



NC: 2026:KHC:33053-DB
MFA No. 1703 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JULY, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.1703 OF 2020
(MV-D)

BETWEEN:

1. JALAJA POOJARTHI
AGED ABOUT 61 YEARS
W/O LATE VITTAL POOJARY,

2. ASHA SUBHAKAR
AGED ABOUT 40 YEARS

3. ASHOK PALAN
AGED ABOUT 38 YEARS

4. USHA RAMESH
AGED ABOUT 35 YEARS

P-2 TO 4 ARE THE CHILDREN OF
LATE VITTAL POOJARY
ALL R/AT 11-164,
JANATHA COLONY, KUTHPADY POST,
UDAYARA, UDUPI TALUK,
UDUPI.

Digitally signed
by SUMATHY
KANNAN
Location: HIGH
COURT OF
KARNATAKA

...APPELLANTS

(BY SRI. GANESHA R., ADVOCATE)

AND:

1. KARTHIK UDUPA K



S/O VISHWANATH UDUPA
R/O H NO.2-48 N.R.
MOOKAMBIKA TEMPLE,
CAR STREET, KOLLUR,
KUNDAPURA.

2. BHARATHI AXA GENERAL INSURANCE CO. LTD.
1ST FLOOR, CITY GATE BUILDING,
TOLLGATE, KADRI,
MANGALORE.

...RESPONDENTS

(BY SRI. B. PRADEEP., ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH VIDE ORDER DATED
23.06.2023)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
PRAYING TO MODIFY AND ENHANCE THE JUDGMENT AND
AWARD DATED 19.06.2019 PASSED IN MVC NO.1194/2016 ON
THE FILE OF THE COURT OF THE ADDITIONAL SENIOR CIVIL
JUDGE & ADDITIONAL MACT, UDUPI AND ALLOW THIS APPEAL
WITH COSTS THROUGHOUT AND ETC.

THIS 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 19.06.2019 in M.V.C.No.1194/2016
passed by the Additional Senior Civil Judge and Addl.



MACT, Udupi, (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded Rs.7,07,500/- to the appellant/claimant along with interest at 6% per annum from the date of petition till its realisation.

2. The Appeal though listed for admission, given the pendency of this appeal for six years, with the consent of the parties, this Court has heard and decided the appeal finally today itself.

3. Heard the learned Counsel for the appellant/claimant and learned Counsel for respondent No.2/Insurance Company. Notice to respondent No.1 has been dispensed with, by an order dated 23.06.2023.

4. The brief facts are that, on 02.04.2016 at about 07.45 a.m., the deceased Vittal Poojary was riding his bicycle and standing by the side of the road near Balaipade Junction and at that time, the driver of the Car bearing registration No.KA-20-MA-1283 while stated to be



driving in a rash and negligent manner came to the extreme left side of the road and hit the deceased. The accident resulted in the deceased suffering from grievous injuries. He was taken to Hi-tech Hospital, Udupi and thereafter shifted to KMC Hospital, where he was an inpatient for 32 days. Subsequently he was shifted to Dharamsthala Ayurvedic Hospital, Udyavara, where he was also an inpatient from 13.06.2016 to 16.06.2016 and thereafter shifted to another hospital for 10 days. However, due to severe neurological defects from the accidental injuries, the deceased passed away on 25.06.2016.

4.1 The claim petition was filed by the wife and children of the deceased. It was stated that the deceased was aged about 60 years and working as a Mason and earning Rs.750/- per day. It was further stated in the claim petition that the deceased was spending all his earnings for the welfare of his family.



4.2 The claim petition was contested by the respondent No.1-owner/driver and respondent No.2/Insurance Company of the offending vehicle. However, no defence/written statement was filed by respondent No.1. The respondent No.2/Insurance Company denied that the accident was caused due to negligence and also raised several objections against the petition.

5. Based on the pleadings between the parties, the following issues were framed by the learned Tribunal:

"ISSUES

1. *Whether the Petitioners prove that on 02.04.2016 at about 7.45 a.m., victim was standing by the side of the road with his bicycle, near Balaipade Junction, Udyavara, Udupi Taluk, at the same time driver of one Car bearing registration No.KA-20-MA-1283 coming in a rash and negligent manner and dashed against the victim as resulting in death of victim in a road Traffic Accident?*
2. *Whether petitioners prove they are entitled for compensation, to what extent?*
3. *What order or award?*

5.1 The father of the deceased was examined as PW1 and one of the treating doctors as PW2. Several documents were exhibited which include FIR (Ex.P1),



Mahazar (Ex.P3), Sketch (Ex.P4), IMV report (Ex.P5), dead body enquiry report (Ex.P7), P.M.report (Ex.P8) and charge sheet (Ex.P9). In addition, several medical documents were produced as per Exs.P10 to P40, including the death summary (Ex.P46) and the death certificate (Ex.P47). In support of their claim, the claimants also filed voter ID Card (Ex.48), loan account statement (Exs.P49 & 50) and statements of their S.B. Account (EX.P51).

