



CNR: KAHC010491442022

NC: 2026:KHC:42540
MFA No. 7325 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.7325 OF 2022(MV-D)

BETWEEN:

1. SRI AMITH KUMAR
S/O LATE BHASKARA POOJARY,
AGED 40 YEARS,
2. ASHALATHA
D/O LATE BHASKARA POOJARY,
AGED 36 YEARS,
3. ANITHA KUMARI
D/O LATE BHASKARA POOJRY,
AGED ABOUT 34 YEARS,

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

ALL ARE R/O CHAVANDIGOLI, KANTHAVARA,
BELADI, UDUPI,
KARKALA TQ.,
PRESENTLY R/A SANNIDHI DARKAS HOUSE,
ACCHARAKATTE,
PADUMARNAD POST,
MANGALURU TQ -574 213.

...APPELLANTS

(BY SRI. GURUPRASAD B.R, ADVOCATE)

AND:



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1. UNITED INDIA INSURANCE COMPANY LTD.,
SALDANHA BUILDING,
BRIDGE ROAD,
BALMATTA,
MANGALORE-575 002,
REPRESENTED BY ITS MANAGER.
2. MR. MOHAMMED AUSAF IHSAAN
S/O MOHAMMED SHAFI
AGED 24 YEARS
R/AT D.NO.1-95, KOYYAR
NEW HOUSE,
ADDUR POST
MANGALORE TQ-574 145
3. MR ASHOK
S/O LATE BHASAKRA POOJARY,
AGED 43 YEARS,
R/A CHAVANDIGOLI,
KANTHAVARA,
BELADI,
KARKALA TQ. UDUPI-574 129.

...RESPONDENTS

(BY SRI. B.C SHIVANNE GOWDA, ADVOCATE FOR R1)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DT.23.08.2022 PASSED IN MVC
NO.1502/2019 ON THE FILE OF THE III ADDITIONAL SENIOR
CIVIL JUDGE AND MEMBER, MACT, MANGALURU, D.K, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.



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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

1. The appeal is filed seeking for enhancement of compensation awarded in M.V.C.No.1502/2019 vide judgment and award dated 23.08.2022 for the accidental death of one Bhaskara Poojary.

2. It is not in dispute that, as a result of the motor vehicle accident which occurred on 13.04.2019, Bhaskara Poojary, a 66 years old died.

3. It is not in dispute that the Insurer is liable to pay the compensation as the offending vehicle was insured.

4. The Tribunal, on assessment of the evidence adduced before it, has come to the conclusion that the driver of the offending vehicle was responsible for the accident which has resulted in the death of Bhaskara Poojary. The Tribunal has thereafter proceeded to award the following sums as compensation:



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Sl. No.	Particulars	Amount in (Rs.)
1.	Towards loss of love and affection	1,50,000
2.	Towards loss of estate	50,000
3.	Towards transportation of dead body	10,000
4.	Towards funeral expenses	25,000
	Total	2,35,000

5. Aggrieved by the same, the claimants are before this Court in this appeal.

6. Heard the learned counsel for both the parties and perused the material on record.

7. Learned counsel for the claimants would contend that the Tribunal has erred in not awarding any compensation towards loss of dependency and has also erred in awarding meager compensation under all the heads. As such, the same requires interference at the hands of this Court. Accordingly, he would pray for allowing of the appeal.

8. *Per contra*, learned counsel for the insurer would contend that the Tribunal has rightly not awarded any compensation towards loss of dependency since the claimants



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are the major children of deceased and they were not financially dependent on the deceased. Accordingly, he would pray for dismissal of the appeal.

9. I have given my anxious consideration to the submissions of learned counsel for both the parties.

10. As could be gathered from records, the claimants are the major children of deceased and based on that the Tribunal has not awarded any sums towards loss of dependency. The Hon'ble Supreme Court in the case of **JITENDRA KUMAR Vs. SANJAY PRASAD - 2025 Supreme (Online) Supreme Court 5470**, referring to the judgments in **SEEMA RANI & OTHERS VS. ORIENTAL INSURANCE CO. LTD. & OTHERS - 2025 SCC Online Supreme Court 283** and **NATIONAL INSURANCE CO. LTD. VS. BIRENDER - (2017) 16 SCC 680**, has awarded loss of dependency based on the exposition of law in **Birender's** case, wherein it was observed as under:

"It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of



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the Tribunal to consider the application irrespective of the fact whether the legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only. "Thus, the claimants are entitled for compensation under loss of dependency. However, since they are majors, 50% requires to be deducted towards personal and living expenses."

11. Since the deceased was 66 years at the time of accident, as there is no credible evidence to ascertain the actual monthly income, it would be appropriate and prudent to adopt the monthly income determined by Karnataka State Legal Services Authority, which, for the accident of the year 2019, would be Rs.14,000/-.

12. As held above, 50% requires to be deducted towards personal expenses, which would result in the income to be Rs.7,000/- (14,000 - 50%). The income of the deceased for the purposes of determining the loss of dependency would thus be **Rs.7,000/-**.

13. As the deceased was aged 66 years, a multiplier of '5' would have to be applied. Consequently, the claimants would be entitled to a sum of **Rs.4,20,000/-** (Rs.7,000 x 12 x 5) towards "loss of dependency".



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14. The claimants, being the children of the deceased, each would be entitled to a sum of Rs.48,400/- towards "*loss of consortium*" i.e., in all **Rs.1,45,200/-** (48,400 x 3) and they would also be entitled to a sum of **Rs.36,300/-** under the "*conventional heads*".

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	4,20,000
2.	Loss of Consortium	1,45,200
3.	Conventional Heads	36,300
	Total	6,01,500

16. Consequently, the claimants would be entitled for compensation of **Rs.6,01,500/-** as against Rs.2,35,000/- 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 amount of compensation awarded 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.

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

SD/-
(RAJESH RAI K)
JUDGE

CR
List No.: 1 Sl No.: 17