



CNR: KAHC010103782022

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NC: 2026:KHC:42610  
MFA No. 2123 of 2022  
C/W MFA.CROB No. 130 of 2022

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

**DATED THIS THE 11<sup>TH</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE RAJESH RAI K**

**MISCELLANEOUS FIRST APPEAL NO.2123 OF 2022(MV-D)**

**C/W**

**MFA CROSS OBJECTION NO. 130 OF 2022 (MV-D)**

**IN MFA No. 2123/2022**

**BETWEEN:**

1. M/S IFFCO -TOKIO GENERAL ISNURANCE CO LTD  
CUSTOMER SERVICE CENTRE  
SRI SHANTHI TOWERS, 5<sup>TH</sup> FLOOR  
3<sup>RD</sup> MAIN, NGEF LAYOUT  
KASTHURI NAGAR  
BENGALURU 560043  
REP. BY ITS CHIEF MANAGER  
SMT.K.R. RAMYA

...APPELLANT

(BY SRI. KRISHNA KISHORE S, ADVOCATE)

**AND:**

1. SMT SUGANDHI DEVI  
AGED ABOUT 36 YEARS  
W/O MR. SANJAY SAH
2. SRI SANJAY SAH  
AGED ABOUT 38 YEARS  
S/O MR. BACHU SAH

BOTH ARE PERMANENT RESIDENT OF  
WARD NO.10, AJGARWA VILLAGE  
KHAIRI POST, EAST CHAMPARAN DISTRICT  
BIHAR-845 401.

Digitally signed by  
PANKAJA S  
Location: HIGH  
COURT OF  
KARNATAKA



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PRESENTLY RESIDING AT  
CHITNAHALLI VILLAGE  
SUGUTUR POST,  
KOLAR TALUK & DISTRICT

- 3 SRI. K. NANJUNDAPPA  
MAJOR IN AGE  
S/O NARAYANAPPA  
RESIDENT OF KEMBATHANAHALLI VILLAGE  
THOTLI POST, KOLAR TALUK & DISRTRICT

...RESPONDENTS

(BY SRI. GOPAL KRISHNA N, ADVOCATE FOR R1 & R2,  
R3 - SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE  
JUDGMENT AND AWARD DATED 15.09.2021 PASSED IN MVC  
NO.4691/2019 ON THE FILE OF THE I ADDITIONAL SMALL  
CAUSES JUDGE AND MACT, BENGALURU SCCH-11 AWARDDING  
COMPENSATION OF RS.2,95,000/- WITH INTEREST AT 9  
PERCENT P.A. FROM THE DATE OF PETITION TILL  
REALIZATION.

**IN MFA.CROB NO.130/2022**

**BETWEEN:**

1. SMT SUGANDHI DEVI  
W/O SANJAY SAH  
NOW AGED 36 YEARS
2. SRI SANJAY SAH  
S/O BACHU SAH  
NOW AGED ABOUT 38 YEARS

BOTH ARE PERMANENT  
RESIDENTS OF  
WARD NO 10  
AJGARWARA VILLAGE



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KHAIRI POST  
EAST CHAMPARAN DISTRICT  
BIHAR STATE-845 401

PRESENTLY RESIDING AT  
CHITNAHALLI VILLAGE  
SUGATUR POST  
KOLAT TALUK & DISTRICT

...CROSS OBJECTORS

(BY SRI. GOPAL KRISHNA N, ADVOCATE)

**AND:**

1. M/S IFFCO TOKIO  
GENERAL INSURANCE CO LTD  
CUSTOMER SERVICE CNETRE  
SRI SHNTHI TOWERS  
5<sup>TH</sup> FLOOR, 3<sup>RD</sup> MAIN  
NGEF LAYOUT  
KASTURI NAGAR  
BANGALORE 560 043  
REP BY ITS MANAGER
2. SRI K NANJUNDAPPA  
S/O NARAYANAPPA  
MAJOR BY AGE  
RESIDING AT  
KEMBATHANAHALLI VILLAGE  
THOTLI POST  
KOLAR TALUK & DISTRICT  
PIN-563 131

...RESPONDENTS

(BY SRI. KRISHNA KISHORE S, ADVOCATE FOR R1,  
R2 - SERVED)

THIS MFA.CROB IS FILED UNDER ORDER XLI RULE 22  
OF THE CPC READ WITH SECTION 173(1) OF MOTOR  
VEHICLE ACT, AGAINST THE JUDGMENT AND AWARD



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DATED 15.09.2021 PASSED IN MVC NO.4691/2019 ON THE FILE OF THE I ADDITIONAL SMALL CAUSES JUDGE AND MACT, BENGALURU (SCCH-11), ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION, WITH COST.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

### **ORAL JUDGMENT**

These two appeals are directed against the judgment and award dated 15.09.2021 passed in MVC No.4691/2019 by the Motor Accident Claims Tribunal, Bengaluru, (SCCH-11) (for short, 'the Tribunal'), whereby the Tribunal allowed the claim petition filed by the claimants and awarded compensation of Rs.2,95,000/- with 9% interest and directed the Insurance Company to make good the compensation to the claimants and thereafter to recover the same from respondent No. 1 i.e. the owner of offending vehicle i.e. the Tractor-Trailer.

