NC: 2026:KHC:21672
MFA No. 3677 of 2024

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO. 3677 OF 2024 (MV-D)

BETWEEN:

CHOLAMANDALAM MS GENERAL
INSURANCE COMPANY LIMITED
REPRESENTED BY ITS BRANCH MANAGER,
D.O 9/1, ULSOOR ROAD,
BENGALURU-560 002
NOW AT GOLDEN HEIGHTS COMPLEX,
59TH CROSS, INDUSTRIAL SUBURB,
RAJAJINAGAR, 4TH BLOCK,
BENGALURU-560 010
BY ITS MANAGER T P CLAIMS.

...APPELLANT

(BY SRI. LINGARAJ H S., ADVOCATE)

AND:

1. KUMARA N S
   NOW AGED ABOUT 36 YEARS,
   S/O LATE HONNAPPA

2. BASAVARAJU
   NOW AGED ABOUT 33 YEARS,
   S/O LATE HONNAPPA

3. NAGARATHNAMMA
   NOW AGED ABOUT 44 YEARS,
   D/O LATE HONNAPPA

   ALL ARE R/AT MATA VILLAGE,
   THALEKOPPA POST, HAGALAWADI HOBLI,
   GUBBI TALUK, TUMAKURU DISTRICT,

Digitally signed by PADMASHREE SHEKHAR DESAI
Location: High Court of Karnataka

NOW R/AT 1ST CROSS, SIRAGATE,
TUMAKURU CITY.

4. CHANDRAMMA
NOW AGED ABOUT 38 YEARS,
W/O RANGANATHAPPA,
D/O LATE HONNAPPA,
R/A DASAPPANAHALLI VILLAGE,
ANKASANDRA POST, CHELUR HOBLI,
GUBBI TALUK, TUMAKURU DISTRICT.

5. THAYAMMA
NOW AGED ABOUT 34 YEARS,
W/O PAPANNA,
D/O LATE HONNAPPA,
R/O HOSABIJINABELLA VILLAGE,
GOPALADEVARA POST, SIRA TALUK,
TUMAKURU DISTRICT.

6. SATHEESH
NOW AGED ABOUT 44 YEARS,
S/OMALLIKARJUNAIAH,
R/O KALLISHETTI VILLAGE, HUNJUNAL POST,
SIRA TALUK, TUMAKURU DISTRICT.

…RESPONDENTS

(R1 TO R6 SERVED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 04.10.2023 PASSED IN MVC NO. 572/2020 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, MACT, GUBBI, AWARDING COMPENSATION OF RS.13,74,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL DEPOSIT.

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

CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

This appeal is filed by the appellant/Insurance under Section 173(1) of Motor Vehicles Act, 1988 challenging the judgment and award dated 04.10.2023 passed in MVC No. 572/2020 on the file of the Additional Senior Civil Judge And JMFC, MACT, Gubbi.

2. Heard the arguments of the learned counsel for the appellant. In spite of service of notice, learned counsel for respondent did not turn up and remained ex-parte. The ranks of the parties are retained as per tribunal for the sake of convenience.

3. Rangamma, wife of late Honnapa, met with an accident on 25.04.2020 and died subsequently. Her major sons and daughters filed petition claiming compensation of Rs.20,00,000/-. The Tribunal considering the entire evidence on record granted an amount of Rs.13,74,000/- along with interest at the rate of 6% p.a.

4. Aggrieved by the said order, Insurance Company preferred this appeal and mainly contended that the

Tribunal assessed the age of Rangamma as 46 years relying upon the post mortem report. But petitioner No.3, her daughter is aged 40 years as per the claim petition and thus the Tribunal erred in taking her age as 46 years. There is no other evidence before the Tribunal to indicate the real age of the deceased. Though the claimants produced their Aadhar cards, they have not produced any documentary proof regarding the age of the deceased. Considering her age, the income taken by the Tribunal is not on proper basis and none of the claimants are dependents on the deceased for their livelihood. Therefore, the tribunal erred in appreciating the facts properly, hence the Insurance Company filed this appeal to modify the award.

