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.4505 OF 2020
C/W
MISCELLANEOUS FIRST APPEAL NO.6056 OF 2021 (MV-D)

IN MFA No.4505/2020

BETWEEN:

M/S. ROYAL SUNDARAM GENERAL
INSURANCE CO. LTD.,
(FORMERLY KNOWN AS ROYAL SUNDARAM
ALLIANCE INSURANCE CO., LTD.,)
PRESENTLY HAVING ITS
DIVISIONAL OFFICE AT NO.30
3RD FLOOR, JNR CITY CENTER
RAJA RAM MOHAN ROY ROAD
SAMPANGIRAMA NAGAR
BANGALORE 560 027
REPRESENTED BY MANGER

...APPELLANT

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

(BY SRI: RAVI S. SAMPRATHI, ADVOCATE)

AND:

1. SMT. KIRAN DEVI
   W/O LATE RAMESH YADAV
   AGED ABOUT 36 YEARS

2. KUM. POOJA KUMARI
   D/O LATE RAMESH YADAV
   AGED ABOUT 16 YEARS

3. MASTER PRINCE KUMAR
S/O LATE RAMESH YADAV
AGED ABOUT 13 YEARS

4. KUM. KUSHI KUMAR
D/O LATE RAMESH YADAV
AGED ABOUT 10 YEARS

5. KUM. ALKA KUMARI
D/O LATE RAMESH YADAV
AGED ABOUT 07 YEARS

RESPONDENT NOS.2 TO 5 ARE
MINORS, REPRESENTED BY
NATURAL GUARDIAN
AND MOTHER RESPONDENT NO.1

6. SRI. VISHWANATH YADAV
S/O LATE SURAJ YADAV
AGED ABOUT 74 YEARS

7. SMT. GHANGHARI DEVI
W/O VISHWANATH YADAV
AGED ABOUT 71 YEARS
SINCE DEAD REPRESENTED BY HER LRs

7(A). LAKSHMAN YADAV
S/O VISHWANATHA YADAV
AGED ABOUT 62 YEARS

7(B). SHEO SHANKAR YADAV
S/O VISHWANATHA YADAV
AGED ABOUT 58 YEARS

7(C). ASHHAYLAL YADAV
S/O VISHWANATHA YADAV
AGED ABOUT 58 YEARS

ALL ARE RESIDING AT
KENCHANAHALLI
NELAMANGALA TALUK
BENGALURU RURAL DISTRICT-562 123

NATIVE ADDRESS OF THE ABOVE
RESPONDENTS: DAMODARPUR (DITTO)
BHOJPUR, BIHAR-502 166

8. SRI. R. VIJAYAN
S/O RAJAMANI
MAJOR
NO. 15/27, SIVADI KATTUVALAVU
SIVAI PO, DHARAMAPURI DISTIRCT
TAMILNADU-636 807

…RESPONDENTS

(BY SRI: K V NAIK, ADVOCATE FOR R1 TO R6 & R7 (A TO C);
[R2 TO R5 ARE MINORS REP. BY R1];
R8 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 05.03.2020, PASSED IN MVC NO.342/2019, ON THE FILE OF THE IX ADDITIONAL SMALL CAUSES JUDGE AND ACMM, COURT OF SMALL CAUSES AND MEMBER, MACT-7, BENGALURU, AWARDING COMPENSATION OF RS.87,87,220/- ALONG WITH FUTURE INTEREST AT THE RATE OF 6 PERCENT P.A., FROM THE DATE OF PETITION TILL REALIZATION OF ENTIRE AMOUNT.

