which, the said documents are inadmissible so as to consider it for the purpose of determination of compensation. Learned counsel for the insurer contended with vehemence that the Tribunal has grossly erred in awarding compensation under the head love and affection in respect of claimant Nos.2 to 4 in a sum of Rs.2,25,000/-, loss of consortium of Rs.1,00,000/- for claimant No.1 and Rs.50,000/- towards transportation of dead body and funeral expenses, which are in higher side and contrary to judgment of the Hon'ble Supreme Court in

National Insurance Co. Ltd., Vs Pranay Sethi¹, Magma General Insurance Co. Ltd., Vs Nanu Ram² and United India Insurance Co. Ltd., Vs Satinder Kaur³ and prayed for reduction of the compensation under the aforesaid heads. Thus, learned counsel for the insurer contends that the compensation awarded by the Tribunal is more than sufficient and does not require any re-assessment or enhancement.

20. Having heard the learned counsel for the parties, on perusal of the memorandum of appeal, impugned judgment and award, so also, records of the Trial Court, we are of the opinion that the compensation awarded for the death of husband of appellant No.1, father of appellant No.2 and son of appellant No.3 is grossly inadequate and requires re-assessment. Accordingly, we propose to consider the entitlement of the appellants/claimants as follows:

21. On the date of death, deceased was 37 years. Though the employment and salary of the deceased are not proved by examining the author of Exs.P8 to P11/the employer, however, it cannot be ignored that the deceased was doing some employment and was only earning member of the

¹ (2017) 16 SCC 680

² (2018) 18 SCC 130

³ (2021) 11 SC 780

appellants family. Though this Court propose to consider the notional income of the deceased in a sum of Rs.9,000/- per month, we find it appropriate to add future prospectus at 40% of the monthly income, because there is some element of possibility of the deceased having been employed on a fixed salary. We are not considering the exact salary as indicated in Exs.P8 to P11 since the claimants have failed to prove the said documents and also failed to produce the account pass book, details of the provident fund or the details of the professional tax paid, since in Exs.P8 to P11 we see a column regarding deductions. If only the claimants have produced any one of the aforesaid documents, we would have no hesitation to consider the monthly salary as shown in Exs.P8 to P11. In the circumstances, the loss of dependency is assessed at **Rs.17,01,000/-** ($9000 + 40\% \times 12 \times 15 \times 3/4$ th).

22. In view of the judgment of the Hon'ble Supreme Court in **Pranay Sethi** (*supra*), the appellants are not entitled for any separate compensation for love and affection, however, they are only entitled for loss of spousal consortium, parental consortium and filial consortium in a sum of **Rs.1,20,000/-** (40000×3) for each of the appellants. The appellants are entitle for **Rs.15,000/-** towards loss of estate and funeral

expenses **Rs.15,000/-**. Accordingly, the re-assessed compensation is as follows:

Sl. No.	Particulars of heads	MACT Award (Rs.)	Re-assessed compensation in MFA 1612/2018 (Rs.)
1	Loss of dependency	8,10,000/-	17,01,000/-
2	Loss of love and affection in respect of claimant Nos.2 to 4 and loss of consortium	2,25,000/- + 1,00,000/-	1,20,000/-
3	Loss of estate	10,000/-	15,000/-
4	Transportation of dead body and funeral expenses	50,000/-	15,000/-
	Total	11,95,000/-	18,51,000/-

The total re-assessed compensation, to which the appellants are entitled is **Rs.18,51,000/-**.

23. We have noticed that during the pendency of this appeal, appellant No.4 i.e., father of the deceased died. Hence, this Court deems it appropriate to redo the apportionment of compensation in light of the death of appellant No.4 - father.

24. We are of the considered opinion that in light of changed circumstances, appellant No.1 should be made entitled for 40% of the total compensation and appellant No.2 shall be

entitled for 30% of the compensation and appellant No.3 is entitled for 30% of the compensation.

25. In the result,

- (i) MFA 1612 of 2018 is ***allowed in part.***
- (ii) MFA 8164 of 2017 is ***dismissed.***
- (iii) The judgment and award dated 03.03.2017 in MVC No.236 of 2016 passed by the I Additional Senior Civil Judge and V Additional MACT at Davanagere, is modified entitling the appellants for re-assessed compensation of **Rs.18,51,000/-** as against the the compensation already granted by the Tribunal in a sum of Rs.11,95,000/-.
- (iv) The enhanced compensation shall carry interest at 8% per annum from the date of petition, till its realization.
- (v) In view of the re-apportionment of the compensation as detailed above, necessary adjustment of the compensation already released and the compensation to be released on account of enhancement in this appeal shall be made by the Tribunal while releasing the balance compensation.
- (vi) The appellants are not entitled for the interest for the delayed period of 237 days.

- (vii) The statutory deposit of Rs.25,000/- alongwith accrued interest be transmitted to the Tribunal for disbursement.

Registry is directed to transmit the Trial Court records, forthwith, along with the copy of this judgment, for needful action.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(T.P.VIVEKANANDA)
JUDGE

BGN