



CNR: KAHC010403232022

NC: 2026:KHC:46850
MFA No. 6166 of 2022
C/W MFA No. 6924 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.6166 OF 2022(MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.6924 OF 2022(MV-D)

IN MFA No. 6166/2022

BETWEEN:

RELIANCE GENERAL INSURANCE
COMPANY LIMITED.,
EAST WING, 5TH FLOOR, NO.28
CENTENARY BUILDING, M.G ROAD
BENGALURU -560 001
NOW REPRESENTED BY MANAGER LEGAL

...APPELLANT

(BY SRI. ASHOK N PATIL, ADVOCATE)

AND:

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

1. RINA SETHI @ RINA SETHY
W/O LATE HRUSHIKESH SETHY
@ HRUSHIKESH SETHI
AGED ABOUT 34 YEARS,
2. KUM. MADHUSMITHA SETHY
D/O LATE HRUSHIKESH SETHY
@ HRUSHIKESH SETHI
AGED ABOUT 07 YEARS,
3. MASTER SAIRAM SETHY
S/O LATE HRUSHIKESH SETHY
@ HRUSHIKESH SETHI
AGED ABOUT 04 YEARS,



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4. SUKA SETHI @ SUKA SETHY
W/O LATE RAJAKISHORE SETHI
AGED ABOUT 67 YEARS,

RESPONDENTS NO.2 AND 3 ARE
SINCE MINORS, REPRESENTED BY THEIR
NATURAL GUARDIAN RESPONDENT NO.1
SMT. RINA SETHI @ RINA SETHY

RESPONDENTS ARE RESIDING AT
ADHANGA VILLAGE, MALLIKESWAR
CHANDOL TALUK, MAHAKALAPADA
KENDRAPARA, ODISSA-754 208

NOW RESIDING AT
C/OKONDAPPA BUILDING
BEHIND UDUPI SAGAR HOTEL
CHANNASANDRA VILLAGE
KADUGODI POST
BENGALURU -560 067

5. THE MANAGING DIRECTOR
BHAIRAVESHWARA TRANSPORTS
REPRESENTED BY ITS PROPRIETOR
VINAY GOWDA
SONNAPANAHALLI VILLAGE
BETTAHALASURU POST
BENGALURU NORTH TALUK
BENGALURU -562 157

...RESPONDENTS

(BY SRI. K.V.NAIK, ADVOCATE FOR R1 TO R4,
R5 NOTICE SERVED BUT UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 01.07.2022 PASSED IN MVC
NO. 4796/2019 ON THE FILE OF THE CHIEF JUDGE, COURT
OF SMALL CAUSES, MEMBER PRINCIPAL MOTOR ACCIDENT
CLAIMS TRIBUNAL, BENGALURU, AWARDING COMPENSATION
OF RS. 35,54,200/- WITH INTEREST AT 6 PERCENT P.A. FROM
THE DATE OF PETITION TILL REALISATION.



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IN MFA NO. 6924/2022

BETWEEN:

1. SMT RINA SETHI @ RINA SETHY
W/O LATE HRUSHIKESH SETHY
@ HRUSHIKESH SETHI
AGED ABOUT 35 YEARS
2. KUM. MADHUSMITHA SETHY
D/O LATE HRUSHIKESH SETHY
@ HRUSHIKESH SETHI
AGED ABOUT 8 YEARS
3. MASTER SAIRAM SETHY
S/O LATE HRUSHIKESH SETHY
@ HRUSHIKESH SETHI
AGED ABOUT 5 YEARS
4. SMT SUKA SETHI @ SUKU SETHY
W/O LATE RAJAKRISHOR SETHI
AGED ABOUT 68 YEARS

APPELLANTS NO.2 & 3 ARE
SINCE MINORS, HENCE REPRESENTED BY
MOTHER/NATURAL GUARDIAN
APPELLANT NO.1
SMT. RINA SETHI @ RINA SETHY

