HC-KAR

NC: 2026:KHC:62500
MFA No. 1043 of 2023

CNR: KAHC010078762023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 1043 OF 2023 (MV-D)

BETWEEN:

1. SMT. V. AMBUJA
   W/O LATE B. UMESH,
   NOW AGED ABOUT 46 YEARS,

2. MASTER U. VISHALA GOWDA
   S/O LATE B. UMESH,
   NOW AGED ABOUT 20 YEARS,

3. MASTER U. VIKAS GOWDA
   S/O LATE B. UMESH,
   NOW AGED ABOUT 14 YEARS,

4. MASTER U. VIJETH GOWDA
   S/O LATE B UMESH,
   NOW AGED ABOUT 12 YEARS,

   ALL ARE RESIDING AT BALINGANA
   HALLI VILLAGE, MASTHI HOBLI,
   MALUR TALUK, KOLAR DISTRICT.

   3RD AND 4TH MINOR APPELLANTS
   THEIR NATURAL GUARDIAN/MOTHER.

...APPELLANTS

(BY SRI. GOPAL KRISHNA N, ADVOCATE FOR
SMT. SUSHMITHA G, ADVOCATE)

AND:

1. SMT NAGAMMA
   W/O NARAYANASWAMY, MAJOR,

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RESIDING AT MARUTHI COLLEGE ROAD,
PATALAMMA EXTENSION, MALUR TOWN,
KOLAR DISTRICT - 563 130.

2. THE CHOLAMANDALAM
MS GENERAL INSURANCE COMPANY LTD.,
UNIT NO.4, 9TH FLOOR,
GOLDEN HEIGHTS COMPLEX,
59TH 'C' CROSS, INDUSTRIAL SUBURB,
RAJAJINAGAR 4TH M BLOCK,
BENGALURU - 560 010,
REP. BY ITS MANAGER.

…RESPONDENTS

(BY SRI. B. PRADEEP, ADVOCATE FOR R2;
VIDE ORDER DATED 14.02.2023, NOTICE TO R1
DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 31.1.2022 PASSED IN MVC NO. 354/2020 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BENGALURU, 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 MRS. JUSTICE GEETHA K.B.

ORAL JUDGMENT

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 (in short 'M.V. Act') by the appellants/claimants not satisfied with the compensation of amount awarded in the judgment and award dated

31.01.2022 in MVC No.354/2020 on the file of Chief Judge, Court of Small Causes, Member, Principal Motor Accident Claims Tribunal, Bengaluru. (in short 'the Tribunal').

2. The parties would be referred with their ranks, as they were before the Tribunal for the sake of convenience and clarity.

3. The claimants have filed the claim petition under Section 166 of M.V. Act claiming compensation in respect of death of B. Umesh in the road traffic accident that has taken place on 03.01.2020 at 07:30 p.m. involving motorcycle bearing No. KA-03/JK-2128 and Tata Ace vehicle bearing No. KA-07/B-0959 (in short 'the offending vehicle').

4. The case of the claimants in nutshell is that the deceased being the rider of motorcycle was taking pillion rider-S.Prasad and when proceeding towards Baliganahalli village from Malur railway station near Rajenahalli Cross, the offending vehicle came from the opposite side with

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high speed, rashly and negligently and dashed against the motorcycle and thereby caused the accident. Due to the accident, the rider sustained grievous injuries. Immediately he was shifted to Government Hospital, Malur in 108 Ambulance wherein he succumbed to the injuries. Thus, the claimants being his wife, minor children and parents have filed the claim petition praying for the compensation.

5. The respondents appeared before the Tribunal and have filed the objection statement denying the contentions taken in the claim petition.

6. After framing issues, recording evidence and hearing arguments, the Tribunal concluded that the claimants are entitled for the total compensation of ₹66,61,751/- under following heads:

Sl. No.	Head of Compensation	Calculation Rs.	Amount/Rs.
1.	Monthly income Less: P.T.	46,376.00 200.00 ---------- 46,176.00	
2.	30% future prospects	46,176.00	

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		13,852.00 ---------- 60,028.00 ----------	
3.	Annual income Less: income tax (12,500+44067)=56,567)	7,20,336.00 56,567.00 ---------- 6,63,769.00	
4.	Annual income after deducting IT Less: 1/4	6,63,769.00 1,65,942.00 ---------- 4,97,827.00	
5.	Multiplier 13 is applied	4,97,827x13 ---------- 64,71,751.00	
6.	Loss of dependency		64, 71,751.00
7.	Loss of consortium		40,000.00
8.	Loss of estate		15,000.00
9.	Funeral expenses		15,000.00
10.	Loss of parental consortium to petitioner Nos.2 to 4		1,20,000.00
	TOTAL		**66,61,751.00**

7. Not satisfied with the aforesaid compensation, the claimants are before this Court.

8. Heard arguments of both sides.

9. The learned counsel for appellants Sri Gopala Krishna.N appearing on behalf for Smt.Sushmitha G, would submit that the Tribunal has not taken the income of deceased properly and not considered Form No.16 and

thus, the claimants are entitled for enhanced compensation.

