HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.4164/2019 (MV-D)

BETWEEN:

1. SMT. SHIVAMMA
   W/O LATE MALLAPPA
   AGED ABOUT 56 YEARS
   R/AT TEMPLE STREET
   KARAGUNDA VILLAGE
   JAVAGAL HOBLI
   ARSIKERE TALUK - 573 103.

2. SMT. LATHAMANI
   D/O MALLAPPA
   AGED ABOUT 41 YEARS
   R/AT BYRANAYAKANAHALLI VILLAGE
   HONNAVALLI HOBLI
   TIPTUR TALUK
   TUMKUR DISTRICT.

3. SMT. MALLAMMA
   W/O MALLAPPA
   AGED ABOUT 36 YEARS
   R/AT JYOTHINAGARA
   HIREAMANGALUR
   CHIKKAMAGALUR DISTRICT.

   ALL ARE PRESENTLY R/AT
   RENUKA NILAYA
   C/O LATE SHANTHAPPA
   AGRAHARA EXTENSION
   BEHIND KEB OFFICE
   ARSIKERE TALUK - 573 103
   HASSAN DISTRICT.

...APPELLANTS

(BY SRI. JAGADEESH H.T. ADV.,)

Digitally signed by RUPA V
Location: HIGH COURT OF KARNATAKA

AND:

1. E.K. KHADER HAJE
   R/AT #350, 1ST STAGE
   BINNAMANGAL
   INDIRANAGAR
   BANGALORE - 560 038.

2. UNITED INDIA INSURANCE CO. LTD..
   R/AT #487/1, CMH ROAD
   INDRANAGAR, 1ST STAGE
   BANGALORE - 560 038
   REP BY THE MANAGER
   UNITED INDIA INSURANCE CO., LTD.,
   SUBASH CHOWK, 1ST FLOOR
   HASSAN - 573 201.

…RESPONDENTS

(BY SRI. B.C. SEETHARAM RAO, ADV., FOR R2
V/O/DTD:04.01.2024, NOTICE TO R1 D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 01.04.2019 PASSED IN MVC NO.242/2018 ON THE FILE OF THE SENIOR CIVIL JUDGE AND AMACT, ARSIKERE, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL JUDGMENT

This appeal is filed by the claimants seeking enhancement of compensation being aggrieved by the judgment and award dated 01.04.2019 passed in MVC.No.242/2018 by the Senior Civil Judge & AMACT, Arsikere, (for short, 'Tribunal').

2. Heard Sri.Jagadeesh H.T., learned counsel for the appellant and Sri.B.C.Seetharam Rao, learned counsel appearing for the respondent-Insurance Company.

3. This appeal is filed mainly on the ground that the income assessed by the Tribunal is on the lower side and the Tribunal has not awarded any compensation under the head of loss of future prospects. It is to be noticed that the claim petition is filed by the wife and two daughters of deceased Mallappa seeking for compensation on the ground that deceased Mallappa met with a road accident on 15.08.2016 and succumbed to the injuries. It is averred that the deceased was an agriculturist and also

doing milk vending business and used to earn Rs.50,000/- per month. However, no proof of income is produced. Hence, his income is notionally assessed at Rs.9,500/- per month by placing reliance on the notional income chart prepared by the KSLSA.

4. At para 18 of its judgment, the Tribunal considering the age of the deceased as 60 years applied 9 as the multiplier and awarded compensation. Learned counsel for the respondent-Insurance Company submits that as per the Aadhaar Card, the age of the deceased would be more than 62 years, hence the applicable multiplier would be 7 the also the claimants would not be entitled to addition of any compensation under the head of loss of future prospects. In my considered view the said contention is required to be rejected as the Tribunal in para 18 of its judgment, on appreciation of the evidence, has come to the conclusion that deceased was aged about 60 years and the said finding is on appreciation of the oral and documentary evidence, hence, in the absence of any

appeal by the Insurance Company, the age of the deceased is required to be considered as 60 years. Hence, in my considered view considering the age as 60 years, the claimants would be entitled to 10% of the assessed income under the head of loss of future prospects of the deceased. The claim petition is filed by the wife and daughters, if the wife alone is considered as a dependent as the deceased was married, the appropriate deduction would be 1/3rd and not 1/2. Hence, the compensation under the head of loss of dependency is re-assessed as under:

Rs.9,500 + 10% x 12 x 9 - 1/3 = ***Rs.7,52,400/-.***

5. The claimants being the wife and daughters of the deceased Mallappa, are entitled to the compensation under the head of loss of consortium at **Rs.44,000/- each** including 10% escalation. The appellants-claimants would be entitled to a sum of **Rs.16,500/-** under the head of 'loss of estate' and **Rs.16,500/-** under the head of 'funeral expenses & transportation of dead body'

including 10% escalation. Thus, in all, the appellants-claimants shall be entitled to modified compensation under the following heads:

HEADS	AMOUNT (in Rs.)
Loss of estate	16,500
Funeral expenses and transportation of dead body	16,500
Loss of consortium (Rs.44,000 x 3)	1,32,000
Loss of dependency	7,52,400
Total	**9,17,400**

Thus, the claimants shall be entitled to a total compensation of ***Rs.9*,17,400/-** as against Rs.5,47,000/- awarded by the Tribunal.

6. In the result, this Court proceeds to pass the following:

ORDER

a) Appeal is ***allowed in part***.

b) The impugned judgment and award of the Tribunal is modified to an extent that the claimants would be entitled to total compensation of **Rs.*9*,17,400/-** as

against Rs.5,47,000/- awarded by the Tribunal.

c) The compensation amount shall carry interest at the rate of 6% per annum from the date of petition till the date of payment.

d) The respondent-Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of certified copy of this judgment.

e) The apportionment, deposit and disbursement shall be made as per award of the Tribunal.

f) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 1 Sl No.: 24