



CNR: KAHC010549082019

NC: 2026:KHC:41653
MFA No. 1577 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO.1577 OF 2020 (MV-D)

BETWEEN:

1. KALYANI
NOW AGED 60 YEARS,
W/O SHASHIDHARA SHETTY
2. SUMATHI
NOW AGED 33 YEARS,
D/O SHASHIDHARA SHETTY

BOTH ARE R/O 3-175-B,
PADUVANNUR VILLAGE,
ISHWARAMANGILA POST,
SAARAKUTELU HOUSE,
PUTTUR TALUK;
DAKSHINA KANNADA DISTRICT - 574 201.

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

...APPELLANTS

(BY SMT. PRASANNA K., ADVOCATE)

AND:

1. RICHARD CORREA
NOW AGED 46 YEARS,
S/O VICTOR CORREA,
R/O CHRISTA JYOTHI



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MADANTHYAR POST,
MALADI VILLAGE,
BELTHANGADY TALUK,
DAKSHINA KANNADA DISTRICT - 574 211.

2. THE MANAGER
NATIONAL INSURANCE CO. LTD.,
1ST FLOOR,
SHRI KSHETHRA DHARMASTHALA
BUILDING,
MAIN ROAD PUTTUR,
PUTTUR TALUK,
DAKSHINA KANNADA DISTRICT - 574 201.

...RESPONDENTS

(BY SMT. H.R.RENUKA, ADVOCATE FOR R-2;
NOTICE TO R-1 IS SD AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 12.02.2019 PASSED IN MVC
NO.647/2018 ON THE FILE OF THE V ADDITIONAL DISTRICT
AND SESSIONS JUDGE AND MEMBER, ADDITIONAL MACT,
DAKSHINA KANNADA, MANGALURU, SITTING AT PUTTUR.

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



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CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

This appeal is directed against the judgment dated 12.02.2019 passed in MVC No.647/2018 by the V Additional District and Sessions Judge and Member, Additional Motor Accident Claims Tribunal, D.K. Mangaluru, sitting at Puttur (hereinafter referred to as "the Tribunal"), whereby the Tribunal dismissed the claim petition filed by the claimants.

2. The factual matrix of the case is that, on 24.12.2017, at about 11:00 a.m., the deceased, Leelavathi, was travelling as a pillion rider on a Honda Activa motorcycle bearing Reg.No.51-EM-2625 from Nellyady towards Sakaleshpura. When the motorcycle reached Barchin Halla in Shirady Village, the driver of the Tipper Lorry bearing Reg.No.KA-21-A-3718, who was proceeding in the same direction, drove the vehicle in a rash and negligent manner and dashed against the hind portion of the motorcycle. Due to the impact, both the rider and the deceased fell on the road, and the deceased sustained grievous injuries. Although she was immediately shifted to the hospital, she succumbed to the



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injuries on the way. Thereafter, the jurisdictional police registered a F.I.R. against the driver of the offending Tipper Lorry and, upon completion of the investigation, filed a charge sheet against him. Subsequently, the legal representatives of the deceased, filed a claim petition before the Tribunal seeking compensation on account of her death in the motor vehicle accident.

3. In order to prove the claim petition, the claimant No.1 examined himself as PW.1 and also examined eye-witness to the incident as PW.2 and got marked 12 documents as Exs.P1 to P12. Insurance Company also examined one of his officer as RW.1 and got marked two documents as Exs.R1 and R2.

4. Upon assessment of oral and documentary evidence, the Tribunal dismissed the claim petition. The said impugned judgment is challenged in this appeal by the claimants-appellants.

5. Heard the learned counsel for the respective parties.



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6. Apart from urging several contentions, the learned counsel for the claimants–appellants primarily contended that the Tribunal grossly erred in dismissing the claim petition on the grounds that the motorcycle had not sustained any damage in the accident and that PW.2, the eye-witness, had failed to mention the registration number of the offending Tipper Lorry in the complaint. It is submitted that PW.2 has categorically deposed before the Tribunal that he had witnessed the accident and was aware of the registration number of the offending Tipper Lorry. Merely because the registration number was not mentioned in the complaint, his testimony cannot be discarded, particularly when the complaint was lodged immediately after the occurrence of the accident. It is further contended that there was no possibility of the motorcycle sustaining damage, as the Tipper Lorry had merely come into contact with its rear portion, causing the rider and the deceased to fall on the road. As a result of the fall, the deceased sustained grievous head injuries and subsequently succumbed to the same. Learned counsel further submitted that PW.2 is an independent witness having no relationship with the deceased or the claimants and,



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therefore, there was no reason for him to falsely implicate the driver of the offending vehicle. In these circumstances, the Tribunal was not justified in disbelieving the testimony of PW.2 and dismissing the claim petition. Accordingly, she prays to allow the appeal by setting aside the impugned judgment and also by awarding compensation.

7. *Per contra*, the learned counsel appearing for the Insurance Company, while supporting the impugned judgment, contended that the Tribunal, upon a meticulous appreciation of the oral and documentary evidence available on record, has passed a well-reasoned judgment, which does not warrant interference by this Court. She submitted that, in the complaint lodged by PW.2, the registration number of the offending Tipper Lorry was not mentioned. Even the registration number of the motorcycle on which the deceased was travelling as a pillion rider was not disclosed. She further contended that the claimants failed to produce the IMV Report to establish the nature and extent of damage caused to the Tipper Lorry as well as the motorcycle. According to the learned counsel, the evidence on record clearly discloses that no damage



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whatsoever was caused to the motorcycle. If the charge sheet allegations are believed then due to the impact of the accident by the Tipper Lorry on the rear portion of the motorcycle then there is a possibility of causing damage to the motorcycle, which is not forthcoming in the IMV report. She submits that these aspects of the matter has been rightly appreciated by the Tribunal and dismissed the claim petition. Accordingly, she prays to dismiss the appeal.