10. The learned counsel for appellants would further submit that the claimant No.5, the father of the deceased was alive as on the date of accident, but he died during pendency of the claim petition and thus, the compensation ought to have been awarded even to the claimant No.5, which is absent in the present case. Further, the escalation charges are not awarded. Hence, prayed for allowing the appeal.

11. The learned counsel for respondent No.2 Sri B. Pradeep would submit that the Tribunal has made the calculation appropriately by taking the income of deceased as per Ex.P.20 and also considered the applicable income tax and professional tax and deducted the said amount from the annual income of the deceased and made appropriate calculation. As far as the claimant No.5 is concerned, he died during pendency of the proceedings i.e. before adjudication and thus, he is not entitled for 'loss

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of consortium'. Thus, the compensation awarded by the Tribunal is just and reasonable. Hence, prayed for dismissal of the appeal.

12. Having heard the arguments of both sides, verifying the appeal papers and the trial Court records, the point that arises for consideration is:

> "*Whether the claimants are entitled for enhancement of the compensation?*"

13. Finding of this Court is in '***Affirmative'*** for the following:

REASONS

14. In the present case, the deceased-B. Umesh died in the road traffic accident involving the motorcycle and offending vehicle is not in dispute. The claimants are his dependents i.e. his wife, minor children and parents is also not in dispute. Considering the SSLC marks card of the deceased, the age of the claimant was correctly calculated as 48 years by the Tribunal and taken the

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appropriate multiplier; by placing reliance on the judgment of Hon'ble Apex Court in ***National Insurance Company Limited vs. Pranay Sethi case***[1], the Tribunal has taken 30% of the income of deceased towards future prospects because the deceased was permanent employee of BESCOM at Banaswadi, Bengaluru. The Ex.P.20 is the Certificate showing the annual income of the claimant from April-2019 to January-2020. The deceased died in the first week of January-2020. Hence, the income of the deceased in December-2019 was considered as his income and the Tribunal has made appropriate calculations regarding 30% addition of future prospects, deduction of professional tax and then deduction of income tax as per the income tax slab available of that year and made the calculation regarding 'loss of dependency' by deducting 1/4th of his income towards his personal expenses. Thus, the 'loss of dependency' calculated by the Tribunal is proper. Hence, it does not require any interference.

[1] (2017) 16 SCC 680

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15. As far as 'loss of consortium' is concerned, the Tribunal has awarded 'loss of consortium' to wife, minor children and mother of the deceased and not awarded the same to the father of the deceased because he died during pendency of the proceedings.

16. The learned counsel for appellants would vehemently submit that the claimants are entitled for compensation towards 'loss of consortium' to the father also because the cause of action would arose from the date of accident and not on the date of adjudication.

17. The cause of action arose on the date of death of the deceased is a correct proposition of law. The 'loss of consortium' is awarded to the particular person and not to the family representing him. Under these circumstances, when the father was not at all there to receive the amount of 'loss of consortium'; then question of awarding 'loss of consortium' to the father does not arise. Hence, this Court holds that not awarding 'loss of consortium' to the father by the Tribunal is proper.

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18. The accident has taken place on 03.01.2020, the award was passed on 31.01.2022. In ***Pranay Sethi's*** case[2] cited supra, it is held that under conventional heads, there shall be escalation charges of 10% for 3 years. If that is being calculated, the Tribunal has not awarded this 10% escalation charges under conventional heads. Hence, the claimants are entitled for 10% + 10% escalation charges on all conventional heads**.** Thus, the claimants are entitled for compensation under following heads:

Sl. No.	Head of Compensation	Amount/Rs.
1.	Loss of dependency	64,71,751/-
2.	Loss of consortium (40,000/-+10%+10%)	48,400/-
3.	Loss of estate (15,000/-+10%+10%)	18,150/-
4.	Funeral expenses (15,000/-+10%+10%)	18,150/-
5.	Loss of parental consortium to petitioner Nos.2 to 4 (1,20,000/-+10%+10%)	1,45,200/-
	Total	**Rs.67,01,651/-**

[2] (2017) 16 SCC 680

19. Hence, this Court passes the following:

ORDER

i. Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is ***allowed-in-part***.

ii. Judgment and award dated 31.01.2022 passed in MVC No.354/2020 on the file of the Chief Judge, Court of Small Causes, Member Prl. Motor Accident Claims Tribunal, Bengaluru, is modified holding that the claimants are entitled for compensation of **Rs.67,01,651/-** instead of Rs.66,61,751 awarded by the Tribunal.

iii. The enhanced compensation shall carry interest at 6% per annum but claimants are not entitled for interest on enhanced compensation for the delayed period of 226 days.

iv. Apportionment, Disbursement and deposit shall be as per the order of the Tribunal.

v. The Insurance Company shall deposit the compensation amount with accrued interest before the Tribunal within a period of 8 weeks from the date of receipt of certified copy of this judgment.

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vi. Draw modified award accordingly.

vii. No order as to costs.

viii. Registry to transmit the TCR to the Tribunal forthwith.

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(GEETHA K.B.)
JUDGE

SSD
List No.: 1 Sl No.: 30