5.2 No document or evidence was placed on record by the respondent No.2/Insurance Company.

5.3 Learned Tribunal after examining the evidence produced before it including the oral evidence of PW1, the FIR and the charge sheet, found that the accident was caused due to the rash negligent driving of the driver of the offending vehicle. In addition, it was held that the injuries sustained in the road accident resulted in the death of Vittal Poojary. On the compensation aspect of the



matter, the learned Tribunal found that the deceased was 60 years of age. However, since he was working as a Mason, there was no document produced to support his contention and therefore, the learned Tribunal considered it apposite to award notional income in a sum of Rs.9,000/- per month. The learned Tribunal also found that the deceased was survived by his wife and three children. The children of the deceased are majors, married and settled with their respective families and hence they could not be dependent on the income of the deceased. Thus, half of the income of the deceased was deducted towards personal and living expenses to calculate loss of dependency and the multiplier of '7' was taken. The loss of dependency was calculated by the learned Tribunal as follows:

$$\begin{aligned} \text{Rs.9,000} \times 12 \times \frac{1}{2} &= \text{Rs.54,000/-} \\ \text{Rs.54,000} \times 7 &= \text{Rs.3,78,000/-} \end{aligned}$$

5.4. Hence the compensation awarded for loss of dependency was Rs.3,78,000/-. The amounts were also



awarded for medical expenses, loss of estate, loss of consortium and funeral expenses. The following compensation was awarded by the Tribunal:

Sl.No.	Heads of Compensation	Amount (Rs.)
1	Loss of dependency	3,78,000-00
2	Medical expenses	2,59,473-00
3	Loss of estates	15,000-00
4	Loss of consortium	40,000-00
5	Funeral expenses	15,000-00
	TOTAL	7,07,473-00 rounded off to Rs.7,07,500-00

5.5 Thus, an amount of Rs.7,07,500/- along with interest at 6% per annum was awarded by the learned Tribunal. As stated above, challenge in the present appeal is by the claimants/legal representatives of the deceased on the quantum of compensation awarded by the learned Tribunal.

6. Learned counsel for the appellants/claimants submits that since the accident happened in the year 2016, the amount to be awarded as notional income would be Rs.9,500/- and not Rs.9,000/-. In addition, he contends



that since there were four dependents, i.e., wife and three children, $1/3^{\text{rd}}$ of the income instead of $1/2$ should have been deducted in the income of the deceased for calculation of loss of dependency. The learned counsel further submits that the amounts for loss of consortium has not been correctly awarded. Lastly, he contends that the interest awarded is not in accordance with settled legal principles.

6.1 The learned counsel for the appellants/claimants relying on the judgments of the Supreme Court in ***Deep Shikha Vs. National Insurance Company Ltd.*¹** and ***Seema Rani & Ors. Vs. The Oriental Insurance Co.Ltd. & Ors.*²** and ***National Insurance Company Limited Vs. Birender and others*³** submits that the loss of dependency of a married daughter and married son who is living separately and not dependent on the income of

¹ 2025 INSC 675

² 2025 INSC 192

³ (2020) SCC 356



the deceased, income of the deceased could not be used for calculation of loss of dependency.

7. Learned counsel for the respondent No.2/Insurance Company fairly submits that the notional income was Rs.9,500/- for the year 2016. However, he submits that no additional amounts are required to be paid to the appellants/claimants other than an increase in loss of dependency.

8. Based on the contention of the parties, the following issue arises for determination:

“Whether the appellants/claimants were entitled to any amount of enhanced compensation?”

9. The deceased was 61 years of age and for the year 2016, the notional income must be taken at Rs.9,500/- and the multiplier would be '7'. So far as concerns the calculation for loss of dependency, the parties do not dispute the fact that appellants/claimant Nos.2 and 4, the daughters of the deceased, are married and living



separately. However, appellant/claimant No.3, the son of the deceased was living along with the deceased and his mother in the same premises. The Supreme Court in **Deep Shikha** case while deciding this aspect has held as follows:

*"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 proven 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 a dependent of her mother, the deceased."*

[Emphasis Supplied]

10. Since there were two dependents, in terms of the judgment of the Supreme Court in **Sarla Verma (Smt.) and others Vs. Delhi Transport Corporation and another**⁴, 1/3rd deduction should be taken for calculation

⁴ (2009) 6 SCC 121



of loss of dependency. Accordingly, loss of dependency would be calculated as follows:

Loss of dependency	Rs.9,500 x 1/3=Rs.3,166/- Rs.9,500-3166=Rs.6,334/- Rs.6,334 x12 x 7 = 5,32,056/- rounded off to Rs.5,32,060/-
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11. The award was passed more than three years after the date of the accident. Since the deceased was survived by four family members being his wife and three children, they would also be entitled to filial consortium in terms of the judgment of the Supreme Court in ***National Insurance Co.Ltd. Vs. Pranay Sethi***⁵ at Rs.40,000/- per person, with escalation granted thereon. In addition, it is observed that the compensation granted towards attendant charges, conveyance and nourishment which is Rs.40,000/- mentioned in paragraph 21 of the judgment has inadvertently not been included in the table of calculation.

