



CNR: KAHC010841642025

NC: 2026:KHC:37333-DB
MFA No. 9692 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST 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.9692 OF 2025(MV-D)

BETWEEN:

1. SMT. RUKIYA
W/O. IBRAHIM @ IBRAHIM A BAVA
AGED ABOUT 55 YEARS
2. NOORJAN
D/O. IBRAHIM @ IBRAHIM A BAVA
AGED ABOUT 24 YEARS
3. SOUDA
D/O. IBRAHIM @ IBRAHIM A BAVA
AGED ABOUT 23 YEARS
4. SAMEERA
D/O. IBRAHIM @ IBRAHIM A BAVA
AGED ABOUT 19 YEARS

(THE PETITIONER NO.1 BEFORE CLAIMS TRIBUNAL
IS NOT MADE PARTY BEFORE THIS HON'BLE COURT
SINCE DEAD AND HIS LRS ARE APPELLANT NOS.1
TO 4)

ALL ARE R/AT GOLİYANGADI HOUSE
KUKKEDI, BELTHANGADY
DAKSHINA KANNADA
KARNATAKA-574 242

Digitally signed
by G

SHREE RAKSHA

Location: HIGH
COURT OF
KARNATAKA



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PRESENTLY R/AT
VALACHIL HOUSE
ADYAR POST
MANGALURU TALUK-575 007

...APPELLANTS

(BY SRI G. RAVISHANKAR SHASTRY, ADVOCATE)

AND:

1. MR. K. M. NAGESH KUMAR
ADULT
S/O. T. MAILAPPA GOWDA
R/AT SWAMI NILAYA
NIDLE POST AND VILLAGE
BELTHANGADY TALUK-574 214
2. THE ORIENTAL INSURANCE CO. LTD.
BRANCH OFFICE KRISHNAPRASAD
BUILDING MAIN ROAD PUTTUR-570 251
REPRESENTED BY ITS MANAGER

...RESPONDENTS

(BY SRI H. C. VRUSHABHENDRAIAH, ADVOCATE FOR R-2,
R-1-K. M. NAGESH KUMAR-SD)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE
JUDGMENT AND AWARD DATED 27.10.2025 PASSED IN MVC
NO. 774/2021 ON THE FILE OF THE VI ADDITIONAL DISTRICT
AND SESSIONS JUDGE, MACT, D.K.MANGALURU, 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 S.G.PANDIT
and
HON'BLE DR. JUSTICE K.MANMADHA RAO



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ORAL JUDGMENT

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

Claimants/appellants are in appeal questioning saddling of 10% contributory negligence; saddling liability on the respondent No.1 instead of ordering pay and recovery and also praying for enhancement of compensation awarded under judgment and award dated 27.10.2025 in MVC No.774/2021 on the file of the VI Additional District and Sessions Judge, MACT, D.K., Mangaluru.

2. The claimants, mother and sisters of the deceased Mr.Mohammad Sadiq filed claim petition under Section 166 of the Motor Vehicles Act, 1989 claiming compensation for the accidental death of said Mohammad Sadiq s/o claimant Nos.1 and 2 in a road traffic accident that occurred on 15.02.2021 involving two wheeler bearing No.KA-70/E-4821 and tanker lorry bearing No.KA-19/350. It is stated that the deceased was aged 20 years;



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was a construction worker and was earning a sum of Rs.1,000/- per day. On appearance, the respondent No.2 - Insurance Company filed its objection denying the claim petition averments and also contended that the offending vehicle lorry had no permit as such there is violation of terms and conditions of policy and prayed to dismiss the claim against the insurer.

3. The claimant No.1 examined as PW.1 and examined another witness as PW.2 apart from marking Ex.P.1 to Ex.P.10. Respondents examined RW.1 to 3 and marked Ex.R.1 to Ex.R.12 in support of their case. The Tribunal on assessing the entire material on record, awarded total compensation of Rs.24,58,000/- saddling the liability on respondent No.1 - owner of the offending vehicle and saddled 10% contributory negligence on the deceased. While awarding the above compensation, the Tribunal assessed the income of the deceased at Rs.15,000/- per month, added 40% towards future



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prospects, deducted 50%, applied multiplier of '18' taking the age of the deceased at 20 years. The appellants are before this Court praying for enhancement of compensation and also questioning the saddling of liability on respondent No.1 - owner instead of directing to pay and recovery by Insurance Company .

4. Heard learned counsel Sri.G Ravishankar Shastry for the appellants - claimants as well as learned counsel Sri.H C Vrushabhendraiah for respondent No.2 - Insurance Company. Perused the entire material on record including the Tribunal records.

