



CNR: KAHC010582742025

NC: 2026:KHC:42631  
MFA No. 6605 of 2025

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 12<sup>TH</sup> DAY OF AUGUST, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR**

**MISCELLANEOUS FIRST APPEAL No. 6605 OF 2025**

**(MV-D)**

**BETWEEN:**

1. SRI SHANKAR NAIK,  
S/O HALYA NAIK  
AGED ABOUT 48 YEARS
2. SMT. SUJATHA  
D/O SHANKARA NAIK  
AGED ABOUT 26 YEARS.
3. SRI SANJEEVA NAIK  
S/O SHANKARA NAIK  
AGED ABOUT 27 YEARS.
4. SRI HEMANTHA KUMARA S L  
S/O SHANKARA NAIK  
AGED ABOUT 27 YEARS.

ALL ARE RESIDENT OF  
HARKANALU, DODDA THANDYA  
HARAPANAHALLI TALUK  
VIJAYANAGARA DISTRICT

NOW C/O THIMMASHETTY ESTATE  
DAMBADAHALI  
MUGTHIHALLI POST

Digitally signed by  
LAKSHMINARAYANA  
MURTHY RAJASHRI

Location: HIGH  
COURT OF  
KARNATAKA



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CHIKKAMAGALURU TALUK  
PIN CODE No.577 101.

...APPELLANTS

(BY SRI VENKATE GOWDA K, ADVOCATE)

**AND:**

1. SRI SHEKAR NAIK  
S/O SHAMBU NAIK  
AGED ABOUT 39 YEARS  
R/O MALLAPURA  
THANDYA  
THAMLA PURA POST  
HOOVINAHADAGALI TALUK  
VIJAYANAGARA DISTRICT  
PIN CODE No.583 219.

NOW RESIDENT OF  
DAMBADAHALLI  
MUGTHIHALLI POST  
CHIKKAMAGALURU TALUK  
PIN CODE No.577 101.

2. THE MANAGER  
IFFCO TOKIO GENERAL INSURANCE CO. LTD.,  
SRI SHANTHI TOWERS, 5<sup>TH</sup> FLOOR  
III MAIN ROAD, No.141  
EAST TO NGEF LAYOUT  
KASTHURINAGAR  
BENGALURU - 560 043.

...RESPONDENTS

(BY SRI D VIJAYAKUMAR, ADVOCATE FOR R2  
V/O DTD. 13.02.2026, NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT  
AGAINST THE JUDGMENT AND AWARD DATED:22.04.2025  
PASSED IN MVC No.169/2024 ON THE FILE OF THE II  
ADDITIONAL SENIOR CIVIL JUDGE AND J.M.F.C., MACT,



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CHIKKAMAGALURU, 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:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

### **ORAL JUDGMENT**

This appeal is filed by appellants -claimants seeking enhancement of compensation awarded in judgment and award dated 22.04.2025 passed in MVC No.169/2024 by II Additional Senior Civil Judge and MACT., Chikkamagaluru.

2. Even though the appeal is listed today for admission, it is taken up for disposal with the consent of learned counsel for appellant and learned counsel for respondent No.2 –insurer.

3. Appellants made a claim petition praying to award compensation for the death of Smt Shantamma @ Anita bai (wife of claimant No.1 and mother of claimant Nos.2 to 4) in a road traffic accident occurred on



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20.11.2023 contending that the accident occurred due to rash and negligent driving of the rider of motor cycle bearing registration No.KA-18/EK-9581. The Tribunal after recording the evidence of the parties, appreciating the evidence assessed the compensation and awarded compensation under various heads as under:

|                                                  |                       |
|--------------------------------------------------|-----------------------|
| Towards Loss of Dependency                       | Rs.25,20,000 /-       |
| Towards Loss of Estate                           | Rs.18,000/-           |
| Towards Loss of Consortium                       | Rs.1,76,000/-         |
| a) spousal consortium =44,000/-                  |                       |
| b) Parental consortium =1,32,000/-<br>(44,000x2) |                       |
| Towards funeral expenses                         | Rs.18,000/-           |
| <b>Total</b>                                     | <b>Rs.27,32,000/-</b> |

4. The Tribunal also awarded interest at the rate of 6% per annum from the date of petition till realization and directed respondent No.2 -insurer to deposit the award amount with interest. Claimants seeking enhancement of compensation has filed the present appeal.



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5. Heard learned counsel for appellants and learned counsel for respondent No.2 –insurer.

6. Learned counsel for appellants would contend that the deceased apart from coolie, she was housewife and her income is to be taken at Rs.30,000/- as per decision of the Hon'ble Apex Court in the case of ***Shishu Pal @ Shish Ram and Others Vs Surjeet and others***<sup>1</sup>. He further submits that the Tribunal has rightly added future prospects at 25%, deducted 1/4<sup>th</sup> of her personal expenses and applied multiplier 14. He further submits that the compensation awarded under conventional heads are just and proper and he is not seeking enhancement of compensation in that regard. With these, he prays to allow the appeal.

7. Learned counsel for respondent No.2 would contend that the Tribunal has taken the age of the deceased as 41 years based on the post mortem report. The age difference between the deceased and her elder

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<sup>1</sup> In 2026 INSC 634



son i.e., claimant No.3 is 14 years and therefore, the age of the deceased taken by the Tribunal is not proper. He further submits that any authenticated document like Adhar Card has not been produced to ascertain the age of the deceased. The Tribunal has rightly taken the notional income of the deceased, rightly deducted 1/4<sup>th</sup> towards personal expenses and rightly applied multiplier 14. The Tribunal has also rightly awarded the compensation under conventional heads by taking 10% escalation. He further submits that the accident is after the amendment of the Act and claim petition filed is beyond the period of limitation i.e., 06 months. He further submits that the judgment of Hon'ble Apex Court in the case of **Shishu Pal(supra)** is not applicable since claimants contended that deceased was working as coolie and earning Rs.700/- per day. On these grounds, he prayed for dismissal of the appeal.

