



CNR: KAHC010544552024

NC: 2026:KHC:42262
MFA No. 6292 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO.6292 OF 2024(MV-D)

BETWEEN:

1. GERA JOM MARK,
S/O MOUSES SWAMYNATHAN,
MURAGAVEL @ MOUSES MURAGAVEL,
AGED ABOUT 25 YEARS,
2. PAVITRA EVAM JALINA,
D/O MOUSES SWAMYNATHAN,
MURAGAVEL @ MOUSES MURAGAVEL,
AGED ABOUT 27 YEARS,
3. GRESE,
W/O MOUSES SWAMYNATHAN,
MURAGAVEL @ MOUSES MURAGAVEL,
AGED ABOUT 54 YEARS,

Digitally
signed by
REKHA R
Location:
High Court
of Karnataka

APPELLANTS NO.1 TO 3 ARE
R/O 003, 1ST MAIN ROAD,
POST OFFICE NEAR POOJAR EXTENSION,
KODIYAL, KUMARAPATTANAM,
RANEBENNURU - 581 115,
HAVERI DISTRICT.

...APPELLANTS

(BY SRI. CHANDRANATH ARIGA K., ADVOCATE)



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AND:

1. SHIVAKUMAR S MARIGOUDAR,
S/O SIDDAPPA,
AGED ABOUT 44 YEARS,
R/O BUTI BIRLA FACTORY,
VINAYAKA TEMPLE,
KUMARAPATNAM,
RANEBENNUR TALUK - 581 115.
HAVERI DISTRICT.
(DRIVER AND OWNER OF SPLENDOR PLUS
BEARING REG NO KA-27 /W-2346)

2. THE MANAGER,
THE NEW INDIA
ASSURANCE CO LTD.,
R/O DENTAL COLLEGE ROAD,
MCC 'B' BLOCK,
DAVANGERE - 577 004.

...RESPONDENTS

(BY SRI. MALLIKARJUNA G CONTRACTOR ADVOCATE FOR R1,
SRI. L. SREEKANTH RAO, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:31.08.2023
PASSED IN MVC NO.339/2020 ON THE FILE OF THE COURT OF
PRL. SENIOR CIVIL JUDGE AND CJM, DAVANAGERE, PARTLY
ALLOWING THE CLAIM PETITION FOR COMPENSATION AND
SEEKING ENHANCEMENT OF COMPENSATION.

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



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CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

This appeal by the claimant, seeking enhancement of compensation so also a direction to the respondent Insurer to pay the compensation by setting aside the finding of the Prl. Senior Civil Judge and CJM, Davanagere¹, dismissing the petition against the Insurer, vide Judgment and award dated 31.08.2023, passed in MVC No.339/2020.

2. The parties are referred to as per their ranking before the Tribunal.

3. Facts germane to file the present appeal are as under:

3.1 In an unfortunate accident occurred on 17.04.2019, a practicing advocate aged 53 years by name Mouses Swamynathan Muragavel @ Mouses Muragavel, succumbed to injuries received in a road traffic accident involving motorcycle bearing

¹ 'the Tribunal', for short



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Registration No.KA-27/W-2346. The claimants are the wife and children of Late.Mouses Swamynathan Muragavel. They filed the petition claiming compensation of Rs.40,00,000/-.

3.2 Upon notice, the respondents appeared and filed statement of objections denying the averments made in the claim petition.

3.3 The Insurer has taken a specific contention that the rider of the motorcycle was not possessing valid and effective Driving License as on the date of incident to ride the motorcycle. In that view of the matter, the Insurer is not liable to pay the compensation.

3.4 Whereas, the Insured filed statement of objections denying the contentions of the Insurer as well as the averments made in the claim petition and sought to dismiss the petition.



3.5 The Tribunal having considered the materials placed on record, answered Issue No.1 on negligence, against the rider of the motorcycle, but upholding the contentions of the Insurer, that the rider of the motorcycle was not holding valid and effective driving license at the time of accident, dismissed the petition against the Insurer and directed the owner of the motorcycle to make good the compensation awarded in a sum of Rs.28,68,830/- along with interest @ 6% per annum from the date of petition till realization. It is this Judgment and award passed by the Tribunal, is called in question in this appeal.

4. Heard, Sri.Chandranath K.Ariga, learned counsel appearing for the claimants, Sri.Mallikarjun G.Contractor, learned counsel appearing for the Insured and Sri.L.Sreekanta Rao, learned counsel appearing for the Insurer.