2. The brief facts of the case are, when Mr.Kiran S. @ Sharan (deceased) was travelling in Tractor-Trailer bearing registration No.KA-07-TA-2184 and KA-07-TA-2185 along with his father from Shettikunte to Kakinatha Kuccha Road. The



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driver of the Tractor-Trailer drove the same at high speed in a rash and negligent manner. As a result, Kiran lost balance and fell down on the road from the Tractor-Trailer. Subsequently, the wheel of the said Tractor-Trailer ran over him, due to which, he sustained grievous crush head injuries and succumbed on the spot. Thereafter, his legal representatives filed claim petition before the Tribunal claiming compensation for his accidental death.

3. The Tribunal, upon assessment of oral and documentary evidence allowed the claim petition as stated supra. The said judgment is challenged by the Insurance Company in MFA No.2123/2022 and by the claimants in MFA No.130/2022.

4. Heard learned counsel for their respective parties.

5. Apart from urging several contentions, learned counsel for the appellant-Insurance Company primarily contended that the Tribunal has grossly erred by directing the Insurance Company to make good the compensation to the claimants and thereafter to recover the same from the owner of



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the Tractor-Trailer. According to him, the accident was caused while the deceased was travelling by sitting on the mudguard of the Tractor and thereafter due to the rash driving of the driver, he fell on the road and succumbed to the injuries. According to him, the seating capacity of the Tractor is only one i.e., for the driver to operate the same and the risk of any other person proceeding in a Tractor-Trailer do not cover under the policy as well as Section 147 of the Motor Vehicles Act. To buttress his arguments, he relied on the judgment of the Full Bench of this Court i.e. **GADHILINGAPPA @ GADHILINGA AND ANOTHER V. K. GULEPPA AND OTHERS** reported in **ILR 2021 KAR 337**. Accordingly, he prays to allow the appeal and to modify the direction of payment of compensation by exonerating the Insurance Company.

6. *Per contra*, learned counsel for respondents-claimants contended that the Tribunal is justified in passing the order of pay and recover in view of the judgment of the Hon'ble Apex Court in the case of **SHIVARAJ VS. RAJENDRA AND ANOTHER** reported in **2018 ACJ 2755 (SC)**, wherein the Hon'ble Apex Court categorically held that the person who is traveling



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as a passenger in mudguard of the Tractor also covers with insurance policy and the Insurance Company is liable to make good the compensation and thereafter is at liberty to recover the same from the insured. He further submitted that the above judgment is relied on by the Co-ordinate Bench of this Court in MFA No.3294/2011 c/w MFA No.3390/2011. He also contended that the Tribunal is not justified in awarding meager compensation without granting any compensation on the head of loss of dependency. By placing reliance on the judgment of **HITESH NAGJIBHAI PATEL Vs. BABABHAI NAGJIBHAI RABARI AND ANOTHER** in **Civil Appeal No.10278/2025**, he submits that the compensation awarded by the Tribunal has to be reassessed. Accordingly, he prays to dismiss the appeal filed by the Insurance Company by allowing the appeal filed by the claimants.

7. I have given my anxious consideration to the submission made by the learned counsel for the respective parties and perused the impugned judgment and award so also other documents made available before this Court.



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8. As could be gathered from records, the occurrence of accident on 01.12.2018, while the deceased was travelling in Tractor-Trailer which was covered with insurance policy of the Insurance Company are not in dispute. However, the contention of learned counsel for the Insurance Company that since the deceased was sitting on the mudguard of the Tractor, the policy not covers except one person i.e., driver is concerned, the Hon'ble Apex Court in the case of **SHIVARAJ** supra, in a similar circumstances held in paragraph Nos.9 and 10 as under.

