



CNR: KAHC010646542023

NC: 2026:KHC:45551
MFA No. 8185 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 8185 OF 2023 (MV-D)

BETWEEN:

1. SRI. D. PRASAD RAO
S/O DESHAIAH SETTY,
AGED ABOUT 66 YEARS,
2. SRI. D.SIDHARTHA
S/O D.PRASAD RAO,
AGED ABOUT 38 YEARS,

BOTH ARE R/AT NO. 26-73/2
M C PALAYAM, PALAMANER,
CHITTOOR DIST.,
ANDRA PRADESH.

...APPELLANTS

(BY SRI. KAILAS SHANKAR P S.,ADVOCATE)

AND:

1. SRI. M. RAJANI YADAV
S/O M CHAKRAPANI MAJOR,
R/AT THUMBAPALYAM VILLAGE,
BANGARUPALEM MANDAL,
CHITTOR DIST. ANDRA PRADESH.
2. THE MANAGER
THE NEW INDIA ASSURANCE CO LTD.,
MOTOR TP HUB,
MAHALAKSHMI CHAMBERS,
NO. 9, 2ND FLOOR, M.G.ROAD,
BANGALORE – 560 001.



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3. SRI. P.BHASKAR
S/O P KUPPIREDDY,
MAJOR,
R/OF D.NO. 6039,
MOPIREDDIPALLI VILLAGE,
PENUMUR MANDAL,
CHITTOR DIST,
ANDRA PRADESH.

...RESPONDENTS

(BY SRI.A.R.LAKSHMINARAYAN, ADVOCATE FOR R2(VC);
R1, R3- SERVED)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 23.09.2022 PASSED IN MVC
NO. 2789/2021 ON THE FILE OF THE II ADDITIONAL JUDGE
AND ACMM, COURT OF SMALL CAUSES, BENGALURU, (SCCH-
13), 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 T.M.NADAF



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ORAL JUDGMENT

This appeal by the claimants seeking enhancement of compensation arising out of a judgment and award dated 23.09.2022 in MVC.No.2789/2021 passed by the Motor Accident Claims Tribunal and II Additional Judge and ACMM, Court of Small Causes, Bengaluru (SCCH-13), both on liability as well as quantum¹.

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

3. Heard Sri.Kailas Shankar P.S, learned counsel for appellants/claimants and Sri.A.R.Lakshminarayan, learned counsel for respondent No.2-Insurer. Though respondent Nos.1 and 3 are served unrepresented.

4. Sri.Kailas Shankar P.S, with all vehemence submits that the deceased was a home maker doing saree business and was earning Rs.20,000/- per month. The

¹ "Tribunal" for short



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Tribunal has considered the income of Rs.15,000/- for the year 2021 as per the chart prepared by KLSLA and deducted 50% towards the personal expenses. Further, he submits that the Tribunal has fastened 25% contributory negligence on the deceased, which is nothing but adding salt to the injury. The accident was caused by a motor cycle and the accident occurred on 28.04.2021 at 11.25 a.m., i.e., day broad light. The rider of the motorcycle should have been more circumspect and cautious while riding on the road, though the road is a highway road, the village is very nearby and adjacent to the road, he should have shown more care and caution while riding his motor cycle and further he submits that the Tribunal has not considered future prospects and sought to allow the appeal and enhance the compensation granted by the Tribunal.

5. Per contra, Sri.Lakshminarayan with all vehemence submits that the Tribunal after considering



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the entire material placed on record, in the absence of any proof of document has considered the income at Rs.15,000/- and since among two claimants, claimant No.2 is working and not dependent on the deceased, the Tribunal has considered the claimant No.1 as sole dependent and deducted 50% towards personal expenses, which is just and proper and awarded appropriate compensation, which does not call for any interference at the hands of this Court and sought to dismiss the appeal.

6. Having considered the rival submissions, this Court perused the entire appeal paper.

7. The points that would arise for consideration of this Court are as under:

- (i) *Whether the Tribunal is right in fastening 25% disability towards contributory negligence on the claimant?*
- (ii) *Whether claimant has made out any case for enhancement of compensation?*

8. My answer to both the above points are:



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- (i) Point No.1: In the Negative
- (ii) Point No.2: Partly in affirmative for the following:

REASONS

9. Point No.1: So far as the negligence is concerned, the Insurance Company examined one Sri.K.Nagaraju, who was PSI as on the date of filing of the charge sheet and who has conducted the investigation. Admittedly, the said person was not an eye witness. He has stated only on the fact that the deceased should have been more cautious while crossing the highway and only on that evidence and on the basis of the sketch that is Ex.P3, which shows that the accident has occurred at the middle of the highway and the motorcycle was proceeding on the left side. The Tribunal has considered the same to fasten contributory negligence on the deceased. If the motorcycle was proceeding on the left side, the accident as contended in the sketch could not have occurred. This clearly shows that the negligence is entirely on the part of



