



NC: 2026:KHC:32442-DB
MFA No. 6707 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.6707 OF 2021(MV-D)

BETWEEN:

1. LAXMAN POOJARY
AGED ABOUT 64 YEARS,
S/O LATE BASAVA POOJARY,
2. LALITHA L.POOJARY
AGED ABOUT 56 YEARS,
W/O LAXMAN POOJARY,
3. NAGARAJ POOJARY
AGED ABOUT 31 YEARS,
S/O LAXMAN POOJARY,

ALL ARE RESIDENT OF H.NO.4-141,
UGRANIMANE, JANSALÉ,
SAIDAPURA VILLAGE AND POST,
KUNDAPURA TALUK, UDUPI DISTRICT-576 201.

...APPELLANTS

(BY SRI. PAVANA CHANDRA SHETTY.H., ADVOCATE)

AND:

1. ZAKIR HUSEN
AGED ABOUT 37 YEARS,
S/O KARANI ABU MOHAMMED,
R/O H.NO.82, KANDLOORU,
KAVRADY VILLAGE AND POST,
KUNDAPURA TALUK-576 201.

Digitally signed by
SUMATHY KANNAN
Location: CHH
COURT OF
KARNATAKA



2. THE UNITED INDIA INSURANCE CO. LTD.,
KUNDAPURA BRANCH,
OPP.KSRTC DEPOT, NH-66,
KUNDAPURA-576 201,
REP BY ITS BRANCH MANAGER.

...RESPONDENTS

(BY SRI. S.V.HEGDE MULKHAND., ADVOCATE FOR R2;
NOTICE TO R1-DISPENSED WITH V/O DTD:04.06.2026)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.09.2021 PASSED IN MVC NO. 175/2019 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MACT, KUNDAPURA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the judgment and award dated 30.09.2021, in MVC No.175/2019, passed by the Senior Civil Judge and Additional MACT, Kundapura (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has



awarded compensation to the appellants/claimants in a sum of Rs.19,06,000/-, along with interest at 6% per annum from the date of the petition till its realisation.

2. The challenge in the present case has been made by the appellants/claimants.

3. Although the matter was listed for Admission today, with the consent of the parties, the matter is taken up for hearing and final disposal at this stage.

4. The brief facts of the case are that on 29.12.2018, at about 09.25 p.m., the deceased Mr.Raviraj Poojari was riding his motorcycle bearing Reg.No.KA-20-EP-5588, when he reached near Balkuru School, Balkuru Village, Kundapura Taluk, a Mahindra Bolero bearing Registration No.KA-17-N-6332, owned by the first respondent, stated to be driven in a rash and negligent manner, came on the wrong side and hit the motorcycle of the deceased. Due to the impact, the said Raviraj sustained grievous injuries and died on the spot.



5. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'MV Act') was filed by the parents and younger brother of the deceased. It was stated therein that the deceased was working as an Artistic Sticker Cutter, Art Painter and Yakshagana Artist and earning a monthly income of not less than Rs.25,000/- per month. It was further stated therein that the deceased was the only breadwinner of the family. The claim petition was contested by the respondent No. 2/insurance company. The respondent No.1/owner did not appear despite service and was placed *ex parte*.

6. In view of the pleadings filed by the parties, the learned Tribunal framed the following issues:

"1. Whether the petitioners prove that, the deceased Raviraj Poojary succumbed due to the injuries sustained in an accident, which was occurred on 29.12.2018 at about 9.25 p.m., near Balkuru School, Balkuru Village, Kundapura Taluk, due to the rash and negligent driving by the owner of the Mahindra Bolero bearing Reg. No.KA-17-N-6332?"

