



CNR: KAHC010645432023

NC: 2026:KHC:42390-DB
MFA No. 8362 of 2023
C/W MFA No. 7916 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 8362 OF 2023 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 7916 OF 2023 (MV-D)

IN MFA No. 8362/2023

BETWEEN:

THE MANAGER
RELIANCE GENERAL INSURANCE
OFFICE AT 28, EAST WING
5TH FLOOR, CENTENARY BUILDING
M G ROAD, BANGALORE-560001.

...APPELLANT

(BY SRI. D. VIJAYAKUMAR., ADVOCATE)

AND:

1. SRI MANJUNATHA A.M.
S/O LATE MUDDAIAH
AGED ABOUT 57 YEARS
2. SMT. KOMALA B.
W/O MANJUNATH
AGED ABOUT 39 YEARS
3. SRI A.M.VARUN KUMAR
S/O MANJUNATHA
AGED ABOUT 22 YEARS

Digitally signed
by G
SHREERAKSHA
Location: HIGH
COURT OF
KARNATAKA



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4. KUMARI TEJASWINI A.M.
D/O MANJUNATHA
AGED ABOUT 19 YEARS

ALL ARE R/AT
AMRUTHUR MAIN ROAD
AMRUTHUR, KUNIGAL TALUK
TUMKUR DISTRICT-572111.

5. SRI SULTHAN SAB
S/O NAZEER SAB
MAJOR, NO.181
NEAR ESHWARA TEMPLE
CHIKKAGONDANAHALLI
CHITRADURGA-577501.

...RESPONDENTS

(BY SRI. JAGADEESH H.T., ADVOCATE FOR R1 TO R4;
SRI. B.M.SIDDAPPA, ADVOCATE FOR R5)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 24.07.2023 PASSED IN MVC
NO.884/2021 ON THE FILE OF THE C/C XXIII ADDITIONAL
AND ACMM, MEMBER, MACT, VI ASCJ AND ACMM, MACT,
BENGALURU, SCCH-25 AWARDDING COMPENSATION OF
RS.24,42,555./- WITH INTEREST AT 6 PERCENT P.A. FROM THE
DATE OF PETITION TIL THE DATE OF DEPOSIT.

IN MFA NO. 7916/2023

BETWEEN:

1. SRI. MANJUNATHA A.M.
S/O LATE MUDDAIAH
AGED ABOUT 57 YEARS
2. SMT. KOMALA B.
W/O MANJUNATHA
AGED ABOUT 39 YEARS



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3. A.M. VARUN KUMAR
S/O MANJUNATHA
AGED ABOUT 22 YEARS
4. KUMARI TEJASWINI
D/O MANJUNATHA
AGED ABOUT 19 YEARS

ALL ARE R/AT
AMRUTHUR MAIN ROAD
AMRUTHUR
KUNIGAL TALUK-572130
TUMKUR DISTRICT.

...APPELLANTS

(BY SRI. JAGADEESH H.T., ADVOCATE)

AND:

1. SRI. SULTHAN SAB
S/O NAZEER SAB
MAJOR, R/AT NO.181
NEAR ESHWARA TEMPLE
CHIKKAGONDNAHALLI
CHITRADURGA-577501.
2. THE MANAGER
RELIANCE GENERAL
INSURANCE CO LTD.,
OFFICE AT 28, EAST WING
5TH FLOOR, CENTENARY BUILDING
M.G.ROAD, BENGALURU-560010.

...RESPONDENTS

(BY SRI. B.M.SIDDAPPA, ADVOCATE FOR R1;
SRI. D. VIJAYAKUMAR, ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 24.07.2023 PASSED
IN MVC NO.884/2021 ON THE FILE OF THE 6TH
ADDITIONAL SMALL CAUSES JUDGE AND ACMM, MACT, C/c



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XXIII ADDITIONAL SMALL CAUSES JUDGE AND ACMM,
MEMBER, MACT, BENGALURU (SCCH-25),
PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The above two appeals are by the insurer as well as the claimants questioning the judgment and award dated 24.07.2023 in MVC No.884/2021 on the file of XXIII Additional Judge, Court of Small Causes and Additional Chief Metropolitan Magistrate and MACT, Bengaluru (SCCH - 25). The insurer is in appeal in MFA No.8362/2023 questioning the saddling of liability as well as questioning the quantum of compensation. Whereas, the claimants are in appeal in MFA No.7916/2023 dissatisfied with the quantum of compensation awarded by the Tribunal.