8. In reply, learned counsel for appellants submits that as per the Adhar Card, the date of birth of the



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deceased is 01.06.1981 and as on the date of accident, her age was 42 years 06 months. In that regard, he has produced a copy of the Adhar Card with the memo.

9. Having heard learned counsels, the Court has perused impugned judgment, award and other materials placed on record.

10. The date of accident is 20.11.2023. The Tribunal based on Ex.P7 -post mortem report has taken the age of the deceased as 41 years. The date of birth of the deceased mentioned in the Adhar Card is 01.06.1981. Considering the said date of birth, the age of the deceased is 42 years 06 months as on the date of accident. Therefore, multiplier applicable is 14.

11. Claimants contended that the deceased was doing coolie and earning Rs.700/- per day. The Tribunal has taken notional income at Rs.16,000/- per month since no income proof has been placed on the record. The



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Hon'ble Apex Court in the case of **Shishu Pal (Supra)** has held as under:

*"20. It is in these circumstances, that we deem it appropriate to direct that when a Motor Accidents Claim Tribunal or the High Court or this Court is concerned with or a case involving the death of a homemaker, in order to overcome the inherent disadvantage accrued against the homemaker on a calculation of compensation on the basis of conservatively computed notional income and while being acutely aware of the dictum in **Pranay Sethi** (supra) regarding loss of consortium as also the disposition towards uniformity, that for the three major heads (the homemaker's contribution towards smooth functioning of the household, the loss of maternal support for children and loss of spousal support/the support and care of their child who is an adult, for the parents of the deceased) discussed in the foregoing paragraphs, a composite sum of Rs.30,000/- shall be added under the head of 'loss of domestic care', provided that all three of these heads are met in the given case. This determination shall be revised by 10%, cumulatively, every three years. It may be clearly stated that this amount of Rs.30,000/- i.e., loss of domestic care is to be taken as a 'stand- in' (basic minimum monthly income) for monthly income in those cases where the homemaker does not have an input into the house, in strictly conventional, monetary terms. In those cases where the homemaker is part of the workforce, the component of loss of domestic care shall be in addition to the monthly income as may be proved before the Tribunal/Courts."*



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Contention of learned counsel for respondent No.2 – insure that the decision of Hon’ble Apex Court in the case of ***Shishu Pal (supra)*** is not applicable does hold any merit. The Hon’ble Apex Court in the said decision has observed that apart from domestic care if the deceased is earning that income can be added to the said loss of domestic care of Rs.30,000/-. Claimant No.1 is husband, claimant No.2 is daughter and claimant Nos.3 and 4 are sons of the deceased. Even though claimants have not established the income of the deceased, she is considered to be housewife. As per the said decision of the Hon’ble Apex Court in the case of ***Shishu Pal (supra)***, a composite sum of Rs.30,000/- shall be taken as ‘loss of domestic care’. Since claimants have not produced any proof of income of the deceased, the said Rs.30,000/- is to be taken for computing the loss of dependency. In view of the above, the loss of domestic care/dependency is calculated as under:



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Rs.30,000/- x 12 = Rs.3,60,000/- + 25% =  
Rs.4,50,000/- minus 1/4<sup>th</sup> = Rs.3,37,500/- x 14 =  
Rs.47,25,000/-.

12. The Tribunal has rightly awarded loss of estate in a sum of Rs.18,000/-, loss of consortium in a sum of Rs.1,76,000/- and funeral expenses of Rs.18,000/-. Therefore, claimants are entitled to compensation under various heads as under:

| Sl.No.       | Heads                             | Amount in (Rs.)    |
|--------------|-----------------------------------|--------------------|
| 01.          | Loss of domestic care /dependency | 47,25,000/-        |
| 02.          | Loss of consortium                | 1,76,000/-         |
| 03.          | Loss of estate                    | 18,000/-           |
| 04.          | Funeral Expenses                  | 18,000/-           |
| <b>Total</b> |                                   | <b>49,37,000/-</b> |

13. Considering the above aspects, claimants is entitled to total compensation of Rs.49,37,000/- as against Rs.27,32,000/- with interest at the rate of 6% per annum from the date of petition till realization. Consequently, claimants are entitled to enhanced



compensation of Rs.22,05,000/- with interest at the rate of 6% per annum from the date of petition till realization. Respondent No.2 -insurer is liable to pay the said enhanced compensation with interest. The claim petition is filed on 26.03.2024 within a period of 06 months from the date of accident i.e., 20.11.2023. Therefore, the claim petition is filed within a period of limitation of 06 months as per Section 166 of the Motor Vehicles Act, 1988.

13. In view of the above, the following:

ORDER

- i) The appeal is ***allowed in part.***
- ii) The appellants -claimants are entitled to enhanced compensation of Rs.22,05,000/- with interest at the rate of 6% p.a. from the date of petition till realization.
- iii) Respondent No.2 -insurer shall deposit the enhanced compensation with interest before



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the Tribunal within a period of six weeks from  
this day.

- iv) Appellants –claimants are entitled to release  
of entire enhanced compensation in equal  
share.

**Sd/-  
(SHIVASHANKAR AMARANNAVAR)  
JUDGE**

DSP  
List No.: 1 Sl No.: 4