IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF OCTOBER, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO. 2974 / 2023 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 3576 / 2023 (MV-D)

IN MFA No. 2974/2023

BETWEEN:

1. SRI. P. V. SHASHIKANTH
   S/O LATE SRI KUNHAMBU
   AGED ABOUT 57 YEARS
   R/AT NO 154, 5TH FLOOR
   VIJAYA ENCLAVE, B G ROAD
   VIJAYANAGAR, BENGALURU-560076

…APPELLANT

(BY SRI.ARUN SHYAM, SR.ADVOCATE FOR SRI. MOHAMAD AYUB ALI.,ADVOCATE)

AND:

1. SRI. RAMAKRISHNE GOWDA. M. Y.
   S/O LATE YALAKKI GOWDA
   AGED ABOUT 65 YEARS

2. SMT.BABAMANI.M.N
   W/O RAMAKRISHNE GOWDA.M.Y
   AGED ABOUT 56 YEARS

   BOTH ARE R/AT NO 184,
   B SANKALPA RESIDENDCE, TIAL LAYOUT
   KALKERE, HORAMAVU MAIN ROAD

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BENGALURU-560043

3. SRI KIRAN GOWDA
S/O KURPANANDA
AGED ABOUT 36 YEARS
NO 858/1, MUNISHAMIYAPPA LAYOUT
1ST CROSS, CHIKKABANASAWADI
BENGALURU

…RESPONDENTS

(BY SRI. SREENIVASAN M Y.,ADVOCATE FOR R1 & R2)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.16.02.2023 PASSED IN MVC NO.975/2017 ON THE FILE OF THE SMALL CAUSES, BENGALURU CITY, (SCCH-23), AWARDING COMPENSATION OF RS.12,53,000/- WITH INTEREST AT 9 PERCENT P.A. FROM THE DATE OF PETITION TILL ITS REALIZATION.

IN MFA NO. 3576/2023

BETWEEN:

1. RAMAKRISHNEGOWDA. M. Y.
S/O LATE YALAKKI GOWDA,
AGED ABOUT 65 YEARS

2. BABAMANI.M.N
W/O RAMAKRISHNEGOWDA.M.Y,
AGED ABOUT 57 YEARS,

BOTH ARE R/AT NO. 184, B-SANKALPA RESIDENCE,
TIAL LAYOUT, KALKERE,
HORAMAVU MAIN ROAD,
BENGALURU-560043.

...APPELLANTS

(BY SRI. SREENIVASAN M Y.,ADVOCATE)

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AND:

1. KIRAN GOWDA
S/O KRUPANANDA,
AGED ABOUT 36 YEARS
R/AT NO.858/1, MUNISHAMIYAPPA LAYOUT,
1ST CROSS, CHIKKABANASAVADI, BENGALURU-560044.

2. P.V. SHASHIKANTH,
S/O KUNHAMBU, MAJOR,
R/AT NO.154, 5TH FLOOR, VIJAYA ENCLAVE, B G ROAD,
VIJAYANAGAR, BENGALURU-560076.

...RESPONDENTS

(BY SRI.ARUN SHYAM, SR.ADVOCATE FOR SRI.MOHAMAD AYUB ALI, ADVOCATE FOR R1; V/O DTD: 20.11.2025 NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 16.02.2023 PASSED IN MVC NO. 975/2017 ON THE FILE OF THE XXI ADDITIONAL SCJ, ACMM, MEMBER, MACT, BENGALURU, SCCH-23, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS HAVING BEEN HEARD AND RESERVED ON 30.10.2026, COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, THE COURT DELIVERED THE FOLLOWING:
CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

CAV JUDGMENT

1. MFA Nos.2974 and 3576 of 2023 are filed under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'M.V. Act') by the appellant/respondent No.2, the owner of the offending vehicle and appellant Nos.1 and 2/claimant Nos.1 and 2, challenging the judgment and award dated 16.2.2023 in MVC No.975/2017 on the file of XXI Additional Small Causes Judge and ACMM, Bengaluru (SCCH-23) (in short, 'the Tribunal'). The owner of the

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vehicle seeks dismissal of the claim petition; whereas the claimants seeks enhancement of the compensation in their respective appeal.

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

3. The claimant Nos.1 and 2 have filed the claim petition under Section 166 of the M.V. Act before the Tribunal, claiming compensation in respect of the death caused to their son Mr.Sagar, who was travelling in the Ford Icon car bearing Reg.No.KA-05/MD-9550 as inmate on 02.09.2016 at about 05:00 a.m. in front of Maderahalli Plantation on Chennai-Bengaluru (NH-75) road, Kolar and said car was being driven by respondent No.1. The said car met with an accident. Immediately the son of the claimants was shifted to R.L.Jalappa Hospital, Kolar. However, on the way to hospital, he succumbed to the injuries. Respondent No.1 is the driver and respondent No.2 is the owner of the offending car. Hence, claimed

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compensation from the respondents. There was no insurance to the offending car.

