

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

M.F.A. NO. 6680 OF 2023 (MV-D)

BETWEEN:

1. SUPRIYA DHOBLE
W/O LATE HADLEE FRANCIS
AGED ABOUT 40 YEARS
2. RIYA FRANCIS
D/O LATE HADLEE FRANCIS
MINOR
AGED ABOUT 10 YEARS
REP. BY HER GUARDIAN
MOTHER SUPRIYA DHOBLI
3. SAGAYA VENI
W/O GEORGE FRANCIS
AGED ABOUT 64 YEARS
4. GEORGE FRANCIS
S/O LATE ANTHONI
AGED ABOUT 74 YEARS

Digitally signed by
NANJUNDACHARI
Location: High
Court of Karnataka

APPELLANTS NO.1-4 ARE
R/AT NO.10, KANCHAPPA ROAD
FRAZER TOWN, BENGALURU NORTH
BENGALURU-560005.

...APPELLANTS

(BY SRI. MS. MAMATHA D. N., ADV.)

AND:

1. SRINIVASA S/O PUTTARAMA
MAJOR IN AGE
R/AT NO.54, V COLONY
V ANASALE, P KIRUGAVALAU
H MAVALLI TALUK

MANDYA-571424
OWNER OF CAR(KA-11B-1274).

2. NEW INDIA ASSURANCE CO. LTD.,
REP. BY MANAGER
REGIONAL OFFICE (MOTOR TP HUB)
MAHALAKSHMI CHAMBERS
2ND FLOOR, NO.9, M G ROAD
BENGALURU-560001
INSURER OF CAR KA-11B-1274
POLICY NO.12220031180350127966
VALIDITY-29/3/2019-28/3/2020.

...RESPONDENTS

(BY SRI. G S MARULIAIAH, ADV. FOR R2
R1- SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 07.07.2023 PASSED IN MVC NO.3442/2020 ON THE FILE OF THE I ADDITIONAL SMALL CAUSES JUDGE AND MACT, BENGALURU (SCCH-11), DISMISSING THE CLAIM PETITION FOR COMPENSATION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON **02.06.2026** COMING ON THIS DAY, **S.G.PANDIT J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE K.MANMADHA RAO

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

This appeal filed by the claimants under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'the Act') is directed against the judgment dated 07.07.2023 in MVC No. 3442/2020 on the file of the I Addl. Small Cause Judge & Motor Vehicles Accident Claim

Tribunal, Bengaluru(for short, 'the Tribunal') aggrieved by the dismissal of the claim petition filed by the claimants/appellants herein.

2. The brief facts of the case are that the deceased Sri. Hadlee Francis was involved in an accident on 06.12.2019 at about 8.30 a.m. involving motorcycle bearing Reg.No. KA-03-JV-6508 (driven by the deceased) and Indica car bearing Regn.No. KA-11-B-1274 (insured by Respondent No.2-Insurance Company herein)in front of Vishnu Upahara Hotel, at OldChandapura Grama, on NH-7 Main Road. It was contended that the Indica Car was being driven in a rash manner and dashed against the motorcycle, which led to the deceased falling on the road and sustaining injuries to his left leg. Subsequent to the accident, the deceased was shifted to Best Hospital at Chandapura, Bangalore, wherein, the deceased was subjected to surgery of left femur shaft and was an in-patient from the date of accident till 9.12.2019. Subsequently, after Sri. Hadlee Francis was discharged, on 25.12.2019, at around 6.30 p.m., the deceased suddenly

collapsed and was immediately shifted to the same hospital, wherein he was declared brought-dead.

3. The claimants filed a petition under Section 166 of the Act seeking compensation for the death of Sri. Hadlee Francis on 25.12.2019, contending that the deceased was aged 33 years, was hale and healthy and was working as Specialist Systems at Sungard Availability Services(India) Pvt.Ltd., and drawing salary of Rs.1,38,759/- p.m., contending that the deceased died due to the accidental injuries sustained on 06.12.2019. Before the Tribunal, upon issuance of notice, learned counsel for respondent No.1 (owner of the car) and respondent No.2 (insurance company) appeared before the Tribunal and respondent No. 2 filed their written statement, denying the claim petition averments in toto.On behalf of the claimants, the claimant No. 4 was examined as PW1, PRO of Best Hospital was examined as PW2, the post-mortem doctor was examined as PW3 and another witness was examined as PW4, apart from marking Exs. P1 to P37. On behalf of the insurance

company, one Dr. Vinay was examined as RW1 and the Administrative Officer of the insurance company was examined as RW2, apart from marking Exs. R1 and R2.

