HC-KAR

NC: 2026:KHC:21031
MFA No. 4896 of 2019
C/W MFA.CROB No. 20 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO. 4896 OF 2019 (MV-I)

C/W

MFA CROSS OBJECTION NO. 20 OF 2022 (MV-D)

IN MFA No. 4896/2019

BETWEEN:

1. SMT. AYISHA,
   W/O. LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 30 YEARS.

2. FATHIMATHUL ADILA,
   D/O. LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 9 YEARS.

3. MOHAMMED ADIL,
   S/O. LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 8 YEARS.

4. FATHMATH AMANA,
   D/O. LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 6 YEARS.

5. FATHIMATH AMERA,
   D/O. LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 3 YEARS.

6. FATHIMATH AFEEFA,
   D/O. LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 2 YEARS 5 MONTHS.

Digitally signed by AASREEFA PARVEEN
Location: HIGH COURT OF KARNATAKA

APPELLANTS NO. 2 TO 6 ARE MINORS AND
ARE REP. BY THEIR NATURAL GUARDIAN
MOTHER APPELANT NO. 1.

7. MR. AHAMMED,
S/O. ABUBAKKAR,
AGED ABOUT 64 YEARS.

8. ALIMAMMA,
W/O. AHAMMED,
AGED ABOUT 51 YEARS.

ALL ARE R/AT DOOR NO. 1-71-2,
SAAG HALEYANGADY,
MANGALORE TALUK, D.K. DIST.- 575 012.

…APPELLANTS

(BY SRI RAVISHANKAR SHASTRY G, ADVOCATE)

AND:

1. MR. VASANTH KUMAR K,
S/O. MUTHAPPA GOWDA K,
AGED ABOUT 42 YEARS,
R/AT KUMARA KRIPA,
KRISHNA NAGAR, PANJA,
SULLIA TALUK, D.K. DISTRICT 574 232.

2. MR. PRASHANTHA,
S/O. CHANDRA POOJARY,
AGED ABOUT 26 YEARS,
R/AT H NO. 7-121-A,
NEAR KADAVINA BAGILUY,
HEJAMADIKODI POST,
UDUPI 576 101.

3. THE UNITED INDIA INSURANCE CO. LTD.,
SURATHKAL, D O 2ND FLOOR,

RAMABHAVAN COMPLEX,
KODIALBAIL, MANGALORE,
D.K. DISTRICT-575 003.
REP. BY ITS DIVISIONAL MANAGER,

4. NEBISA,
W/O. LATE MAIYADIN,
AGED ABOUT 37 YEARS.

5. MOHAMMAD UQMUL HAKIM
S/O. LATE MAIYADIN,
AGED ABOUT 15 YEARS.

6. FATHIMATHUL FARZANA,
D/O. LATE MAIYADIN,
AGED ABOUT 13 YEARS.

RESPONDENTS NO. 5 AND 6 ARE
MINORS REP. BY THEIR NEXT FRIEND MOTHER -
RESPONDNET NO.4.

ALL ARE R/AT nO.5-51/(12),
AMEMAR HOUSE, PADU VILLAGE,
BANTWAL TALUK, DK DISTRICT-574 219.

…RESPONDENTS

(BY SRI B.A RAMAKRISHNA, ADVOCATE FOR R-3;
SRI KRISHNAMURTHY.D, ADVOCATE FOR R-4 TO 6;
R-5 AND 6 ARE MINORS REP. BY MOTHER R-4;
R-1& 2 SERVED & UNREPRESENTED)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 18.08.2018 PASSED IN MVC NO. 121/2017 ON THE FILE OF THE MEMBER, MACT & I ADDITIONAL SENIOR CIVIL JUDGE, MANGALURU D.K, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA.CROB NO. 20/2022

BETWEEN:

THE UNITED INDIA INSURANCE CO. LTD.,
SURATHKAL D.O, 2ND FLOOR,
RAMABHAVANA COMPLEX,
KODIYALABAIL, MANGALURU-3,
BY ITS AUTHORISED SIGNATORY.

...PETITIONER

(BY SRI B A RAMAKRISHNA, ADVOCATE)

AND:

1. SMT. AYISHA,
   W/O LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 33 YEARS.

2. FATHIMATHUL ADILA,
   D/O.LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 12 YEARS.

3. MOHAMMED ADIL,
   S/O.LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 11 YEARS.

4. FATHIMATH AMANA,
   D/O.LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 9 YEARS.

5. FATHIMATH AMERA,
   D/O.LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 6 YEARS.

6. FATHIMATH AFEEFA,
   D/O.LATE MAYYADI @ MAYYADIN,
   AGED ABOUT 5 YEARS.

   APPELLANTS 2 TO 6 MINORS ARE
   REP. BY THEIR MOTHER & NATURAL

GUARDIAN SMT. AYISHA THE FIRST
APPELLANT IN THE APPEAL & FIRST RESPONDENT
IN CROB.

