



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JULY, 2026

PRESENT

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

AND

THE HON'BLE DR. JUSTICE K.MANMADHA RAO

MISCELLANEOUS FIRST APPEAL NO. 2401 OF 2026 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 7866 OF 2025 (MV-D)

IN MFA No. 2401/2026

BETWEEN:

1. SRI.K. REDEPPA ACHARI
S/O K.GANGADHAR ACHARI
AGED ABOUT 60 YEARS,
2. SRI.K.KALAVATHI
W/O K.REDEPPA ACHARI
AGED ABOUT 55 YEARS,
3. K.GANGOJAMMA
D/O K.REDEPPA ACHARI AND
W/O K.NAGAMANI CHARI
AGED ABOUT 37 YEARS,
4. P.LALITHA
D/O K.REDEPPA ACHARI AND
W/O P.PARTHASARDHI,
AGED ABOUT 33 YEARS,
PERMANENT RESIDENT OF 25-241,
KAKATHOUP, NEW PETA,
CHITTOOR DIST., A.P.

PERMANENT RESIDENT OF

Digitally signed
by G
SHREERAKSHA
Location: HIGH
COURT OF
KARNATAKA



1ST AND 2ND PETITIONERS IS
KOTRE PALLE (V), THEERTHAM (P)
CHITTOR DISTRICT,
ANDHRA PRADESH.

PRESENTLY ALL ARE RESIDING AT
NO.82, JANATHA COLONY,
MADHURA NAGAR,
BENGALURU-560 087.

...APPELLANTS

(BY SRI. GURUDEVA PRASAD K.T.,ADVOCATE)

AND:

1. SRI. NAGARAJA K
S/O KRISHNAPPA,
AGED ABOUT 40 YEARS,
NO.401, NEAR PANCHAMUKHI TEMPLE,
HOSKOTE TALUK,
BENGALURU RURAL-562 114.
2. M/S TATA AIG GEN. INSURANCE CO., LTD.,
BY ITS MANAGER,
3RD FLOOR, JP AND DEVI
JAMBUKESHWAR ARCADE,
NO.69, MILLERS ROAD,
BENGALURU - 560 052.

...RESPONDENTS

(BY SRI.BABU, ADVOCATE FOR R1,
SRI.S.V. HEGDE MULKHAND, ADVOCATE FOR R2)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DATED.20/08/2025 PASSED IN MVC
NO. 6533/2023 ON THE FILE OF THE II ADDL. SMALL CAUSES
JUDGE, ACJM AND MEMBER- MOTOR ACCIDENT CLAIMS
TRIBUNAL, BENGALURU, PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT
OF COMPENSATION.



IN MFA NO.7866/2025

BETWEEN:

THE MANAGER
TATA AIG GEN. INSURANCE CO. LTD,
3RD FLOOR, JP & DEVI JAMBUKESHWAR ARCADE,
NO.69, MILLERS ROAD,
BENGALURU – 560 052.
REPRESENTED BY ITS
SENIOR MANAGER.

...APPELLANT

(BY SRI. HEGDE SUBRAYA VENKATARAMAN &

SRI.RAJENDRA HEGDE MULKHAND.,ADVOCATES)

AND:

1. SRI. K. REDEPPA ACHARI,
S/O K. GANGADHARA ACHARI,
AGED ABOUT 59 YEARS
2. SMT. K. KALAVATHI,
W/O K. REDEPPA ACHARI,
AGED ABOUT 54 YEARS
3. K. GANGOJAMMA,
D/O K. REDEPPA ACHARI &
W/O K NAGAMANI CHARI,
AGED ABOUT 36 YEARS
4. P LALITHA,
D/O K REDEPPA ACHARI &
W/O P PARTHASARDHI,
AGED ABOUT 32 YEARS,
PERMANENT RESIDENT OF 25-241,
KAKATHOUP, NEW PETA,
CHITTOR DIST A.P-517 001.

PERMANENT RESIDENT OF
1ST AND 2ND RESPONDENTS IS



KOTRE PALLE(V),
THEERTHAM(P),
CHITTOR DISTRICT,
ANDHRA PRADESH- 517 001.

