HC-KAR

CNR: KAHC010402832025

NC: 2026:KHC:63394
MFA No. 4645 of 2025
C/W MFA No. 2636 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 4645 OF 2025

(MV-D)

C/W

MISCELLANEOUS FIRST APPEAL No. 2636 OF 2025

(MV-D)

IN MFA No. 4645/2025

BETWEEN:

1. SMT. JYOTHI @ JYOTI
   W/O LATE RAVINDRA
   AGED ABOUT 34 YEARS.

2. KUM. DEEKSHA.R
   D/O LATE. RAVINDRA
   AGED ABOUT 11 YEARS.

3. MASTER.MANVITH.R
   S/O LATE. RAVINDRA
   AGED ABOUT 07 YEARS.

   APPELLANT Nos. 2 AND 3 ARE MINORS
   REPRESENTED BY THEIR MOTHER AND
   NATURAL GUARDIAN i.e, APPELLANT No.1

4. SMT.CHANDRAMMA CHINCHOLLLI,
   W/O LATE.SHESHAPPA @ SHASHIDHAR
   AGED ABOUT 58 YEARS

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

ALL ARE R/AT 1ST FLOOR,
MUNISWAMAPPA BUILDING,
TATTNUR STREET, PATALAMMA TEMPLE,
ATTIBELE, BENGALURU- 560 016.

…APPELLANTS

(BY SRI. GURUDEVA PRASAD K T, ADVOCATE)

AND:

1. MAGMA HDI GENERAL INSURANCE CO., LTD.,
BY ITS MANAGER, No.36
H.M.ASTRAID, J.C.ROAD
MINERVA CIRCLE, JOURNALIST COLONY
KALASIPALYA, BANGALORE 560 002.

2. SRI SOMANATH ANNA KOLEKAR
S/O ANNA KOLEKAR
AGED ABOUT 35 YEARS
R/AT FLAT No.302, JAI CORNER
PLOT No.84/B, SECTION 22 KAMOTHE
PANVEL, RAIGAD RAIGARH-410 206.
MAHARASTRA STATE.

…RESPONDENTS

(BY SRI. B. PRADEEP, ADVOCATE FOR R1
V/O DTD. 08.09.2025, NOTICE TO R2 D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:04.01.2025 PASSED IN MVC No.4980/2022 ON THE FILE OF THE XXI ADDITIONAL SMALL CAUSES JUDGE AND ACJM, MEMBER, MACT, BENGALURU (SCCH-23), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

IN MFA No. 2636/2025

BETWEEN:

THE MANAGER
MAGMA HDI GIC LTD.,
No.36, H.M. ASTRAID, JC ROAD
MINERVA CIRCLE
JOURNALIST COLONY, KALASIPALYA
BANGALORE-02.

...APPELLANT

(BY SRI PRADEEP B, ADVOCATE)

AND:

1. SMT. JYOTHI @ JYOTHI
   W/O. LATE RAVINDRA
   AGED ABOUT 34 YEARS.

2. KUM. DEEKSHA. R
   D/O. LATE RAVINDRA
   AGED ABOUT 11 YEARS

3. MASTER. MANVITH. R
   D/O. LATE RAVINDRA
   AGED ABOUT 7 YEARS.

   PETITIONERS No.2 AND 3 ARE MINORS
   WILL BE REPRESENTED BY THEIR MOTHER
   AND NATURAL GUARDIAN i.e., PETITIONER No.1.

4. SMT. CHANDRAMMA CHINCHOLLI,
   W/O. LATE SHESHAPPA @ SHASHIDHAR
   AGED ABOUT 58 YEARS.

   ALL ARE R/AT: FIRST FLOOR
   MUNISWAMAPPA BUILDING
   TATTNUR STREET,

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

PATALAMMA TEMPLE ATTIBELE,
BENGALURU.

5. SRI. SOMANANTH ANNA KOLEKAR
S/O. ANNA KOLEKAR
AGED MAJOR
R/AT FLAT No.302 JAI CORNER
PLOT No.84/B, SEC-22 KAMOTHE
PANVEL, RAIGAD
RAIGARH-410 206.
MAHARASHTRA STATE.

