IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA

MISCELLANEOUS FIRST APPEAL NO. 2652 OF 2015 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 3268 OF 2015 (MV-D)

MFA No. 2652/2015

BETWEEN:

1. PARVATHAMMA
   W/O LATE SOMASHEKARAIAH
   AGED ABOUT 48 YEARS

2. SIDDARAMAIAH
   S/O LATE SOMASHEKARAIAH
   AGED ABOUT 28 YEARS

   ALL ARE RESIDING AT
   KAREKURCHI VILLAGE
   HARENAHALLI MAJARE
   NITTUR HOBLI, GUBBI TALUK
   TUMKUR DIST-572 122

Digitally signed by
PREMCHANDRA M R
Location: HIGH
COURT OF
KARNATAKA

...APPELLANTS

(BY SRI: MUSHTAQ AHMED, ADVOCATE)

AND:

1. SURESH S
   S/O SOMANNA
   AGED ABOUT 31 YEARS
   R/A GARDEN HOUSE
   BHEEMASANDRA, KASABA HOBLI

TUMKUR TALUK
TUMKUR DIST.-572 123

2. THE ORIENTAL INSURANCE CO., LTD.,
BRANCH OFFICE, 1ST FLOOR
TGMC BUILDING, J.C. ROAD
TUMKUR-572 121
REP. BY ITS MANAGER

…RESPONDENTS

(BY SRI: VIJAYA PHANEENDRA T B, ADVOCATE FOR
SRI: A N KRISHNA SWAMY, ADVOCATE FOR R2;
VIDE ORDER DATED 31.05.2021, NOTICE TO
R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 12.12.2014 PASSED IN MVC NO.85/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE AND MEMBER, ADDITIONAL MACT-17, GUBBI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

MFA NO. 3268/2015

BETWEEN:

THE MANAGER
THE ORIENTAL INSURANCE CO. LTD.
BRANCH OFFICE, 1ST FLOOR
TGMA BUILDING, J.D.ROAD
TUMKUR CITY-572 101

AND ALSO:
THE ORIENTAL INSURANCE CO. LTD.
44/46, LEO SHOPPING COMPLEX
RESIDENCY ROAD CROSS
BANGLAORE
BY ITS DIVISIONAL OFFICER

...APPELLANT

(BY SRI: VIJAYA PHANEENDRA T B, ADVOCATE FOR
SRI: A N KRISHNA SWAMY, ADVOCATE)

AND:

1. PARVATHAMMA
   W/O LATE SOMASHEKARAIAH
   AGED ABOUT 47 YEARS

2. SIDDARAMAIAH
   S/O LATE SOMASHEKARAIAH
   AGED ABOUT 27 YEARS

   BOTH ARE RESIDING AT
   KAREKURCHI VILLAGE
   HARENAHALLI MAJARE
   NITTURU HOBLI, GUBBI TALUK
   TUMKUR DISTRICT-572 101

3. SURESH S
   S/O SOMANNA
   AGED ABOUT 30 YEARS
   RESIDING AT GARDEN HOUSE
   BEEMASANDRA, KASABA HOBLI
   TUMKUR TALUK-572 101

...RESPONDENTS

(BY SRI: MUSHTAQ AHMED, ADVOCATE FOR R1 & R2;
R3 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 12.12.2014 PASSED IN MVC NO.85/2012 ON THE FILE OF THE SENIOR CIVIL JUDGE, MEMBER, ADDITIONAL MACT-17, GUBBI, AWARDING A COMPENSATION OF RS.5,64,000/- WITH INTEREST @ 6% P.A FROM THE DATE OF PETITION TILL REALIZATION ON THE SAID AMOUNT.

THESE MFAs, HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 25.09.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **T.P.VIVEKANANDA J.,** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE T.P.VIVEKANANDA)

MFA No.2652 of 2015 is filed by the claimants being not satisfied with the compensation awarded in MVC No.85 of 2012 dated 12.12.2014 passed by the Senior Civil Judge and Additional MACT-17, at Gubbi, whereby, the Tribunal has awarded compensation of Rs.5,64,000/- to the claimants being the wife and son of the deceased Somashekaraiah, who died in the road traffic accident.

2. MFA No.3268 of 2015 is filed by the insurer challenging the very same impugned judgment and award contending that the compensation awarded by the Tribunal is on the higher side.