4. The Tribunal upon examination of the material on record, had saddled the entire liability upon the insurance company of the car and awarded the total compensation of Rs.1,25,74,384/-along with interest @ 6% p.a., vide judgment and award dated 01.07.2022, under the following heads:

Sl No.	Compensation under the Head	Amount
1.	Loss of dependency	Rs. 1,23,84,384/-
2.	Loss of estate	Rs. 15,000/-
3.	Funeral expenses	Rs. 15,000/-
4.	Loss of Consortium	Rs. 1,60,000/-
	TOTAL	Rs. 1,25,74,384/-

5. While coming to the afore-stated conclusion, the Tribunal had assessed the net annual income of the deceased at Rs.6,88,021/-, added 50% towards future prospects, deducted 1/4thtowards personal and living

expenses of the deceased and adopted the multiplier of '16'.

6. Aggrieved by the judgment and award dated 01.07.2022, both the claimants and the insurance company filed appeal before this Court in MFA No. 6870/2022 and MFA No. 7176/2022, respectively. A Coordinate bench of this Court vide Judgment dated 21.03.2023, partly allowed the appeals and remanded the matter back to the Tribunal to afford the claimants with an opportunity to examine the doctors of Best Hospital who examined the deceased, for the reason that the nexus between the injury and death was not conclusively proved.

7. Upon remand, the learned counsel for the claimants examined Dr. Bharat Raj, i.e. the doctor who examined the deceased, as PW5 and closed their side. No further evidence was let in by the insurance company in the remand proceedings. The Tribunal, upon examination of the entire material on record, dismissed the claim petition filed by the claimants for the reason that the

claimants have failed to prove the nexus between the accidental injuries and the death. Aggrieved by the same, the claimants are in appeal before this Court.

8. Heard Smt. Mamata D N, learned counsel for the claimants and Sri. G S Marulaiah, learned counsel for the insurance company. Perused the entire appeal papers including the Trial Court records.

9. Learned counsel Smt. Mamata D N for the claimants would submit that the Tribunal, in remand proceedings grossly erred in dismissing the claim petition as it has overlooked the evidence rendered by PW3 (Post Mortem Doctor) and PW5 (Doctor who examined the deceased), both of whom have stated that the death has occurred due to blood clot. It is submitted that the deceased was undergoing continuous treatment from the date of accident till the date of his death, i.e. for 19 days, and hence, there is a nexus between the accidental injuries and the death. It is further submitted that the Post-Mortem Report, the FSL Report and Histopathology

Report would clearly establish that the death is consequent upon the injuries sustained in the accident. Learned counsel for the claimants would further submit that there is a direct and proximate cause between the accidental injuries sustained and the death and hence, the Tribunal erred in dismissing the claim petition. For all these reasons, it is prayed that the claim petition as well as the appeal filed by the claimants be allowed.

10. *Per contra*, learned counsel for the insurance company of the car, Sri. G S Marulaiah would submit that the Tribunal has rightly held, on examination of the material on record that there is no nexus between the accidental injuries and the death. Hence, it is prayed that the appeal filed by the claimants be dismissed.

11. Having heard the learned counsel appearing for the parties and on perusal of the entire appeal papers including the Trial Court Records, the following points would arise for our consideration:

- i. Whether the finding recorded by the Tribunal that there was no nexus between the injuries sustained by the deceased in the road traffic accident dated 06.12.2019 and his subsequent death on 25.12.2019 is sustainable in law and on facts?*
- ii. If Point No. 1 is answered in favour of the claimants, whether the claimants are entitled to compensation and, if so, what would be the just and reasonable compensation payable and by whom?*

