



HC-KAR

NC: 2026:KHC:26499-DB
MFA No.929 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF JUNE, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.929 OF 2020 (MV-D)

BETWEEN:

1. SMT. SAGUNTHALA
W/O LATE MANI
AGED ABOUT 44 YEARS
 2. SMT. SATHYA
W/O BHAGYARAJU
AGED ABOUT 33 YEARS
 3. SMT. ANANTHASRI
W/O SHAKTHIVEL D
AGED ABOUT 32 YEARS
R/AT NO.14/21A, PERIYANDIPATTI
KANJANAIAKENPATTI, SALEM
TAMIL NADU-638 305
 4. MASTER SANTHOSH KUMAR
S/O LATE MANI
AGED ABOUT 19 YEARS
- APPELLANT NOS.1, 2 & 4 ARE
R/AT MUDDANAYAKANAPALYA
D. B. PURA TALUK
BENGALURU RURAL DISTRICT-572 224

...APPELLANTS

(BY SRI SURESH M. LATUR, ADVOCATE)

AND:

1. SRI MADHU G
S/O GOVINDAPPA
RAJAGHATTA VILLAGE
DODDABALLAPURA TALUK
BENGALURU RURAL DISTRICT-561 203

Digitally signed by
SUMATHY KANNAN
Location: BANGALURU
COURT OF
KARNATAKA



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2. THE REGIONAL MANAGER
UNITED INDIA INSURANCE
COMPANY LIMITED
5TH & 6TH FLOOR, KRISHI BHAVAN
NRUPATHUNGA ROAD, HUDSON CIRCLE
BENGALURU – 560 001

...RESPONDENTS

(BY SRI P.B.RAJU, ADVOCATE FOR R2;
NOTICE TO R1 DISPENSED WITH V/O/DATED 22.03.2021)

THIS MISCELLANEOUS FIRST APPEAL IS FILED U/S 173(1) OF MV ACT PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 23.07.2019 PASSED IN M.V.C.NO.2805/2017 ON THE FILE OF THE II ADDITIONAL JUDGE AND XXVIII ACMM, COURT OF SMALL CAUSES, MACT, BENGALURU (SCCH-13), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the judgment and award dated 23.07.2019 in M.V.C.No.2805/2017 passed by the II Additional Judge & XXVIII ACMM, Court of Small Causes, Bengaluru (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded compensation to the appellants/claimants in a sum of Rs.10,32,800/- along with interest at the rate of 6% per annum



from the date of petition till deposit of the amount in the Tribunal.

2. The Appeal though listed for admission, with the consent of the learned Counsel for the parties, is taken up for final hearing and disposal today itself.

3. The Appeal has been filed by the appellants/claimants. Notice to respondent No.1/owner was dispensed with by order dated 22.03.2021 passed by this Court. The appeal has been contested by the appellants/claimants and learned Counsel for respondent No.2/Insurance Company.

4. Briefly the facts of the case are that on 05.10.2016 the deceased Mani was travelling in a motorcycle bearing Registration No.KA-05-EM-7596 as a pillion rider. The motor cycle was being ridden by one Mr. Manjunath on D.B.Pura – C.B.Pura Road. When they reached near Muddunayakanapalya cross, a motorcycle bearing Registration No.KA-43-R-4918 came from the opposite direction with a high speed in a rash and negligent manner and collided with the motorcycle that the deceased was travelling on. As a result of the collision, the rider, pillion rider/the deceased fell down from the motorcycle and sustained grievous injuries. After the accident, they were



shifted to Doddaballapura Government Hospital and thereafter admitted to NIMHANS Hospital, Bengaluru for further treatment. The deceased however, succumbed to his injuries on 10.10.2016.

4.1. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'M.V.Act' for short) was filed by the wife, two daughters and minor son of the deceased contending that at the time of the accident, the deceased was working as a stone mason worker and earning about Rs.30,000/- per month.

4.2. Although the service was effected on both owner and Insurance Company, the claim petition was contested only by respondent No.2/Insurance Company before the learned Tribunal. Since none appeared for the owner of the vehicle, he was accordingly placed ex parte before the Tribunal.

