HC-KAR
CNR: KAHC010272912025

NC: 2026:KHC:62503
MFA No. 3068 of 2025
C/W MFA No. 7636 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 3068 OF 2025

(MV-D)

C/W

MISCELLANEOUS FIRST APPEAL No. 7636 OF 2024

(MV-D)

IN MFA No. 3068/2025

BETWEEN:

1. SMT. RATHNAMMA
   W/O. LATE LAKSHMAIAH
   AGED ABOUT 40 YEARS

2. MASTER MANJESH
   S/O. LATE. LAKSHMAIAH
   AGED ABOUT 17 YEARS

3. MASTER HARISH. D.L.
   S/O. LATE. LAKSHMAIAH
   AGED ABOUT 13 YEARS

   THE APPELLANT No.2 & 3 ARE
   BEING MINORS REPRESENTED BY
   THEIR NATURAL GUARDIAN MOTHER
   RATHNAMMA I.E., 1ST APPELLANT HEREIN.

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4. SMT. GANGAMMA
W/O. HANUMANTHAIAH
AGED ABOUT 67 YEARS.

5. MR. HANUMANTHAIAH
S/O. LATE MURUDAAH
AGED ABOUT 72 YEARS.

DELETED AS PER ORDER DATED 12.11.2026
AMENDMENT CARRIED OUT AS PER ORDER
DATED:12.11.2026.

ALL ARE R/AT DODDAIAHANAKATTE PALYA
HEBBUR HOBLI, TUMKUR TALUK
KEMBALALU, TUMKUR – 572 120.

…APPELLANTS

(BY SRI. VIJAY KUMAR T, ADVOCATE)

AND:

1. MR RENUKA PRASAD N C
S/O. CHANDRAIAH
AGED MAJOR
2ND BLOCK, NAGAVALI POST
HEBBUR, TUMKURU-572 120.

2. THE MANAGER,
THE HDFC ERGO GENERAL INSURANCE CO. LTD.,
No.25/1, 2ND FLOOR, BUILDING No.2
SHANKARANARAYANA BUILDING
M.G.ROAD, BENGALURU-560 001.

…RESPONDENTS

(BY SRI B PRADEEP, ADVOCATE FOR R2
V/O DTD. 9.9.2025 NOTICE TO R1 IS DISPENSED WITH)

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THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:10.09.2024 PASSED IN MVC No.1390/2023 ON THE FILE OF THE XIX ADDITIONAL JUDGE, COURT OF SMALL CAUSES AND ACMM, BENGALURU SCCH-17, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA No. 7636/2024

BETWEEN:

THE MANAGER
HDFC ERGO GIC LTD.,
REGIONAL OFFICE No.25/1
2ND FLOOR, BUIDLING No.2
SHANKARANARAYANA BUILDING
MG ROAD, BANGALORE-560 001.

...APPELLANT

(BY SRI. PRADEEP B, ADVOCATE)

AND:

1. SMT. RATHNAMMA
   W/O LATE LAKSHMAIAH
   AGED ABOUT 39 YEARS.

2. MASTER MANJESH
   S/O LATE LAKSHMAIAH
   AGED ABOUT 17 YEARS.

3. MASTER HARISH D L
   S/O LATE LAKSHMAIAH
   AGED ABOUT 12 YEARS.

4. SMT. GANGAMMA
   W/O HANUMANTHAIAH
   AGED ABOUT 66 YEARS.

5. HANUMANTHAIAH
   S/O LATE MURUDAIAH

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AGED ABOUT 71 YEARS.

ALL ARE R/AT DODAIAHANAKATTE
PALYA HEBBUR HOBLI
TUMKURU TALUK, KEMBALALU
TUMKUR-572 120.

SINCE 2ND & 3RD RESPONDENTS ARE MINORS
WILL BE REPRESENTED BY THEIR MOTHER
AND NATURAL GUARDIAN i.e., 1ST RESPONDENT.