4. Respondent Nos.1 and 2 have filed their separate objection statements before the Tribunal.

5. In the objection statement, the respondent No.1 has taken contention that the deceased Sagar alias Sagar Gowda was the driver of the offending car and respondent No.1 was not its driver. He further contended that the car does not belong to respondent No.1 but it belonged to respondent No.2. Hence, prayed for dismissal of the case against respondent No.1.

6. Respondent No.2-the owner of the vehicle has filed his objection statement wherein he has taken contention that on 28.05.2014, he has transferred the ownership of the car to one Sri Shaiju who was working in Lathangi Ford Service Centre by delivering the car for a sum of ₹90,000/-. After such transfer, he informed the same to RTO, Jayanagar, Bengaluru. Respondent No.2 was under the *bonafide* belief that after such transfer of the ownership, and delivery of the car, said Shaiju would have

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got changed the name of the vehicle in the registration office. The omission of the aforesaid Shaiju and subsequent transferees including respondent No.1 in getting changed to their respective names in the records of concerned registering authority cannot be a ground to saddle liability of accident on respondent No.2. Respondent No.1, who possessed the car, is liable for causing the accident and answerable to each and every liability arising out of the alleged accident. Hence, prayed for dismissal of the petition.

7. After framing issues, recording evidence and hearing arguments, the Tribunal came to the conclusion that the offending car was being driven by respondent No.1 at the time of accident and respondent No.2 is the owner of the vehicle and thus, fastened liability on respondent No.2. It awarded the compensation of ₹12,53,000/- with interest at 9% per annum from the date of petition till its realization.

8. Aggrieved by the same, respondent No.2 is before this Court in MFA No.2974/2023.

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9. The claimants not being satisfied with the award amount are before this Court in MFA No.3576/2023.

10. Heard arguments of both sides.

11. The learned Senior Counsel Sri Arun Shyam on behalf of the learned counsel for appellant Sri Mohamad Ayub Ali would submit that the criminal case was lodged against respondent No.1 stating that he is the driver of the offending car based on the written complaint given by his elder brother Kishore Kumar. However, said Kishore Kumar has given evidence in this case as RW.2 and also given evidence in the criminal case that respondent No.1 was not the driver of the offending car, but the deceased was driving the offending car. Even respondent No.1 has taken said contention in this case. Thus, the Tribunal ought to have given its finding that who was the driver of the offending car. Without making such finding and without making driver also as liable for the liability, the Tribunal has fastened liability only against respondent No.2. The Tribunal has not decided that who was the driver of the vehicle, has passed the award; thus, the

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finding of the Tribunal is erroneous. Hence, prayed for allowing the appeal.

12. The learned Senior Counsel would further submit that even though the police papers say that respondent No.1 is the driver of the offending car the brother of respondent No.1 who has lodged the complaint has taken complete go-by to prosecution version and deposed that deceased was driving the car. If deceased was the driver of the car then he himself is *tortfeasor* in causing the accident. The photographs, motor vehicle accident report, spot sketch and other documents clearly and categorically reveal that the right door and right side of the car was fully damaged; whereas it was not on the left side of the car. The elder brother of respondent No.1-Kishore Kumar was sitting on the back side of the car is not in dispute, but the dispute is whether deceased was in driver seat or in the seat by the side of driver is not explained. The deceased has sustained grievous injuries and succumbed to those injuries, whereas respondent No.1 and his elder brother have sustained only simple

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injuries. Thus, respondent No.1 might have sat on left side of the car and deceased might be its driver. Even the doctor was examined to establish these facts. These facts were not appreciated by the Tribunal in an appropriate manner. Hence, pray for allowing his appeal.