7. MR. AHAMMED,
S/O ABUBAKKAR,
AGED ABOUT 67 YEARS.

8. ALIMAMMA,
W/O AHAMMED,
AGED ABOUT 54 YEARS.

ALL ARE R/AT DOOR NO.1-71-2,
SAAG, HALEYANGADY,
MANGALORE TALUK, D.K.

9. MR. VASANTH KUMAR K,
S/O MUTHAPPA GOWDA K,
AGED ABOUT 45 YEARS,
R/AT KUMARA KRIPA, KRISHNA
NAGAR, PANJA, SULLIA TALUK,
D.K.DISTRICT.

10. MR. PRASHANTHA,
S/O CHANDRA POOJARY,
AGED ABOUT 29 YEARS,
R/AT H.NO.7-121-A,
NEAR KADIVANA BAGILU,
HEJAMADIKODI POST, UDUPI.

11. NEBISA,
AGED ABOUT 40 YEARS,
W/O. LATE MAIYADIN.

12. MOHAMMAD UQMUL HAKIM,
S/O LATE MAIYADIN,
AGED ABOUT 18 YEARS.

13. FATHIMATHUL FARZANA,
D/O LATE MAIYADIN,

AGED ABOUT 16 YEARS.

RESPONDENT NO.13 MINOR
REP. BY HER MOTHER AND NEXT FRIEND
SMT. NEBISA,THE IV RESPONDENT IN THE APPEAL & 11TH RESPONDENT IN THIS CROB.

ALL ARE R/AT NO.5-51/(12),
AMEMAR HOUSE, PADU VILLAGE,
BANTWAL TALUK D.K.

...RESPONDENTS

(BY SRI RAVISHANKAR SHASTRY, ADVOCATE FOR R-1 TO 8;
SRI KRISHNAMURTHY D, ADVOCATE FOR R-11 TO 13;
V/O DATED 18.06.2025, NOTICE TO R-9 & 10 IS DISPENSED WITH)

THIS MFA CROB. IS FILED U/O.41 RULE 22 R/W SEC.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 18.08.2018 PASSED IN MVC NO.121/2017 ON THE FILE OF THE I ADDITIONAL SENIOR CIVIL JUDGE, MEMBER, MACT, MANGALURU, D.K, AWARDING COMPENSATION OF RS.16,30,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION.

THIS APPEAL AND CROSS OBJECTION, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

ORAL JUDGMENT

MFA No.4896/2019 is filed by the claimants and MFA Crob No.20/2022 is filed by the United India Insurance Company Limited, Mangaluru challenging the judgment and award dated 18.08.2018 passed in MVC No.121/2017 by the Motor Accident Claims Tribunal, Mangaluru (hereinafter referred to as the 'Tribunal' for short).

2. Sri.Ravishankar Shastry.G, learned counsel appearing for the appellants/claimants submits that the parents, two wives and children of the deceased have filed a claim petition before the Tribunal seeking compensation of Rs.30,00,000/- with interest. It is submitted that the deceased was a fisherman by vocation and used to earn more than Rs.30,000/- per month and he was aged about 37 years. It is further submitted that the Tribunal without any reason assessed the income at Rs.12,000/- per month and seeks to re-assess the income appropriately by considering Ex.R10 to R13-original pass of the deceased

issued by Karavali Traditional Fishermen's Sangha. It is submitted that the appropriate deduction would be 1/5th of the income of the deceased towards the personal and living expenses and the claimants are entitled addition of 40% of the assessed income under the head of loss of future prospects. It is also submitted that the cross-objection filed by the insurance company is not maintainable, as the insurance company has satisfied the award. Hence, he seeks to allow the appeal and dismiss the cross objection.

3. Sri.B.A.Ramakrishna, learned counsel appearing for the cross-objector submits that the amount is deposited as per the award of the Tribunal. Hence, the insurance company has not deposited the statutory amount while filing the appeal. It is submitted that the claimants have failed to produce any evidence with regard to the income. Hence, the income of the deceased is required to be assessed at Rs.9,500/- per month by considering the notional income chart prepared by

Karnataka State Legal Services Authority and by deducting 1/5th towards the personal and living expenses. Hence, he seeks to allow the cross objection filed by the insurance company.

