



CNR: KAHC010500292026

NC: 2026:KHC:46756  
MFA No. 5442 of 2026  
C/W MFA No. 5644 of 2026

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 28<sup>TH</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR**

**MISCELLANEOUS FIRST APPEAL No. 5442 OF 2026**

**(MV-D)**

**C/W**

**MISCELLANEOUS FIRST APPEAL No. 5644 OF 2026**

**(MV-D)**

**IN MFA No. 5442/2026**

**BETWEEN:**

LIBERTY GENERAL INSURANCE LTD.,  
(FORMERLY KNOWN AS LIBERTY GENERAL  
INSURANCE CO. LTD.,)  
No. 21/15, THE LANDMARK  
4<sup>TH</sup> FLOOR, NEAR TRINITY METRO STATION  
M.G. ROAD, BENGALURU-560 001  
REPRESENTED BY ITS MANAGER.

...APPELLANT

(BY SRI RAVI SHANKAR S SAMPRATHI, ADVOCATE)

**AND:**

1. SMT. V. T. SHOBHA  
W/O. LATE V. T. VIJAYA VEEREGOWDA  
AGED ABOUT 49 YEARS.
2. SMT. VARSHINI. V  
D/O. LATE V. T. VIJAYA VEEREGOWDA

Digitally signed by  
LAKSHMINARAYANA  
MURTHY RAJASHRI  
Location: HIGH  
COURT OF  
KARNATAKA



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AGED ABOUT 30 YEARS.

3. SRI. V. VENKATESH  
S/O. LATE V. T. VIJAYA VEEREGOWDA  
AGED ABOUT 23 YEARS.

ALL ARE RESIDING AT  
No. 658/1, 6<sup>TH</sup> MAIN ROAD  
ISRO LAYOUT, K.S. LAYOUT, 2<sup>ND</sup> STAGE  
BENGALURU-560 111.

4. SRI. PRAJWAL. S. P.  
S/O. PURUSHOTHAM S. N  
MAJOR IN AGE  
R/O. SULAGALALE VILLAGE  
NORWAY POST, BELUR TALUK  
HASSAN DISTRICT.

...RESPONDENTS

(BY SRI ANANDA K S, ADVOCATE FOR R1 -R3  
V/O DTD. 10.08.2026 NOTICE TO R4 D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT  
AGAINST THE JUDGMENT AND AWARD DATED:12.03.2026  
PASSED IN MVC No.3040/2024 ON THE FILE OF THE VIII  
ADDITIONAL JUDGE AND COURT OF SMALL CAUSES AND  
ACJM, MACT, BENGALURU (SCCH-5), AWARDED  
COMPENSATION OF Rs.42,64,221/- WITH INTEREST AT 6  
PERCENT P.A. FROM THE DATE OF PETITION TILL ITS  
REALIZATION.

**IN MFA No. 5644/2026**

**BETWEEN:**

1. SMT. V. T. SHOBHA  
W/O. LATE V. T. VIJAYA VEEREGOWDA  
AGED ABOUT 50 YEARS.



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2. SMT. VARSHINI. V  
D/O. LATE V. T. VIJAYA VEEREGOWDA  
AGED ABOUT 31 YEARS.
3. SRI. V. VENKATESH  
S/O. LATE V. T. VIJAYA VEEREGOWDA  
AGED ABOUT 23 YEARS.

ALL ARE RESIDING AT  
No. 658/1, 6<sup>TH</sup> MAIN ROAD  
ISRO LAYOUT, K.S. LAYOUT, 2<sup>ND</sup> STAGE  
BENGALURU-560 111.

...APPELLANTS

(BY SRI ANANDA K S, ADVOCATE)

**AND:**

1. SRI. PRAJWAL S P  
S/O PURUSHOTHAM S.N.  
MAJOR, RESIDING AT SULAGALAE VILLAGE  
NORWAY POST, BELUR TALUK  
HASSAN DISTRICT  
BENGALURU-560 098.
2. THE MANAGER  
LIBERTY GENERAL INSURANCE COMAPANY LTD,  
No.21/15, "THE LAND MARK",  
4<sup>TH</sup> FLOOR, NEAR TRINITY METRO STATION  
M.G.ROAD, BENGALURU-560 001.

