



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL No. 1240 OF 2014 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL No. 1777 OF 2014 (MV-D)

IN MFA No. 1240/2014

BETWEEN:

1. NEELAKANDAN V
AGED ABOUT 38 YEARS
S/O N. VENKATARAMAN
2. DEEPTHA NEELAKANDAN
AGED ABOUT 35 YEARS
W/O. NEELAKANDAN V
BOTH ARE R/AT No.2,
KAMALANAGAR MAIN ROAD
AAKARSHAN ASPEN APARTMENTS
FLAT No.101, NEAR WATER TANK
BASAVESHWARA NAGAR
BANGALORE - 560 079.

...APPELLANTS

(BY SRI ARUN GOVINDARAJ, ADVOCATE FOR
SRI. L GOVINDARAJU, ADVOCATE)

AND:

1. K.S. NAGENDRA
AGED ABOUT 48 YEARS
S/O K. SRINIVAS
M.S.KARANT ENTERPRISES
No.163, 4TH CROSS, WILSON GARDEN

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH
COURT OF
KARNATAKA



BANGALORE - 560 027.
[OWNER OF THE TEMPO BEARING
REG.NO. KA 16 A- 4128]

2. APPANNI
AGED ABOUT 26 YEARS
S/O LATE BASAPPA
YUGATE VILLAGE,
MARITHAMMANAHALLI POST,
ARKALGUD TALUK,
HASSAN DISTRICT - 573 201
[DRIVER OF THE TEMPO BEARING
REG.NO. KA 16 A- 4128]
3. BAJAJ ALLIANCE INSURANCE COMPANY
NO.31, GROUND FLOOR, TBR TOWER
1ST CROSS, NEW MISSION ROAD
NEXT TO JAIN COLLEGE,
J C ROAD, BANGALORE 560002.

...RESPONDENTS

(BY SRI. G UDAY KUMAR, ADVOCATE FOR R1
SRI. RAMESHA M N, ADVOCATE FOR R2
SRI. A.N. KRISHNASWAMY, ADVOCATE FOR R3)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED:28.3.2013
PASSED IN MVC No.2587/2010 ON THE FILE OF THE JUDGE,
SMALL CAUSES, 26TH ACMM, BANGALORE, PARTLY ALLOWING
THE CLAIM PETITION FOR COMPENSATION AND SEEKING
ENHANCEMENT OF COMPENSATION.

IN MFA No. 1777/2014

BETWEEN:

1. N VENKATARAMAN
S/O K.NEELAKANTAN
2. NEELAKANDAN V.
S/O. N.VENKATARAMAN
AGED ABOUT 34 YEARS



NC: 2026:KHC:15057
MFA No. 1240 of 2014
C/W MFA No. 1777 of 2014

R/AT No.2,
KAMALANAGAR MAIN ROAD
AAKARSHAN ASPEN APARTMENTS
FLAT NO.101, NEAR WATER TANK
BASAVESWARA NAGAR,
BANGALORE-560 079.

...APPELLANTS

(BY SRI ARUN GOVINDARAJ, ADVOCATE FOR
SRI. L GOVINDARAJU, ADVOCATE)

AND:

1. BAJAJ ALLIANZ INSURANCE CO.,
NO.31, GROUND FLOOR
T.B.R.TOWER, 1ST CROSS
NEW MISSION ROAD
NEXT TO JAIN COLLEGE
J.C.ROAD,
BANGALORE - 560 002

2. K S NAGENDRA
S/O .K.SRINIVAS
AGED ABOUT 48 YEARS
M.S.KARANT ENTERPRISES
No.163, 4TH CROSS
WILSON GARDEN
BANGALORE-560 027.
(OWNER OF THE TEMPO BEARING
REG.NO.KA 16 A-4128)

3. APPANNI
S/O LATE BASAPPA,
AGED ABOUT 26 YEARS,
YUGATE VEILLAGE,
MARITHAMMANAHALLI POST
ARKALGUD TALUK
HASSAN DISTRICT-573 201.
(DRIVER OF THE TEMPO BEARING
REG.NO.KA 16 A-4128)