4. I have heard the arguments of the learned counsel for the appellants/claimants and learned counsel for the respondent/insurance company and meticulously perused the material available on record.

5. The material available on record indicates that on 02.11.2016, deceased Maiyadin was proceeding on motorcycle bearing registration number KA-19-EK-3846 and due to the negligent act of the rider of another motorcycle bearing registration number KA-21-J-2562, sustained grievous injuries, hence, succumbed to the injuries.

6. The claim petition is filed by the first wife and children of the deceased by arraying the second wife, her children and parents as a party to the proceedings. The

Tribunal recorded the evidence of the parties. Claimants examined PW1 to PW3, got marked Ex.P1 to Ex.P15. Smt.Ayisha, second wife of the deceased examined herself as RW.1 and got marked documentary evidence. The Tribunal awarded total compensation Rs.16,30,000/- with interest at the rate of 6% per annum by apportioning the compensation between the legal representatives of the deceased.

7. The contention of the appellant is that the deceased was 37 years and all the legal heirs were the dependents of the deceased and he used to earn minimum Rs.30,000/- per month. It is to be noticed that except oral evidence, no documentary evidence is placed before the Tribunal to substantiate the actual income of the deceased. The Tribunal taking note of the vocation of the deceased as per Ex.R10 to Ex.R13 has come to a conclusion that the income of the deceased is required to be assessed at Rs.12,000/- per month. In my considered view, the said finding is required to be accepted. It is also

to be taken note of the fact that as per the notional income chart prepared by Karnataka State Legal Services Authority, the notional income for the year 2016 would be Rs.9,500/- and the said notional income chart prepared is for the unskilled labour. In the case on hand, the deceased was a fisherman by vocation and concerned Society has issued pass to the deceased and they are placed before the Court. Considering the nature of vocation and keeping in mind the dependents of the deceased, I am of the considered view that the income assessed by the Tribunal at Rs.12,000/- is just and appropriate which does not call for any modification. The deceased was aged about 37 years. Hence, as per the law laid down by the Hon'ble Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and Others*** reported in ***(2017) 16 SCC 680***, the claimants would be entitled to an addition of 40% of the assessed income of the deceased under the head of loss of future prospects. The dependents of the deceased are 11 in number. Hence,

appropriate deduction towards the personal and living expense of the deceased would be 1/5th and appropriate multiplier would be '15'. Hence, the compensation under the head of loss of dependency would be as under:

Rs.12,000 + 40% X 12 X 15 - 1/5 = Rs.24,19,200/-

8. The dependents of the deceased are 11 in number i.e., the parents, 2 wives and children. Hence, each of the dependent would be entitled to consortium at the rate of Rs.40,000/- with 10% escalation which would be Rs.44,000 X 11 = Rs.4,84,000/-. The dependents also would be entitled to compensation under the head of loss of estate of Rs.15,000/- with 10% escalation that would be Rs.16,500/- and transportation of dead body and funeral expenses would be Rs.15,000/- with 10% escalation that would be Rs.16,500/-. The evidence on record indicates that the dependents have spent Rs.5,395/- towards the medical expenses of the deceased as is evident from Ex.R15. Hence, the dependants are entitled to compensation of Rs.5,395/- under the head of

medical expenses. The compensation is re-determined as under:

Sl. No	**Description**	**Amount**
1	Loss of dependency	Rs.24,19,200
2	Loss of consortium	Rs.4,84,000
3	Medical expenses	Rs.5395
4	Loss of estate	Rs.16,500
5	Transportation of dead body and funeral expenses	Rs.16,500
Total		**Rs.29,41,595**

9. For the aforementioned reasons, I proceed to pass the following:

ORDER

(i) MFA No.4896/2019 is ***allowed in part***.

(ii) MFA Crob No.20/2022 is ***dismissed***.

(iii) The impugned judgment and award of the Tribunal is modified to an extent that the dependents of the deceased would be

entitled to a total compensation of Rs.29,41,595/- as against Rs.16,30,000/- awarded by the Tribunal.

(iv) The enhanced compensation amount shall carry interest at the rate of 6% p.a. from the date of petition till the date of deposit.

(v) Respondent No.3-insurance company is directed to deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of 6(six) weeks from the date of receipt of certified copy of this judgment.

(vi) The apportionment, disbursement of the compensation and deposit shall be as per the Tribunal.

(vii) Registry to transmit the records forthwith to the Tribunal.

(viii) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

NS, List No.: 1 Sl No.: 8