12. The Answer to the above points would be in the negative and affirmative, respectively for the following reasons:

The accident that occurred on 06.12.2019 at about 8.30 a.m. involving motorcycle bearing Reg.No.KA-03-JV-6508 (driven by the deceased) and Indica car bearing Regn.No. KA-11-B-1274 (insured by Respondent No.2- Insurance Company herein) in front of Vishnu Upahara Hotel, at Old Chandapura Grama, on NH-7 Main Road that

led to injuries being sustained by the deceased Sri. Hadlee Francis is not in dispute. However, the learned Tribunal has dismissed the claim petition for the reason that the claimant has failed to establish a nexus between the accidental injuries and the subsequent death of the deceased on 25.12.2019. The learned counsel for the claimants has argued in detail by taking us through the trial Court records that there is a direct and proximate nexus between the accidental injuries sustained and the death. Whereas, the learned counsel for the insurance company has supported the judgment of the Tribunal on remand and argued that the death has absolutely no nexus to the accidental injuries sustained by the deceased.

13. It is pertinent to note that initially the claim was allowed by the learned Tribunal by judgment and award dated 01.07.2022 awarding a sum of Rs.1,25,74,384/-, which was the subject matter of MFA.No.7176/2022 and MFA.No.6870/2022 before this Court. This Court by judgment dated 21.08.2023 allowed the appeals, on setting aside the award remanded the matter to the

Tribunal for fresh consideration on recording medical evidence.

14. On remand, the claimants summoned the doctor who treated the deceased and examined him as PW-5. To prove nexus between the injuries sustained and the cause of death, the claimants examined PW-3 Doctor who conducted autopsy and PW-5 Doctor who had treated the deceased in addition to PW-2, PRO of Best Hospital.

15. Learned counsel for the appellant/claimants contended that the Tribunal failed to appreciate properly evidence of PW-3 and PW-5 Doctors along with Ex.P30 case sheet, Ex.P10 PM report and Ex.P12 FSL report. To appreciate the contention that injuries sustained by the deceased in the accident was the cause for death, it would be appropriate to peruse the above exhibits. Admittedly, the accident took place on 06.12.2019 and the death of the injured was on 25.12.2019. It is not in dispute with regard to deceased taking treatment for the injuries in Best Hospital from the date of accident i.e., 06.12.2019 to

09.12.2019. No doubt, Ex.P30 discharge summary indicates that as on the date of discharge on 09.12.2019, the condition of the deceased was stable. Relevant portion of the discharge summary which also indicates the treatment administered reads as follows:

"Treatment Given: *Inj-Cetrizaxone 1 gm IV BD (D4).*
Inj-Metrogyl 100 ml IV TID (D4)
Inj-Pct 1 gm IV TID
Inj-Dynapar Aq+100 ml NS IV BD
Inj-Pan 40 mg IV OD
Inj-Tramadol 100 mg+100 ml NS IV SOS.

Course in the hospital: *With the above mentioned H/o patient is admitted to ward, treated with IV antibiotics, antacids, antiemetics, relevant investigations done, reports noted, treated accordingly, posted for left femur nailing under SA on 06.12.2019, post procedure uneventful, check x-ray satisfactory, started ambulating well, wound dressing done, later patient was do well, hence in a haemodynamically stable condition patient discharging with following medications.*

ADVISE ON DISCHARGE:

Sl.No.	NAME OF THE DRUG	STRENGTH	DOSAGE	NO. OF DAYS
1	Cap-Cyra-D (B/F)	500 mg	1-0-0	3 days
2	Tab-Ceftum		1-0-1	3 days
3	Tab-Hifenac-P		1-1-1	3 days
4	Limb Elevation			
5	Wound Dressing after 3 days			

16. However, on 25.12.2019 i.e., about 15 days from the discharge, the deceased was rushed to the hospital and on examination, the doctor declared him 'brought dead'. Ex.P10 is the postmortem report. Postmortem report – Ex.P10 is by PW-3 Doctor. In postmortem report, he reserved his opinion awaiting the chemical analysis report and histopathology report. FSL report is Ex.P12 dated 01.09.2020. The relevant portion of the FSL report reads as follows:

"ANALYSIS & IDENTIFICATION

- 1. Distillate from the sampling method 1 was analyzed for alcohols by Colour tests and Gas chromatography*
- 2. Extract from the sampling method 2 was analyzed for Pesticides, Drugs and Alkaloids tests, Thin layer chromatography (TLC)*

3. *Distillate from the sampling method 1 was analyzed for cyanide by Colour tests.*

4. *Filtrate from the sampling method 4 was analyzed for toxic metal ions and anions by colour tests.*

5. *The reagent from the sampling method 3 was analyzed for phosphide ions by colour tests and UV-Visible Spectrophotometry.*

RESULTS OF EXAMINATION

Resides of Volatile poisons, Pesticides, Barbiturates, Benzodiazepine group of drugs, Toxic metal ions and anions were not detected in all the above stated articles."