5. Learned counsel for the appellants would submit that, the Tribunal committed grave error in saddling the liability on respondent No.1 instead of directing the Insurance Company to pay and recover the same from respondent No.1 - owner of the offending vehicle. Learned counsel would submit that, if there is no



permit, in terms of the Hon'ble Apex Court in ***Amrit Paul Singh and Another Vs. TATA AIG General Insurance Company Limited and Others*** reported in ***(2018) 7 SCC 558***, it is for the Insurance Company to satisfy the claim and then to recover the same from the owner. Thus, learned counsel would submit that, in that regard, the Tribunal committed grave error in saddling the liability on respondent No.1. Learned counsel, on the quantum of compensation would submit that the Tribunal committed grave error in deducting 50% towards personal and living expenses of the deceased since there are more than four dependents including mother and sisters. Therefore, he submits that the deduction ought to have been $\frac{1}{3}^{\text{rd}}$. Learned counsel would also submit that the Tribunal committed grave error in saddling 10% of contributory negligence on the deceased. Thus, he would pray for allowing the appeal to the above extent.

6. Learned counsel Sri.H C Vrushabhendraiah for respondent No.2 - Insurance Company supports the



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judgment and award passed by the Tribunal and submits that the Tribunal rightly saddled the liability on respondent No.1 - owner of the offending vehicle since it had no permit as on the date of the accident. Further, learned counsel would submit that the Tribunal has awarded just compensation. Therefore, he prays for dismissal of the appeal.

7. 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:

- i. Whether the Tribunal is justified in saddling liability on respondent No.1?
- ii. Whether the Tribunal is justified in saddling 10% contributory negligence on the deceased?
- iii. Whether the Tribunal is justified in deducting 50% of the assessed income towards personal and living expenses of the deceased?



8. Answer to point No.i would be in negative and answer to point Nos.ii and iii would be in the affirmative for the following reasons.

9. The accident in question occurred on 15.02.2021 involving two wheeler bearing No.KA-70/E-4821 and the tanker lorry bearing No.KA-19/350 resulting in the death of son of the claimant Nos.1 and 2 is not in dispute in this appeal. The insurer has not disputed the policy, which was in existence as on the date of accident.

10. The claimants are in appeal questioning the saddling of liability on respondent No.1. The Tribunal on appreciating the material on record rightly came to the conclusion that there was no permit to the offending vehicle as on the date of accident. When the Tribunal has arrived at such conclusion, in terms of the decision of Amrit Paul Singh (*supra*) it ought to have directed the Insurance Company to pay the compensation at the first instance, with liberty to the Insurance Company to recover



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the same from respondent No.1 - owner of the offending vehicle. The judgment and award to that extent is modified directing the insurer to pay the compensation with liberty to recover the same from respondent No.1 - owner of the offending vehicle.

11. Learned counsel for the appellants also contended that the Tribunal committed grave error in saddling 10% of contributory negligence on the deceased. The Tribunal on appreciating Ex.P.1 to Ex.P.7 and Ex.R.1 to Ex.R.11 i.e., the spot mahazar and rough sketch rightly held that the deceased also contributed his negligence to the occurrence of the accident and has rightly saddled 10% of contributory negligence on the deceased which needs no interference.

12. Learned counsel for the appellants contended that the Tribunal committed grave error in deducting 50% of the assessed income towards personal and living expenses of the deceased and contended that it ought to



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have deduct 1/3rd taking note of the number of dependents. In terms of the ***Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another*** reported in ***(2009) 6 SCC 121*** the Hon'ble Apex Court has made it clear that 50% of the assessed income shall be deducted towards personal and living expenses in case the deceased is bachelor. In all other cases, it would depend on the number of dependents. However, in the instant case, since the deceased was a bachelor, the Tribunal is justified in deducting in 50% of assessing income towards personal and living expenses of the deceased. Therefore, there is no merit in the contention urged by the appellants - claimants.

13. The appeal is ***allowed in part*** directing respondent No.2 - Insurance Company to pay the compensation awarded by the Tribunal under judgment and award dated 27.10.2025 in MVC No.774/2021 at the first instance with liberty to recover the same from respondent No.1 - owner of the vehicle.



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14. With the above modification, the appeal stands disposed of. In all other aspects, the judgment and award passed by the Tribunal stands confirmed.

**SD/-
(S.G.PANDIT)
JUDGE**

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

GSR
List No.: 1 Sl No.: 37