...RESPONDENTS

(BY SRI. GURUDEVA PRASAD K T, ADVOCATE FOR R1 TO R4
R2 & R3 ARE MINORS REP BY R1
V/O DTD. 22.07.2025, NOTICE TO R5 D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:04.01.2025 PASSED IN MVC No.4980/2022 ON THE FILE OF THE XXI ADDITIONAL SCJ AND ACJM, MEMBER, MACT, BENGALURU SCCH-23, AWARDING COMPENSATION OF Rs.1,09,34,300/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION.

THESE APPEALS COMING ON FOR ADMISSION THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

1. MFA No. 2636/2025 is filed by the Insurer challenging the liability and quantum of compensation and MFA No. 4645/2025 is filed by the claimant, seeking

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

enhancement of the compensation awarded in the judgment and award dated 04.01.2025 passed in MVC 4980/2022 by XXI Additional Small Causes Judge and MACT, Bengaluru (SCCH-23).

2. Even though both the appeals are listed today for `Admission', they are taken up for disposal with the consent of learned counsel appearing for the parties.

3. Claimants made a claim petition praying to award compensation for the death of Ravindra in road traffic accident that occurred on 15.07.2022, contending that the accident occurred due to the rash and negligent driving of the driver of lorry bearing registration No. MH-46-BM-8791. The Tribunal after recording evidence, appreciating the evidence on record, assessed the compensation and awarded compensation under different heads as under:

1	Towards loss of dependency	Rs.1,07,29,600/-
2	Towards loss of consortium	Rs.48,400/-

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

	to the petitioner No. 1	
3	Towards loss of estate	Rs.18,150/-
4	Towards transportation of dead body, funeral and obsequies ceremony expenses	Rs.18,150/-
5	Towards loss of Filial consortium to petitioner No. 2 to 4	Rs.1,20,000/-
	Total	**Rs.1,09,34,300/-**

4. The Tribunal has also awarded interest at the rate of 6% p.a. from date of petition till the date of realization and directed Insurer (respondent No. 1 before the Tribunal) to deposit the said award amount with interest. Claimants have filed appeal seeking enhancement of the compensation and the Insurer has filed appeal challenging the liability and quantum of compensation awarded by the Tribunal.

5. Heard learned counsel for Insurer and learned counsel for claimants.

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

6. Learned counsel for Insurer would contend that the accident occurred not due to the sole negligence on the part of the driver of the lorry, but there is contributory negligence on the part of the deceased. On seeing the damage to the motorcycle, it cannot be said that the lorry dashed from back side to the said motorcycle. There is no damage to the lorry. Sketch – Ex.P.4 indicates that the lorry was moving ahead and the motorcycle was coming from its back side. Therefore the Tribunal ought to have held that the deceased has also contributed to the accident and there is contributory negligence on the part of the deceased. He further submits that the Tribunal has taken income earned by the deceased by overtime work and that should not be added in his income because it is not constant and it is variable from month to month and that has been stated by P.W.3 - employer. The deceased was aged above 40 years as his age was 40 years 1 month 14 days as on the date of accident and therefore future prospects are to be taken at 25% since he was employed

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

in a private limited company. With this he prayed to allow the appeal filed by the Insurer.

7. Learned counsel appearing for claimants would contend that the salary slips produced at Ex.P.12 contains salary slips from January to June and in every month there is income of the deceased by overtime work and therefore the said income is also to be included, which has rightly been included by the Tribunal. He further submits that the consortium awarded to claimant Nos. 2 to 4 does not include escalation at 20% as included in the consortium awarded to claimant No. 1. With this he prayed to allow the appeal filed by the claimants.

8. Having heard the learned counsel for the parties the Court has perused the judgment, award and trial Court records.

9. The accident occurred on 15.07.2022 at 01.55 p.m. Ex.P.8 is the charge sheet and it is filed against the driver of the lorry bearing registration No. MH-46-BM-8791 for offences under Section 279 and 304-A of IPC for

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

rash and negligent driving. In the charge sheet in column No. 17 it is mentioned that driver of the lorry drove his lorry in high speed, in a rash and negligent manner and dashed to the motorcycle on its back side. As a result of which, rider of the motorcycle came under the rear wheel of the lorry and he died on the spot. Said charge sheet would clearly indicate that rash and negligent driving is alleged only against the driver lorry. Considering the said aspect, the Tribunal has rightly held that the accident occurred due to the rash and negligent driving by the driver of the lorry.