IN MFA NO.6056/2021

BETWEEN:

1. SMT. KIRAN DEVI
W/O LATE RAMESH YADAV
AGED ABOUT 37 YEARS

2. KUMARI. POOJA KUMARI
D/O LATE RAMESH YADAV
AGED ABOUT 17 YEARS

3. MASTER PRINCE KUMAR
S/O LATE RAMESH YADAV
AGED ABOUT 14 YEARS

4. KUMARI. KUSHI KUMAR
D/O LATE RAMESH YADAV
AGED ABOUT 11 YEARS

5. KUMARI. ALKA KUMARI
D/O LATE RAMESH YADAV
AGED ABOUT 08 YEARS

(SINCE THE APPELLANT NOS.2, 3, 4 & 5 ARE MINORS, THEY ARE REP. BY THEIR MOTHER SMT. KIRAN DEVI)

6. SRI. VISHWANATH YADAV
S/O LATE SURAJ YADAV
AGED ABOUT 75 YEARS

7. SMT. GHANGHARI DEVI
SINCE DEAD BY HER LRs

7(A). LAKSHMAN YADAV
S/O VISHWANATHA YADAV
AGED ABOUT 62 YEARS
R/AT DAMODHARPURA (DITTO)
BHOJPUR, BIHAR-502 166

7(B). SRI. SHEO SHANKAR YADAV
S/O VISHWANATHA YADAV
AGED ABOUT 58 YEARS
R/AT DAMODHARPURA (DITTO)
BHOJPUR, BIHAR-502 166

7(C). SRI. ASKHAYLAL YADAV
S/O VISHWANATHA YADAV
AGED ABOUT 52 YEARS
R/AT DAMODHARPURA (DITTO)
BHOJPUR, BIHAR-502 166

ALL ARE RESIDING AT
KENCHANAHALLI

NELAMANGALA TALUK
BENGALURU RURAL DISTRICT-562 123

...APPELLANTS

(BY SRI: K V NAIK, ADVOCATE)

AND:

1. ROYAL SUNDARAM ALLIANZ
INSURANCE CO. LTD
NO.132, BALAJI SOVEREIGN
2ND FLOOR, BRIGADE ROAD
NEAR BRIGADE TOWERS
BENGALURU-560 025
REP. BY ITS MANAGER

2. SRI. R. VIJAYAN
S/O RAJAMANI
NO. 15/27, SIVADI KATTUVALAVU
SIVAI PO, DHARMAPURI DISTIRCT
TAMILNADU-636 807

...RESPONDENTS

(BY SRI. RAVI S. SAMPRATHI, ADVOCATE FOR R1;
VIDE ORDER DATED 23.07.2026, NOTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 05.03.2020 PASSED IN MVC NO.342/2018 ON THE FILE OF THE IX ADDITIONAL SMALL CAUSES JUDGE AND ACMM, COURT OF SMALL CAUSES, MEMBER, MACT-7, BENGALURU (SCCH-7), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THESE APPEALS, 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.4505/2020 is filed by the insurer challenging the judgment and award dated 05.03.2020 in MVC.No.342/2019 passed by IX Additional Small Causes and Addl. MACT, Bangalore (SCCH-7). The said appeal is only confined to challenge to the quantum of compensation awarded by the Tribunal.

MFA.No.6056/2021 is filed by the claimants being not satisfied with the compensation awarded by the Tribunal in the impugned judgment and award and the prayer is for enhancement of compensation.

2. With the consent of learned counsels appearing for the respective parties, both the appeals are heard and considered together by this common judgment.

3. The facts leading to the claimants approaching the MACT are that, on 01.12.2018 Mr.Ramesh Yadav who

is the husband of the first claimant was proceeding in a motor bike bearing registration No.KA-52-J-4267 along with his daughter-claimant No.2. Claimant No.2 was the pillion rider. Near KMC Glass Factory at Tumkur Road, they met with an accident on account of rash and negligent driving by the driver of lorry bearing registration No.TN-29-BC-7701. Due to the serious impact of the injuries, Mr.Ramesh Yadav succumbed to the injuries at the accident spot.

4. The wife, children and parents of the deceased have approached the Motor Accident Claims Tribunal, Bangalore, seeking compensation of Rs.3 Crores for the death of Mr.Ramesh Yadav.

5. The claim of the claimants before the Tribunal was that Mr.Ramesh Yadav was a businessman and was earning Rs.30,00,000/- per annum. In support of their claim, the documents at Ex.P.14 to Ex.P.19 were produced. Ex.P.15 is the registration certificate of establishment, Ex.P.16 is the agreement, Ex.P.17 is the income tax returns for the years 2014-2015 to 2019-2020.