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The Brief facts of the case are that:

2. The claimants; parents, brother and sister of the deceased A M Kiran Kumar filed claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the MV Act') claiming compensation for the accidental death of A M Kiran Kumar in a road traffic accident involving motor cycle bearing No.KA-64-L-8863 and a tanker lorry bearing No.KA-16-C-4350. It is stated that the deceased was working as helper in HP Gas Station and was earning a sum of Rs.25,000/- per month. Further, it is stated that the deceased was aged 23 years and the entire family i.e., claimants were depending on the income of the deceased.

3. On issuance of notice, the respondents appeared and filed their written statement. Respondent No.1 filed statement denying the claim petition averments and further stated that the insurance policy was in force as on the date of accident and the driver of the offending



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vehicle had valid driving license. Respondent No.2 - Insurance Company in its statement denied the entire claim petition averments and, further stated that the complaint is lodged day after the accident. It is stated that the deceased himself dashed on the hind side of the stationed lorry and the accident had taken place on the total negligence of the rider of the motor cycle i.e., deceased. It is also stated that the deceased had dashed to parked lorry, which was parked on the extreme left side of the National Highway. It is also stated that there was no fault on the part of the driver of the insured lorry. Hence, it is contended that the insurer is not liable to pay compensation.

4. The claimants in support of their case examined PW.1 to PW.3. PW.3 an official of the employer of the deceased A M Kiran Kumar. The claimants also marked Ex.P.1 to P.21. Whereas, the respondents examined RW.1 and marked Ex.R.1 and R.2. The Tribunal, on appreciation of the material on record, awarded total compensation of



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Rs.30,53,194/- on the following heads along with interest at the rate of 6% per annum saddling 20% of the contributory negligence on the rider of the motor cycle i.e., deceased and 80% on the offending driver of the lorry.

Sl.No.	Heads	Rs.
1.	Towards loss of dependency	29,23,344/-
2.	Loss of love and affection	80,000/- (40,000 X 2)
3.	Loss of Estate	15,000/-
4.	Funeral expenses	15,000/-
5.	Transportation expenses	5,000/-
6.	Medical expenses	14,850/-
	Total	30,53,194/-

5. While awarding the above compensation, the Tribunal assessed the notional income of the deceased at Rs.14,500/- added 40% of the assessed income towards future prospects. Applied multiplier of '18' while deducting 1/3rd towards living expenses of the deceased.



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6. Heard learned counsel Sri.D Vijaykumar for the appellant - Insurance Company and learned counsel Sri.Jagadeesh H T for respondent Nos.1 to 4 - claimants and learned counsel Sri.B M Siddappa for respondent No.5. Perused the entire appeal papers and the original Trial Court records.

7. Learned counsel Sri.D Vijaykumar would submit that the Tribunal committed grave error in saddling only 20% of the negligence on the deceased rider of the motorcycle. It is contended that the accident had taken place on 25.11.2020 at around 08.30 p.m. It is further submitted that the deceased came in a rash and negligent manner in his motorcycle and dashed on the hind side of the lorry, which was parked on the extreme left side of the National Highway. Learned counsel for the appellant - insurer would submit that if the deceased had taken precaution, the accident could have been avoided. It is his submission that the accident had taken place at the total negligence of the deceased himself and, therefore, the



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Tribunal ought to have saddled more than 50% of the negligence on the deceased. Further, learned counsel with regard to quantum of compensation would submit that the Tribunal committed an error in taking Rs.14,500/- as notional income as against the salary certificate which indicated Rs.13,475/- as salary to the deceased. In terms of Ex.P.21. Further learned counsel would submit that the Tribunal also committed error in deducting 1/3rd towards personal and living expenses of the deceased and he submits that since the deceased was a bachelor, the deduction ought to have been 50% in terms of the decision of the Hon'ble Apex Court in ***Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another*** reported in ***(2009) 6 SCC 121***. Thus, he would pray for allowing the appeal filed by the insurer and to dismiss the appeal filed by the claimants.

8. Learned counsel for the claimants on the other hand would submit that, the deceased was earning a sum of more than Rs.25,000/- per month and, he submits that



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the Tribunal committed error in assessing the notional income of the deceased that Rs.14,500/- per month. Further, learned counsel would submit that the Tribunal also committed an error in not awarding compensation on the head of consortium to all the claimants except parents of the deceased. Further, learned counsel with regard to negligence would submit that the lorry was parked on the middle of the road without any indicators and, the accident had taken place in the dark at 8.30 p.m. The parking of the lorry in the middle of the road is the root cause for occurrence of the accident. As such, he would pray for saddling 100% liability on the driver of the tanker and consequently on the insurer. Thus, he would pray for dismissal of the appeal filed by the insurer and to allow the appeal filed by the claimants.