13. The learned counsel for claimants Sri Sreenivasan M.Y would submit that even though respondent No.1 has made serious efforts before the Tribunal to prove that the deceased was the driver of the car, he failed to establish this fact. He examined the doctor who conducted P.M. on the dead body of the deceased Sagar as RW.4. It is not elicited from his mouth that, if a person was driving the car then only he can sustain the injuries as sustained by the deceased in the present case. Furthermore, RW.3- the Investigating Officer has categorically deposed that his investigation establishes that respondent No.1 was the driver of the car. Even though in this appeal respondent No.2 is taking contention that respondent No.1 was not the driver of the car, he has not taken such contention before the Tribunal. He has filed

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his evidence only to establish that he has sold the car in the year 2014 itself and he is not liable to pay the compensation. Furthermore, his contention is that the offending car was in possession of respondent No.1. Hence, he had taken contradictory contentions before the Tribunal and in this appeal; respondent Nos.1 and 2 failed to establish that the deceased was the driver of the car. Hence, interference on the aforesaid judgment of the tribunal is not required. He would further submit that the compensation awarded by the Tribunal is on lower side. The deceased was working as gym advisor at Golden Gym, and was working in Praja TV and Samaya News and earning ₹24,000/- per month. The Tribunal has not properly appreciated Exs.P.7 to P.10 and thus, the income of the claimant taken by the Tribunal is on lower side. Hence, prayed for enhancement of the compensation.

14. Having heard arguments of both sides, verifying the appeal papers and trial Court records, the points that arise for consideration are:

"1. Whether the appellant/respondent No.2 establishes that the Tribunal failed to

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assess who was the driver of the offending car?

2. Whether there shall be joint and several liability of driver and owner or it is only the liability of respondent No.2?

3. Whether the claimant is entitled for enhancement of compensation?"

15. Finding of this Court on the point No.1 is in '***Negative'*** point No.2 as '***Driver and owner shall be jointly and severally liable'*** and point No.3 is in '***Affirmative'*** for the following:

REASONS

16. The facts established before the Tribunal are that respondent No.1, deceased Sagar and elder brother of respondent No.1 were travelling in the offending car on 02.09.2016 and it met with an accident at about 05:00 a.m. on Chennai - Bengaluru (NH-75) road, Kolar in front of Maderahalli Plantation. Due to the said accident, Sagar sustained grievous injuries and while shifting him to R.L.Jalappa Hospital, he succumbed to those injuries.

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Claimant Nos.1 and 2 are the parents of the deceased Sagar.

17. On the date of accident, at 09:00 a.m., the Investigating Officer has recorded the statement of Kishore Kumar, who is the elder brother of the respondent No.1. In the said statement, the elder brother of respondent No.1 categorically stated that when he, Sagar and respondent No.1 were travelling in the offending car, respondent No.1 drove it rashly and negligently with high speed and dashed against an unknown lorry and caused the accident. Due to the accident the car was fully damaged and he sustained injuries, his brother also sustained injuries and Sagar died due to the injuries. Said statement was considered as first information and the criminal was set into motion. After completion of investigation, the Investigating Officer has filed charge-sheet against respondent No.1 alleging that due to his rash and negligent driving of the car, the accident occurred and Sagar died in the said accident, alleging the

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offences punishable under Sections 279, 337 and 304A IPC.

18. The police papers clearly indicate that the accident occurred due to rash and negligent driving of respondent No.1.

19. Respondent No.1 in his objection statement has taken contention that the deceased was the driver of the car. In this regard respondent No.1 examined him as RW.1, examined his elder brother as RW.2, examined the I.O as RW.3 and examined the doctor who conducted P.M. as RW.4.

20. Even though RWs.1 and 2 have taken contention that deceased was the driver of the car, to substantiate it, they have not produced any other material.

21. RW.3-the I.O was examined on behalf of respondent No.1. He has stated that only after completion of investigation he has filed charge-sheet against respondent No.1. He admitted that the brother of respondent No.1 has lodged the complaint. It is the

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specific evidence of RW.3 that the respondent No.1 was the driver of the car.

22. RW.4-the doctor who conducted P.M. on the dead body of Sagar has deposed that the whiplash injury can be depending upon the impact and nature of the accident. It is a question posed to RW.4 that from the examination conducted during post mortem the injury caused to the spinal-cord would have been an account of greater impact on the side of the right side of the driving seat for which he answered that he cannot make out. The doctor further deposed that he cannot distribute whether injuries sustained to the driver or passenger at the time of post mortem. He further deposed that whiplash cannot be distributed on the basis of height of a person. The deceased was having injury of frontal area and major injury on the Occipital area. The father of the deceased PW.1 also deposed that when he had seen the dead body he had seen bleeding injury on back side of the head. He has deposed that he cannot say that the deceased was on the driving car and due to that he sustained such injuries.

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Thus, from the evidence of RWs.1 to 4, respondent No.1 cannot elicit that the deceased was the driver of the car.

23. Even though, the respondent No.2 has given evidence before the Tribunal as RW.5, his only evidence is that he was not the owner of the car at the time of the accident and thus, he is not liable to pay compensation. Except this, he has not stated anything about who was the driver of the car.