6. RENUKA PRASAD N C
S/O CHANDRAIAH
2ND BLOCK, NAGAVALI POST
HEBBUR TUMAKURU-572 120.

...RESPONDENTS

(BY SRI T VIJAYA KUMAR, ADVOCATE FOR R1-R5
R2 & R3 MINOR REP. BY R1
V/O DTD. 06.10.2026, NOTICE TO R6 IS D/W)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:10.09.2024 PASSED IN MVC No.1390/2023 ON THE FILE OF THE XIX ADDITIONAL JUDGE , COURT OF SMALL CAUSES AND ACMM, BENGALURU SCCH-17 AWARDING COMPENSATION OF Rs.49,24,368/- 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

MFA No.3068/2025 is filed by the claimant challenging the contributory negligence attributed to the

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deceased and MFA No.7636/2024 is filed by the Insurer challenging the judgment and award dated 10.09.2024 passed in MVC No.1390/2023 by XIX Additional Judge, Court of Small Causes and MACT, Bangalore (SCCH- 17).

2. Even though both appeals are listed today for admission, they are taken up for disposal with the consent of learned counsels appearing for the parties.

3. Claimants made a claim petition praying to award compensation for the death of Laxmaiah in a road traffic accident occurred on 16.02.2023 contending that the accident occurred due to the rash and negligent riding of motorcycle bearing registration No.KA-06/HK-7510 by its rider. The Tribunal after recording evidence and appreciating the evidence on record has assessed the compensation and awarded the compensation under various heads as under:

1.	Loss of dependency	Rs.	46,99,968/-
2.	Loss of consortium	Rs.	2,20,000/-
3.	Loss of future prospects	Rs.	11,74,992/-
4.	Towards loss of love	Rs.	27,500/-

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	and affection		
5.	Funeral Expenses	Rs.	16,500/-
6.	Transport of dead body	Rs.	16,500/-
	Total	**Rs.**	**61,55,460/-**

4. The Tribunal held that the deceased has contributed to the accident to the extent of 20% and after deducting 20% in total compensation of Rs.61,55,460/-, awarded Rs.49,24,368/- with interest at the rate of 6% per annum from the date of petition till realization and directed the insurer to deposit the award amount with interest. The claimant challenging the said contributory negligence attributed to the deceased filed the appeal. The insurer challenging the quantum of compensation amount and also the contributory negligence attributed to the driver of the insured motor vehicle filed the appeal.

5. Learned counsel for claimant would contend that the deceased was on the left side of the road and at that time the rider of the motorcycle came and dashed to him and therefore, entire negligence is on the part of the rider of the motorcycle. The Tribunal erred in

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attributing contributing negligence on the part of the deceased.

7. Learned counsel for insurer would contend that the accident has taken place on the highway and the deceased was crossing the road where there was no zebra crossing and considering the same, the contributory negligence attributed to the deceased at 20% is on the lower side. He further submits that the average income of the deceased, as shown in the Income Tax Returns at Exhibit P10 and Exhibit P11, is to be taken. On that point, he places reliance on the decision of the Hon'ble Apex Court in the case of ***Rashmirekha Tripathy and Another vs. Branch Manager(Legal Claims,) Sriram General Insurance Company. Limited and Others*** **(2026 SCC OnLine SC 1256).** He further submits that since consortium is awarded, claimants are not entitled to loss of love and affection awarded by the Tribunal in a sum of Rs.27,500/-. The average of the income stated in the Income Tax Returns at Exhibit P10 and Exhibit P11 is to be

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taken as the income of the deceased. With these, he prays to allow the appeal filed by him.

8. Having heard learned counsels, the Court has perused the judgment, award and the trial Court records.

9. The accident occurred on 16.02.2023 at 09:15 p.m. Ex.P7 is the charge sheet and it is filed against the rider of the insured motorcycle for rash and negligent driving for offences under Section 279, 338 and 304A of IPC. As per column No.17 of the charge sheet, the rider of the motorcycle bearing registration No.KA-06/HK-7510 was proceeding from Nagavalli towards Hebbur on Tumkur Kunigal road and at that time, the said motorcycle dashed to the deceased who was crossing the road. Ex.P3 is the spot mahazar enclosed with the spot sketch. The accident occurred on the left side of the road on which the rider of the motorcycle was proceeding and it is near a cross road. In the said sketch and mahazar there is mention that there are tire marks on the road to the extent of 10

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meters at the spot. The said tire marks clearly indicate that the rider of the motorcycle applied brake in order to avoid accident. In spite of that, he dashed to the deceased who was crossing the road. Considering the said aspect and that the accident has taken place near the crossroad, the Tribunal has rightly held that the deceased has also contributed to the accident and assessed his contributing negligence at 20%.