PRESENTLY ALL ARE
RESIDING AT NO.82,
JANATHA COLONY,
MADHURA NAGARA,
BANGALORE – 560 087.

5. SRI NAGARAJA K.
S/O KRISHNAPPA,
MAJOR,
NO.401, NEAR PANCHAMUKHI TEMPLE,
HOSKOTE TALUK,
BANGALORE RURAL – 562 114.

...RESPONDENTS

(BY SRI. GURUDEVA PRASAD K.T.,ADVOCATE FOR R1-R4,
SRI.BABU, ADVOCATE FOR R5)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 20.08.2025 PASSED
IN MVC NO.6533/2023 ON THE FILE OF THE II
ADDITIONAL JUDGE ACJM AND MEMBER, M ACT, COURT OF
SMALL CAUSES, BENGALURU SCCH-13, AWARDED
COMPENSATION OF RS.30,57,892/- WITH INTEREST AT 6
PERCENT P.A. FROM THE DATE OF PETITION TILL
REALIZATION.

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 appeals are directed against the judgment and award dated 20.08.2025 in MVC No.6533/2023 on the file of the II Additional Small Causes Judge, ACJM and Member-Motor Accident Claims Tribunal, Bengaluru (SCCH-13). The claimants are in appeal in MFA No.2401/2026 dissatisfied with the quantum of compensation and also questioning the saddling 20% contributory negligence on the deceased and praying for enhancement of compensation. Whereas, the insurer is in appeal in MFA No.7866/2025 contending that the contributory negligence attributed on the deceased by the Tribunal is on the lower side and questioning the quantum of compensation.

The brief facts of the case are that:



2. The claimants, the father, mother and sisters of the deceased K.Vinod Kumar filed, claim petition under Section 166 of the MV Act claiming compensation for the death of Sri.K.Vinod Kumar in a road traffic accident that occurred on 15.08.2023 involving Motor Cycle bearing No.KA-04-EK-0232 and Mahindra Bolero vehicle bearing No.KA-53-AA-8790. It is stated that as on the date of accident, deceased was aged 27 years and was earning more than Rs.1,10,000/- per month by doing Water Business.

3. On issuance of notice, the respondents appeared and filed their objection statement. Respondent No.1 filed objection statement contending that vehicle is duly insured with respondent No.2 and the policy was valid as on the date of accident. It is also stated that the driver of the offending vehicle was holding valid and effective driving license as on the date of accident.



4. It also stated that the driver of the offending vehicle was holding valid and effective driving license as on the date of accident. Respondent No.2 while filing this statement denying the claim petition averments however admitted the policy issued in favour of the offending vehicle. Specifically contended that accident did not occurred due to negligence of the driver of the offending vehicle, but solely due to the negligence of the deceased himself, who was riding the motor cycle without wearing helmet in a rash and negligent manner. Claimant No.1 - father of the deceased examined himself as PW.1 and also examined PW.2 one S.A.Harish apart from marking Exs.P.1 to P.29. Respondent No.2 - Insurance Company examined respondent No.1. The Tribunal on appreciation of the material on record awarded total compensation of Rs.30,57,892/- on the following heads:



Sl.Nos.	Nature of compensation	Amount (Rs.)
1.	Loss of dependency	31,41,600/-
2.	Loss of consortium	88,000/-
3.	Loss of love and affection	10,000/-
4.	Loss of estate	20,000/-
5.	Transportation of dead body, funeral and obsequies expenses	16,500/-
6.	Medical expenses	5,46,264/-
	Total	38,22,364/-
	Less: 20% contributory negligence of deceased	7,64,472/-
		30,57,892/-

5. While awarding the above compensation, the Tribunal saddled 20% contributory negligence on the deceased. The Tribunal assessed the income of the deceased at Rs.22,000/- per month added 40% towards future prospects and deducted 50% towards personal expenses of the deceased.

