



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JUNE, 2026

PRESENT

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

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.6726 OF 2023 (MV-D)

BETWEEN:

THE DIVISIONAL MANAGER,
CHOLAMANDALAM GENERAL
INSURANCE CO. LTD.,
SIGMA COMPLEX,
FIRST FLOOR,
NO.C-1, NEW KANTRAJ URS ROAD,
KUVEMPU NAGAR, MYSORE-23
NOW REP. BY THE MANAGER
CHOLAMANDALAM MS GIC LTD.,
UNIT NO.IV, 9TH FLOOR,
LEVEL-6
GOLDEN HEIGHTS COMPLEX,
59TH C CROSS,
INDUSTRIAL SUBURB,
RAJAJINAGAR, 4TH 'M' BLOCK,
BANGALORE-560 010.

Digitally signed
by
VIJAYALAKSHMI
B N

Location: HIGH
COURT OF
KARNATAKA

(BY SRI. PRADEEP B., ADVOCATE)

...APPELLANT

AND:

1. YASHODA
W/O NAGARAJASHETTY,
AGED ABOUT 47 YEARS,



2. NAGARAJASHETTY
S/O RACHAPPASHETTY
AGED ABOUT 50 YEARS,

BOTH ARE R/AT
CHOUDIKATTE VILLAGE,
BALLENAHALLI POST,
HUNSURU TALUK,
MYSORE DISTRICT.

3. SWAMYGOWDA
S/O BOREGOWDA
KIRANGURU VILLAGE,
HANAGUDI POST,
HUNSUR TALUK
MYSORE DISTRICT.

...RESPONDENTS

(BY SRI. BHANU PRAKASH H.V., ADVOCATE FOR R1 & R2;
V/O DATED 30.10.2024 NOTICE TO R3 IS
DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 15.12.2022 PASSED IN MVC
NO.595/2021 ON THE FILE OF THE MOTOR ACCIDENTS
CLAIMS TRIBUNAL, JUDGE, ADDITIONAL COURT OF SMALL
CAUSES, MYSURU, AWARDING COMPENSATION OF
RS.24,45,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE
DATE OF PETITION TILL ITS ENTIRE REALIZATION.

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

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



ORAL JUDGMENT

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

Insurer is before this Court questioning the non-consideration of contention of contributory negligence as well as saddling liability on it under Judgment and Award dated 15.12.2022 in MVC No.595/2021 on the file of Court of Additional Small Causes and Senior Civil Judge at Mysuru.

2. Respondents filed claim petition under Section 166 of the Motor Vehicles Act (in short 'MV Act'), seeking compensation for accidental death of one Pradeepa that took place on 26.03.2021 involving motor-cycle bearing No.KA-05-JS-5958 and tractor-trailor bearing No.KA-45-TA-1042/K A-45-TA-1091. It is stated that the deceased was earning a sum of Rs.25,000/- p.m., and he was aged about 20 years as on the date of accident. The Insurance Company, on appearance, filed its statement of objection denying the entire claim petition averments and further stated that the driver of the offending vehicle had no valid



and effective driving licence as on the date of accident. It also contended that the accident occurred solely due to the act of the deceased as he was rash and negligent in driving the tractor. The Claimant No.1 examined himself as P.W.1 apart from marking Ex.P1 to Ex.P12. No evidence was adduced on behalf of the respondents before the Tribunal.

3. On consideration of material on record, the Tribunal awarded compensation of Rs.24,45,000/- along with interest at the rate of 6% p.a., from the date of petition till realization under the following heads:

Sl. No.	Head	Amount in Rs.
1	Loss of Dependency (With Future prospectus)	Rs.22,68,000/-
2	Loss of Estate	Rs.15,000/-
3	Loss of consortium (Rs.40,000/- x 2)	Rs.80,000/-
4	Funeral Expenses	Rs.15,000/-
5	Expenses relating to treatment, hospitalization and medicines	Rs.67,000/-
	Total	Rs.24,45,000/-



3. Insurer, aggrieved by non-consideration of contributory negligence on the part of the deceased and questioning the entire liability saddled on it, is before this Court.

4. Heard learned counsel Sri.B.Pradeep for appellant-Insurance Company and Sri.Bhanu Prakash.H.V, learned counsel for Respondent Nos.1 and 2. Perused the entire appeal papers as well as Tribunal records.