10. The deceased is stated to be a driver and doing business. Exhibit P10 and Exhibit P11 are the income tax returns filed by the deceased for the assessment year 2019-20 and 2020-2021. In view of decision of Hon'ble Apex Court in the case of ***Rashmirekha Tripathy(supra),*** the average of the income stated in the Income Tax Returns at Exhibit P10 and Exhibit P11 is to be taken as the income of the deceased. The income shown in Exhibit P10 is Rs.2,46,574/- and the income shown in Exhibit P11 is Rs.4,82,048/-. Therefore, the average yearly income

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comes to Rs.3,64,311/- (2,46,574 + 4,82,048= Rs.7,28,622/2= Rs.3,64,311/-). Accordingly, the loss of dependency is calculated as under:

Rs.3,64,311×13 = Rs.47,36,043/- (-) 1/4th = Rs.35,52,032/- + 25% (future prospects) = Rs.44,40,040/-.

11. The Tribunal has awarded consortium, funeral expenses and transportation of dead body taking escalation at 10%. The accident occurred after 06 years of the decision of Hon'ble Apex Court in the case of ***National Insurance Co.Ltd., Vs Pranay Sethi and Ors***[1] and therefore, the escalation is to be taken at 20% on conventional heads. Claimants are wife, two children and parents of the deceased and all are entitled to consortium in a sum of Rs.40,000/- each with 20% escalation. Therefore, the claimants are entitled to loss of consortium in a sum of Rs.2,40,000/- (Rs.48,000/- x 5) as against

[1] In AIR 2017 SC 5157

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Rs.2,20,000/- as awarded by the Tribunal. In view of award of loss of consortium, claimants are not entitled to loss of love and affection awarded by the Tribunal in a sum of Rs.27,500/-. Claimants are also entitled to funeral expenses of Rs.18,000/- and transportation of dead body of Rs.18,000/-.

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

Sl. No.	**Particulars**	**Amount**
1.	Loss of dependency	Rs. 44,40,040/-
2.	Loss of consortium	Rs. 2,40,000/-
3.	Loss of estate	Rs. 18,000/-
4.	Funeral expenses	Rs. 18,000/-
	Total	**Rs. 47,16,040/-**

Since the contributory negligence of the deceased is assessed at 20%, the claimants are entitled to 80% of the compensation assessed. Therefore, 80% of Rs.47,16,040/- comes to Rs.37,72,832/-. Thus, the claimants are entitled to a total compensation of Rs.37,72,832/-, as against Rs.49,24,368/- awarded by the Tribunal, with interest at

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the rate of 6% per annum from the date of petition till realization.

13. In view of above, the following

ORDER

i) Both appeals are ***allowed in part.***

ii) Claimants are entitled to total compensation of Rs.37,72,832/- as against Rs.49,24,368/- as awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till realization.

iii) The Insurer (respondent No.2 before the Tribunal) shall deposit the said compensation with interest before the Tribunal within a period of 06 weeks from this day, including the amount already deposited.

iv) The share of compensation in the compensation awarded, order of deposit and release as passed by the Tribunal remained unaltered.

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v) The amount in deposit is ordered to be transmitted to the Tribunal.

vi) In view of death of appellant No.5/claimant No.5, his share is to be allotted to the appellant No. 4/claimant No.4.

vii) Appellant Nos.1 to 4 are entitled to share in the compensation in the ratio of 40:25:25:10.

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(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP/KLV
List No.: 1 Sl No.: 37
Ct.sm