



CNR: KAHC010601052023

NC: 2026:KHC:44161-DB
MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE R DEVDAS

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO.7659 OF 2023

(MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.8353 OF 2023

(MV-D)

IN MFA No. 7659/2023

BETWEEN:

1. ANSHEL SONAL PINTO (MINOR)
AGED ABOUT 10 YEARS,
D/O. KIRAN ANIL PINTO,

2. ADRIEL SENAN PINTO (MINOR)
AGED ABOUT 04 YEARS,
S/O. KIRAN ANIL PINTO,

BOTH THE APPELLANTS ARE
MINOR BY AGE,
REP BY N/F/ GUARDIAN/GRAND MOTHER
SMT. JULIANA PINTO,
AGED ABOUT 68 YEARS,
W/O. LATE MARK PINTO
R/O. H. NO. 8-59, PINTO VILLAGE,
ANKUDRU, PITHRODY POST,
UDYAVARA, UDUPI-576 101.

...APPELLANTS

(BY SRI. PAVANA CHANDRA SHETTY H., ADVOCATE)

Digitally signed
by JUANITA
THEJESWINI
Location:
HIGH COURT
OF
KARNATAKA



CNR: KAHC010601052023

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AND:

1. WILFRED CRASTO
AGED ABOUT 62 YEARS,
S/O. LATE GREGORY CRASTO,
R/O. CRASTO COMPOUND,
PITHRODY POST, UDYAVARA,
UDUPI DISTRICT-576 101.
2. THE DIVISIONAL MANAGER
RELIANCE GENERAL INSURANCE CO. LTD.,
DIVISIONAL OFFICE,
MAXIMAS COMMERCIAL COMPLEX,
4TH FLOOR, LIGHT HOUSE,
HILL ROAD, OPP. KMC COLLEGE,
MANGALORE, D.K. DISTRICT.

...RESPONDENTS

(BY SMT. T.N.MALATHI., ADVOCATE FOR R2;
V/O DT. 06.12.2023 NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.16.09.2023 PASSED IN MVC NO.397/2022 ON THE FILE OF ADDITIONAL SENIOR CIVIL JUDGE AND ADDITIONAL MACT, UDUPI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION AND ETC.

IN MFA NO. 8353/2023

BETWEEN:

1. THE DIVISIONAL MANAGER
RELIANCE GENERAL INSURANCE
COMPANY LIMITED
DIVISIONAL OFFICE
MAXIMAS COMMERCIAL COMPLEX
4TH FLOOR, LIGHT HOUSE



CNR: KAHC010601052023

NC: 2026:KHC:44161-DB
MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

HILL ROAD, OPP.KMC COLLEGE
MANGALORE, DK.

ALSO AT RELIANCE GENERAL
INSURANCE COMPANY LIMITED
NO.28, EAST WING, 5TH FLOOR
CENTENARY BUILDING, M G ROAD
BENGALURU-560001
NOW REPRESENTED BY MANAGER LEGAL.

...APPELLANT

(BY SRI. MALATHI T N., ADVOCATE)

AND:

1. ANSHEL SONAL PINTO (MINOR)
D/O KIRAN ANIL PINTO
AGED ABOUT 10 YEARS
2. ADRIEL SENAN PINTO(MINOR)
S/O KIRAN ANIL PINTO
AGED ABOUT 04 YEARS

RESPONDENT NO.1 & 2 BOTH ARE
BEING MINORS REP. BY THEIR
GRAND MOTHER SMT JULIANA PINTO
W/O LATE MARK PINTO AS GUARDIAN
ALL ARE R/A H.NO.8-59, PINTO VILLA
PITHRODY POST, UDYAVARA
UDUPI DISTRICT.

3. WILFRED CRASTO
S/O LATE GREGORY CRASTO
AGED ABOUT 62 YEARS
R/O CRASTO COMPOUND
PITHRODY POST, UDYAVARA
UDUPI DISTRICT.

...RESPONDENTS

(BY SRI. PAVANA CHANDRA SHETTY H., ADVOCATE FOR R1
& R2 (R1 & R2 ARE MINORS, REP. BY THEIR
GRANDMOTHER SMT. JULIANA PINTO)
R3 – WILFRED CRASTO- SD)



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C/W MFA No. 8353 of 2023

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 16.09.2023 PASSED IN MVC NO.397/2022 ON THE FILE OF ADDITIONAL SENIOR CIVIL JUDGE, UDUPI, AWARDING COMPENSATION OF RS.27,23,380/- WITH INTEREST AT THE RATE OF 6% P.A. FROM THE DATE OF PETITION TILL REALIZATION AND ETC.