APPELLANTS ARE RESIDING AT
ADHANGA VILLAGE
MALLIKESWAPUR
CHANDOL TALUK
MAHAKALAPADA
KENDRAPURA
ODISSA-754208

NOW RESIDING AT
C/O KONDAPPA BUILDING
BEHIND UDUPI SAGAR HOTEL



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CHANNASANDRA VILLAGE
KADUGODI POST
BENGALURU-560 067

...APPELLANTS

(BY SRI. NAIK KRISHNA VENKATRAMAN, ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
REP BY HIS PROPRIETOR
VINAY GOWDA
BHAIRAVESHWARA TRANSPORTS
SONNAPANAHALLI VILLAGE
BETTAHALASURU POST
BENGALURU NORTH TALUK
BENGALURU-562157
2. THE LEGAL MANAGER
M/S RELIANCE GENERAL INSURANCE
COMPANY LTD
NO.28, 5TH FLOOR
CENETARY BUILDING
M.G ROAD, BENGALURU

...RESPONDENTS

(BY SRI. ASHOK N PATIL, ADVOCATE FOR R2,
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 01.07.2022 PASSED
IN MVC NO. 4796/2019 ON THE FILE OF THE CHIEF
JUDGE, COURT OF SMALL CAUSES, MEMBER, PRINCIPAL
MOTOR ACCIDENT CLAIMS TRIBUNAL, BENGALURU,
PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

THESE APPEALS, COMING ON FOR HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:



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CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

These two appeals arise out of the judgment and award dated 01.07.2022 passed in M.V.C. No.4796/2019 by the Court of Small Causes and Member, Prl. MACT, Bengaluru (for short, 'the Tribunal'), whereby the Tribunal partly allowed the claim petition filed by the claimants and awarded compensation of Rs.35,54,200/- with interest at the rate of 6% per annum.

2. The factual matrix of the case is that, on 08.07.2019 at about 12.45 p.m., the deceased, Hrushikesh Sethi @ Hrushikesh Sethy, was proceeding on a bicycle near Hopefarm Junction from Channasandra towards Mahadevapura to attend his duty at Phoenix Mall. At that time, a lorry bearing registration No.KA-50-A-2985, being driven in a rash and negligent manner from Channasandra towards Hopefarm, dashed against deceased from behind to the rear portion of the bicycle.. Due to the impact, the deceased fell on the road and sustained injuries all over his body. He was thereafter shifted to Vydehi Medical College Hospital for treatment, where he succumbed to the injuries. Hence, the legal representatives of



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the deceased filed the claim petition seeking compensation on account of his accidental death.

3. Upon appreciation of the oral and documentary evidence on record, the Tribunal partly allowed the claim petition and awarded compensation as stated supra. Aggrieved by the said judgment and award, the Insurance Company has preferred MFA No.6166/2022, whereas the claimants have preferred MFA No.6924/2022.

4. Heard the learned counsel for the respective parties.

5. Apart from urging several contentions, learned counsel for the Insurance Company primarily contended that the Tribunal erred in fastening the entire negligence on the driver of the offending lorry, despite the deceased having equally contributed to the occurrence of the accident. Placing reliance on Ex.P4-spot sketch, he contended that the accident occurred at Hopefarm Junction when the deceased was proceeding from east to west, from Channasandra towards ITPL, and the lorry was also proceeding in the same direction



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on the same road. When the driver of the lorry was attempting to take a left turn at the Junction, the deceased, without observing the movement of the lorry, the deceased moved on the same direction and dashed against it, thereby contributing to the accident. He further contended that the Tribunal erred in deducting only 1/4th of the income towards the personal expenses of the deceased instead of 1/3rd, particularly when claimant No.4 was residing with her other son. It was also contended that the Tribunal erred in assessing the income of the deceased at Rs.18,000/- per month in the absence of any evidence from his employer. With these submissions, he prays to dismiss the appeal filed by the claimants and allow the appeal preferred by the Insurance Company.

6. *Per contra*, learned counsel for the claimants, while supporting the impugned judgment and award, contended that the Tribunal was justified in fastening the entire negligence on the driver of the offending lorry. According to him, immediately after the accident, an FIR was registered against the driver of the lorry and, upon investigation, the jurisdictional police laid the charge sheet against him. The Insurance Company has not



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adduced any rebuttal evidence to disprove the charge sheet or the other investigation records. In such circumstances, he contended that the Tribunal was justified in attributing the entire negligence to the driver of the offending lorry.