6. The claimants are in appeal questioning the saddling of 20% contributory negligence as well as seeking enhancement of compensation. Whereas, the insurer is in appeal contending that the contributory negligence



saddled on the deceased at 20% is on the lower side and also questioning the quantum of compensation.

7. Heard learned counsel Sri.K T Gurudeva Prasad for claimants and learned counsel Sri.S V Hegde Mulkand for the Insurer and learned counsel Sri.Babu for the owner of the offending vehicle. Perused the Trial Court records.

8. Learned counsel Sri.S V Hegde Mulkand for Insurer would contend that the Tribunal erred in saddling contributory negligence at only 20% on the deceased. It is submitted that the deceased was riding the motor cycle along with two pillion riders, which is violative of Section 128 of the Motor Vehicles Act, 1988. Further, learned counsel would submit that the triple riding was the main cause for occurrence of the accident. Further, learned counsel for the Insurer taking us through the Judgment of the Tribunal would submit that the accident had occurred on 50 feet wide road in a curve on the extreme right edge of the opposite lane. It is his contention that the rider of



the motor cycle i.e., the deceased came totally to the right side edge of the road at the time of the accident. Thus, he would submit that the accident occurred solely due to the negligence of the rider of the motor cycle. Hence, he submits that the contributory negligence of more than 20% shall have to be saddled on the deceased. Further, learned counsel would submit that the income assessed by the Tribunal is Rs.22,000/- per month of the deceased is on the higher side. Learned counsel would submit that the claimants stated that the deceased was doing Water Business and was earning Rs.1,10,000/- per month. It is his submission that only supervisory charges could be added as the Water Business could be continued by the legal representatives. Therefore, the income assessed by the Tribunal at Rs.22,000/- per month is on the higher side. Thus, he would pray for allowing of the appeal of the insurer and to reduce the quantum of compensation awarded.



9. *Per contra*, learned counsel Sri.K T Gurudeva Prasad for claimants referring to Ex.P.4 - spot sketch of the accident would submit that as contended the accident has not taken place on the right side edge of the road, but he submits that the accident has taken place almost on the middle of the road. It is his contention that the insurer has failed to prove that the triple riding was the cause of accident. The Insurer has not placed any material on record to prove that the deceased contributed his negligence to the occurrence of the accident. He submits that the accident has taken place on the curve and the offending vehicle which was coming from the opposite side came in rash and negligent manner and dashed to the motor cycle, which was ridden by the deceased. Thus, he would submit that the Tribunal committed grave error in saddling 20% of the contributory negligence on the deceased.

10. Further, with regard to income, learned counsel would submit that the Tribunal also committed grave error



in assessing the income of the deceased at Rs.22,000/- per month ignoring Exs.P.16 and P.17 - Bank account statement of the deceased as well as the letters issued by different entities/institutions with regard to water supply made by the deceased. Thus, when the claimants stated that the deceased was earning more than Rs.1,10,000/- per month, the Tribunal ought to have assessed the income on the basis of Exs.P.16 and P.17 and ought to have assessed on the higher side. Further, learned counsel would submit that, compensation on the head of consortium has been awarded only to claimants No.1 and 2 i.e., parents of the deceased. However, he submits that the sisters would also be entitled for compensation on the head of consortium. Thus, he would pray for allowing the appeal filed by claimants by enhancing the compensation.

11. On hearing learned counsel for the parties and on perusal of the appeal papers including the Trial Court records, the following points would arise for consideration:



- 1. Whether the Tribunal is justified in saddling 20% of contributory negligence on the deceased?*
- 2. Whether the Tribunal is justified in assessing the income of the deceased at Rs.22,000/- per month?*

12. The answer to both the above points would be affirmative for the following reasons:

13. The accident that occurred on 15.08.2023 involving Motor Cycle bearing No.KA-04-EK-0232 and Mahindra Bolero vehicle bearing No.KA-53-AA-8790 and the accidental death of K.Vinod Kumar s/o claimant Nos.1 and 2 is not in dispute in this appeal. However, the manner of accident and the quantum of compensation is under challenge by both the claimants and the insurer.

