



CNR: KAHC010523942017

NC: 2026:KHC:53406
MFA No. 5485 of 2017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.5485 OF 2017(MV-D)

BETWEEN:

1. SMT.JALAJA
W/O LATE SANJEEV KULAL,
AGED ABOUT 44 YEARS,
2. KUMARI JYOTHI
D/O LATE SANJEEV KULAL,
AGED ABOUT 25 YEARS,
3. KUMARI PREETHI
D/O LATE SANJEEV KULAL,
AGED ABOUT 23 YEARS,
4. SRI GURUPRASAD
D/O LATE SANJEEV KULAL,
AGED ABOUT 21 YEARS,

ALL ARE R/AT BALODI MANE,
AZRI GRAMA AND POST,
KUNDAPURA TALUK,
UDUPI DISTRICT - 576 201.

...APPELLANTS

[BY SRI NAGARAJA HEGDE, ADVOCATE (PH)]

AND:

1. SRI PRAVEEN VINAY PINTO
S/O THOMAS PINTO,
AGED ABOUT 35 YEARS,
R/O GADIKOPPALA MANE,
SORNADU POST, AARALA GRAMA,
BANTWALA TALUK,
D.K.DISTRICT.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



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2. THE NATIONAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE,
UDUPI - 576 101
REPRESENTED BY ITS
DIVISIONAL MANAGER.

...RESPONDENTS

[BY SMT.S.SUJATHA PANDIT, ADVOCATE FOR
SRI K.SRIDHARA, ADVOCATE FOR R2 (VC);
NOTICE TO R1 - SERVED & UNREPRESENTED]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 05.01.2016 PASSED IN MVC
NO.567/14 ON THE FILE OF THE ADDITIONAL DISTRICT &
SESSION'S JUDGE & MACT, UDUPI, (SITTING AT KUNDAPURA),
KUNDAPURA, PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 05.01.2016
passed by Additional District and Sessions Judge and MACT,
Udupi (sitting at Kundapura) Kundapura ('**Tribunal**'), in MVC
no.567/2014, this petition is filed.



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2. Sri Nagraja Hegde, learned counsel for appellants submitted that appeal was by claimants for enhancement of compensation.

3. Brief facts leading to this appeal as stated are that at 7:15 p.m. on 08.05.2014 when Sanjeev Kulal was standing by side of NH-66 near Pravasi hotel, driver of Car no.KA-19/ME-828 drove it in rash and negligent manner came from Byndoor side and it dashed against Sanjeev Kulal. In accident, Sanjeev Kulal sustained fatal injuries and succumbed during treatment. Claiming compensation on account of loss of dependency, his wife and three children filed claim petition under Section 166 of Motor Vehicles Act, 1988 ('**MV Act**') against owner and insurer of Car.

4. On contest, wherein claim petition was opposed on all grounds, Tribunal framed issues and record of evidence.

5. To prove her case, claimant no.1 examined herself as PW.1 and one eye-witness as PW.2 and got marked Exs.P1 to P12. Insurer did not lead any oral evidence, but got marked copy of insurance policy as Ex.R1.



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6. On consideration, Tribunal held accident had occurred due to rash and negligent driving of insured vehicle by its driver and claimants were entitled for compensation of Rs.10,23,800/- with interest at 6% per annum from insurer. Dissatisfied with quantum, appeal was filed.

7. It was firstly submitted that as on date of accident, deceased was working as labourer in Supreme Tile Works, his name was entered in muster roll and PF deducted. Ex.P11 would indicate that his gross salary during year 2011-12 was Rs.13,774/-. Therefore, consideration of monthly income by Tribunal at only Rs.8,000/- was not justified. It was submitted that Ex.P8 - voter ID would indicate age of deceased as 49 years as on date of accident. Therefore, Tribunal was not justified in assessing his age as 51 years and applying incorrect multiplier. It was submitted that proper multiplier of '13' was required to be applied. It was submitted that addition of future prospects at only 15% instead of 25% was not justified. It was lastly submitted that compensation awarded under conventional heads was inadequate and sought for enhancement.



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8. On other hand, Smt.Sujatha Pandit, learned counsel appearing for Sri K Sridhara, advocate for respondent no.2 - insurer opposed appeal.

9. Heard learned counsel, perused impugned judgment, award and record.

10. From above and as this is claimants' appeal for enhancement, point that arises for consideration is:

"Whether claimants are entitled for enhancement of compensation as prayed for?"

11. Same is answered partly in affirmative for following reasons:

- i) There is no dispute that as on date of accident deceased was employee of Supreme Tile Works died in accident caused by negligent driving of insured vehicle. To substantiate earning of deceased, claimants produced salary slip issued by employer along with PF deduction slips as Ex.P11. Same would indicate gross salary for year 2011-12 as Rs.13,774/-. Under above circumstances, it is found



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appropriate to round off monthly income to Rs.14,000/- by referring to Ex.P11 as accident occurred in year 2014.

- ii) While assessing compensation Tribunal determined age of deceased at 51 years by referring to Ex.P4 - post-mortem report. Normally, age mentioned in treatment records, post-mortem report or police investigation records would be accepted in absence of specific documents about age. In instant case, as per Ex.P8 - Voter ID mentions age of deceased was shown as 29 years in 1994. Accident occurred in year 2014, 20 years later. Therefore, as on date of accident, deceased would be aged 49 years. Same would also correspond to age of children and wife. Multiplier applicable would be '13'. Consequently, quantum of future prospects to be added would be 25%. Thus, compensation towards future loss of income would be $(Rs.14,000/- + 25\%) \times 12 \times 13$ $(- 25\%) = \text{Rs.20,47,500/-}$.



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- iii) Apart from above each of claimants would be entitled for Rs.40,000/- towards loss of consortium i.e. Rs.40,000/- X 4 = Rs.1,60,000/-. They would also be entitled for Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate i.e. **Rs.1,90,000/-** in total.
- iv) Since more than 6 years have lapsed after decision of Hon'ble Supreme Court in **National Insurance Company Limited v. Pranay Sethi**, reported in **(2017) 16 SCC 680**, 20% has to be added to award under conventional heads i.e. **Rs.38,000/-**. Tribunal has awarded **Rs.3,000/-** towards medical treatment prior to victim's death, which is also required to be added. Thus, total compensation would be **Rs.22,78,500/-**.

12. Consequently, following:

ORDER

- (a) Appeal is ***allowed***.
- (b) Claimants are held entitled for enhanced compensation of **Rs.22,78,500/-** as against Rs.10,23,800/- awarded by



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Tribunal, which shall carry interest at 6% per annum from date of claim petition till deposit, excluding delayed period of 459 days in filing appeal.

- (c) Entire enhanced compensation is ordered to be released in favour of claimants.
- (d) Respondent no.2 – Insurer is directed to deposit enhanced compensation before Tribunal within six weeks.
- (e) On deposit, direction issued by Tribunal towards apportionment shall apply to enhanced compensation proportionately.

Sd/-
(RAVI V HOSMANI)
JUDGE

GRD
List No.: 1 Sl No.: 44