2. Whether the petitioners are entitled for compensation? If so, at what quantum and from whom?"

3. What order or award?"



7. The claimant No.1, the father of the deceased examined himself as PW-1 and an eyewitness was examined as PW-2. The employers of the deceased Sri.Sharath Kumar Shetty (Owner of Carex Sticker Point) and Sri.Narayana Shetty (Manager of Yakshagana Mela Temple), the employers of the deceased were examined as PW-3 and PW-4 respectively. In addition, 22 documents were marked, which included FIR (Exhibit-P1), Charge-sheet (Exhibit-P3), Inquest Panchanama (Exhibit-P5), Copy of sketch (Exhibit-P7), IMV Report (Exhibit-P8), reflecting the educational qualifications of the deceased, the marksheet and certificate was exhibited as Exhibit-P10 and P11, documents with respect to the Yakshagana Training Centre and photographs marked as Exhibits-P13, 14 to 16, the bank account of the deceased of the Karnataka Bank and Canara Bank were marked as Exhibits P18 and P19. The salary certificate issued by Carex Sticker Point was marked as Exhibit-P20. The respondent No.2/ insurance company did not place any evidence on record.



8. The learned Tribunal after examining the evidence placed before, it found that the rash and negligent driving of the offending vehicle was proved. There is no challenge on this aspect by either party. However, the learned Tribunal, while awarding compensation, examined the evidence placed on record and gave a finding that there is no cogent and acceptable evidence as to the income of the deceased. The notional income for the year 2018 as per the Chart prepared by the Karnataka State Legal Services Authority at Rs.12,500/- per month was taken. Given that the deceased was 27 years of age at the time of the accident, the multiplier of 17 was adopted and 40% of his income was added towards 'future prospects'. Since the deceased was a bachelor, 50% of income was deducted towards his personal expenses. Accordingly, the learned Tribunal calculated the loss of dependency as follows:

$$\begin{aligned} &(\text{Rs.12,500} + 40\%) = \text{Rs.17,500/-} \\ &(\text{Rs.17,500} - 50\%) \times 12 \times 17 = \text{Rs.17,85,000/-} \end{aligned}$$



9. In addition, the learned Tribunal also awarded amounts towards loss of consortium, loss of estate, funeral expenses in the following manner:

Sl.No.	Particulars	Amount (Rs.)
1	Loss of Dependency	17,85,000/-
2	Loss of Filial Consortium to petitioners Nos.1 and 2	88,000/-
3	Loss of Estate	16,500/-
4	Funeral Expenses	16,500/-
	Total	19,06,000/-

10. Thus, it was held that the claimants were entitled to a sum of Rs.19,06,000/- along with 6% interest per annum, from the date of petition till the date of realization.

11. The learned counsel for the appellants submits that the income as calculated by the learned Tribunal was not correctly calculated. He submits that the deceased was working in the day with a shop called Carex, which produces car stickers and in the night also he was working as an Yakshagana artist in Kundapura Taluk. He submits that the deceased was earning atleast Rs.25,000 to



Rs.30,000 per month and the learned Tribunal could not have taken notional income for awarding the compensation. In addition, the learned counsel in support of his submissions, relies on the documents filed and exhibited, including the bank statements (Exhibit P18 and Exhibit P19), as well as the certificate issued by his employer Carex (Exhibit-P20). The learned counsel for the appellants also states that the employers of the deceased being PW3 and PW4 were also examined. However, despite the same, notional income was adopted by the learned Tribunal.

11.1 In addition, the learned counsel submits that the award towards filial consortium was also not in accordance with the principles as set out in ***National Insurance Co. Ltd. Vs. Pranay Sethi***¹ case. Lastly, it is contended that the interest awarded is not in accordance with the recent judgments of the Supreme Court.

¹(2017) 16 SCC 680



12. The learned counsel for the respondent No.2/Insurance company on the other hand, contends that since there was no adequate evidence produced on behalf of the claimants, *qua* the income of the deceased, thus, the learned Tribunal rightly awarded the compensation on the basis of notional income. In addition, learned counsel for the respondent No.2/Insurance company fairly contends that the 'filial consortium' was to be awarded for all three claimants. Lastly, the learned counsel for the respondent No.2/Insurance company submits that the interest has been awarded in accordance with law.

