



CNR: KAHC010545002024

NC: 2026:KHC:44341
MFA No. 6283 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.6283 OF 2024(MV-D)

BETWEEN:

1. MANJAMMA,
W/O. LATE NARASIMHAIAH,
NOW AGED ABOUT 61 YEARS,
NO.26-A, HALTHI, MYLARAPATNA,
NAGAMANGALA TALUK, MANDYA DIST.
2. H.N. HEMAVATHI,
W/O. R KRISHNAMURTHY,
AGED ABOUT 41 YEARS,
2ND CROSS, NTB LAYOUT,
HOSA SIDDAPURA,
BHADRAVATHI TALUK.
3. NIRMALA H.N.
W/O. SHIVAKUMAR B,
AGED ABOUT 39 YEARS,
NO.44/A, 1ST MAIN ROAD,
1ST CROSS, VINAYAKANAGAR,
BSK 1ST STAGE, 1ST BLOCK,
BENGALURU - 560 050.
4. REKHA H.N.,
W/O. SATHEESH V.R.,
AGED ABOUT 35 YEARS,
NO.5A, VADERAPURA,

Digitally
signed by
REKHA R
Location:
High Court
of
Karnataka



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ANCHE CHITTANAHALLI,
NAGAMANGALA TALUK,
MANDYA DISTRICT.

...APPELLANTS

(BY SRI. RANGEGOWDA N R.,ADVOCATE)

AND:

1. IQBAL AHMED KHAN,
S/O. RAWOOF KHAN,
AGED MAJOR, NO. 10,
7TH CROSS,
SOMESHWARA NAGAR,
JAYANAGAR,
BENGALURU - 560 011.
2. UNITED INDIA INSURANCE CO. LTD.,
REP BY ITS LEGAL MANAGER,
REGIONAL OFFICE, TP HUB,
5TH AND 6TH FLOOR,
KRISHI BHAVAN, HUDSON CIRCLE,
OPP. BBMP HEAD OFFICE,
NRUPATHUNGA ROAD,
BANGALORE - 560 001.

...RESPONDENTS

(BY SRI. BHUVAN B.M., ADVOCATE FOR
SRI. B.C. SEETHARAMARAO, ADVOCATE FOR R2,
VIDE ORDER DATED 17.02.2025 NOTICE TO R1 IS
DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:03.04.2024
PASSED IN MVC NO.5884/2021 ON THE FILE OF THE
MEMBER, MACT, XVI ADDITIONAL JUDGE, COURT OF SMALL
CAUSES, BENGALURU SCCH-14, PARTLY ALLOWING THE CLAIM



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PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT
OF COMPENSATION.

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

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

ORAL JUDGMENT

This appeal by claimants seeking enhancement of compensation, so also challenging the finding, fastening 20% contributory negligence on the deceased, arising out of the Judgment and Award dated 03.04.2024, passed by the XVI Addl. Judge, Court of Small Causes, MACT, Bengaluru (SCCH-14)¹ in MVC No.5884/2021.

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

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

¹ the Tribunal, for short



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In an accident occurred on 24.10.2021 at about 5:45 pm, as per the records, a head on collision between TVS Scooter bearing registration No.KA-54-J-3451 and Mahindra Scorpio Car bearing registration No.KA-04-MB-8701, near Chikkajataka Gate, Kasaba Hobli, Nagamangala Taluk, Mandya District, deceased Narasimhaiah - a Septuagenarian (aged 75 years), succumbed to the injuries, survived by wife and three daughters.

4. The Insurer upon receipt of notice, appeared and filed statement of objection, denying the averments made in the claim petition, taking a specific contention that, as per the records, the accident is a head on collision and there is a contributory negligence. That apart, abated charge sheet was filed against the deceased, invoking Section 194D and 196 of Motor Vehicles Act, that he was riding the motorcycle without head gear and not having valid and effective insurance policy as on the date of accident. In that view of the matter, it is the rider of the



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motorcycle i.e., the deceased responsible for the accident and sought to dismiss the claim petition.

