



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

MISCELLANEOUS FIRST APPEAL NO. 5397 OF 2018 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 9776 OF 2018 (MV-D)

IN MFA No. 5397/2018

BETWEEN:

THE MANAGER
NATIONAL INSURANCE COMPANY LIMITED,
BRANCH OFFICE, 2ND FLOOR,
INLAND ORANATIC BUILDING,
OPP. HOTEL OCIEAN PEARL,
KODIALNAIL, MANGALURU.

...APPELLANT

(BY SRI. A M VENKATESH.,ADVOCATE)

AND:

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH
COURT OF
KARNATAKA

1. S IMTHAIYAZ ISMAIAL @ IMTHIAZ
S/O IDINABBA,
AGED ABOUT 49 YEARS
2. SMT SHAKEENA BANU
W/O IMTHAIYAZ ISMAIL @ IMTHIAZ
AGED ABOUT 42 YEARS
3. MR MOHAMMED IRFAN
S/O IMTHAIYAZ ISMAIL @ IMTHIAZ
AGED ABOUT 24 YEARS
4. MR MOHAMMED SAFWAN
S/O IMTHAIYAZ ISMAIL @ IMTHIAZ
AGED ABOUT 20 YEARS



5. MR MOHAMMED RIZWAN
S/O IMTHAIYAZ ISMAIL @ IMTHIAZ
AGED ABOUT 17 YEARS
6. MR MOHAMMED HAKEEL
S/O IMTHAIYAZ ISMAIL @ IMTHIAZ
AGED ABOUT 13 YEARS
7. MR. MOHAMMED ISAHQAQ
S/O IMTHAIYAZ ISMAIL @ IMTHIAZ
AGED ABOUT 9 YEARS

RESPONDENT NO.5 TO 7 ARE MINORS,
REP. BY THEIR NATURAL GUARDIAN I.E.
RESPONDENT NO.1 HERE IN.
ALL ARE R/AT P.C.HOUSE, PILAR,
DARANDA BAGILU,
PERMANNU, MANGALURU.

8. K A SUKUMAR
S/O L.RAMA POOJARY,
AGED ABOUT 76 YEARS,
R/AT DEVIKRIPA HOUSE,
KRISHNA NAGAR,
MARAKADA VILLAGE,
KUNJATHABAIL, MANGALURU.

...RESPONDENTS

(BY SRI. GURUPRASAD B.K.,ADVOCATE FOR R1 TO R7
SRI. NISHIT KUMAR SHETTY, ADVOCATE FOR R8
R5 & R7 ARE MINORS REP BY R1)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 05/02/2018, PASSED IN MVC
NO.923/2014, ON THE FILE OF THE II ADDITIONAL DISTRICT JUDGE
& MEMBER, MACT-III, D.K., MANGALURU, AWARDED
COMPENSATION OF RS.23,35,000/- WITH INTEREST AT 6% P.A.
FROM THE DATE OF PETITION TILL REALIZATION.

IN MFA NO. 9776/2018

BETWEEN:

1. MR S IMTHAIYAZ ISMAIL @ IMTHIAZ S



S/O IDINABBA,
AGED ABOUT 49 YEARS

2. MRS SHAKEENA BANU
W/O S IMTHAIYAZ ISMAIL @ IMTHIAZ S,
AGED ABOUT 42 YEARS
3. MR S MOHAMMED IRFAN
W/O S IMTHAIYAZ ISMAIL @ IMTHIAZ S,
AGED ABOUT 25 YEARS
4. MR S MOHAMMED SAFWAN
S/O S IMTHAIYAZ ISMAIL @ IMTHIAZ S,
AGED ABOUT 20 YEARS
5. MR MOHAMMED RIZWAN
S/O S IMTHAIYAZ ISMAIL @ IMTHIAZ S,
AGED ABOUT 17 YEARS
6. MR MOHAMMED HAKEEL
S/O S IMTHAIYAZ ISMAIL @ IMTHIAZ S,
AGED ABOUT 13 YEARS
7. MR MOHAMMED ISAHAQ
S/O S IMTHAIYAZ ISMAIL @ IMTHIAZ S,
AGED ABOUT 9 YEARS

THE APPELLANTS NO.5 TO 7 ARE
MINORS AND REPRESENTED BY THEIR
NATURAL GUARDIAN FATEHR THE
APPELLANT NO.1 HERERIN/

ALL ARE R/AT P.C.HOUSE,PILAR,
DARANDA BAGILU,
PERMANNUR,
MANGALURU TQ-575 004

...APPELLANTS

(BY SRI. GURUPRASAD B R.,ADVOCATE)

AND:

1. NATIONAL INSURANCE CO LTD
BRANCH OFFICE :2ND FLOOR,
INLAND ORANATIC BUILDING,



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C/W MFA No. 9776 of 2018

OPP:HOTEL OCEAN PEARL,
KODIALBAILU,
MANGALURU-575 002
REPRESENTED BY ITS MANAGER

2. MR K A SUKUMAR
S/O L RAMA POOJARY,
AGED ABOUT 76 YEARS
R/AT DEVIKRIPA HOUSE,
KRISHNA NAGAR,
MARAKANADA VILLAGE,
KUNJATHBAIL,
MANGALURU TQ-575 015

...RESPONDENTS

(BY SRI. A.M. VENKATESH.,ADVOCATE FOR R1
NOTICE TO R2 IS DISPENSED WITH V/O DTD 13.09.2021)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 05/02/2018, PASSED IN MVC
NO.923/2014, ON THE FILE OF THE II ADDITIONAL DISTRICT &
SESSIONS JUDGE AND MEMBER, MACT-III, D.K., MANGALURU,
PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

MFA No.5397/2018 is filed by the insurer. MFA
No.9776/2018 is filed by the claimants. Both the appeals
impugn the judgment and award dated 05.02.2018 passed in
MVC No.923/2014 by II Additional District Judge & III



Additional MACT, Mangaluru (DK)¹, whereunder the Tribunal has partly allowed the claim petition and awarded a total compensation of ₹23,35,000/- together with interest at 6% pa., and directed the insurer to deposit the compensation awarded. Being aggrieved, the above appeals are filed.