13. The points that arise for determination before this Court are:

- (i) whether the monthly income has been rightly calculated by the learned Tribunal given the evidence on record?
- (ii) whether any additional amounts were required to be awarded to the appellants/claimants and,



(iii) lastly, whether the interest as awarded by the learned Tribunal is in accordance with settled legal principles?

14. So far as concerns the first issue, the Court has examined the evidence which has been placed on record by the appellants/claimants. The deceased was ITI (Industrial Training Institute) Diploma Graduate and had secured such ITI certification. He has also placed on record a letter issued by the Yakshagana Training Centre, as well as photographs showing his performances (Exhibits P13 to P17). In addition, the claimants produced the bank account extract of Karnataka Bank, as well as Canara Bank (Exhibits-P18 and P19) and the Salary Certificate issued by Carex stickers (Exhibit P20).

14.1 The appellants/claimants have also produced evidence of the eyewitness PW2, as well as the father of the deceased PW1. So far as concerns the evidence produced by the owner of Carex Sticker point (Exhibit-P20), it is clearly stated that the deceased was being paid



Rs.15,000/- per month. The deposition of the employer, PW-3, also sets out that the salary was paid in cash. The father of the deceased has deposed that the deceased was earning around Rs.15,000/- per month. The relevant extract is below:

"Along with this, by doing artistic painting work, he was also earning an average income of Rs.7,000 per month, thereby earning a total monthly income of Rs.25,000-00. Even on the day he died in the road accident, he was returning after participating as a guest background singer artist in the Sri Kshetra Kamalashile, Dashavatara Yakshagana Mela held at Hunnimakki Hombayi."

[Emphasis Supplied]

14.2 In addition, the employer of the deceased Mr.Sharathkumar Shetty, was examined as PW3 by the claimants. In his deposition, including the cross-examination, he has clearly set out that the deceased was employed since the year 2007 and currently he was earning Rs.15,000/- per month in the following terms:

"1. I am residing at the above-mentioned address, and since the year 2007, I have been running my shop name Cartex Sticker Point in Siddapura town, Raviraj, the son of the 1st and 2nd petitioners in this case, had been working with me doing sticker cutting, art designing, and painting work for about 6 years prior to his death in a road accident. During the time he was working with me prior to his death in the accident, I was paying him



a monthly salary of Rs.15,000/-, and confirming the same, at the request of his father, I issued a confirmation letter on date : 10.06.2019.

[Emphasis Supplied]

14.3 The bank statements of the deceased, which have been placed on record show that regular deposits in amounts varying between Rs.4,000/- to Rs.48,000/- per month.

15. PW4 who is the manager of the Yakshagana Mela has deposed that he was paid Rs.450/- per day and he participated in 70 to 80 programmes a year. However, in his cross-examination, PW-4 has set out that they were already three persons as background singers, so the deceased was being called wherever necessary. But he confirmed that the deceased had worked for 10-15 times in a year in the Mela. The learned Tribunal, however found that the evidence produced by the appellants/claimants were not enough to award more than the notional income.

15.1 Nothing adverse was elucidated in the cross-examination to dispute these averments of the witnesses.



16. So far as concerns the evidence produced by the owner of Carex Sticker point (Exhibit P20), it is clearly stated that the deceased was being paid Rs.15,000/- per month. The deposition of the employer PW-3 also sets out that the salary was paid in cash. The relevant extract of the Impugned Award is set out below:

"16. The PW-3 is the owner of Carex Sticker Point and he deposed that the deceased was working in his shop and he was being paid ₹15,000/- per month as salary. In the cross-examination by learned counsel for the respondent No.2, the PW-3 has deposed that he is running the shop in a rented premises and he has obtained licence in his own name. The PW-2 further deposed that he used to pay the salary in cash and he has not maintained documents for having paid the salary to the deceased. It is suggested to PW-3 that in order to help the petitioners, he is deposing falsely that deceased was working in shop and he was being 2 paid salary of Rs.15,000/- per month. The said suggestion is denied by the PW-3.