...RESPONDENTS

(BY SRI RAVI S SAMPRATHI, ADVOCATE FOR R2  
V/O DTD. 10.08.2026 NOTICE TO R1 D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT  
AGAINST THE JUDGMENT AND AWARD DATED:12.03.2026  
PASSED IN MVC No.3040/2024 ON THE FILE OF THE VIII  
ADDITIONAL JUDGE AND COURT OF SMALL CAUSES AND



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ACJM, MACT, BENGALURU (SCCH-5), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS COMING ON FOR FURTHER HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

### **ORAL JUDGMENT**

MFA No.5442/2026 is filed by the insurer challenging the quantum of compensation and MFA No.5644/2026 is filed by the claimant seeking enhancement of the compensation awarded in the judgment and award dated 12.03.2026 passed in MVC No.3040/2024 by VII Additional Judge Court of Small Causes and MACT, Bengaluru (SCCH-5).

2. Even though the appeals are listed today for admission, they are taken up for disposal with the consent of learned counsels for parties.

3. Claimants made a claim petition praying to award compensation for the death of Vijay Veere Gowda



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(husband of claimant No.1 and father of claimant Nos.2 and 3) in a road traffic accident occurred on 24.12.2023 contending that the accident occurred due to rash and negligent driving of the rider of motor cycle bearing registration No.KA-41/ET-2863. The Tribunal after recording the evidence of the parties, appreciating the evidence assessed the compensation and awarded compensation under various heads as under:

| Sl.No.       | Heads                      | Amount in (Rs.)    |
|--------------|----------------------------|--------------------|
| 01.          | Loss of Income             | 18,29,268/-        |
| 02.          | Loss of consortium         | 1,44,000/-         |
| 03.          | Loss of Estate             | 18,000/-           |
| 04.          | Funeral and Transportation | 18,000/-           |
| 05.          | Medical Expenses           | 22,54,953/-        |
| <b>Total</b> |                            | <b>42,64,221/-</b> |

4. The Tribunal has also awarded interest at the rate of 6% per annum from the date of petition till realization



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and directed the insurer to deposit the award amount with interest. The insurer has challenged the quantum of compensation and claimants have sought enhancement of compensation in the present appeals.

5. Heard learned counsel for the insurer and learned counsel for claimants.

6. Learned counsel for the insurer would contend that the deceased was retired BBMP employee getting pension and after his death claimant No.1 -wife was getting family pension of Rs.16,500/- and that is rightly deducted by the Tribunal. The Tribunal only relying on oral evidence of P.W.2 has taken additional income of the deceased at Rs.20,000/-. P.W.2 has not produced any document to show that he was paying Rs.20,000/- to the deceased. With these, he prays to allow the appeal.

7. Learned counsel for claimants would contend that the Tribunal has erred in deducting family pension which claimant No.1 is getting while calculating the income



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of the deceased. The said family pension is nowhere connected to the accidental death of the deceased. Therefore, it shall not be deducted from the income of the deceased. On that point, he places reliances on the decisions of the Hon'ble Apex Court in the cases of ***Hanumantharaju B Vs M Akram Pasha and Another***<sup>1</sup> and ***Kirosata Devi and others Vs Ram ji Lal and others***<sup>2</sup>. He further submitted that the Tribunal has rightly taken the additional income of Rs.20,000/- based on the evidence of P.W.2. With this he prays to allow the appeal.

8. Having heard learned counsels, the Court has perused impugned judgment, award and decisions relied upon by learned counsel for claimants.

9. The accident occurred on 24.12.2023 and as on the date of accident, the deceased was aged 62 years. The deceased was retired BBMP employee and was getting the pension of Rs.29,165/-. P.W.1 - claimant No.1 admitted in her evidence that she was getting family pension of

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<sup>1</sup> In 2025 INSC 682

<sup>2</sup> In SLP(C)No.25497/2025 decided on 17.11.2025



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Rs.16,500/-. The Tribunal has deducted the said family pension in the income of the deceased. The said family pension is no nexus to the accidental death of the deceased. In the case of **Kirosata Devi (supra)**, the Hon`ble Apex Court relying on the decision of **Hanumantharaju B (supra)** has held as under:

*"9. In the present case, we are inclined to interfere with the findings of the Courts below in assessing the annual income of the deceased. The claimant-appellant(s) have placed on record the salary slips and the pensioner's identity card of the deceased, which clearly establish that he used to earn Rs.32,673/- per month from his private employment and also drew a monthly pension of Rs.5,839/- being a retired Head Constable of Border Security Force. Both the Courts below have concurrently held that, since the deceased's wife, Appellant No.1, continued to receive family pension after his demise, no loss on account of pension was proved. Be that as it may, this court in Hanumantharaju B. v. M. Akram Pasha, has held that:*



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*"19. It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as "pecuniary advantage" liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.*