⁵ (2017)16 SCC 680



12. From the narration of the facts, it can be seen that the accident occurred on 02.04.2016 and deceased succumbed to the injuries on account of the accident. The deceased was in-patient for almost two months and he was hospitalized at least five different hospitals. Thus, the amounts awarded for attendance, convenience, food and nourishment charges are required to be enhanced to Rs.75,000/-. Accordingly, the compensation is recalculated as follows:

Sl.No.	Heads of Compensation	Amount (Rs.)
1	Loss of dependency	5,32,060-00
2	Medical expenses	2,59,473-00
3	Loss of estate	16,500-00
4	Loss of consortium (Rs.44,000x4)	1,76,000-00
5	Funeral expenses	16,500-00
6	Attendant and conveyance charges	75,000-00
	TOTAL	10,75,533-00

13. On the aspect of the interest to be awarded by the Tribunal, one of us, Justice Tara Vitasta Ganju, has in a recent judgment captioned ***United India Insurance Co.***



Ltd. vs. Sri. Malyadri. M And Others⁶, after analyzing the precedents of the Supreme Court and this Court, has found that an award of 9% interest is in accordance with the settled provisions in the present-day scenario, especially in cases of death and permanent disability. It was held that the award of 9% interest has been regularly upheld by the Supreme Court. It is apposite to extract the relevant portion of the judgment below:

*"24. Thus, an analysis of the precedents shows that the award of interest **over the last 5-10 years has infact consistently been awarded @ 9% p.a. or upholding such an award.***

xxx

xxx

xxx

*29. An analysis of the foregoing discussions of the Supreme Court, **reflects that the Supreme Court has consistently held that the award of interest is intended to recompensate the claimant for being deprived of the use of money, which ought to have been paid at the time of occurrence of the accident.** The rate of interest, therefore, must be just, fair and reasonable, having regard to the prevailing economic conditions and bank rates.*

*29.1. **The award of interest is usually determined at the prevailing bank rate of interest on a case-to-case basis and at the rate which is just and fair and reasonable.***

*29.2 **There cannot be any 'straitjacket formula' in determining the rate of interest and that the same***

⁶ 2026 SCC Online Kar 4090



must depend on the facts and circumstances of each case. The guiding principle remains that the rate must neither be punitive nor non-existent but must strike a balance between fairness to the claimant and reasonableness to the insurer.

29.3 The rate of interest 9% is more appropriate in case involving death and serious injury especially, where there is a long delay in the claimants receiving the compensation.

30. In the present case, the accident occurred in the year 2016 leading to the death of the wife of respondent No.1 and mother of respondent Nos.2 and 3. **The award came to be passed in the year 2018. The learned Tribunal has deemed it apposite to award interest on the compensation @ 9% per annum. The award of interest is not punitive as is fair considering the prevailing economic condition and bank rates. In addition, it is now 10 years since the date of the accident."**

[Emphasis Supplied]

14. Given the circumstances of this case, this Court deems it apposite to enhance the interest awarded by the learned Tribunal from 6% to 7.5% on the compensation awarded. The appellants/claimants are entitled to total compensation of **Rs.10,75,533/-** along with interest at the rate of 7.5% per annum as awarded by the learned Tribunal from the date of petition till the date of realization.



15. Accordingly, the Court proceeds to pass the following:

ORDER

- (i) The appeals are ***allowed in part***;
- (ii) The Impugned common Judgment and Award dated 19.06.2019 in M.V.C.No.1194/2016 passed by the Addl. Senior Civil Judge and Addl. MACT, Udupi, is modified, to the extent that appellants/claimants are entitled to total compensation of **Rs.10,75,533/-** along with interest at the rate of 7.5% per annum from the date of petition till the date of realization.
- (iii) The remaining portion of the Impugned Award of the learned Tribunal remains undisturbed.
- (iv) The respondent No.2/Insurance Company shall deposit the enhanced compensation with interest applicable thereon, as awarded by the learned Tribunal, within a period of eight weeks from the date of receipt of a copy of this judgment;
- (v) On such deposit of compensation, the same shall be released in favour of the appellants/claimants on filing of



an appropriate application by them for withdrawal of the enhanced amount.

(vi) The Registry is directed to draw the modified Award accordingly.

(vii) The Registry is directed to transmit a copy of this judgment and records to the concerned Tribunal.

(viii) Pending application(s), if any, stand closed. No order as to costs.

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

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

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List No.: 1 Sl No.: 6p