THESE APPEALS, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R DEVDAS
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL COMMON JUDGMENT

(PER: HON'BLE MR. JUSTICE R DEVDAS)

The appellants/claimants in M.F.A.No.7659/2023, not being satisfied with the quantum of compensation awarded in the judgment and award dated 16.09.2023 passed in M.V.C.No.397/2022 on the file of learned Additional Senior Civil Judge and MACT, Udupi, (for short 'Tribunal'), have filed this appeal seeking enhancement of compensation. The appellant/insurance company in M.F.A.No.8353/2023 is before this Court assailing the impugned judgment and award on the ground of liability and quantum.



CNR: KAHC010601052023

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MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

2. Since both the appeals arise out of the same judgment and award, these appeals were heard together and are being disposed of by this common judgment.

3. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

4. The facts that led to the present appeals are as follows:

That on 17.02.2022 at about 11.20 a.m., the deceased Smt.Saritha Maria Furtado, was proceeding as a pillion rider on a motor cycle bearing Registration No.KA-20-EK-1077, which was driven by her husband-Sri.Kiran Anil Pinto from Udupi to Bramhavara along with their son, who is aged about 2 years at the time of the accident. When the vehicle reached in front of a Petrol Bunk at Heruru village, the rider of the motor cycle suddenly applied brake and hence, the vehicle skidded and as a consequence, all the persons who were on the vehicle fell down. Unfortunately, Smt.Saritha Maria Furtado, sustained head injuries and she was immediately shifted to Mahesh



CNR: KAHC010601052023

NC: 2026:KHC:44161-DB
MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

Hospital. Thereafter, she was shifted to K.M.C. Hospital, Manipal, Udupi. She received treatment for 2 days in the hospital, but finally she succumbed to the injuries on 19.01.2022. The claim petition was filed by two children of Smt.Saritha Maria Furtado, represented by their grandmother-Smt.Juliana Pinto, who is mother-in-law of the deceased.

5. Learned Counsel for the appellants submits that the father of the claimants died subsequently but not due to injuries sustained in the accident and he did not file any claim petition in that regard. It is further submitted that having regard to the evidence placed on record, the Tribunal arrived at a conclusion that the deceased was doing Tailoring work and earning Rs.2000/- per day cannot be accepted, since no material evidence was placed on record in that regard. Therefore, the Tribunal proceeded to take the notional income of the deceased at the rate of Rs.15,500/- per month and since the deceased was aged about 39 years at the time of death, multiplier of 15 is



CNR: KAHC010601052023

NC: 2026:KHC:44161-DB
MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

correctly taken. Future prospects have also been awarded at the rate of 40%, having regard to the age of the deceased person. The Tribunal accordingly assessed the loss of income as follows: $(Rs.15,500 - 1/3 + 40\% \times 15 \times 12)$ Rs.26,03,880/-. However, learned Counsel for the appellants submits that the Tribunal has awarded a sum of Rs.16,500/- towards funeral expenses and transportation charges. Further, a sum of Rs.40,000/- each towards consortium along with the escalation of 10% for every three years and accordingly, awarded Rs.88,000/- to the claimants under the head consortium.

6. Learned Counsel for the appellants further submits that the claimants were represented by their grandmother, who is mother-in-law of the deceased and having regard to the law laid down by the Hon'ble Supreme Court in the case of **MAGMA GENERAL INSURANCE CO. LTD. VS. NANU RAM ALIAS CHUHRU RAM (2018) 18 SCC 130**, even the grandmother of the claimants was entitled for the award of compensation, at least towards consortium. Learned



CNR: KAHC010601052023

NC: 2026:KHC:44161-DB
MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

Counsel would further submit that the Tribunal has not awarded anything towards the medical expenses and the pain and suffering on the part of the deceased for a period of 2 days, as she had taken treatment in the hospital.

7. Per contra, learned Counsel for the respondent-insurance company would submit that there were only two claimants and therefore, the Tribunal has rightly awarded a sum of Rs.40,000/- each towards consortium and over and above, the Tribunal has also increased the same by 10%. Since the mother-in-law of the deceased is not entitled for award of compensation, the question of awarding compensation towards consortium could not arise.