*For this proposition of law, we may refer to the decision in Vimal Kanwar v. Kishore Dan (2013) 7 SCC 476, wherein this Court, by referring to the earlier Rebello v. Maharashtra decision in Helen C. SRTC (1999) 1 SCC 90, held as follows:-"19. The aforesaid issue fell for consideration before this Court in Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90: 1999 SCC (Cri) 197]. In the said case, this Court held that*



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*provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a "pecuniary advantage" receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. The following was the observation and finding of this*

*Court: (SCC pp. 111-12, para 35)*

*"35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all. Similarly, family pension is also*



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*earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. The heirs receive family pension even otherwise than the accidental death. No co-relation between the two. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. Death is only a step or contingency in terms of the contract, to receive the amount. Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no co-relation with the amount receivable under a statute*



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*occasioned only on account of accidental death. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which there is no semblance of any co-relation. The insured (the deceased) contributes his own money for which he receives the amount which has no co-relation to the compensation computed as against the tortfeasor for his negligence on account of the accident. As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual."*



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*Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation. This principle was reiterated in Reliance General Insurance Co. Ltd. v. Shashi Sharma (2016) 9 SCC 627 and National Insurance Company Ltd. v. Birender (2020) 11 SCC 356."*

*10. What flows from Hanumantharaju B. (supra) is that pension being a recurring and assured source of income arising from the past service of the deceased constitutes an integral part of his pecuniary benefits. Hence, while determining the loss of dependency, the pension amount cannot be excluded or deducted, as it forms a legitimate and continuing component of the income which the dependents would have otherwise received, and hence the pension amount as receivable at the time of the accident, by the deceased has to be considered while calculating the loss of income and hence in the present case as the deceased was receiving a pension of Rs.5,839/- per month, and accordingly the same has to be added to the salary as received by the deceased from his private job. As*



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*far as the income from the private service is concerned, the Courts below have made certain unwarranted deductions in calculating the income. We therefore fix the income of the deceased from his private service at Rs.32,673/- per month, and as a result, the total monthly income of the deceased is re-fixed at Rs.38,512/-for the computation of compensation. The claimant-appellant(s) are also entitled to compensation under other heads in accordance with the settled principles of law.”*

In view of said decisions of Hon’ble Apex while determining loss of dependency, the family pension amount cannot be excluded or deducted. Therefore, the Tribunal has erred in deducting the family pension in the income of the deceased while calculating loss of dependency.

10. It is the case of claimants, the deceased, after retirement, was working as Supervisor in Pritam Constructions and getting salary of Rs.20,000/-. P.W.2 - the Managing Partner of Pritam Constructions has been examined and he has deposed that the deceased was



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working as Supervisor in their company and his salary of Rs.20,000/- has been paid by cash. Considering the said evidence of P.W.2, it can be considered that the deceased was working as Supervisor in Pritam Constructions. In order to support that the deceased was getting Rs.20,000/- per month, no supporting documents are produced. Therefore, notional income fixed for the year 2023 in a sum of Rs.16,250/- per month is to be taken as the income of the deceased in addition to pension. Considering the said aspect, the total income of the deceased is Rs.29,165/- + Rs.16,250/- =Rs.45,415/-. In view of the above, the loss of dependency is calculated as under:

$$\begin{aligned} & \text{Rs.45,415/-} \times 12 = \text{Rs.5,44,980/-} \text{ less } 1/3^{\text{rd}} = \\ & \text{Rs.3,63,320/-} \times 7 = \text{Rs.25,43,240/-} . \end{aligned}$$

11. Claimants are entitled to loss of dependency in a sum of Rs.25,43,240/- as against Rs.18,29,268/- as awarded by the Tribunal with interest. The compensation awarded by the Tribunal under other heads are just and



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proper. Consequently, the claimants are entitled to enhanced compensation of Rs.7,13,972/- with interest at the rate of 6% per annum from the date of petition till realisation. The insurer is liable to pay the said enhanced compensation with interest.

12. In view of the above, the following:

ORDER

- i) Both appeals are ***allowed in part.***
- ii) Appellants –claimants are entitled to enhanced compensation of Rs.7,13,972/- with interest at the rate of 6% per annum from the date of petition till realization.
- iii) The insurer shall deposit the enhanced compensation with interest before the Tribunal within a period of six weeks from this day.



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- iv) Appellants –claimants are entitled to release of entire enhanced compensation in the ratio of 80:10:10 as determined by the Tribunal.
- v) The amount in deposit is ordered to be transmitted to the Tribunal.

**Sd/-**  
**(SHIVASHANKAR AMARANNAVAR)**  
**JUDGE**

DSP  
List No.: 2 SI No.: 38  
Ct.sm