5. The Tribunal after having considered the entire evidence, both oral and documentary, was of the opinion that the deceased had contributed 20% negligence, towards the accident in view of spot sketch and charge sheet materials, particularly, IMV report at Ex.P7, which indicates that damages found on both the vehicles involved in the accident at front portion. Further, the Tribunal deducted personal expenses of the deceased at 50% and awarded total compensation of Rs.7,19,000/- under various heads including 10% escalation on conventional heads. It is this Judgment and Award passed by the Tribunal is called in question in this appeal by the claimants, on quantum and contributory negligence.

6. Heard, Sri.Range Gowda.N.R, learned counsel appearing for the appellants/claimants and Sri.Bhuvan.B.M, learned counsel appearing for



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Sri.B.C.Seetharama Rao, learned counsel for respondent No.2. Vide order dated 17.02.2025, notice to respondent No.1 is dispensed with.

7. Sri.Range Gowda.N.R, learned counsel with all vehemence submits that the Tribunal without proper discussion on the contributory negligence, at paragraph No.18 held that the deceased had contributed 20% negligence towards the accident, when the entire chargesheet was filed for the offences under Section 279 and 304A against the driver of the Mahindra Scorpio vehicle. He further submits that the Tribunal only on the aspect that penal provisions of Motor Vehicles Act for not wearing head gear and absence of insurance policy, have been invoked against the deceased proceeded to fasten liability at 20% on the deceased, which is impermissible in law, in view of settled position of law declared by the Division Bench of this Court as well as Judgments of the Hon'ble Supreme Court.



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8. So far as quantum is concerned, learned counsel submits that, the deceased survived by wife and major daughters, in view of law laid down by Hon'ble Supreme Court in **SARLA VERMA & ORS VS. DELHI TRANSPORT CORP. & ANR**², 1/3 should have been deducted instead of 50% towards personal expenses of the deceased. He further submits that the accident had occurred in the year 2021, the Tribunal though considered 10% escalation towards compensation awarded under conventional heads, ought to have awarded another 10% escalation and sought to allow the appeal, both on quantum and contributory negligence.

9. Sri.Bhuvan, learned counsel appearing for the Insurer with all vehemence submits that, the reason of the Tribunal fastening 20% contributory negligence is not only in view of findings at paragraph No.18, the Tribunal has given its conclusion in paragraph No.18 while discussing the aspect of contributory negligence in paragraphs 15 and

² 2009 (6) SCC 121



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16, wherein the Tribunal has clearly come to a conclusion after going through the entire record i.e., police records, especially the chargesheet and Ex.P7 IMV report and Ex.P3 Panchanama. Further, considering the fact that the deceased was not wearing head gear and riding the motorcycle without insurance policy, fastened 20% contributory negligence on him. Further, he submits that invoking of penal provisions of Motor Vehicles Act are not only the reason for the Tribunal to fasten 20% negligence on the deceased, but it was the police records, especially Ex.P3 and P7, which clearly indicate that the deceased had contributed negligence towards the accident. In that view of the matter, contributory negligence fastened by the Tribunal does not call for any interference.

10. Further, learned counsel though argued in support of the Judgment so far as quantum is concerned, is not in serious dispute towards deduction towards personal expenses in case of married person, as per the law laid down by the Supreme Court in **SARLA VERMA**



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(supra). He further submits that the Tribunal has awarded compensation under 'loss of consortium', so also a sum of Rs. 50,000/- as sum towards 'loss of love and affection' and again Rs.10,000/- under transportation of dead body, though awarded Rs.16,500/- towards funeral expenses, including 10% escalation towards consortium. In that view of the matter, the compensation awarded if re-assessed, the contention of the Insurer be considered, as the compensation awarded is more than the one permissible under the law.

