



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C M JOSHI

MISCELLANEOUS FIRST APPEAL NO. 5026 OF 2017 (MV-D)

BETWEEN:

UNITED INDIA INSURANCE CO. LTD.,
5TH & 6TH FLOOR, KRISHI BHAVAN,
REGIONAL OFFICE, NRUPATHUNGA ROAD,
HUDSON CIRCLE, BENGALURU-560 001.

(REP. BY ITS REGIONAL MANAGER)

THE UNITED INDIA INS. CO. LTD.,
MICRO OFFICE, 2ND FLOOR,
"SHREE KATHAYANI", OPP. BUS STAND,
BELTHANGADI-574 214.

(POLICY ISSUING OFFICE)

...APPELLANT

(BY SRI Y P VENKATAPATHI, ADVOCATE)

AND:

1. SMT. SOUMITHRI,
NOW AGED ABOUT 36 YEARS,
W/O LATE PRAVEEN V GOVIMATH.
2. KUMARI SANVI,
AGED ABOUT 5 YEARS
D/O LATE PRAVEEN V GOVIMATH,
SINCE MINOR R/B MOTHER AND NATURAL
GUARDIAN SMT. SOUMITHRI.
(THE FIRST PETITIONER ABOVE)

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by NANDINI R
Location: HIGH
COURT OF
KARNATAKA



BOTH ARE R/AT D.NO.69, RATHANA COMPOUND,
NEAR SIRI, LAILA VILLAGE AND POST,
BELTHANGADI TALUK-574 214,
DAKSHINA KANNADA.

3. SRI D SUNDARA KANNADA,
AGED ABOUT 27 YEARS, MAJOR,
R/A MANJUSHREE NAGAR,
DHARMASTHALA VILLAGE AND POST,
BELTHANGADI TALUK-574 214,
DAKSHINA KANANDA DISTRICT.

...RESPONDENTS

(BY SRI A KESHAVA BHAT, ADVOCATE FOR R1 & R2
[R-2 MINOR REPRESENTED BY R-1];
R-3 SERVED & UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.01.2017 PASSED IN MVC
NO.380/2015 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL
JUDGE AND M.A.C.T., BELTHANGADI, AWARDED
COMPENSATION OF RS.83,96,550/- WITH INTEREST AT 6%
FROM THE DATE OF PETITION TILL THE DATE OF PAYMENT.

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

CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

1. Heard learned counsel appearing for the
appellant and the learned counsel for the respondent Nos.
1 and 2.



2. Being aggrieved by the judgment and award in MVC No. 380/2015 by learned Senior Civil Judge and MACT, Belthangadi, dated 30.01.2017, respondent No.2- Insurance Company therein has approached this Court in appeal.

3. The factual matrix of the case that is relevant for the purpose of this appeal is as below:

It was the case of the petitioners that on 22.11.2013 at about 02.30 p.m., the deceased Praveen V. Govimath, after having his meal at Hotel Swapna, was going to SDM Educational Institutions on his motorcycle bearing No. GA.02.H.2924. When he entered the main road from the mud road, a motorcycle bearing No. KA.21.K.1440 came in a high speed and negligent manner and dashed to the motorcycle of the deceased, resulting in injuries to riders of both the vehicles. The deceased Praveen was taken to SDM Hospital and later he was shifted to KMC Hospital,



Mangaluru. Ultimately, on 04.12.2013 he succumbed to the injuries.

4. The petitioners contended that the deceased was aged about 38 years, earning Rs.45,000/- per month by working in Sri Dharmastala Manjunatheshwara Educational Society as a Software Developer and therefore, the petitioners are entitled for compensation from the owner and insurer of the offending motorcycle.

5. The petition was opposed by the respondent No.2- Insurance Company contending that the accident was due to the negligence on the part of the deceased and that the rider of the offending motorcycle had violated the terms and conditions of the policy and therefore, the liability of respondent No.2-Insurance Company be absolved.

6. On the basis of the above contentions, appropriate issues were framed by the Tribunal. The petitioner No.1, who is the wife of the deceased was



examined as PW1 and Exhibits P1 to P18 were marked. PW2 to PW4 were also examined on their behalf. Respondent No.2 did not adduce any oral evidence, but the copy of the policy was marked as Exhibit R1.

7. After hearing both the sides, the Tribunal fastened the liability on the insurance Company and awarded compensation of Rs.83,96,550/- under different heads as below:

Loss of dependency	Rs.80,24,760/-
Medical bills	Rs. 3,41,789/-
Loss of estate	Rs. 10,000/-
Loss of consortium	Rs. 10,000/-
Transportation of dead body	Rs. 10,000/-
Total	Rs.83,96,549/-

8. Being aggrieved by the same, Insurance Company is before this Court in appeal.

9. Learned counsel appearing for the appellant-Insurance Company contends that the Tribunal has not considered the contributory negligence on the part of the deceased since he had abruptly entered the main road



without seeing the oncoming motorcycle of the respondent No.1. He contends that there was negligence on the part of the deceased also and as such, the judgment is erroneous. His second prong of the argument is that the Tribunal has not deducted the professional tax and the income tax from the salary income of the deceased while computing the compensation. Thirdly, he contends that petitioner No.1 is working as a Teacher and she has ample livelihood and therefore, the compensation awarded is on the higher side.