17. The PW-4 is the manager of the Yakshagana Mela and deposed that the deceased was working as background singer in the Yakshagana and he was paid Rs.450/- per day and the deceased has participated in 70 to 80 programmes in a year. **In the cross-examination by learned counsel for the respondent No.2, the PW-4 has deposed that in a meeting of the Executive Committee, a resolution is passed in the year 1988 appointing him as manager of the Yakshagana Mela. The PW-4 further deposed that since three persons were already there as background singers, hence, the deceased was being called whenever necessary. The PW-4 specifically deposed that there are two melas in the Kamalashile temple and deceased worked in 'A' Mela in the 2017-18 for**



about 10 to 15 times and he do not know how many times deceased worked in 'B' Mela.

18. Though, the petitioners have contended that deceased was working in the shop of PW-3 and PW-3 also deposed that the deceased was being paid 15,000/- as salary, **but the petitioners or the PW-3 have not produced any documents** to show that he was being paid salary of Rs.15,000/- per month. **Further on perusal of the Ex P.13, it appears that deceased has completed Yakshagana Training and also as per Ex.P.14 to Ex.P.16 photographs of the deceased, it appears that the deceased has worked as background singer in the Yakshagana. But, the petitioners have not produced any documents to prove the income of the deceased.** On perusal of the SB account extract of the deceased marked as Ex.P.18 and Ex.P.19, it could be noticed that there are many transactions of cash deposit, but, none of the said transaction could be identified as fixed salary credited to the account. There are entries about fund transfers from various persons and which cannot be considered as the salary amount. Therefore, on perusal of the bank account extracts, it cannot be inferred that the deceased had any fixed salary, which was deposited to his account."

[Emphasis Supplied]

17. Given the evidence produced referred to above, we are unable to agree with the Impugned Award. From the evidence produced, it has been proved that the deceased was working with Carex Sticker Point and being paid a salary of Rs.15,000/- per month. The employer of the deceased was deposed as PW3. He stated that he was paying the deceased Rs.15,000/- per month and also



affirmed the fact that he is running a shop making car stickers.

17.1 In addition, PW-4 also proved that the deceased was working part-time as a Yakshagana Artist and earning Rs.450/- per day over 70 to 80 programmes a year. Thus, as an average he would make atleast Rs.3,000/- per month, in addition to his salary from the Carex Sticker Point. Thus, the Court deems it apposite to take the monthly income of the deceased at Rs.18,000/- per month. The calculation of loss of dependency would thus be as follows:

$$\begin{aligned}(\text{Rs.18,000} + 40\%) &= \text{Rs.25,200/-} \\ (\text{Rs.25,200} - 50\%) &= \text{Rs.12,600} \times 12 \times 17 = \text{Rs.25,70,400/-}\end{aligned}$$

18. In view of the law laid down by the Supreme Court in the ***Pranay Sethi*** case loss of consortium is payable at Rs.40,000/- to three claimants, amounting to **Rs.1,20,000/-**. The appellants/claimants are also entitled to compensation under the conventional heads.



Accordingly, **loss of estate** and **funeral expenses** are awarded at Rs.15,000/- each.

19. Since the accident took place in the year 2018 and although the judgment of the learned Tribunal was passed in the year 2021, no escalation has been awarded on the 'conventional heads'. The Supreme Court in its judgment in the **Pranay Sethi** case has upheld the aforesaid principle of law. The relevant paragraph is set out below:

"59.8. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."

