

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 6492 OF 2023 (MV-D)

BETWEEN:

1. SHOBHA J S
W/O LATE DAYANANDA M.S.
AGED ABOUT 29 YEARS,
2. KUSHANTH M.D.
S/O LATE DAYANANDA M.S.
AGED ABOUT 7 YEARS

THE 2ND APPELLANT IS MINOR
REP. BY 1ST APPELLANT MOTHER
SHOBHA AS NATURAL GUARDIAN

ALL ARE RESIDENT OF
MATTIGATTA, NONAVINAKERE HOBLI,
NOW R/AT CHOLAPURA VILLAGE,
HEBBUR HOBLI,
TUMKURU TALUK AND DISTRICT - 577 101.

...APPELLANTS

(BY SRI. NAVEEN KUMAR M, ADVOCATE FOR
SRI.AJAY J N.,ADVOCATE)

AND:

1. ESHWARAPPA
S/O BASAPPA
AGED ABOUT 48 YEARS
R/O NO.99, HADIKERE,
TARIKERE TALUK - 577 228
4TH FLOOR, CHIKKAMAGALURU DISTRICT.
2. THE MANAGER,
ROYAL SUNDARAM ALLIANCE
INSURANCE CO. LTD.,
OFFICE AT NO.186/7,
RAGHAVENDRA COMPLEX,
WILSON GARDEN, 1ST CROSS,
HOSURE MAIN ROAD,

BANGALORE – 560 001.

...RESPONDENTS

(BY SRI.H.S. LINGARAJ.,ADVOCATE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 30.06.2022 PASSED IN MVC NO. 392/2020 ON THE FILE OF THE VI ADDITIONAL DISTRICT AND SESSIONS JUDGE, TUMAKURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 04.03.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

The present appeal is filed under Section 173(1) of the Motor Vehicles Act, 1988 ('the MV Act' for short) by the claimant to set aside the 20% of negligence on the deceased in MVC No.392/2020, by judgment and award dated 30.06.2022 on the file of the VI Additional District and Sessions Judge, Tumakuru (hereinafter referred to as 'the Tribunal' for short).

2. The appellants herein are the claimants before the Tribunal and Respondent No.1 is the Insurance Company.

3. The petitioners, being the legal representatives of the deceased Dayananda, have filed the claim petition under Section 166 of the MV Act seeking compensation of Rs.50,00,000/- with interest from the date of the accident till realization.

4. The facts leading to the filing of this appeal are as follows:-

On 30.04.2020 at about 1.45 p.m., while the deceased Dayananda was riding a motorcycle bearing Reg.No.KA-44-J-2707 near Ganganaghatta Gate, Hunasegatte Village, Nonavinakere, a Car bearing Reg.No.KA-66-M-0527, driven by its driver in a rash and negligent manner, caused an accident resulting in the death of Dayananda on the spot. Hence, the petitioners have sought compensation of Rs.50,00,000/-.

5. After service of notice, respondent No.1 remained absent and was placed *ex parte*. The respondent No.2-Insurance Company filed its statement of objections contending that the compensation claimed is exorbitant

and has no nexus with the actual loss suffered by the claimants and further contended that the death of the deceased Dayananda occurred due to his own contributory negligence and therefore, prayed for rejection of the petition.

6. Based on the pleadings, oral and documentary evidence, the Tribunal framed issues and allowed the claim petition with cost and held 20% contributory negligence on the part of the deceased and held that the claimants are entitled for 80% of total compensation at Rs.15,48,736/- with interest at the rate of 6% per annum from the date of petition till its realization from respondent No.2-Insurance Company.

7. The learned counsel for the appellant/claimant would contend that the compensation awarded by the Tribunal is on the lower side. The Tribunal has erred in assessing the monthly income of the deceased at Rs.13,203/- though the accident occurred in the year 2020 and the claim petition at Column No.6 discloses that the

deceased was earning Rs.20,000/- per month and the reliance placed on Ex.P10 – Pass book of the deceased for determining the income is unsustainable in law. The Tribunal has further committed an error in not awarding compensation towards future prospects by assigning incorrect reasons, whereas as per the judgment of the Hon'ble Apex Court in the case of ***National Insurance Company Limited vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680***, 30% is required to be added towards future prospects. It is also contended by him that the Tribunal has failed to consider the law laid down by the Apex Court in the case of ***Magma General Insurance Company Limited vs. Nanu Ram & Others*** reported in ***(2018) 18 SCC 130*** and reiterated by the Division Bench of this Court in M.F.A.No.1100/2019 & connected matters disposed of on 12.06.2019 in awarding compensation towards 'loss of consortium'. The Tribunal has also awarded lesser compensation under the head of 'loss of love and affection'. Further, the Tribunal has erred in fixing 20% contributory negligence on the deceased

without properly appreciating the documents produced by the claimants and prayed to fasten entire liability on the respondent No.2 – Insurance Company.