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5. Sri.Chandranath Ariga, submits that though the Tribunal has considered the income in terms of the Income Tax Returns, however failed to add future prospectus to the existing proved income. He further submits that the Tribunal has awarded consortium only in respect of claimant No.3, however denied the filial consortium in respect of other claimants.

5.1 Learned counsel further submits that in view of the law laid down by the Hon'ble Supreme Court in ***NATIONAL INSURANCE CO. LTD. vs. PRANAY SETHI***², the claimants are also entitled for 10% escalation on the compensation awarded under conventional heads on each completed three years since 2017 and in the instant case, the accident had occurred in the year 2018, therefore they are entitled for two terms of completed three years. Accordingly,

² 2017 (16) SCC 680



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they are entitled for 20% escalation on conventional heads.

5.2 Learned counsel further submits that the deceased being a third party and even in the absence of driving license, in view of settled position of law in **PAPPU DEO YADAV VS. NARESH KUMAR AND OTHERS³**, when there is a valid insurance policy existing as on the date of the accident, the Insurer be made liable to pay the compensation primarily with liberty to recover the same from the owner of the vehicle. With this, learned counsel sought to allow the appeal.

6. In contrast, Sri.L.Sreekanta Rao, learned counsel appearing for the Insurer with equal vehemence submits and argued in support of the Judgment of the Tribunal, stating that the Tribunal after examining the record found that the rider of the motorcycle was not holding valid and effective Driving License as on the date

³ AIR Online 2018 SC 1582



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of accident. Accordingly, dismissed the petition against the Insurer. In that view of the matter, the same does not call for any interference. So far as enhancement is concerned, learned counsel submits that after taking into consideration the established income by means of Income Tax returns, the Tribunal has properly awarded compensation under each head and the same does not require any interference and sought to dismiss the appeal.

7. Sri.Mallikarjuna G.Contractor, learned counsel appearing for the Insured submits that the owner of the vehicle filed an appeal in MFA No.7702/2023, however in view of non-deposit of statutory minimum amount of Rs.25,000/-, the appeal was dismissed for non-prosecution on 19.08.2024. Learned counsel also argued in line with Sri.L.Sreekanta Rao in respect of enhancement of compensation is concerned and sought to dismiss the appeal.



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8. Having considered the rival submissions, this Court has perused the entire appeal papers.

9. This Court finds force in the argument advanced by learned counsel Sri.Chandranath K.Ariga, so far as claim towards future prospectus, 10% escalation on conventional heads for two terms, future prospectus, filial consortium as well as direction to pay and recover in view of the law laid down by the Hon'ble Supreme Court supra. In that view of the matter, the compensation awarded by the Tribunal requires re-consideration.

Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Loss of dependency	27,43,653	30,18,014-00 (3,74,134+10% $\times$ 11 $\times$ 2/3)
2.	Towards Funeral expenses	15,000-00	15,000-00
3.	Loss of spousal consortium	40,000-00	40,000-00
4.	Loss of filial consortium	-	80,000-00 (40,000 $\times$ 2)
5.	Loss of estate	15,000-00	15,000-00
8.	10% escalation (for two terms of three completed years on conventional heads)	-	30,000-00
	TOTAL	28,68,830-00	31,98,014-00



10. Accordingly, the claimants are entitled for re-assessed compensation of **Rs.31,98,014/- (rounded off at Rs.31,98,500/-)**, which shall carry interest at the rate of 6% from the rate of petition till realization. Accordingly, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The Judgment and Award dated 31.08.2023, passed by the Tribunal in MVC No.339/2020 is modified and the compensation is reassessed.
- (iii) The claimants are entitled for re-assessed compensation of **Rs.31,98,500/-** along with interest at the rate of 6% per annum from the date of petition till realization.
- (iv) Respondent No.2 - Insurer is primarily made liable to pay the entire re-assessed compensation with interest stated supra



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with a liberty to recover the same from the owner of the vehicle.

- (v) Respondent No.2 - Insurer shall deposit the entire re-assessed compensation along with interest stated supra within six weeks from the date of receipt of certified copy of this order.
- (vi) Upon deposit, the apportionment and disbursement is as per the order passed by the Tribunal.
- (vii) The Trial Court record shall be transmitted forthwith to the concerned Tribunal without causing any delay.

Sd/-
(T.M.NADAF)
JUDGE

TKN
List No.: 1 Sl No.: 35
ct-vn