4.3. Based on the pleadings of the parties, the following issues were framed by the learned Tribunal:

- "(i) *Whether the petitioners prove that they are the LRs./dependants of deceased Mani?*
- (ii) *Whether petitioners prove that deceased Mani died in road traffic accident occurred on 5.10.2016 at about 8.10 near Muddanayakanapalya Cross, D.B.Pura-C.B.Pura*



Road due to rash and negligent riding by the rider of motorcycle bearing Regn.No.KA 43 R 4918?

- (iii) Whether the petitioners prove that they are entitle for compensation as claimed? If so, to what extent and from whom?*
- (iv) What order or award?"*

4.4. The appellants/claimants examined claimant No.1 as PW.1 and marked the documents as Exs.P1 to P18. They also examined the Medical record Officer at NIMHANS hospital as PW.3 and got marked Ex.P10/OPD Book and Ex.P18/Case sheet. On behalf of respondent No.2, RW.1 the Police Inspector who investigated the case and RW.2 the Legal Manager of respondent No.2/Insurance company were examined by respondent No.2/Insurance Company who proved the documents as Ex.R1/Authorisation Letter and Ex.R2/Copy of policy.

4.5. Based on the pleadings, the evidence and documents available on record before the Tribunal, the learned Tribunal found that the rash and negligent driving was proved. In addition, it was held that although the deceased is stated to be 43 years, but no document for proof of age was produced and in the absence of the same, thus relying on the medical records



and the post mortem report, considered the age of the deceased as 50 years.

4.6. The learned Tribunal also found that since there were four dependants of the deceased, the deduction would be 1/4th and applying 13 multiplier calculated the dependency as Rs.9,36,000/-, Rs.11,800/- was awarded for medical expenses.

4.7. Learned Tribunal after examining the evidence on record produced by the Insurance Company and relying on the judgment of the Supreme Court in the case of ***Shamanna v. Oriental Insurance Company Ltd.***¹ found that the driver of the offending vehicle did not possess a valid driving licence. However, the learned Tribunal also found that the insurance policy subsisting was in order and thus directed an order of pay and recovery in favour of the Insurance Company. Learned Tribunal after examining the evidence placed before it, has awarded the compensation under the following heads:

Sl. No.	Particulars	Amount (Rs.)
1	Loss of dependency	9,36,000/-
2	Loss of Consortium	40,000/-
3	Loss of love and affection	15,000/-
4	Loss of estate	15,000/-

¹ (2018) 9 SCC 650



5	Transportation of dead body & funeral expenses	15,000/-
6	Medical expenses	11,800/-
	TOTAL	10,32,800/-

4.8 The learned Tribunal thus awarded a sum of Rs.10,32,800/- along with interest at 6% per annum.

5. Learned Counsel for the appellants/claimants has raised two contentions in this appeal. He submits that the amounts as awarded for notional income were wrongly calculated at Rs.8,000/- since the accident was in the year 2016, the notional income should have been taken at Rs.9,500/- as per the chart of Karnataka State Legal Services Authority. In addition it is contended that no amounts were awarded for future prospects while calculating loss of dependency. Learned Counsel for the appellants also avers that no amounts for escalation were granted, even though the accident took place in the year 2016.

6. Learned Counsel for respondent No.2/Insurance Company on the other hand fairly concedes that the loss of dependency would be calculated as per the notional income at the rate of Rs.9,500/- per month. He however, contends that no additional



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amounts towards loss of consortium, loss of estate and funeral expenses ought to have been awarded by the learned Tribunal.

7. The question that arises for consideration before this Court is whether the compensation awarded by the learned Tribunal is in accordance with law?

8. As stated above, the notional income for the year 2016 would be at the rate of Rs.9,500/- per month and since the deceased was 50 years old, amounts for future prospects are also required to be added. In addition, in terms of the principles laid down by the Supreme Court in ***Sarla Verma (Smt.) and others vs. Delhi Transport Corporation and another***², the loss of future income and funeral expenses are required to be awarded. Accordingly, the notional income for the year 2016 is taken at Rs.9,500/- per month and since the deceased was aged 50 years, 25% future prospects are also required to be added.

9. The learned Tribunal had considered that there are four dependants of the deceased Mani and deducted 1/4th of the amount for personal and living expenses. However, the record reflects that the deceased was survived by two married

² (2009) 6 SCC 121



daughters who were living separately. Clearly, thus for loss of dependency their expenses could not have been deducted.