24. In this appeal, learned Senior Counsel for appellant/respondent No.2 would submit that the respondent No.1 was acquitted in the criminal case because his brother has given evidence that he was not the driver of the car. Hence, it is established that the deceased was driving the car.

25. The said argument is not acceptable one, because acquittal of respondent No.1 in criminal case cannot absolve his liability in present case and it cannot declare that, he was not the driver of the car. When I.O have specifically deposed in this case that it is respondent No.1 was driving the car; merely because there was heavy

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damages to the car on its right side and the deceased died in the accident; it cannot be said that he was the driver of the car. The person who was sitting on driver's seat or the person who was sitting by his side may sustain injuries. In this case the fatal injury to the deceased was on back side of the head and not on his right side.

26. Hence, the above contention of learned counsel for the appellant in this appeal that the deceased was the driver of the car and he is not liable to pay the compensation cannot be accepted.

27. Considering all the aspects in right perspective, the Tribunal rightly held that respondent No.1 was the driver of the vehicle, which needs no interference.

28. When the vehicle was not insured, then both the driver and owner of the vehicle are jointly and severally liable to pay the compensation.

29. The accident has taken place in the year 2016. The tribunal has assessed the notional income of deceased at ₹8,000/- per month. In the absence of documents to show the claimant's actual income, the notional income

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chart prepared by KSLSA shall be considered. Accordingly, the claimant's income shall be at ₹9,500/- per month. By placing reliance on ***National Insurance Company Ltd., v/s Pranay Sethi & Others***[1]***,*** 40% of the income of deceased is to be added towards his future prospects. The deceased was 26 years of age as on the date of the accident. Hence, by placing reliance on the judgment of Hon'ble apex court in ***Sarla Varma and Ors vs. Delhi Transport Corp. and Anr.***[2] the applicable multiplier is '17'. The deceased left behind his parents and he is a bachelor. Hence by placing reliance on the Judgment of the Hon'ble Apex Court in ***Sarla Verma's*** case cited supra, 50% of the income of deceased is to be deducted towards his personal expense. Hence, the claimant is entitled for ₹9,500/- + 40% x 12 x 17 x 50% = ₹13,56,600/- towards 'loss of dependency' instead of ₹11,43,000/- awarded by the Tribunal.

30. The tribunal has awarded Rs.40,000/- towards 'loss of consortium' to each of the claimants; Rs.15,000/-

[1] (2017) 16 SCC 680
[2] AIR 2009 SC 3104

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each towards 'loss of estate' and 'funeral expenses', however the Tribunal has not added escalation charges as per the guidelines of Hon'ble Apex Court in **Pranay Sethi's** case cited supra and ***Magma General Insurance Co Ltd Vs. Nanu Ram Alias Chuhru Ram & Ors[3].*** Thus, the claimants being the parents of the deceased are entitled for consortium at Rs.40,000/- each with 10% plus 10% escalation charges = *₹96,800/-;* The Claimants are also entitled to Rs.15,000/- + 10% + 10% escalation charges towards 'loss of estate' and 'transportation of dead body and funeral expenses'.

31. Thus, the claimants are entitled for total compensation of **₹14,89,700/-** under following heads:-

Heads	**in ₹**
Loss of Dependency	₹13,56,600/-
Loss of Consortium	₹96,800/-
Loss of Estate	₹18,150/-
Transportation of Dead Body and Funeral Expenses	₹18,150/-
Total	₹14,89,700/-

32. Hence, this Court passes the following:

[3] 2018 ACJ 2782

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ORDER

i) MFA No.2974/2023 and MFA No.3576/2023 are ***allowed in part***.

ii) The judgment and award dated 16.02.2023 passed in M.V.C. No.975/2017, on the file of the XXI Addl. SCJ and ACMM Member-MACT (SCCH-23), Bengaluru is modified holding that the claimants are totally entitled for compensation of **₹14,89,700/-** instead of **₹12,53,000/-** awarded by the Tribunal.

iii) The enhanced compensation shall carry interest at 6% per annum.

iv) The respondent Nos.1 & 2-driver and owner of the vehicle respectively are jointly and severally liable to pay the compensation.

v) The respondent Nos.1 & 2-driver and owner of the vehicle respectively shall deposit the compensation amount with accrued interest

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before the Tribunal within the period of eight weeks from the date of receipt of certified copy of this judgment.

vi) No order as to costs.

vii) The amount in deposit be transmitted to the Tribunal.

viii) Draw modified award accordingly.

ix) Registry to transmit the TCR to the Tribunal forthwith.

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(GEETHA K.B.)
JUDGE

SPV