...RESPONDENTS



NC: 2026:KHC:15057
MFA No. 1240 of 2014
C/W MFA No. 1777 of 2014

(BY SRI. RAMESHA M N, ADVOCATE FOR R2
SRI. A.N. KRISHNASWAMY, ADVOCATE FOR R1)
NOTICE TO R3 IS DISPENSED WITH V/O DTD 11.11.2021)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 28.3.2013 PASSED IN MVC No.2588/2010 ON THE FILE OF THE JUDGE, SMALL CAUSES JUDGE, 26TH ACMM, BANGALORE, 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

1. The above appeals are filed by the claimants calling in question the common judgment and award dated 28.03.2013 passed in MVC Nos.2587/2010 and 2588/2010¹ by the Motor Accident Claims Tribunal at Bangalore (SCCH-09)².

2. The relevant facts in nutshell are that on 19.10.2009, Sri Venkatraman was riding his motorcycle along with his wife (aged 55 years) and granddaughter (aged 3 years) when a tempo being driven by its driver in a rash and negligent manner came and hit the motorcycle causing the accident in question. In the said accident, the wife and granddaughter collectively

¹ hereinafter referred to as the 'impugned judgment'

² hereinafter referred to as the 'Tribunal'



referred to as deceased, succumbed to the injuries and died in the said accident.

3. Claiming the compensation for the death of the child, her parents, filed MVC No.2587/2010. Claiming compensation for the death of Smt. Chandra, her husband (Sri Venkataraman) and his son filed MVC No.2588/2010. The Tribunal by the impugned judgment allowed the claim petitions and awarded a compensation of ₹2,20,000/- for the death of the child (MVC No.2587/2010) and ₹3,24,000/- for the death of Smt.Chandra, (MVC No.2588/2010) together with interest at 6% p.a. However, the Tribunal noticed that the driver of the tempo was licensed to drive a light motor vehicle at the time of the accident and the insured vehicle being a tempo, exonerated the insurer of the tempo from paying the compensation and fastened the liability to pay the compensation on the owner and driver of the vehicle.

4. Hence, the above appeals are filed impugning the finding of the Tribunal, exonerating the insurer from the payment of compensation, as also seeking for enhancement of the quantum of compensation.



5. Heard submissions of the learned counsel for the appellants as well as the learned counsel for the insurer.

6. With regard to the aspect of liability, it has been held by the Tribunal that the driver of the vehicle was licensed to drive a light motor vehicle which was valid from 19.06.2007 to 18.06.2027. The accident occurred on 19.10.2009. Admittedly, as on date of the accident, the said license was valid. The insured vehicle is a Bajaj tempo delivery van. It is forthcoming from a perusal of the insurance policy (Ex.R2) that the gross weight of the insured vehicle is 5850 kgs. The Hon'ble Supreme Court in the case of ***Mukund Dewangan Vs Oriental Insurance Company Ltd.,***³ has held that a holder of a license to drive a light motor vehicle is also entitled to drive a goods vehicle, the gross weight of which does not exceed 7500 kgs.

7. In view of the legal position as noticed above, the finding of the Tribunal on liability is erroneous and liable to be set aside. Accordingly, the owner and insurer of the tempo are jointly and severally liable to pay the compensation awarded.

³ (2017)14 SCC 663



Having regard to the policy of insurance, the insurer is required to deposit the compensation awarded.

Re. the quantum of compensation in MFA No.1777/2014 (MVC No.2588/2010):

8. The age of the deceased is 55 years as on date of the accident i.e., 19.10.2009. No document has been produced to demonstrate her income. The Tribunal has assessed the income of the deceased at ₹3,000/- per month. However, having regard to the date of the accident, the notional income of the deceased is re-assessed at ₹5,000/- per month.

9. The deceased, being aged 55 years, is entitled to future prospects at 15% having regard to the judgment of the Supreme Court in the case of **National Insurance Company Limited Vs. Pranay Sethi & Others⁴**. $1/3^{\text{rd}}$ is required to be deducted towards personal expenses. The applicable multiplier adopted by the Tribunal is '11', which is just and proper. Accordingly, the loss of dependency is re-assessed as (₹5,000/- + 15% - $1/3^{\text{rd}}$ X 12 X 11) ₹5,06,000/- as against ₹2,64,000/- awarded by the Tribunal.