9.1. The legal position on the aspect is explained in the judgment of Supreme Court in ***Deep Shikha v. National Insurance Company Ltd.***³. It has been held that although married daughter may be considered as legal representative, she will not be eligible for loss of dependency compensation unless it is proved by the daughter that she was financially dependent on the deceased. The relevant extract is below:

"13. Once a daughter is married, logical presumption is that she now has rights on her matrimonial household and is also financially supported by her husband or his family, unless proven otherwise. It is more than likely that her dependence on her natal family, including her mother has now ceased. Sections 166 and 168 of the Motor Vehicles Act, 1988 focus on the financial relationship between the deceased and the Claimant. A married daughter may be considered a legal representative, as per Manjuri Bera, but she will not be eligible for loss of dependency compensation unless it is proved by the daughter that she was financially dependent on the deceased. Thus, it is clear from the record that Appellant No.1 has failed to prove that she was being financially supported by her mother post marriage and hence cannot be said to be dependent of her mother, the deceased."

[Emphasis supplied]

³ 2025 SCC Online SC 1090



10. In the instant case, no material is placed on record to show that appellant Nos.2 and 3/the daughters were solely dependent on the income of the deceased. In the absence of proof of documents and in view of the law laid down by the Supreme Court, the Tribunal erred in considering that appellant Nos.2 and 3 being married daughters are solely dependent in the income of the deceased. Therefore, the finding of the learned Tribunal to that extent is modified and loss of dependency is to be calculated. Considering that the deceased has two dependants. Accordingly $1/3^{\text{rd}}$ has to be deducted towards personal expenses and the applicable multiplier for the age of 50 years is '13'. Hence, compensation under the **loss of dependency** is recomputed as follows:

Heads	Amounts
Loss of dependency	$\text{Rs.}9,500 + 25\% = \mathbf{11,875/-}$ $\text{Rs.}11,875 \times 12 \times \frac{2}{3} \times 13$ $= \mathbf{12,35,000/-}$

11. In view of the law laid down by the Supreme Court in ***National Insurance Company Limited v. Pranay Sethi***⁴, loss of consortium is payable at Rs.40,000/- to the four appellants with escalation at 10%, amounting to

⁴ (2017) 16 SCC 680



Rs.1,76,000/-. As per the judgment of the Supreme Court in ***Pranay Sethi's*** case referred to *supra*, the appellants are entitled to compensation of Rs.15,000/- on the head of **loss of estate** and Rs.15,000/- for **funeral expenses and transportation** with escalation at 10% each. To this extent, the award of the Tribunal requires to be recalculated in the following terms:

Sl. No.	Particulars	Amount (Rs.)
01.	Loss of Dependency	12,35,000-00
02.	Loss of Consortium (Rs.44,000x4)	1,76,000-00
03.	Loss of Estate	16,500-00
04.	Transportation of dead body, funeral expenses charges and miscellaneous expenses	16,500-00
05.	Medical Expenses	11,800-00
	Total	14,55,800-00
	Less: Awarded by the Tribunal	10,32,800-00
	Enhanced compensation	4,23,000-00

12. Hence, the appellants/claimants are entitled to a total compensation of **Rs.4,23,000/-** along with interest as awarded by the learned Tribunal, from the date of petition till



its realisation. Accordingly, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***allowed in part;***
- (ii) The judgment and award dated 23.07.2019 in M.V.C.No.2805/2017 passed by the II Additional Judge & XXVIII ACMM, Court of Small Causes, Bengaluru is modified, enhancing the compensation by **Rs.4,23,000/-** along with interest at the rate of 6% per annum as awarded by the learned Tribunal from the date of petition till realization.
- (iii) The remaining portion of the impugned award of the Tribunal remains undisturbed.
- (iv) Respondent No.2/Insurance Company is directed to pay the enhanced compensation with interest as awarded by the Tribunal within eight weeks from today.
- (v) On such deposit of compensation, the same shall be released in favour of appellant Nos.1 and 4/claimant Nos.1 and 4, on filing of an appropriate application



for withdrawal of the enhanced amount in the proportion as was set out in the Impugned Award.

- (vi) The Registry is directed to draw the modified Award accordingly.
- (vii) The Registry is directed to transmit a copy of this judgment to the concerned Tribunal.
- (viii) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**