8. Learned Counsel for the respondent-insurance company would further submit that the decision of the Constitution Bench of the Supreme Court of India, in the case of **NATIONAL INSURANCE COMPANY LTD., VS. PRANAY SETHI, (2017) 16 SCC 680**, does not give scope for payment of compensation under the head of pain and



CNR: KAHC010601052023

NC: 2026:KHC:44161-DB
MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

sufferings or medical expenses to the deceased person. Therefore, no fault can be found in the impugned judgment. On the other hand, the insurance company has also filed an appeal challenging the quantum and raised an issue to fasten contributory negligence on the part of the rider of the motor cycle.

9. In that regard, learned Counsel for the insurance company would submit that the evidence on record viz., the Post Mortem Report at Ex.P7 and the Inquest Report at Ex.P6, clearly show that the deceased was heavily built and she weighed about 98 kg. It is also clear from the fact that the vehicle was driven in a rash and negligent manner and one of the claimants viz., Adriel Senan Pinto, a child was also carried on the two wheeler. The deceased was not wearing any helmet. Therefore, there is clear contributory negligence on the part of the rider of the vehicle and also the deceased-pillion rider. There is violation of the provisions of the Motor Vehicles Act, 1988,



CNR: KAHC010601052023

NC: 2026:KHC:44161-DB
MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

since there were three persons on the two-wheeler, undisputedly, at the time of the accident.

10. Heard the learned Counsels for both the parties and perused the material on record.

11. We find from the records that the claim petition was filed by the mother-in-law of the deceased, and not the mother of the deceased person. Therefore, the law laid down by the Hon'ble Supreme Court in the case of **MAGMA GENERAL INSURANCE COMPANY LTD.,** (supra) may not get attracted to the claim of the mother-in-law. Having regard to the law laid down by the Hon'ble Supreme Court, we find that the contention of the learned Counsel for the claimants insofar as award of compensation under the head consortium to the mother-in-law of the deceased cannot be accepted.

12. Further, insofar as the submission of the learned counsel for the claimants, regarding compensation under the Head medical expenses and pain and suffering, for a period of 2 days spent by the deceased in the hospital, are



CNR: KAHC010601052023

NC: 2026:KHC:44161-DB
MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

concerned, no material evidence is placed by the claimants before the Tribunal regarding the medical expenses borne by the claimants towards the treatment of the deceased for a period of 2 days in the hospital. Therefore, we cannot accept the submission made by the learned Counsel for the claimants in that regard. We accept the submission of the learned Counsel for the insurance company that in a case of death, compensation cannot be awarded under the head 'pain and suffering'.

13. Insofar as the contention of the learned Counsel for the respondent-insurance company regarding the contributory negligence on the part of the rider of the vehicle and the deceased is concerned, we do not find any material evidence on record to accede to the said submissions made by the learned Counsel for the respondent-insurance company. In the cross-examination of the claimant's witnesses or the examination of the witnesses on behalf of the insurance company, we do not find any questions put regarding the contributory



CNR: KAHC010601052023

NC: 2026:KHC:44161-DB
MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

negligence on the part of the rider of the vehicle or the deceased person.

14. The law laid down by the Hon'ble Apex Court is clear that merely because an additional person was on the two-wheeler, that by itself will not amount to contributory negligence and for that purpose, evidence should be placed on record to show that carrying of third person on the two-wheeler has caused the accident. In that regard, no evidence is placed on record and nothing has been elicited in the cross-examination of the witnesses examined on behalf of the claimants. In fact we find that no witnesses were examined on behalf of the respondent-insurance company before the Tribunal.

15. Therefore, we find no merit in the appeal preferred by the claimants/appellants or in the appeal preferred by the respondent-insurance company. Hence, the following:

ORDER

- (i) Both the appeals are ***dismissed***.



CNR: KAHC010601052023

NC: 2026:KHC:44161-DB
MFA No. 7659 of 2023
C/W MFA No. 8353 of 2023

- (ii) The amount deposited by the insurance company before this Court is hereby directed to be transmitted to the Tribunal, forthwith.
- (iii) Office to return the Trial Court Records along with a copy of this judgment.

Sd/-
(R DEVDAS)
JUDGE

Sd/-
(DR.K.MANMADHA RAO)
JUDGE

DL
CT: JL