5. The petitioners/claimants are the children and their ages are about 32, 29, 40, 34 and 30 years respectively. Therefore, learned counsel for respondent argued before the Tribunal that the age of the deceased is more than 65 years. But the Tribunal without considering

the argument relied upon P.M., report in which her age was mentioned as 46 years. When the deceased was having a daughter aged 40 years, under no circumstances the age of the deceased be 46 years. Therefore, this court finds it reasonable to take the age of the deceased as 65 years and the relevant multiplier is '7'. Though it is stated by the claimants that she was doing agricultural work and earning Rs.2,00,000/- p.a., they have not filed any income proof. Tribunal has considered her income as Rs.11,500/- p.m., based on the minimum wages as per the Minimum Wages Act prescribing the wages for the period 11.12.2019 to 11.10.2021 as per Notification No. KAE 228-LWA-2018 dated 11.12.2019, with effect from 11.12.2019 and the said income is confirmed. As the deceased was more than 60 years, the claimants are not entitled for any future prospects.

6. Learned counsel for the appellant relied upon the citation reported in so and so between so and so ***AIR 2025 SCC 2929*** in case of ***Deep Shikha and Anr Vs***

National Insurance Company ltd., and Ors., in which it was held as follows,

> *"Though married daughter may be considered a legal representative, she will not be eligible for loss of dependency compensation unless it is proven by her that she was financially dependent on the deceased. Since claimant married daughter had failed to prove that she was being financially supported by her mother post marriage, she could not be said to be dependent of her mother - As legal representative of deceased, claimant married daughter was held to be entitled only to compensation envisaged in Section 140 of the Motor Vehicles Act, as liability under same does not cease to exist in the absence of dependency."*

and in another case in ***ILR 2004 KAR 3268*** in case of ***Manavalagan Vs Krishnamurthy and Others***

> *"Law contemplates two categories of damages on the death of a person - The first is the pecuniary loss sustained by the dependent members of his family-The second is the loss caused to the estate of the deceased-In the first category, the action is brought by the legal representatives, as trustees for the dependents beneficially entitled - In the second category, the action is brought by the legal representatives, on behalf of the estate of the deceased and the compensation, when recovered, forms part of the assets of the estate.*

IF THE CLAIMANT LEGAL HEIR IS NOTA DEPENDANT WHAT WOULD BE THE POSITION HELD - Obviously, the question of awarding any amount under the head of loss of dependency would not arise, as there was no financial dependency."

And further argued that children who filed claim petition are major sons and married daughters, except PW3, who is unmarried, others are not residing with her. They are not financially dependent on her. Except the evidence of PW1, there is no evidence to show that the children are dependent on the deceased. Only petitioner No.3 who is examined as PW1 stated that they are depending on her income and there is no other evidence to show that they are financially dependent on the income of the deceased. Therefore, this Court finds it reasonable to take 25% of the salary considered by the tribunal for the purpose of calculation of loss of estate i.,e Rs.11,500 = Rs.2875/-. Hence, loss of dependency is calculated as Rs.2875 x 12 x 7 = **Rs.2,41,500/-.** Further, she is not entitled for future prospects and personal expenses need not be deducted.

Each of the claimants are entitled for an amount of **Rs.44000/-** towards parental consortium and they are also entitled for **Rs.33,000/-** under the Convention heads.

7. Thus in all, components awarded by this court are as below,

Sl.Nos.	**Particulars**	**Amount in Rs.**
1	Loss of dependency	2,41,500
2	Towards loss of consortium (5 claimants)	2,20,000
3	Conventional heads	33,000
	Total	**4,94,500**

Hence, the compensation granted by tribunal is modified from Rs.13,74,000/- to **Rs.4,94,500**/- along with interest at the rate of 6% p.a.

8. In the result, the following order is passed:

ORDER

i. Appeal is ***allowed*** in part.

ii. The judgment and award dated 04.10.2023 passed in MVC No. 572/2020 on the file of the Additional Senior Civil Judge And JMFC, MACT, Gubbi, is modified.

iii. The claimants are entitled for a sum of **Rs.4,94,500/-** along with interest at 6% p.a., from the date of petition till the date of realization, instead of Rs.13,74,000/- granted by the tribunal.

iv. Respondent/Insurance Company has already deposited has already deposited 50% of the award amount i.e., Rs.13,74,000 before the tribunal. Therefore, they are entitled for refund of excess compensation, along with the interest at the rate of 6%.

v. On such deposit, petitioner No.3/unmarried daughter alone is permitted to withdraw Rs.4,94,500/- along with interest accrued on the same.

vi. On 20.11.2024, the delay of 150 days is condoned by this Court on the condition that the claimant will not be entitled for the interest in case of enhancement. Hence, Insurance Company is not liable to pay the interest for the delay period.

Sd/-
(P SREE SUDHA)
JUDGE

AKV
CT:NR
List No.: 1 Sl No.: 77