⁴ (2017) 16 SCC 680



10. The compensation towards loss of consortium is to be paid to the claimants in terms of judgment of the Supreme Court in ***Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram and others***⁵ and hence, a sum of (₹40,000 X 2) ₹80,000/- is awarded towards the same.

11. The compensation of ₹15,000/- each is to be awarded towards loss of estate and funeral expenses. The compensation awarded by the Tribunal on conventional heads is accordingly modified.

12. Accordingly, the compensation is re-assessed as follows:

Sl.No.	Compensation Head	Amount Awarded by the Tribunal	Amount awarded by this Court
1	Loss of dependency	2,64,000.00	5,06,000.00
2	Loss of estate	15,000.00	15,000.00
3	Loss of love and affection	15,000.00	00.00
4	Loss of consortium	15,000.00	80,000.00
5	Funeral and other expenses	15,000.00	15,000.00
	Total	3,24,000.00	6,16,000.00

⁵ (2018) 18 SCC 130



13. Hence, the appellants are entitled for enhanced compensation of (₹6,16,000.00 – ₹3,24,000.00)= ₹2,92,000/-.

Re. the quantum of compensation in MFA No.1240/2014 (MVC No.2587/2010):

14. The deceased was aged 3 years as on the date of accident and the applicable multiplier is '18'. The income of the deceased for the purpose of assessment of loss of dependency is assessed, keeping in mind the date of the accident, as ₹5,000/- per month. 40% is required to be added towards future prospects and 50% is to be deducted towards personal expenses. Hence, the loss of dependency is re-assessed as (₹5,000/- + 40% - 50% X 12 X 18) ₹7,56,000/- as against ₹1,80,000/- awarded by the Tribunal.

15. A compensation towards loss of consortium is to be paid to the claimants in terms of judgment of the Supreme Court in ***Magma General Insurance Company Limited*** (*supra*) and hence, a sum of (₹40,000 X 2) ₹80,000/- is awarded towards the same.



16. A compensation of ₹15,000/- each is to be awarded towards loss of estate and funeral expenses. The compensation awarded by the Tribunal on conventional heads is accordingly modified.

17. The compensation awarded by the Tribunal towards future prospects is set aside.

18. Accordingly the compensation awarded by the Tribunal reassessed as follows:

Sl.No	Compensation Head	Amount Awarded by the Tribunal	Amount awarded by this Court
1	Loss of dependency	1,80,000.00	7,56,000.00
2	Loss of estate	00.00	15,000.00
3	Future prospects	40,000.00	00.00
4	Loss of consortium	00.00	80,000.00
5	Funeral and other expenses	00.00	15,000.00
	Total	2,20,000.00	8,66,000.00

19. Hence, the appellants are entitled for enhanced compensation of (₹8,66,000.00 – ₹2,20,000.00) ₹6,46,000/-.

20. In view of the aforementioned, I pass the following



ORDER

- i) The above appeals are allowed in part;
- ii) The judgment and award dated 28.03.2013 passed in MVC No.2587/2010 and 2588/2010 is modified as under. In all other respects, the judgment and award of the Tribunal remains unaltered;
 - a) The claimants in MFA No.1240/2014 are entitled to a further compensation of ₹6,46,000/- together with interest at 6% per annum from date of petition till date of payment, in addition to the compensation awarded by the Tribunal;
 - b) The claimants in MFA No.1777/2014 are entitled to a further compensation of ₹2,92,000/- together with interest at 6% per annum from date of petition till date of payment in addition to the compensation awarded by the Tribunal;
- iii) The compensation awarded by the Tribunal as also enhanced by this Court is liable to be paid by the first respondent-insurer, who shall deposit the same within a period of six weeks;



NC: 2026:KHC:15057
MFA No. 1240 of 2014
C/W MFA No. 1777 of 2014

- iv) The compensation amount together with accrued interest shall be disbursed in favour of the claimants, in terms of the judgment of the Tribunal;
- v) Registry to draw the modified decree accordingly;
- vi) No costs.

SD/-
(C.M. POONACHA)
JUDGE

Vmb
List No.: 1 SI No.: 12