14. The insurer contended that saddling of 20% contributory negligence on the deceased is on the lower side. Whereas, the claimants contended that there is no contributory negligence on the part of the deceased and



they contend that Tribunal could not have saddled 20% contributory negligence.

15. To appreciate the above contention of the parties, it would be useful to refer to Ex.P.4 - spot sketch. It is no doubt, the deceased was riding the motor cycle along with two pillion riders. Riding motor cycle with two pillion riders would be violative of Section 128 of the Act 1988. However, the said riding would result in consequences stated under Section 128 of the Act 1988. The sketch would indicate that the accident has taken place in the curve on the middle of the road. The finding of the Tribunal that the accident had taken place on the extreme right edge of the opposite lane is contrary to Ex.P.4 - spot sketch. The accident has taken place on 30 feet width road and not on the 50 feet wide road as recorded by the Tribunal in paragraph No.29 of Judgment. The Tribunal has failed to properly appreciate Ex.P.4, which resulted in erroneous finding. Ex.P.4 - spot sketch would indicate that the Motor Cycle was proceeding from



Hoskote to Sulibele and the Bolero Vehicle was coming from Sulibele to Hoskote. The accident, as stated above, has taken place in the curve and both the rider of the Motor Cycle i.e., deceased as well as the driver of the Bolero vehicle ought to have been cautious in the curve. The insurer has not placed on record any material or examined any other witness to substantiate their contention that the triple riding was the root cause for occurrence of the accident. Mere triple riding would not be sufficient to saddle contributory negligence on the rider of the motor cycle. There must be material to establish that the triple riding was the cause for accident.

16. In the instant case, the rider of the Motor Cycle admittedly was riding with two pillion riders and he has crossed the middle of the road and accident has taken place on the right side of the median in the curve. Therefore, we are of the opinion that the contributory negligence of 20% saddled on the rider of the motor cycle



i.e., deceased is proper and correct and we do not see any other good ground to interfere with the said finding.

17. With regard to income of the deceased, the Tribunal has assessed the income at Rs.22,000/ per month. The contention of the claimants is that the deceased was doing Water Business and was earning a sum of more than Rs.1,10,000/- per month from such Water Business. However, it is not in dispute that the said Water Business could be continued even after the death of the deceased. The deceased was doing the supervision work of the distribution of water to various agencies or institutions. Thus, the Tribunal has taken around 20% of the income claimed at Rs.1,10,000/- per month and assessed at Rs.22,000/- per month. Taking 20% as supervisory charges and determining the income at Rs.22,000/- is reasonable and we do not find any other reason or ground to interfere with the assessment of income by the Tribunal.



18. The Tribunal could not have awarded compensation of Rs.10,000/- on the head of loss of love and affection when the consortium being awarded. The Tribunal committed grave error in not awarding consortium to claimant Nos.3 and 4 - sisters of the deceased since they have lost the love and affection of their brother. Thus, claimants would be entitled for consortium to claimant Nos.3 and 4 at Rs.40,000/- each plus enhancement i.e., Rs.88,000/- Thus, claimants would be entitled for the following modified compensation:

Sl.Nos.	Nature of compensation	Amount (Rs.)
1.	Loss of dependency	31,41,600/-
2.	Loss of consortium (Rs.88,000/- +Rs.88,000/-)	1,76,000/-
3.	Loss of love and affection	Nil
4.	Loss of estate	20,000/-
5.	Transportation of dead body, funeral and obsequies expenses	16,500/-
6.	Medical expenses	5,46,264/-
	Total	39,00,364/-
	Less: 20% contributory negligence of deceased	7,80,072/-
		31,20,292/-



19. The claimants would be entitled for the compensation of **Rs.31,20,292/-**.

20. The apportionment and deposit as ordered by the Tribunal is maintained as it is.

21. The amount in deposit, if any, before this Court shall be transmitted to the concerned Tribunal.

22. Both the appeals are ***allowed in part.***

SD/-
(S.G.PANDIT)
JUDGE

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

MH, GSR
List No.: 1 Sl No.: 27