Claimant No.1 was examined as P.W.1. P.W.7 who is the Manager of Kavi Protein and Feeds Private Limited was examined to establish that the deceased Mr.Ramesh Yadav was providing man power and was a labour contractor of the said Company. The agreement between the Company and Mr.Ramesh Yadav were produced. The copies of the registration certificates, Bank statements and other related documents concerning the contract between the Company and Mr.Ramesh Yadav were produced.

6. Based on the oral and documentary evidence produced, the Tribunal by placing reliance on Ex.P.17-income tax returns for the year 2018-2019 considered the annual income after deduction of tax in a sum of Rs.5,81,150/-, which comes to Rs.48,429/- per month. Since, the deceased was aged 40 years 11 months as on the date of the accident, the Tribunal has added future prospects at 25% of the income and thus, the total income of the deceased was considered at Rs.60,536/- (Rs.48,429/- + Rs.12,107/-). Accordingly, the Tribunal has calculated the loss of dependency at Rs.87,17,220/-

(Rs.60,536/- x 1/5 = Rs.48,429/- x 12 x 15). In addition, the Tribunal has awarded a sum of Rs.15,000/- under the head loss of estate, Rs.15,000/- under the head funeral, obsequies ceremony and conveyance and Rs.40,000/- is awarded under the head loss of consortium. In all, the Tribunal has awarded compensation of Rs.87,87,220/-.

7. We have heard the learned counsel for the appellants/claimants in both the appeals and learned counsel appearing for the Insurer.

8. It is the submission of Sri Ravi S.Samprathi, learned counsel appearing for the Insurer that the Tribunal has seriously erred in considering the gross income of the deceased as reflected in the income tax return for the year 2018-19. However, the average income of the deceased preceding 3 years should have been considered.

9. In support of the said contention, the learned counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of ***Rashmirekha Tripathy and Another Vs. The Branch Manager (Legal Claims),***

Sriram General Insurance Company Limited and Others[1]*.* The learned counsel takes us through paragraph Nos.19 & 20 of the said judgment, which reads as follows:

> *"19. When it comes to self-employed/individuals carrying out their own business, in our view, the average of the income specified in the ITRs of up to the previous three years is to be taken as a reference point for assessment of annual income from their business. There may also be a scenario where only one or two ITRs have been filed. Given such scenarios and the fluctuation of income in these professions, surrounding circumstances are also to be taken into consideration. These would include:*
>
> *a) The nature of the business (including geographic location, category etc.);*
> *b) Growth pattern of the business and impact of death on the business;*
> *c) Potential growth of business (for instance certain businesses are capital intensive at the outset and are profitable at scale/in the future);*
> *d) Negative income (certain businesses may require losses in the initial years, which may not reflect the true financial standing); and*
> *e) Any other relevant factor relating to the business.*
>
> *20. The date when the ITRs are filed would also become a relevant consideration, as there may be scenarios where inflated income is showcased after death/injury. In these circumstances, the surrounding factors of the business would become more relevant. However, if sufficiently supported by financial statements, such ITRs may also be taken into consideration."*

10. On the other hand, Sri. K.V.Naik, learned counsel appearing for the claimants submits that the income tax returns for the assessment year 2018-19

[1] 2026 SCC Online SC 1256

discloses the gross annual income of the deceased in a sum of Rs.6,27,181/- and after standard deductions, the total income was shown as Rs.5,81,150/- and the total tax payable was only Rs.29,592/-, however, the excess tax amount of Rs.50,122/- was paid and thus, the deceased assessee has received refund Rs.20,530/- and accordingly, his submission is that the taxable income should be Rs.6,01,680/- (Rs.5,81,150 + Rs.20,530/-).

11. It is his further submission that the compensation awarded under the head loss of consortium in a sum of Rs.40,000/- in respect of seven claimants is grossly insufficient and contrary to the judgments of the Hon'ble Supreme Court in the cases of ***National Insurance Co. Vs. Pranaya Sethi and Others***[2] and ***Magma General Insurance Co. Ltd., Vs. Nanuram @ Chuhruram And Others***[3] and thus, he concludes his submission requesting this Court to reassess and enhance the compensation.