2. Heard Sri A.M.Venkatesh, learned counsel for the insurer and Sri Guruprasad B.R, learned counsel for the claimants.

3. It is the contention of the insurer that the deceased minor was riding a motorcycle and he did not have a valid and effective driving license as on the date of the accident. Hence, it is contended that the Tribunal ought to have held that the deceased was negligent in causing the accident. It is further contended that the assessment of monthly income of the deceased at ₹20,000/- is on the higher side and hence, the compensation awarded towards loss of dependency is on the higher side. It is also contended that the compensation on other heads awarded by the Tribunal is excessive.

¹ hereinafter referred to as 'Tribunal'



4. Learned counsel for the claimants justifies the finding of the Tribunal on negligence and liability and seeks for enhancement of the quantum of compensation.

5. With regard to the contention of the insurer that the deceased did not have a valid and effective driving licence, the Tribunal has framed an additional issue with regard to the same. It is also relevant to note that the accident occurred when the insured lorry hit the motorcycle which the deceased was riding. The charge sheet was filed against the driver of the insured lorry. The insurer has not examined any eyewitness who has indicated regarding the manner of the occurrence of the accident so as to demonstrate that the deceased was negligent in causing the accident. The deceased has not been charge sheeted on the ground of not holding a valid and effective driving licence.

6. The Tribunal noticing the contention of the insurer regarding the deceased not holding a driving licence has recorded a finding that the insurer has not produced any material on record to demonstrate that the deceased was not holding a valid and effective driving licence. Hence, the Tribunal



has answered the additional issue in the negative. In the absence of the insurer adducing any adequate evidence in this regard, the finding of the Tribunal with regard to the additional issue cannot be faulted. Hence, the contention put forth by the insurer regarding the deceased not holding a valid and effective driving licence is *ex facie* untenable and liable to be rejected.

7. With regard to the quantum of compensation, it is relevant to notice that the deceased was aged about 18 years as on the date of the accident i.e., 28.1.2014. Hence, the appropriate multiplier of 18 applied by the Tribunal is just and proper. The material on record indicate that the deceased had completed his second PUC and had also completed one year diploma in Health, Safety and Environment and Fire Safety and Emergency Management Course in the year 2014. The Supreme Court in the case of ***Kandasami and Others Vs. Lindabriyal & Another in Civil Appeal No.3125/2023*** has assessed the income of an engineering graduate at ₹25,000/- with regard to an accident occurred in the year 2015. Having regard to the educational qualification of the deceased, it is just and proper that the income of the deceased be reassessed as ₹15,000/-



pm. Since the deceased was a bachelor, 50% is required to be deducted towards personal expenses. Future prospects at 40% is required to be added having regard to the judgment of the Supreme Court in the case of **National Insurance Company Ltd v. Pranay Sethi and Others²**. Hence, the loss of dependency is reassessed as (₹15,000/- less 50% + 40% x12x18) = ₹22,68,000/-.

8. The claimants No.1 and 2 being the parents are entitled to loss of consortium in terms of the judgment of the Supreme Court in the case of **Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others³** at ₹40,000/- each together with 20% escalation. Hence, the loss of compensation towards consortium is reassessed as (₹48,000/-x2) ₹96,000/-. The compensation towards funeral expenses and loss of estate is to be awarded at ₹15,000/- each together with 20% escalation. Accordingly, compensation of ₹18,000/- each is awarded towards the same.

² (2017) 16 SCC 680

³ (2018) 18 SCC 130



9. In view of the same, the compensation is reassessed as under:

Sl.No.	Heads	Amount awarded by the Tribunal (`)	Amount awarded by this Court (`)
1.	Loss of dependency	21,60,000.00	22,68,000.00
2.	Loss of love and affection	1,00,000.00	00
3.	Loss of consortium	00	96,000.00
4.	Funeral expenses &	25,000.00	18,000.00
5.	Loss of estate	50,000.00	18,000.00
	Total	23,35,000.00	24,00,000.00

10. Hence, the claimants are entitled to enhanced compensation of (₹24,00,000/- - ₹23,35,000/-) ₹65,000/- in addition to the compensation awarded by the Tribunal.

11. Taking judicial notice of the interest awarded towards Fixed Deposits, the interest on the enhanced compensation is awarded at 7%.

12. In view of the aforementioned, the following:

ORDER

i) MFA No.5397/2018 is dismissed;



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C/W MFA No. 9776 of 2018

- ii) MFA No.9776/2018 is partly allowed;
- iii) The judgment and award of the Tribunal dated 05.02.2018 passed in MVC No.923/2014 by II Additional District Judge & III Additional MACT, Mangaluru (DK) is modified only to the extent stated herein. In all other respects, the judgment and award of the Tribunal remains unaltered;
- iv) The insurer- appellant in MFA No.5397/2018 shall pay further sum of ₹65,000/- together with interest 7% p.a. from the date of the petition till date of payment, in addition to the compensation awarded by the Tribunal;
- v) The amount deposited by the appellant in MFA No.5397/2018 together with records be transmitted to the Tribunal forthwith;
- vi) The insurer-appellant in MFA No.5397/2018 shall deposit the balance compensation together with accrued interest within a period of six weeks;
- vii) The Registry to draw the modified award accordingly.

Sd/-
(C.M. POONACHA)
JUDGE

ND/Vmb
List No.: 1 Sl No.: 17