8. I have given my anxious consideration both on the submissions of the learned counsel for the respective parties and perused the entire materials available on record.

9. As could be gathered from records, the death of deceased-Leelavathi in a road traffic accident occurred on 24.12.2017 at a place called Barchin Halli, Shirady Village, Puttur Taluk, on N.H.75 while she was traveling as a pillion rider in a motorcycle bearing Reg.No.KA-51-EM-2625 is not in dispute. Further the coverage of the Insurance Policy to the offending Tipper Lorry bearing Reg.No.KA-21-A-3718 is also not in dispute. The Tribunal dismissed the claim petition



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primarily on the ground that PW.2, the complainant and an eye-witness to the accident, had not mentioned the registration numbers of either the offending Tipper Lorry or the motorcycle in the complaint. However, on a careful perusal of Ex.P1, the complaint, it is evident that the complainant has specifically narrated the manner in which the accident occurred and has clearly referred to the involvement of both the motorcycle and the Tipper Lorry. Based on the said complaint, the jurisdictional Police registered the F.I.R. against the driver of the offending Tipper Lorry. It is also not in dispute that the complaint was lodged immediately after the occurrence of the accident. PW.2 is neither related nor acquainted with the deceased or the claimants. In his oral evidence, he has categorically deposed regarding the manner in which the accident occurred, and his testimony corroborates the contents of Ex.P1. Further, upon completion of the investigation, the Police filed a charge sheet against the driver of the offending Tipper Lorry. In these circumstances, mere omission to mention the registration number of the offending vehicle in the complaint cannot, by itself, be a ground to reject the claim petition as held by the



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Hon'ble Apex Court, in the case of ***"Kusum Lata and Others v. Satbir and Others"***, reported in **(2011) 3 SCC 646**.

10. The Tribunal has also observed that the motorcycle had not sustained any damage in the accident and, on that basis, doubted the involvement of the offending Tipper Lorry. This finding is also unsustainable. A careful appreciation of the evidence of PWs.1 and 2, particularly the eye-witness, discloses that the Tipper Lorry came into contact with the rear portion of the motorcycle while both vehicles were proceeding on National Highway No.75 in a ghat section. In such circumstances, mere absence of visible damage to the motorcycle cannot be treated as conclusive proof that the accident did not occur in the manner alleged. The evidence of PW.2 clearly establishes that the Tipper Lorry coming into contact with the rear portion of the motorcycle, the rider and the deceased fell onto the road, resulting in the deceased sustaining grievous injuries, and later succumbed to the injuries.

11. The Tribunal, while adjudicating a claim petition under the Motor Vehicles Act, ought not to have appreciated



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the evidence by adopting a hyper-technical approach. In my considered opinion, the finding recorded by the Tribunal that the claim petition was an afterthought for unlawful gain requires interference. Accordingly, the impugned judgment passed by the Tribunal is set aside.

REG: THE QUANTUM OF COMPENSATION :

12. Although the claimants placed Ex.P10, the salary certificate to substantiate that deceased was earning salary of Rs.13,800/-, however, failed to examine the employer. In such circumstances, it would be appropriate and prudent to adopt the monthly income determined by Karnataka State Legal Services Authority, which, for the accident of the year 2017, would be Rs.11,000/-.

13. Since the deceased was aged 27 years and was a working, 40% requires to be added to her monthly income towards future prospects, which would result in the income to be Rs.15,400/- ($\text{Rs.11,000} + 40\% = \text{Rs.15,400/-}$).

14. Since deceased is a not married, 50% of income is deducted towards personal expenses, her monthly income



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would be Rs.7,700/- (Rs.15,400 - 50%). The income of the deceased for the purposes of determining the loss of dependency would thus be Rs.7,700/-.

15. As the deceased was aged 27 years, a multiplier of '**17**' would have to be applied.

16. Consequently, the claimants would be entitled to a sum of **Rs.15,70,800/-** (Rs.7,700 x 12 x 17) towards "*loss of dependency*".

17. The claimants being the dependants, they would be entitled to a sum of **Rs.48,400/-** each towards "*loss of consortium*" i.e., **Rs.96,800/-** and they would also be entitled to a sum of **Rs.36,300/-** under the "*conventional heads*".

18. Thus, the claimant, in modification of the impugned award, would be entitled to the following sums:

Sl. No.	Particulars	Amount (In Rs.)
1.	Loss of Dependency	15,70,800
2.	Loss of Consortium	96,800
3.	Conventional Heads	36,300
	Total	17,03,900



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19. Thus, the claimant would be entitled for compensation of **Rs.17,03,900/-**, along with interest at the rate of 6% per annum from the date of petition till its realization. However, the claimants are not entitled for the interest for the delay period of 207 days.

20. The Insurance Company and the owner of the offending Tipper Lorry are jointly and severally liable to pay the compensation. The Insurance Company is directed to deposit the amount of compensation awarded within a period of six weeks from the date of receipt of a certified copy of this judgment.

The appeal is accordingly ***allowed in part.***

SD/-
(RAJESH RAI K)
JUDGE

GPG
List No.: 1 Sl No.: 4