11. Having considered the rival contentions, the following points would arise for consideration:

- 1) *Whether the Tribunal is right in fastening 20% contributory negligence on the deceased?*
- 2) *Whether the claimants have made out any case for enhancement?*



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12. My answer to both the points for consideration is ***partly in the affirmative*** for the following:

REASONS

13. **POINT NO.1**: This Court finds force in the argument of Sri.Bhuvan, that the Tribunal has concluded its decision for fastening 20% contributory negligence on the deceased in paragraph No.18 and paragraphs 15 & 16 are the reasons given by the Tribunal for fastening 20% negligence on the deceased. However Looking into the Spot Sketch and considering the vehicles involved in the accident, this Court is of the opinion that the driver of the Scorpio car was in a better position to avoid the accident when there are two vehicles involved in the accident in a head on collision. In that view of the matter, this Court is of the considered opinion that the driver of the Scorpio Car should have been more circumspect and cautious. As both the rider and driver of the Scorpio Car owes duty towards each other while using the road, the peculiar facts and



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circumstances involved in the case makes out clear picture that both are lacking such care and caution while using the road. In that view of the matter, this Court is of the opinion that, if contributory negligence is reduced to 10% on the deceased, the same would meet the ends of justice. Accordingly, point No.1 is answered partly in the affirmative.

14. **POINT NO.2**: So far as quantum is concerned, this Court finds force in the argument of learned counsel Sri.Range Gowda.N.R, in view of law laid down by the Hon'ble Apex Court in **SARLA VERMA**, in case of married person, 1/3 should be deducted instead of 50% towards personal expenses of the deceased, who survived by wife and major daughters. In that view of the matter, the Tribunal should have deducted 1/3 towards personal expenses instead of 50%.

15. A perusal of the award passed by the Tribunal clearly indicates that, it has considered 10% escalation on



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the compensation awarded under conventional heads. Admittedly, the year of accident is 2021 and second term of three completed years is yet to be completed. In that view of the matter, this Court finds no space to award another 10% escalation as contended by learned counsel Sri.Rangegowda. This Court finds that compensation awarded by the Tribunal towards 'loss of love and affection' and 'transportation of dead body' at Rs.50,000/- and Rs.10,000/- respectively, are not permissible in law, in view of settled position of law by the Hon'ble Supreme Court in **NATIONAL INSURANCE CO. LTD., VS. PRANAY SETHI**³. In that view of the matter, this Court proceeds to re-assess the compensation, which reads as under:

Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Loss of dependency	4,50,000-00	6,00,000-00 (15,000x12x5x2/3)
2.	Loss of consortium	1,76,000-00	1,60,000-00 (40,000x4)
3.	Loss of estate	16,500-00	15,000-00

³ 2017 (16) SCC 680



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4.	Loss of love and affection	50,000-00	-
5.	Funeral expenses	16,500-00	15,000-00
6.	Transportation of dead body	10,000-00	-
7.	10% escalation on conventional heads for three completed years.	16,000-00	19,000-00
	TOTAL	7,19,000-00	8,09,000-00

16. Accordingly, the claimants are entitled for enhanced compensation of **Rs.90,000/-**, which shall carry interest @ 6% per annum from the date of petition till realization.

17. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***allowed in part.***
- (ii) The Judgment and Award dated 03.04.2024, passed by the XVI Addl. Judge, Court of Small Causes, MACT, Bengaluru (SCCH-14) in MVC No.5884/2021 is modified and the compensation is enhanced and the finding of the Tribunal fastening 20% contributory negligence on the deceased is modified to 10%.
- (iii) The claimants are entitled for enhanced compensation of **Rs.90,000/-** along with



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interest @ 6% per annum from the date of petition till realization.

- (iv) Respondent No.2 - Insurer shall deposit 90% of the enhanced compensation along with interest supra, within six weeks from the date of receipt of certified copy of this order.
- (v) The respondent No.2 - insurer is further directed to deposit balance 10% of the compensation awarded by the Tribunal in view of reduction in contributory negligence from 20% to 10%.
- (vi) The apportionment and disbursement is as per the order passed by the Tribunal.
- (vii) The trial Court record, secured if any, shall be transmitted forthwith to the concerned Tribunal without causing any delay.
- (viii) No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

TKN
List No.: 1 Sl No.: 17
ct-vn