7. He further contended that claimant No.4, being the mother of the deceased, cannot be denied her status as a dependant merely because she was residing with her other son, and such circumstance cannot be a ground for determining the deduction towards the personal expenses of the deceased. He also contended that the compensation awarded by the Tribunal is inadequate. According to him, Ex.P15—salary certificates for the period from June 2018 to June 2019 disclose that the deceased was drawing a last drawn salary of Rs.20,054/- per month. However, the Tribunal, without properly considering the said evidence, assessed his monthly income at Rs.18,000/-. Accordingly, he prays for enhancement of compensation under the head of loss of dependency as well as the conventional heads, by allowing the appeal filed by the claimants and dismissing the appeal preferred by the Insurance Company.



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8. I have given my anxious consideration both on the submission made by the learned counsel for the respective parties so also perused the entire evidence and documents available on record.

9. As could be gathered from records, the occurrence of the accident and the coverage of the offending lorry under the insurance policy are not in dispute. As regards the contention of learned counsel for the Insurance Company that the deceased also contributed to the occurrence of the accident, on careful perusal of the investigation records produced by the claimants at Exs.P1 to P11, it is evident that, after investigation, the jurisdictional police laid charge sheet against the driver of the offending lorry. The said charge sheet has not been seriously disputed by the Insurance Company.

10. However, on perusal of Ex.P4—spot sketch, it is evident that the accident occurred at Hopefarm Junction. The sketch discloses that both the vehicles were proceeding in the same direction, i.e., from east to west, from Channasandra towards ITPL, and the accident occurred almost in the middle of the road. It further reveals that, when the driver of the lorry



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attempted to take a left turn at the junction, the deceased was riding his bicycle in the middle of the road on the same direction, at which point the accident occurred.

11. On careful examination of Ex.P4—spot sketch and Ex.P3—spot mahazar, it is evident that, though the driver of the offending lorry was primarily responsible for the occurrence of the accident, the deceased cyclist also contributed to the accident to a certain extent. The contributory negligence on the part of the deceased is assessed at 10%, while the driver of the offending lorry is held responsible to the extent of 90%. Accordingly, the finding of the Tribunal with regard to negligence is modified to the said extent.

12. As regards the contention of learned counsel for the claimants that the monthly income of the deceased ought to have been assessed at Rs.20,000/-, contending that his last drawn salary was Rs.20,054/-, on perusal of the salary slip for the month of June 2019, though the gross salary is shown as Rs.20,054/-, the said amount includes incentives of Rs.1,800/-. The other salary slips for the period from June 2018 to April 2019 do not disclose payment of any incentives and reflect the



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gross salary in the range of Rs.16,000/- to Rs.17,000/-. Further, PW.1, the wife of the deceased, has categorically deposed that the deceased was earning Rs.18,000/- per month. In view of the same, the contention of the claimants seeking assessment of the monthly income at Rs.20,000/- cannot be accepted.

13. In the circumstances, I am of the considered view that the Tribunal was justified in assessing the monthly income of the deceased at Rs.18,000/-. The Tribunal was also justified in deducting 1/4th of the income towards his personal and living expenses, there being four dependants. Accordingly, the compensation of **Rs.33,64,200/-** awarded by the Tribunal under the head of "*loss of dependency*" is just and proper and does not call for interference.

14. However, the claimants are entitled for sum of Rs.48,400/- each towards "*loss of consortium*" i.e., in all **Rs.1,93,600/-** (48,400 X 4) and they would also be entitled to a sum of **Rs.36,300/-** under the head of "*conventional heads*".



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15. 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	33,64,200
2.	Loss of Consortium	1,93,600
3.	Conventional Heads	36,300
	Sub-Total	35,94,100
	Less:10% towards contributory negligence	3,59,410
	Total	32,34,690

16. Accordingly, the claimants would be entitled for compensation of **Rs.32,34,690/-** as against Rs.35,54,200/- along with interest at the rate of 6% per annum from the date of petition till its realization.

17. The Insurance Company is directed to deposit the compensation amount, together with accrued interest, within a period of six weeks from the date of receipt of a certified copy of this judgment.



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18. The apportionment of compensation amount shall be in terms of the award of the Tribunal.

19. The appeal is accordingly ***allowed in part.***

20. The amount in deposit if any, shall be transmitted to the Tribunal.

21. If any excess amount deposited by the Insurance Company shall be refunded to the insurance company.

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

CR
List No.: 1 Sl No.: 39