HC-KAR

NC: 2026:KHC:60382
MFA No. 1993 of 2020

CNR: KAHC010010672020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

MISCELLANEOUS FIRST APPEAL NO. 1993 OF 2020

(MV-D)

BETWEEN:

1. K. CHENCHU REDDY,
   S/O BOYI REDDY,
   AGED ABOUT 54 YEARS,
   RESIDING AT LAKSHMI NAGAR,
   B. N. KANDRIGA,
   CHITOOR DISTRICT,
   ANDHRA PRADESH.

2. V. VIJAYA BHARATHI,
   W/O K. CHENCHU REDDY,
   AGED ABOUT 45 YEARS
   RESIDING AT LAKSHMI NAGAR,
   B. N. KANDRIGA,
   CHITOOR DISTRICT,
   ANDHRA PRADESH.

...APPELLANTS

(BY SRI. CHANDRA SHEKARA SHETTY G., ADVOCATE)

Digitally signed by SUSHMA LAKSHMI B S
Location: High Court of Karnataka

AND:

1. MADHU B. K.,
   S/O KALE GOWDA,
   R/A 109, 58/1A/2,
   APOORVA LAYOUT,
   13TH BLOCK, NAGARABHAVI

BANGALORE – 560 072.

2. THE NATIONAL INSURANCE
COMPANY LTD.,
D.O.07, NO.982, II FLOOR,
80 FT ROAD,
PERIPHERAL ROAD
KORAMANGALA,
BANGALORE – 560 034.
REPRESENTED BY MANAGER

…RESPONDENTS

(BY SRI. S. V. HEGDE MULKHAND, ADVOCATE FOR R2;
V/O DATED 26.07.2022, NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 10.07.2019, PASSED IN MVC.NO.4952/2017, ON THE FILE OF THE COURT OF SMALL CAUSES AND MOTOR ACCIDENT CLAIMS TRIBUNAL AT BENGALURU (SCCH-13), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED ON 06.10.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE S RACHAIAH

CAV JUDGMENT

1. This appeal has been filed by the claimants/appellants seeking enhancement of compensation, being aggrieved by the judgment and award dated 10.07.2019 passed in MVC No.4952/2017 on the file of the Court Of Small Causes And Motor Accident Claims Tribunal at Bengaluru (SCCH-13) (for short, 'Tribunal'), wherein the Tribunal awarded compensation of Rs.8,94,000/- with interest at 6% p.a. from the date of petition till the deposit of the amount in the Tribunal.

Brief facts of the case:

2. On 17/12/2016 at about 3:50 p.m., the deceased K.Gopikrishna was riding the motorcycle bearing registration No.KA.19.EB.1133 along with his friend, who was a pillion rider. When they were proceeding from their hostel i.e., from Siddhavana towards Rathnavarma Stadium, Dharmasthala, at that time, the driver of Scorpio car bearing registration No.KA.51.MG 3625, overtaking the bus, came to his extreme right side, i.e., on the wrong side of the road, dashed against the motorcycle of the deceased and caused an accident. As a result of which, the deceased and the pillion rider fell down and

sustained severe head injury and multiple fatal injuries all over their bodies. Immediately after the accident, the deceased was taken to SDM Hospital, however, he died due to the said injuries. A claim petition was filed before the Tribunal. The Tribunal awarded compensation of Rs.8,94,000/- along with interest at the rate of 6% per annum. The Tribunal held that respondent Nos.1 and 2 are jointly and severally liable to pay 50% of the compensation and in view of subsistence of insurance policy, directed the respondent No.2 to pay 50% of the compensation along with interest at the rate of 6% per annum. Being aggrieved by the same, the appellants are before this Court seeking to set aside the contributory negligence fastened on the deceased and for enhancement of compensation.

3. Heard Sri G. Chandra Shekar Shetty, learned counsel for the appellants and Sri S.V. Hegde Mulkhand, learned counsel for respondent No.2.

4. The contention of the learned counsel for the appellants is that the award passed by the Tribunal is contrary to the evidence on record, which is liable to be set aside.