9. Having heard the learned counsel for the parties and on perusal of the entire material on record including the Tribunal records, the following points would arise for consideration:



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1. Whether the Tribunal is justified in saddling 20% of the negligence on the deceased rider of the motor cycle and 80% of liability on the driver of the offending lorry and in directing the insurer to pay the compensation?
2. Whether the Tribunal committed error in deducting 1/3rd instead of 50% towards living expenses of the deceased?

The answer to the above points would be in the affirmative for the following reasons:

10. The accident that occurred on 25.11.2020 between 8.00 p.m. to 08.30 p.m. involving motor cycle bearing No.KA-64-L-8863 and tanker lorry bearing No.KA-16-C-4350 and the accidental death of A.M. Kiran Kumar s/o claimant Nos.1 and 2 is not in dispute. So also there is no dispute with regard to validity of the insurance policy as well as the driving license possessed by the deceased as well as the driver of the offending tanker.

11. It is recorded in the FIR - Ex.P.1 as well as Ex.P.3 - spot mahazar that the accident had taken place at



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08.30 p.m. and the deceased dashed to a stationed lorry in the middle of the road. The FIR and police records would indicate that the lorry was parked on the middle of the road without any indicators. However, on perusal of Ex.P.4 - sketch, it is seen that the lorry was parked on the extreme left side of the road and the deceased rider of the motor cycle came from behind and dashed on the hind side of the parked lorry. The width of the road is 30 feet and the rider of the motor cycle had enough space on the right side of the lorry, which was parked on the extreme left side of the road to pass through. It appears that the deceased rider of the motor cycle also contributed to the occurrence of accident. It is also noticed that charge sheet is filed against both the rider of the motor cycle i.e., deceased as well as against the driver of the parked lorry. In the above circumstances, the Tribunal is justified in saddling 20% of negligence on the rider of the motor cycle i.e., deceased and 80% of the negligence and liability on



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the driver of the insured lorry. We are not inclined to interfere with the said finding.

12. With regard to quantum of compensation, it is noticed that the Tribunal has assessed the notional income of the deceased at Rs.14,500/- per month. The Tribunal rightly rejected the salary certificate placed on record by the claimants at Ex.P.21. Ex.P.21 - salary slip issued by Maruthi Engineering Equipments wherein it shows that the deceased was working as a Stenciling and its address is Machohalli Gate, Magadi Main Road, Bengaluru. Whereas, the evidence of the PW.1 would indicate that the deceased was working at HPCL, LPG plant at Yedyur. Therefore, in view of the discrepancy in Ex.P.21 as well as Ex.P.11 and Ex.P.12, the Tribunal is justified in rejecting the salary certificate. The Tribunal is right in assessing the income notionally at Rs.14,500/- per month of the deceased, taking note of the income chart of the Karnataka State Legal Services Authority for the accident of the year 2020. The Tribunal has rightly added 40% of the assessed



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income towards future prospects. The Tribunal is not justified in deducting $1/3^{\text{rd}}$ of the assessed income towards personal and living expenses of the deceased. Admittedly the deceased was a bachelor and in terms of the decision of Sarla Verma (supra), the deduction towards personal and living expenses of a bachelor would be 50% of the assessed income. Therefore, deduction towards personal and living expenses would be 50% as against $1/3^{\text{rd}}$ by the Tribunal. The Tribunal has rightly adopted multiplier '18' taking the age of the deceased at 23 years. Further, the Tribunal ought to have awarded compensation on the head of consortium to all the claimants, who are parents, brother and sister of the deceased. The Tribunal awarded compensation on the head of consortium only to parents. Whereas, the brother and sister of the deceased have also lost love and affection of the deceased. As such, they would also be entitled for consortium of Rs.40,000/- each. Thus, the claimants would be entitled for the modified compensation as follows:



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Sl.No.	Heads	Rs.
1.	Towards loss of dependency (Rs.14,500/- + Rs.5,800/- (40%)= Rs.20,300 - Rs.10,150/- (50%) X 18 X 12)	21,92,400/-
2.	Loss of consortium	1,60,000/- (40,000 X 4)
3.	Loss of Estate	15,000/-
4.	Funeral expenses	15,000/-
5.	Transportation expenses	Nil
6.	Medical expenses	14,850/-
	Total	23,97,250/-

13. The claimants would be entitled for total compensation of **Rs.23,97,250/-** as against Rs.30,53,194/- with interest at the rate of 6% p.a. The contributory negligence of 20% saddled on the deceased rider of the motor cycle and 80% contributory negligence saddled on the driver of the lorry is not disturbed.



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14. The amount in deposit shall be transmitted to the concerned Tribunal. With the above, both appeals are ***allowed in part.***

Sd/-
(S.G.PANDIT)
JUDGE

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

GSR
List No.: 1 Sl No.: 15