5. Learned counsel Sri.B.Pradeep for appellant-Insurance Company submits that the Tribunal committed an error in not considering the contention of the appellant/Insurance Company that the deceased was rash and negligent in riding the tractor and is root-cause for occurrence of the accident in question which resulted in his death. It is also contended that by referring to Ex.P5/spot sketch, learned counsel would submit that the insured vehicle was proceeding on the correct side of the road and



the deceased came on the wrong side and dashed, which has resulted in death of the deceased.

6. Learned counsel for the insurer would submit that the Tribunal without looking to the Police records and particularly Ex.P5/sketch, saddled liability on the appellant/insurer. Further, learned counsel would submit that the Tribunal could not have fastened entire liability on the appellant/Insurance Company and ought to have considered the contributory negligence on the part of the deceased.

7. Though learned counsel Sri.B.Pradeep for appellant/Insurer contended that the notional income determined at Rs.15,000/- p.m., and awarding of 40% towards future prospects was not proper, was not serious in his submission. Thus, he prayed for allowing the appeal.

8. Per contra, Sri.Bhanu Prakash.H.V, learned counsel for Respondent Nos.1 and 2 would submit that



there was no negligence on the part of the deceased. Further, with reference to Ex.P5/Sketch would submit that the insured vehicle was coming from the opposite direction on the wrong side, which resulted in the accident. Learned counsel would invite attention of this Court to Ex.P1/F.I.R and submits that the tractor came from opposite side, i.e., Hosur Kodagu Colony side with rash and negligent manner, which resulted in the accident and death of the deceased. Thus, he would pray for dismissal of the appeal.

9. Having heard the learned counsel for the parties and on perusal of the entire appeal papers as well as the original Tribunal records, the only point that calls for consideration is:

“Whether the contention of the appellant/Insurer that the Tribunal failed to consider the contribution negligence on the part of the deceased is proper and correct?



The answer to the above point is negative for the following reasons:

10. The accident that occurred on 26.03.2021 involving motor-cycle bearing No.KA-05-JS-5958 and tractor-trailer bearing No.KA-45-TA-1042/KA-45-TA-1091 as well as death of the deceased Pradeepa is not in dispute in this appeal. The insurer is in appeal aggrieved by non-consideration of contributory negligence on the part of the motor-cycle and questioning the saddling of entire liability on the Insurance Company.

11. We have perused Ex.P5/spot sketch. It clearly indicates that the tractor-trailer was coming from Rathnapuri to Hosur side whereas the motor-cycle was going from Hosur side Rathnapuri. While coming from Rathnapuri to Hosur side, the tractor was on the wrong side, i.e., totally on the right side of the road. The motor-cycle which was proceeding on the correct lane from Hosur to Rathnapuri. The negligence of the driver of the tractor who had come from Rathnapuri side to Hosur side on the



wrong side, i.e., on the right side of the road, caused the accident. Moreover, Ex.P1/ F.I.R would indicate that the motor-cycle was proceeding in front of Hosur Lakkegowda's house. From opposite side, the tractor came in a rash and negligent manner and hit the tractor-trailer. Looking to the copy of the F.I.R, Police records and the spot sketch, would indicate that due to the rash and negligent riding of the driver of the tractor and trailer and he coming on the wrong side, caused the accident. Therefore, the contention of the appellant/Insurer that the rider of the motor-cycle was negligent, is liable to be rejected.

12. Another contention of the appellant/insurance company that determination of monthly income made at Rs.15,000/- p.m., and awarding 40% towards future prospects is not proper and correct is noted only for the purpose of rejection. The accident is of the year 2021 and the notional income taken at Rs.15,000/- p.m., is proper, correct and is in terms of the notional income chart



prepared by the Karnataka State Legal Services Authority. Further, since the deceased was aged 20 years, awarding 40% of the assessed income towards future prospects is in accordance with the decision of the Hon'ble Apex Court in the case of ***NATIONAL INSURANCE COMPANY LIMITED VS. PRANAY SETHI & OTHERS (AIR 2017 SC 5157)***.

13. For the reasons recorded above, the Appeal stands ***dismissed***.

Amount in appeal to be transmitted to the concerned Tribunal.

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

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