*"9. The High Court, however, found in favour of respondent No.2 (insurer) that the appellant travelled in the tractor as a passenger which was in breach of the policy condition, for the tractor was insured for agriculture purposes and not for carrying goods. The evidence on record unambiguously pointed out that neither was any trailer insured nor was any trailer attached to the tractor. Thus, it would follow that the appellant travelled in the tractor as a passenger, even though the tractor could accommodate only one person namely the driver. As a result, the Insurance Company (respondent No.2) was not liable for the loss or injuries suffered by the appellant or to indemnify the owner of the tractor. That conclusion reached by the High Court, in our opinion, is unexceptionable in the fact situation of the present case.*

*10. At the same time, however, in the facts of the present case the High Court ought to have directed the Insurance Company to pay the compensation amount to the claimant (appellant) with liberty to recover the same*



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*from the tractor owner, in view of the consistent view taken in that regard by this Court in [National Insurance Co. Ltd. Vs. Swarna Singh & Ors.](#), [Mangla Ram Vs. Oriental Insurance Co. Ltd.](#), [Rani & Ors. Vs. National Insurance Co. Ltd. & Ors.](#) and including Manuara Khatun and Others Vs. Rajesh Kumar Singh And Others. In other words, the High Court should have partly allowed the appeal preferred by the respondent No.2. The appellant may, therefore, succeed in getting relief of direction to respondent No.2 Insurance Company to pay the compensation amount to the appellant with liberty to recover the same from the tractor owner (respondent No.1)."*

9. The Hon'ble Apex Court in the above judgment, affirmed the pay and recover order passed by the High Court. The Co-ordinate bench of this Court in MFA No.3294/2011 c/w MFA No.3390/2011 as stated above, placing reliance on the said judgment held that the Insurance Company cannot deny its liability to pay the compensation for the reason that the deceased was travelling by sitting on the mudguard of the Tractor. The Insurance Company is duty bound to pay the award amount in the first instance and thereafter to recover the same from the owner of the offending vehicle. In such circumstances, the judgment relied on by the learned counsel for the Insurance Company is distinguishable in view of the subsequent judgment of the Co-ordinate Bench of this Court by placing reliance on the judgment of **SHIVARAJ** supra. Hence, I



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am of the considered view that the Tribunal is justified in passing the pay and recover order.

10. As far as the quantum of compensation is concerned, since the deceased was aged 13 years at the time of accident, the Tribunal has awarded a lumpsum of Rs.2,95,000/- without granting any compensation on the head of loss of dependency by relying on the judgment of **RAJENDRA SINGH AND OTHERS VS. NATIONAL INSURANCE COMPANY LIMITED AND OTHERS** in **CIVIL APPEAL NO.2624/2020**. However, in view of the subsequent judgment of the Hon'ble Apex Court in **HITESH NAGJIBHAI PATEL** supra, though the deceased was a minor, his legal representatives are entitled for compensation on the head of loss of dependency and on the heads of loss of consortium and estate.

11. Consequently, since the accident had occurred in the year 2018 in Kolar District, which comes under Zone-III and as per the Minimum Wages Act prevailing as on the date of accident for skilled labour, the minimum wages was fixed at



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Rs.9,500/-. As such, it is appropriate to consider the wages of the deceased at Rs.9,500/-.

12. Further, as per the judgment in the case of **MASTER AYUSH VS. RELIANCE GENERAL INSURANCE COMPANY LIMITED - (2022) 7 SCC 738**, since the deceased child was 13 years as on the date of accident, the appropriate multiplier to be adopted would be '18' and as per the judgment of the Hon'ble Apex Court in **NATIONAL INSURANCE COMPANY LIMITED VS. PRANAY SETHI**, 40% requires to be added towards future prospects and 50% requires to be deducted towards living and personal expenses of the deceased. Accordingly, the notional income for calculating the loss of dependency would be Rs.6,650/- (Rs.9,500/- + 40% - 50%). Consequently, the claimants would be entitled to a sum of **Rs.14,36,400/-** (Rs.6,650 X 12 X 18) towards loss of dependency.

13. The claimants, being the parents of the deceased, each would be entitled to a sum of **Rs.48,400/-** i.e., in all, **Rs.96,800/-** towards loss of consortium. The claimants would



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also be entitled to a sum of **Rs.36,300/-** under conventional head.

14. 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 | 14,36,400        |
| 2.      | Loss of Consortium | 96,800           |
| 3.      | Conventional Heads | 36,300           |
|         | <b>Total</b>       | <b>15,69,500</b> |

15. Accordingly, the claimants would be entitled for compensation of **Rs.15,69,500/-** as against Rs.2,95,000/- along with interest at the rate of 6% per annum from the date of petition till its realization.

16. The finding of the Tribunal with regard to fastening the liability on the Insurance Company to make good the compensation with liberty to recover the same from the insured is undisturbed.



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17. The Insurance Company is directed to deposit the amount of compensation awarded within six weeks from the date of receipt of a certified copy of this judgment.

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

The amount, if any, deposited shall be transmitted to the Tribunal.

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

Pending I.As., if any, stand disposed of.

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

HKV  
List No.: 1 Sl No.: 8