19.1 Accordingly, escalation at the rate of 10% is also awarded on the conventional heads.

20. The learned Tribunal has awarded interest at 8% per annum. One of us, Ms.Justice Tara Vitasta Ganju in the recent judgment dated 01.06.2026 in the case of **United India Insurance Co. Ltd. vs. Sri.Malyadri.M And Others**² has examined the issue of interest in detail and

² 2026 SCC Online Kar 4090



found that the award of interest @ 9% per annum in cases of death and in cases of permanent disability has been regularly upheld by the Supreme Court. It is apposite to extract the relevant portion of the judgment below:

24. Thus, an analysis of the precedents shows that the award of interest **over the last 5-10 years has infact consistently been awarded @ 9% p.a. or upholding such an award.**

XXX

XXX

XXX

"29. An analysis of the foregoing discussions of the Supreme Court, reflects that the Supreme Court has consistently held that the award of interest is intended to recompensate the claimant for being deprived of the use of money, which ought to have been paid at the time of occurrence of the accident. The rate of interest, therefore, must be just, fair and reasonable, having regard to the prevailing economic conditions and bank rates.

29.1. **The award of interest is usually determined at the prevailing bank rate of interest on a case-to-case basis and at the rate which is just and fair and reasonable.**

29.2 **There cannot be any 'straitjacket formula' in determining the rate of interest and that the same must depend on the facts and circumstances of each case. The guiding principle remains that the rate must neither be punitive nor non-existent but must strike a balance between fairness to the claimant and reasonableness to the insurer.**

29.3 **The rate of interest 9% is more appropriate in case involving death and serious injury especially, where there is a long delay in the claimants receiving the compensation.**



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30. In the present case, the accident occurred in the year 2016 leading to the death of the wife of respondent No.1 and mother of respondent Nos.2 and 3. The award came to be passed in the year 2018. The learned Tribunal has deemed it apposite to award interest on the compensation @ 9% per annum. The award of interest is not punitive as is fair considering the prevailing economic condition and bank rates. In addition, it is now 10 years since the date of the accident.

31. The learned Trial Court has awarded interest at the rate of 9% per annum. This Court finds no infirmity with the Impugned Award of 9% interest in the circumstances of the present case."

[Emphasis Supplied]

21. The deceased was a young man aged 27 years and was working and supporting his entire family. The parents have lost their son on his return from a Yakshagana performance. Given these circumstances, this is a fit case for this Court to enhance the rate of interest from 6% to 8% per annum. Accordingly, the compensation awarded by the learned Tribunal requires to be recalculated in the following terms:

Sl.No.	Particulars	Amount (Rs.)
1	Loss of Dependency [(Rs.18,000 + 40%) = (Rs.25,200 - 50%) = Rs.12,600 x 12 x 17]	25,70,400/-
2	Loss of Consortium	1,32,000/-



3	Loss of Estate	16,500/-
4	Funeral Expenses	16,500/-
	Total	27,35,400/-
	Less : Awarded by the Tribunal	19,06,000/-
	Enhanced Compensation	8,29,400/-

22. Hence, the appellants/claimants are entitled to a total compensation of **Rs.27,35,400/-** along with interest at 8% per annum, from the date of petition till its realization. The interest awarded shall be recalculated at 8% per annum, from the date of the petition till the date of realisation as set out under Section 171 of the MV Act.

23. Accordingly, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***allowed in part;***
- (ii) The Judgment and Award dated 30.09.2021, in MVC No.175/2019, passed by the Senior Civil Judge and Additional MACT, Kundapura is modified, enhancing the compensation by **Rs.8,29,400/-** along with interest at the rate of



8% per annum from the date of petition till realization.

(iii) The interest awarded shall be recalculated from the date of the petition till the date of realisation as set out under Section 171 of the MV Act.

(iv) The remaining portion of the Impugned Award of the Tribunal remains undisturbed.

(v) The appellant/Insurance company is directed to pay the enhanced compensation with interest as awarded by the Tribunal within eight weeks from today.

(vi) On such deposit of compensation, the same shall be released in favour of the claimants, on filing of an appropriate application for withdrawal of the enhanced amount.

(vii) The Registry is directed to draw the modified Award accordingly.



(viii) The Registry is directed transmit the amount in deposit along with a copy of this judgment to the concerned Tribunal, along with its records for disbursal.

(ix) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

JJ
List No.: 1 Sl No.: 11