10. Learned counsel appearing for the respondents-petitioners contended that the compensation awarded by the Tribunal is proper and correct and there is no need for any reassessment. However, he fairly submits that the income tax and the professional tax have been included while computing the compensation amount. He further submits that the Tribunal has considered the contention of the contributory negligence and since there was a charge sheet filed against respondent No.4, it has effectively



rejected the claim of the contributory negligence. Regarding third contention, he submits that the affluence or the income of the petitioner No.1 cannot be a ground for the Insurance Company to resist and absolve its liability. It is submitted that the entitlement of the petitioners is on account of death of deceased Praveen and it has to depend upon the contribution he could have made for the family. Insurance Company cannot seek any relief on the ground that petitioner No. 1 is affluent and she is working and such argument would be an absurd argument.

11. So far as the first contention of the learned counsel appearing for the appellant is concerned, a perusal of the records would reveal that though the complaint was filed alleging that the deceased had abruptly entered the road, the Investigating Officer after elaborate investigation came to the conclusion that the negligence was on the part of respondent No.4 since he could have seen the vehicle of the deceased coming from the mud road



towards the main road. Therefore, the Investigating Officer has filed charge sheet against the respondent No.4. A perusal of the police papers which are produced would show that there is no such cross road where the accident had taken place. The deceased had simply come out of Hotel Swapna and was entering the main road on his motorcycle. Therefore, the rider of the offending motorcycle could have seen the deceased entering the road from certain distance. Whenever there are pedestrian or other vehicles which are entering the road, a duty is cast upon the rider of the vehicle who was plying on the main road to anticipate that a vehicle would enter the main road. Obviously, respondent No. 4 could not control his motorcycle since he was at high speed. Under these circumstances, contributory negligence on the part of the deceased Praveen cannot be inferred.

12. The Tribunal has considered this aspect and has come to the conclusion that the negligence on the part of respondent No. 4 has been established and no negligence



could be attributed to the deceased. This Court do not find any reason to interfere with the said finding of the Tribunal. Obviously, respondent No. 4 has not entered the witness box to reiterate his contention that there was any negligence on the part of the deceased also.

13. Sofar as the calculation of the compensation amount is concerned, the Tribunal after assessing the oral testimony of employer herein PW4 and the salary certificate issued at Exhibit P14, payroll register at Exhibit P16 and P17, comes to the conclusion that the gross salary of the deceased was Rs.44,582/-. This finding of the Tribunal cannot be faulted with. However, it is relevant to note that from the gross salary of Rs.44,582/-, there was a deduction of professional tax of Rs.200/- and income tax of Rs.1,500/-. Obviously, the professional tax and the income tax would not enure to the benefit of the family and as such, it has to be excluded from the dependency. In that view of the matter, the effective salary that the deceased was contributing to the family including his



savings in the form of EPF and rent allowance was Rs.42,882/-. Therefore, it is this amount which should have been considered by the Tribunal.

14. For the above said income of the deceased, 50% has to be added towards the future prospects and therefore, the effective multiplicand would come to Rs.64,323/- (Rs.42,882/- + Rs.21,441/-). It is not in dispute that the deceased was aged 38 years and therefore, the appropriate multiplier is '15'. Petitioner No. 1 is the wife and petitioner No. 2 is the minor daughter and therefore, one third ($1/3$) has to be deducted towards the personal expenses of the deceased. Hence, the loss of dependency is calculated as: $\text{Rs.64,323/-} \times 12 \times 15 \times \frac{2}{3} = \text{Rs.77,18,760/-}$.

15. In addition to this, petitioners are also entitled for loss of love and affection and loss of consortium. The Tribunal has awarded Rs.10,000/- each under these heads, and therefore, they need to be enhanced. Hence,



keeping in view the escalation which is permitted by the Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi and others¹**, the petitioners are entitled for Rs.44,000/- each towards loss of love and affection and consortium and a sum of Rs.16,500/- each under the head of 'loss of estate' and 'funeral expenses'.

16. The Tribunal has also awarded a sum of Rs.3,41,789/- towards medical expenses based on the receipts and bills produced. The same has to be added to the above compensation.

17. Therefore, the petitioners are entitled for total compensation of Rs.81,81,549/-under the following heads:

Loss of dependency	Rs.77,18,760/-
Loss of love and affection/consortium	Rs. 88,000/-
Loss of estate	Rs. 16,500/-
Funeral expenses	Rs. 16,500/-
Medical expenses	Rs. 3,41,789/-
Total	Rs.81,81,549/-

¹ 2017 (16) SCC 680



18. Sofar as the contention of the appellant that petitioner No. 1 is sufficiently employed and therefore, the compensation should not be a bonanza to the petitioners. It is relevant to note that the Tribunal has taken care of this aspect and has reserved 85% of the compensation amount to the petitioner No. 2 who is a minor child. The argument of the learned counsel appearing for the appellant that the compensation of 85% awarded to the minor child would also become a bonanza is an absurd argument and therefore, it is rejected. A child is entitled for all the facilities and expenses that could be made by a father. The loss of a father to a child cannot be compensated in terms of money. Therefore, this argument of the Insurance Company cannot be accepted at any stretch of imagination. If at all petitioner No. 1 is working, she is earning her livelihood and therefore, that cannot be a ground for reducing the compensation amount. In the result, the impugned judgment deserves to be modified. Hence, the following:



ORDER

- (i) The appeal is allowed in part.
- (ii) The petitioners are entitled for a total compensation of Rs.81,81,549/- instead of Rs.83,96,549/- along with interest at 6% per annum from the date of petition till its deposit before the Tribunal.
- (iii) Insurance Company is directed to deposit the compensation amount within four weeks from the date of receipt of the copy of this judgment.
- (iv) The apportionment and other orders passed by the Tribunal remain unaltered.
- (v) The impugned judgment and award stands modified accordingly.
- (vi) The amount in deposit before this Court shall be transmitted to the jurisdictional Tribunal forthwith.

Sd/-
(C M JOSHI)
JUDGE