17. On receiving the FSL report, Dr.Pradeep Kumar – PW3 has recorded his final opinion with regard to the cause of death, which reads as follows:

"FINAL OPINION: On perusal of postmortem findings, chemical analysis and HPE reports, with hospital discharge summary, I am of the opinion that, 'DEATH IS CONSEQUENT UPON INJURIES SUSTAINED'".

18. PW-3, the doctor who conducted autopsy has deposed in examination-in-chief in terms of his opinion recorded in Ex.P10 – PM report that the death is

consequent upon injuries sustained by him in RTA occurred on 06.12.2019. In the cross-examination, PW3 denied the suggestion from the respondent – insurance company that there is no nexus between the injuries sustained and the death. Further, PW-3 has stated that wherever a person sustains fracture of femur and has been made to sleep at a place and when he is made to walk, the clotted blood cells may spread and it may affect other parts of the body which may result in death.

19. PW-5 is the doctor who treated the deceased who is examined subsequent to the remand. PW-5 in his chief examination deposed that deceased was initially admitted to Best Hospital on 06.12.2019 with fracture of left femur (thigh) bone and was discharged on 09.12.2019 as the condition of the patient was satisfactory. Further, paragraphs 6, 7 and 8 of the affidavit evidence of PW-5 reads as follows:

"6. I state that, during surgery or post-surgery any patient may develop surgical procedure and fracture related complications and those are Bleeding, infection and Haematoma. The

patient/Hadlee Francis was given Spinal Anaesthesia during the surgery and spinal anaesthesia related complications like Blood clots, nerve injuries, infection. bleeding, drug interaction backache, headache, temporary loss of limb function (sensory and motor) paralysis, brain damage, heart attack, rarely death During the surgery all the above complications have been explained to the patient/Hadlee Francis and his attenders and also consent has been taken from the patients attender at the time of the surgery and the said consent form has been produced before this Hon'ble court.

7. I state that, after going through the discharge summary, medical records of Best Hospital, Post mortem, FSL & HPE report, of the deceased Hadlee Francis and after analysing the same, in the instant case I am of the opinion that the patient/Hadlee Francis might have developed post discharge already described fracture related complications like fracture haematoma leading on to infection further causing pulmonary embolism or infection induced 399 septicaemia or blood clot entering into the blood stream and causing a blockage to organs like kidneys, liver and lungs which have been confirmed by the forensic tests and could have later involved the heart leading to the acute death.

8. I state that, I am of the opinion that, the possible cause of death for the patient/Hadlee Francis is due to fracture related complications of fracture haematoma which has led to infection further causing pulmonary embolism or infection induced septicaemia or blood clot which has got dislodged and entered the blood circulation system blocking the multiple organs leading to sudden death."

20. The above deposition of PW-5 would indicate that on going through the discharge summary, medical records of postmortem, FSL and HPE report of the deceased, he is also of the opinion that cause for death might be of fracture related complications like fracture, haematoma leading to the infection further causing pulmonary embolism or infection induced septicaemia or blood clot entering into bloodstream and causing a blockage to organs like kidneys, liver and lungs which have been confirmed by the forensic test. In the cross-examination the insurer was not able to dislodge the opinion of PW-5. PW-5 denied the suggestion of the insurer that the deceased might have died due to earlier disease suffered by the deceased.