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[2] (2017) 16 SCC 680
[3] (2018) 18 SCC 130

12. Having heard the submissions of the learned counsel for the appellants in both the appeals and considering the contentions advanced, we are of the opinion that no reassessment of compensation under the head loss of dependency is required in as much as the finding and calculation made by the Tribunal at paragraph Nos.22 to 24 is just and proper requiring no interference.

13. The submission of the learned counsel for the insurer is that the average of the income tax returns filed preceding 3 years of the date of accident is to be considered in the light of the judgment of the Hon'ble Supreme Court referred to supra is not seriously appealed to us. In as much as the Hon'ble Supreme Court has observed in paragraph No.19 of ***Rashmirekha Tripathy'***s case (stated supra) that in cases where only one or two ITRs are filed, the fluctuation of income in the profession, surrounding circumstances have to be taken into consideration for arriving at the loss of dependency. The Hon'ble Supreme Court has also noticed that the nature of business, growth pattern of the business, potential growth

of the business, negative income and other relevant factors relating to business shall be considered.

14. In the present case, on perusal of Ex.P.17-income tax returns, we find that the claimants have produced the income tax returns from the assessment year 2014-2015 till assessment year 2019-2020. The graph of earning of the deceased is upward and there is no fluctuation of the income earned by the deceased. Taking note of the observations of the Hon'ble Supreme Court in the aforesaid judgment, it cannot be said that there is fluctuation in the income, therefore, ITRs of preceding 3 years to be considered. In fact, ITRs of the assessment year 2019-2020, which was filed after the death of Mr.Ramesh Yadav discloses that the income of Rs.6,29,710/-, which was in respect of the year at which Mr.Ramesh Yadav died. Since, there is no fluctuation in the income of the deceased, the contention of the insurer that the ITRs of preceding 3 years should be taken for assessing the loss of dependency is liable to be rejected. Accordingly, we hold that the Tribunal has not committed

any error in considering the income as disclosed in the returns filed for the assessment year 2018-2019. Consequently, we also reject the contention of the claimants that the claimants are entitled for reassessment of compensation for the loss of dependency. We find that the loss of dependency assessed by the Tribunal is just and proper and adequate.

15. We see considerable force in the submission of the learned counsel for the claimants that the Tribunal has grossly erred in awarding compensation of Rs.40,000/- towards loss of consortium to seven claimants. Claimant No.1 is the wife, claimant Nos.2 to 5 are the children, claimant No.6 is the father and claimant No.7 is the mother. It is brought to our notice that claimant No.7 - Smt.Ghanghari Devi died during the pendency of this appeal. Therefore, it is only claimant Nos.1 to 6 who are entitled for compensation under the head loss of consortium. The accident is of the year 2018. In terms of the judgment of the Hon'ble Supreme Court in ***Pranaya Sethi***'s case, the loss of consortium is required to be

awarded in respect of each of the claimants at Rs.40,000/-. Therefore, the claimants are entitled for compensation of ***Rs.2,40,000/-*** (Rs.40,000/- x 6 claimants). The compensation awarded under the heads loss of estate and loss of funeral expenses is just and proper requiring no interference.

16. In the result:

(i) MFA.No.4505/2020 filed by the insurer is ***dismissed***.

(ii) MFA.No.6056/2021 filed by the claimants is ***allowed-in-part***.

(iii) The impugned judgment and award dated 05.03.2020 in MVC.No.342/2019 passed by IX Additional Small Causes and Addl. MACT, Bangalore (SCCH-7), is modified by granting additional compensation of Rs.2,00,000/-. The entitlement, apportionment, deposits and release of compensation ordered by the Tribunal is undisturbed.

(iv) On account of grant of additional compensation of Rs.2,00,000/-, it is needless to observe that the claimant Nos.1 to 6 are equally entitled for

the compensation of Rs.40,000/- each towards loss of consortium.

(v) It may not be out of context to clarify here that an account of death of claimant No.7, claimant No.6 is entitled for the compensation awarded in favour of deceased claimant No.7.

(vi) No order as to costs.

Sd/-
(ANU SIVARAMAN)
JUDGE

Sd/-
(T.P.VIVEKANANDA)
JUDGE

PB