5. It is further submitted that the Tribunal has failed to assess the income of the student who was studying final year degree in SDM College of Naturopathy and Yogic Sciences, Ujire, D.K. District. The Tribunal has totally failed to take note of the fact that neither the first respondent nor the second respondent led any evidence to prove the alleged contributory negligence. The Tribunal suo motu fixed 50% contributory negligence on the deceased which is erroneous and not proper. In fact, the accident occurred solely due to the rash and negligent driving of the offending vehicle by its driver. Therefore, the contributory negligence fastened on the deceased ought to be set aside.

6. It is further submitted that the Tribunal erroneously took the income of the deceased to be Rs.6,000/- per month without considering his proper notional income. In fact, For the year 2016, the notional income should have been taken at Rs.9,500/- per month, and an addition of 40% towards future prospects ought to have been considered in to meet the ends of justice. By making such submissions, the learned counsel for the appellants prays to allow the appeal.

7. *Per contra*, learned counsel representing the respondent No.2 – Insurance Company vehemently justified the award passed by the Tribunal and prays to dismiss the appeal.

8. Having heard learned counsel for the respective parties and also on perusal of the findings of the Tribunal, it is an undisputed fact that on 17.12.2016, at about 03.50 p.m., the deceased was riding the motorcycle bearing registration No.KA. 19.EB.1133 along with his friend Chandrashekar as a pillion rider from their hostel i.e., from Siddhavana towards Rathnavarma Stadium, Dharmasthala. At that time, the driver of the Scorpio car bearing registration No.KA.51.MG.3625 dashed against the motorcycle, causing the accident. A case came to be registered and charge sheet has been filed against the driver of the offending car. Ex.P2 - true copy of the spot sketch and Ex.P3 - true copy of the spot mahazar clearly demonstrate that the accident occurred while the driver of the car was attempted to overtake. Such being the fact, fastening 50% liability on the deceased appears to be improper and incorrect. Hence, the same is liable to be set aside.

9. Insofar as the quantum of compensation is concerned, the Tribunal considered the income of the deceased to be Rs.6,000/- per month. However, since the accident occurred in the year 2016, the notional income should be taken as Rs.9,500/- per month in accordance with the guidelines issued by the Karnataka State Legal Services Authority (KSLSA). Hence, the loss of dependency has to be recalculated as under:-

9,500 + 40% = 13,300 – 1/3 = 4433

13,300 – 4,433 = 8,867 x 12 x 18 = 19,15,272/-

10. Consequently, the award of the Tribunal is modified and the claimant / appellant would be entitled to the compensation as under:-

Sl. No.	**Particulars**	**Award amount (in Rupees)**	
		Tribunal	**This Court**
01	Loss of dependency	8,64,000	19,15,272

02	Loss of estate	15,000	15,000
03	Transportation of dead body & funeral expenses	15,000	15,000
	TOTAL	8,94,000	19,45,272

11. In the light of the observations made above, I proceed to pass the following:-

ORDER

i) Miscellaneous First Appeal filed by the claimants / appellants is *allowed in part.*

ii) The judgment and award dated 10.07.2019 passed in MVC No.4952/2017 on the file of the Court Of Small Causes And Motor Accident Claims Tribunal at Bengaluru (SCCH-13), is modified, granting compensation of Rs.19,45,272/- (Rupees Nineteen Lakhs Forty Five Thousand Two Hundred and Seventy-two only) as against Rs.8,94,000/- awarded by the Tribunal.

iii) The claimants are entitled to **entire compensation of Rs.19,45,272/- awarded by this Court with interest at the rate of 6% per annum from the date of the petition till realization.**

iv) The entire compensation amount shall be deposited by the respondent No.2 within a period of eight weeks from the date of receipt of the certified copy of this judgment.

v) The Tribunal is directed to release the entire amount in favour of the claimants.

vi) The Registry is directed to communicate the order to the Tribunal and send the records to the Trial Court forthwith.

Sd/-
(S RACHAIAH)
JUDGE

BSS
List No.: 1 Sl No.: 44