8. In support of his contentions, learned counsel for the appellants has placed reliance on the following judgments:-

- ***Jiju Kuruvila and others v. Kunjujamma Mohan and others and connected matters reported in (2013) 9 SCC 166; and***
- ***Sunita and others v. Vinod Singh and others reported in 2025 SCC OnLine SC 586.***

9. Heard the learned counsel appearing on either side.

10. Upon re-appreciation of the material placed on record and the contentions advanced by the learned counsel for the parties, this Court finds no infirmity in the finding of the Tribunal in attributing 20% contributory negligence to the deceased. The evidence on record indicates that the deceased was riding the motorcycle on the wrong side of the road at the time of the accident and

hence, contributed to the occurrence of the accident. In such circumstances, the Tribunal was justified in apportioning negligence to the extent of 20% on the part of the deceased. Hence, the said finding does not warrants interference by this Court.

11. However, with regard to the quantum of compensation, this Court finds that the Tribunal has committed an error in not adding future prospects to the income of the deceased. The Tribunal has rightly assessed the monthly income of the deceased at Rs.13,203/- and age as 42 years at the time of accident based on the material available on record. As the deceased was aged about 42 years at the time of the accident, it is just and appropriate to take multiplier as '14'. As the deceased was engaged in a stable occupation, the claimants are entitled to 30% addition towards future prospects in terms of the principles laid down by the Hon'ble Apex Court in ***Pranay Sethi's case (supra)***.

12. Accordingly, the loss of dependency is reassessed as under:-

$$\text{Rs.13,203/-} + 30\% \times 12 \times 14 \times \frac{2}{3} = \text{Rs.19,22,256/-}.$$

13. The Tribunal has awarded compensation of Rs.40,000/- towards 'loss of love and affection' to the appellants, which is on the lower side. Hence, a sum of Rs.40,000/- each is awarded. Therefore, the appellants/claimants are entitled for a sum of **Rs.80,000/-** (Rs.40,000/- x 2) under the head 'loss of consortium' as per the law laid down in **Magma** case supra.

14. The Tribunal has awarded a sum of **Rs.15,000/-** towards 'loss of estate' and **Rs.15,000/-** towards 'funeral expenses'. Hence, the same are just and reasonable.

15. Thus, the total compensation re-determined by this Court under various heads are as follows:

1.	Loss of Dependency	:	Rs.	19,22,256/-
2.	Loss of consortium	:	Rs.	80,000/-
3.	Funeral expenses	:	Rs.	15,000/-
4.	Loss of estate	:	Rs.	15,000/-
	TOTAL	:	Rs.	20,32,256/-

16. After deducting 20% towards contributory negligence, the claimants are entitled to 80% of Rs.20,32,256/-, which comes to Rs.16,25,805/- along with interest at the rate of 6% per annum on the enhanced compensation from the date of filing of the petition till realization.

17. Accordingly, for the foregoing reasons, I proceed to pass the following:

ORDER

- i) The appeal is ***allowed-in-part***;
- ii) The judgment and award passed by the Tribunal in MVC.No.392/2020, dated 30.06.2022, passed by the VI Additional District & Sessions Judge, at Tumakuru is modified;
- iii) The appellants – claimants are entitled for a total compensation of Rs.20,32,256/-, out of which,

80% i.e., **Rs.16,25,805/-** shall be payable after deducting 20% towards contributory negligence along with interest at the rate of 6% per annum on the enhanced compensation from the date of filing of the petition till realization;

- iv) The finding of the Tribunal fastening 20% contributory negligence on the part of the deceased is hereby confirmed.
- v) The compensation amount along with accrued interest if any, shall be deposited by the respondent No.2 – Insurance Company, within a period of six weeks from the date of filing of the petition till realization and recover the same from the owner of the offending vehicle;
- vi) Apportionment and disbursement of the compensation amount shall be as per the impugned Award of the Tribunal.
- vii) Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the judgment passed by this Court forthwith without any delay.
- viii) No order as to costs.

SD/-
(DR.K.MANMADHA RAO)
JUDGE

MH/-