10. The date of birth of the deceased as mentioned in his Driving License –Ex.P.13 is 01.06.1982. Considering the same, he was aged 40 years, 1 month, 16 days, as on the date of accident. For applying the multiplier, completed age is to be taken. For the age group between 36 to 40, the multiplier applicable is 15. The Tribunal, considering that the claimants are wife, 2 minor children, and mother of the deceased has rightly deducted 1/4th

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

towards personal expenses of the deceased. Since the deceased was aged more than 40 years and working in the private limited company, future prospects are to be added at 25% as per the decision of the Hon'ble Apex Court in the case of ***National Insurance Company Vs Pranay Sethi and Others*** reported in ***AIR 2017 SC 5157***.

11. The deceased was working as Quality Inspector in British Engines (India) Private Limited and pay slips issued by the said company for January to June are produced at Ex.P.12. Previous month's pay slips from 26.05.2022 to 25.06.2022 indicate that his gross pay was Rs.54,878/- which includes overtime income of Rs.11,586/-. Said overtime income is not constant and it cannot be said that the deceased will be able to do overtime work till his retirement. Therefore the said overtime income is to be deducted in his gross pay and therefore his pay would be Rs.43,292/- (Rs.58,878 – Rs.11,586). In the said gross pay Rs.200/- is to be deducted towards professional tax and therefore his net to

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

pay would be Rs.43,092. If the said pay is taken, then net pay per year comes to Rs.5,17,104/- (Rs.43,092 X 12 months). Income tax for the said income is to be calculated. For the first Rs.2,50,000/- there is exemption and for the remaining amount of Rs.2,67,104/-, 5% income tax comes to Rs.13,355/-. If said income tax amount is deducted in his pay of Rs.5,17,104/-, his net annual income comes to Rs.5,03,749/-. 25% future prospects are to be added to the said income and it comes to Rs.6,29,686/-. Towards personal expenses of the deceased 1/4th is to be deducted and after deduction of the same, it comes to Rs.4,72,265/- and if it is multiplied by 15, it comes to Rs.70,83,975/-. Therefore claimants are entitled to compensation towards loss of dependency in a sum of Rs.70,83,975/- as against Rs.1,07,29,600/- awarded by the Tribunal.

12. The Tribunal awarded loss of consortium to claimant No. 1 by adding 20% escalation in a sum of Rs.48,400/- but has not added 20% escalation to the

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

consortium awarded to claimant Nos. 2 to 4. Claimant Nos. 2 to 4 are also entitled to consortium with escalation, i.e, Rs.1,45,200/- (Rs.48,400 X 3).

13. The tribunal has rightly awarded loss of estate in a sum of Rs.18,150/- and funeral expenses and transportation of dead body in a sum of Rs.18,150/-.

14. In view of the above, claimants are entitled to total compensation under various heads as under:

1	Loss of dependency	Rs.70,83,975/-
2	Consortium to claimant No.1	Rs.48,400/-
3	Consortium to claimant Nos. 2 to 4	Rs.1,45,200/-
4	Loss of estate	Rs.18,150/-
5	Towards transportation of dead body, funeral and obsequies ceremony expenses	Rs.18,150/-
	Total	**Rs.73,13,875/-**

15. Considering the above aspects claimants are entitled to total compensation of Rs.73,13,875/- as against Rs.1,09,34,300/- awarded by the Tribunal, with interest at the rate of 6% p.a. from the date of petition till

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

the date of realization. Insurer is liable to pay the said compensation with interest.

16. In view of the above, the following;

O R D E R

a. Both the appeals are allowed in part.
b. Claimants are entitled to compensation of Rs.73,13,875/- with interest at the rate of 6% p.a. from the date of petition till the date of realization.
c. Insurer shall deposit the said compensation amount with interest before the Tribunal within six weeks from this day.
d. Order of the Tribunal regarding deposit and release remain unaltered.
e. Amount in deposit is ordered to be transmitted to the Tribunal.

Digitally Signed By:
SHIVASHANKAR BASAPPA
AMARANNAVAR
JUDGE, HIGH COURT OF KARNATKA

(SHIVASHANKAR AMARANNAVAR)
JUDGE

LRS
List No.: 1 Sl No.: 39
Ct.sm