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the rider of the motorcycle. The rider of the motorcycle, as rightly contented by Sri Kailas Shankar, should have been more circumspect and conscious while riding the motor cycle on the highway, which is very near and adjacent to a village. There is lack of such care and caution on the part of the rider of the motorcycle. In that view of the matter, the finding of the Tribunal that the deceased has contributed 25% negligence is nothing but adding salt to the injury. In that view of the matter this Court is of the opinion that the finding is required to be set aside and accordingly set aside, holding that the rider of the motorcycle is solely responsible for the accident.

10. Point No.2: So far as the quantum is concerned, as rightly contented by Sri.Kailas Shankar, now it is settled position of law laid down by the Hon'ble Supreme Court that in case of house maker, the domestic service rendered by the house maker is to be considered while considering the income.



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11. The Hon'ble Supreme Court in **SHISHU PAL@
SHISH RAM AND OTHERS V. SURJEET AND OTHERS**
decided on 11.06.2026, wherein the three Judges Bench of
in Special Leave Petition (Civil) No.33915/2025 at
paragraph No.12, while observing the stereotype concept,
compared with reality, in paragraph Nos.15 to 21 decided
the contribution of a house maker. The Bench was of the
opinion that the income must not be less than Rs.30,000/.
In paragraph number 15 to 21 at paragraph No.20 under
the head '*Quantifying the contribution-of Nation Builder*' as
well as the '*Loss of domestic care*' has held that the
composite sum must be Rs.30,000/- and further held that
this sum fixed shall be shall revised by 10% cumulatively,
every three years. Considering the same, though the
learned counsel for the Insurer submitted that the
husband in his evidence has stated that the wife was
earning Rs.20,000/- from saree business, in view of law
laid down by the Hon'ble Supreme Court, supra this Court
following the principle, which the High Courts are bound



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under Article 141 of Constitution of India, proceeds to consider the income at the rate of Rs.30,000/- per month. Since the judgment is rendered in 2026, the amount is inclusive of 10% escalation as contented by the learned counsel for the appellant, since three years not lasted yet.

12. So far as deduction is concerned, as laid down by the Hon'ble Supreme Court in **Sarla Verma's** case, the deduction ought to have been considered at 1/3rd since the deceased was married. In that view of the matter, the compensation awarded by the Tribunal requires reassessment. The claimants are also entitled for 10% escalation on the conventional head for one term of three completed years.

13. Accordingly, this Court proceeds to reassess the compensation which is as under:



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Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Loss of dependency	8,91,000-00	21,60,000-00 (30,000x12x9x2/3)
2.	Loss of consortium	80,000-00	80,000-00
3.	Loss of estate	20,000-00	15,000-00
4.	Transportation of dead body, Funeral & obsequies expenses	15,000-00	15,000-00
5.	10% escalation of one term of three completed years	-	11,000-00
	TOTAL	7,54,500-00 (After deducting 25% from Rs.10,06,000/- towards the contributory negligence)	22,81,000-00

14. The claimant is entitled for enhanced compensation of Rs.15,26,500/- (Rs.22,81,000 - 7,54,500) rounded off to **Rs.15,27,000/-** with interest at the rate 6% interest per annum from the date of petition till realization.

15. For the foregoing reasons, this Court proceedings pass the following:

ORDER

(i) The appeal is ***allowed in part.***



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- (ii) The judgment and award dated 23.09.2022 passed by the Tribunal in MVC.No.2789/2021 is set aside only on the finding of 25% liability/contributory negligence on the deceased and modified in respect of compensation is concerned and enhanced to **Rs.15,27,000/-** with interest at the rate of 6% per annum from the date of petition till realization.
- (iii) Respondent No.2-Insurer shall deposit the entire enhanced compensation with accrued interest stated supra within six weeks from the date of receipt of copy of this order before the concerned Tribunal, after deducting 318 days delay in filing the appeal.
- (iv) Upon deposit the apportionment and disbursement is as per the order passed by the Tribunal.
- (v) It is noticed that the Tribunal has ordered pay and recovery, in view of violation of policy condition, the same is maintained.



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- (vi) The respondent No.2-Insurer shall deposit the entire enhanced compensation with accrued interest supra primarily, with liberty to recover the same from the insured.
- (vii) The Registry to send back the trial Court record to the concerned Tribunal, without causing any delay.
- (viii) No order as to costs.

Sd/-
(T.M.NADAF)
JUDGE

RR
List No.: 1 Sl No.: 18