21. A Co-ordinate bench of this Court in **CHINNAPPA AND OTHERS. V ICICI LOMBARD GENERAL INSURANCE COMPANY LIMITED, BANGALORE AND ANOTHER** reported in **2015 SCC ONLINE KAR 9425**, in an identical fact situation wherein, the doctor therein had deposed that the deceased therein might have been traumatised due to the injuries in RTA which might have contributed to the cardiac arrest has held as under:

"15. Doctors are taught and trained in the medical colleges. Over the years they acquire expertise. To the pointed question posed by the Tribunal, P.W. 5 has categorically stated that the victim may have been traumatised due to injuries which may have contributed to her cardiac arrest. This evidence has - remained unchallenged. Before the Tribunal, neither it was impeached by the respondent in any manner nor demonstrated to be an unworthy opinion by placing any contrary evidence from a Doctor with superior qualification and experience than P.W. 5. It is not in dispute that the victim was aged 39 years and riding a two wheeler on a busy highway. Discharge summary issued by Dr. Malathi, Manipal Hospital reveals that the victim had suffered injuries and underwent surgical procedures under general anesthesia. Wound Certificate-Ex. P. 4 issued by the General Hospital, Channapattana, Bengaluru (Rural)

discloses that the victim had sustained two grievous injuries and other simple injuries.

16. *In the light of the medical opinion suggesting that the injuries might have contributed to the cardiac arrest of the victim, we answer this point in the affirmative.....”*

22. On cumulative reading of the FSL report Ex.P12, PM report Ex.P10 along with evidence of PW3 and PW5 doctors, we are of the considered opinion that death was due to the accidental injuries suffered by the deceased. Both the PW3 and PW5 are of the same opinion that fracture related complications might have led to septicemia or blood clot which has dislodged into the bloodstream and may have affected other parts of the body.

23. The Tribunal without properly appreciating the evidence of PW3 and PW5 – doctors, has come to a wrong conclusion that the claimants failed to prove the nexus between the accidental injuries and death. One should remember that strict rules of evidence is not applicable to the motor vehicle claim petitions and one need not prove his case beyond reasonable doubt. One should make out a

believable case and case shall not be indicative of unlawful claim or lack bonafides. In the above circumstances, on overall appreciation of the material on record, we hold that the accidental injuries are the cause for death of husband of the first claimant and the claimants have proved the nexus between the accidental injuries and the death.

24. The Tribunal at first instance assessed the annual salary of the deceased at Rs.9,27,192/- and deducted professional and income tax of Rs.2,39,171/- and arrived at net income of the deceased at Rs.6,88,021/-, added 50% of the income towards future prospects, deducted 1/4th towards the personal and living expenses of the deceased, applied the multiplier of '16' and awarded a sum of Rs.1,23,84,384/- as compensation on the head of loss of dependency along with consortium to the wife, children and father of the deceased, along with compensation on the head of loss of estate and funeral expenses at Rs.15,000/- each. The same is maintained as we have come to the conclusion that the claimants have proved the nexus between the injuries sustained in the

accident and the death. Moreover, the remand on the earlier occasion was only for fresh consideration on recording medical evidence. Thus, the claimants would be entitled for the following total compensation:

Sl.No.	Particulars	Amount
a.	Towards dependency and loss of future income	Rs.1,23,84,384/-
b.	Towards Consortium. 1. Spousal Consortium 2. Parental Consortium 3. Filial Consortium to children (Rs.40,000 x 2)	Rs.40,000/- Rs.40,000/- Rs.80,000/-
c.	Towards loss of estate and Funeral expenses.	Rs.30,000/-
	Total compensation	Rs.1,25,74,384/-

25. The respondent Nos.1 and 2 are jointly and severally liable to pay the compensation and respondent No.2 – insurer shall deposit the above compensation with interest at the rate of 6% p.a., from the date of petition till payment within four weeks from today.

26. Out of the total compensation amount, the petitioners No.1 is entitled for 40% and Petitioner No.2 being the minor daughter of deceased is entitled for 30% and petitioner No.3 & 4 being parents of deceased are entitled for 15% each. In total amount apportioned to the

share of petitioners No.1, 3 & 4, 60% of the amount shall be released in favour of petitioner No.1, 3 & 4 and remaining 40% of the amount shall be deposited in their names in any Nationalized bank or Schedule Bank near to their place for a period of 3 years without encumbrance. They are entitled for interest that accrues on F.D periodically.

27. 30% of compensation amount allotted to the share of minor petitioner No.2 shall be kept in FD in the name of minor petitioner in any of the Nationalized Bank or Scheduled Bank of the choice of minor guardian for a period of 3 years or till he attains the age of majority whichever is later. The guardian of petitioner is entitled for interest that accrues on FD periodically.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

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