3. From a reading of the impugned judgment and award and the grounds urged in the appeal filed by the insurer, it is clear that the occurrence of accident and the liability of the insurer is admitted. Therefore, the only question that arise for consideration is as to - *"Whether the compensation awarded by*

the Tribunal is just and proper, or excessive or in the alternative requires enhancement?".

4. The accident is of the year 2011. The age of the deceased was 48 years. It is contented that the deceased was the driver and earning Rs.15,000/- per month. The Tribunal has considered the notional income of Rs.3,000/- per month, since no evidence was produced to show the income of the deceased. Considering the fact that there were two claimants, 1/3rd of the notional income was deducted.

5. The contention of the insurer is that as on the date of accident itself, claimant No.2 was major and aged more than 22 years and therefore, he cannot be considered as a dependent and thus, the deduction of 1/3rd towards personal expenses is erroneous and 50% should have been deducted towards personal expenses.

6. It is the submission of learned counsel for the claimants that even in the absence of the proof of income, considering the year of accident, the Tribunal ought to have taken the notional income at Rs.6,500/- and added future prospects of 25%. It is also the submission of learned counsel

that the Tribunal has grossly erred in awarding only a sum of Rs.30,000/- towards love and affection.

7. On hearing the learned counsel for the claimants, so also, the insurer and on perusal of the impugned judgment and award and also on appreciation of the records of the Tribunal, we are of the opinion that there is a necessity of re-assessment of the compensation under each of the heads. Accordingly, we re-assess the compensation payable to the claimants as follows:

8. The income of the deceased is considered notionally at Rs.6,500/- per month in view of the year of accident being 2011 and we are inclined to add the future prospects of 25% taking note of the fact that the deceased was a car driver. Though no evidence was produced, it cannot be ruled out that the deceased who was aged 48 years, would have undertaken some kind of self-employment in order to look after his family. Therefore, the loss of dependency is calculated at **Rs.6,82,500/-** (6500 + 1625 (25%) x 12 x 14 x ½).

9. We are also of the opinion that the grant of compensation for loss of love and affection at Rs.30,000/- is too lesser, inasmuch as, even assuming that claimant No.2 -

the son of the deceased was major at the time of accident, however, he has lost the love and affection and guidance of his father at the prime age. Therefore, the claimants are entitled for additional compensation of **Rs.40,000/-** for loss of love and affection. The award of compensation for funeral expenses and transportation is just and proper. It requires no interference.

10. Accordingly, the re-assessed compensation is as follows:

Sl. No.	Particulars of heads	MACT Award (Rs.)	Re-assessed compensation (Rs.)
1	Loss of dependency	5,04,000/-	6,82,500/-
2	Loss of love and affection	30,000/-	40,000/- + 30,000/-
3	Transportation charges	5,000/-	5,000/-
4	Funeral and obsequies	25,000/-	25,000/-
	Total	5,64,000/-	**7,82,500/-**

The total re-assessed compensation, to which the appellants are entitled is **Rs.7,82,500/-.**

11. Since we have enhanced the compensation from Rs.5,64,000/- to Rs.7,82,500/- in the appeal filed by the claimants, as a result of which, the appeal filed by the insurer must necessarily fail.

12. In the result,

(i) MFA No.2652 of 2025 filed by the claimants is ***allowed in part.***

(ii) MFA No.3268 of 2015 filed by the insurer is ***dismissed.***

(iii) The judgment and award dated 12.12.2014 in MVC No.85 of 2012 passed by the Senior Civil Judge and Additional MACT-17 at Gubbi, is modified entitling the appellants/claimants for re-assessed compensation of **Rs.7,82,500/-** as against the compensation already granted by the Tribunal in a sum of Rs.5,64,000/-.

(iv) The enhanced compensation shall carry interest at 6% per annum from the date of petition, till its realization.

(v) The insurer shall deposit the enhanced compensation along with accrued interest within 8 weeks from the date of receipt of copy of the certified copy of the judgment.

(v) The statutory deposit of Rs.25,000/- alongwith accrued interest be transmitted to the Tribunal for disbursement.

Registry is directed to transmit the Trial Court records, forthwith, along with the copy of this judgment, for needful action.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(T.P.VIVEKANANDA)
JUDGE

BGN