CNR: KAHC010411862019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 6700 OF 2019 (MV-D)

BETWEEN:

1. SRI. NAGARAJU
   S/O. KAMBAIAH,
   AGED ABOUT 52 YEARS,

2. SMT. MAHADEVAMMA
   W/O. NAGARAJU,
   AGED ABOUT 47 YEARS,

   BOTH ARE R/AT
   YENTAGANAHALLI VILLAGE,
   NELAMANGALA TALUK,
   BENGALURU RURAL DISTRICT.

...APPELLANTS

(BY SRI. SUPREETH.B.P., ADVOCATE)

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Location: HIGH COURT OF KARNATAKA

AND:

1. CHOLAMANDALAM MS.GENERAL
   INSURANCE CO. LTD.,
   6TH FLOOR, NEAR SUJATHA THEATRE,
   GOLDEN HEIGHTS BUILDING,
   RAJAJINAGAR, BENGALURU-560 010,
   REP. BY ITS MANAGER.

2. MR. GANESH BABU BALASUBRAMANYA
   H-169, PILYAR KOIL STREET,
   MURAKAMBATTU, CHITTOR H.O.,

CHITTOR,
ANDHRA PRADESH-517 001.

…RESPONDENTS

(BY SRI. D.VIJAYAKUMAR., ADVOCATE FOR R1;
NOTICE TO R2-DISPENSED WITH V/O/DTD:26.09.2024)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 13/06/2019, PASSED IN MVC NO.4759/2018, ON THE FILE OF THE III ADDITIONAL JUDGE, COURT OF SMALL CAUSES AND MACT, BENGALURU (SCCH-18), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

1. The present appeal seeks to challenge an award dated 13.06.2019, passed by the III Additional Judge, Court of Small Causes And MACT, Bengaluru (SCCH-18), in O.S.No.4759/2018 [hereinafter referred to as the "Impugned Order"]. By the Impugned Award, the learned Tribunal had awarded a total compensation in a sum of Rs.18,18,560/-, along with interest at 8% per annum.

2. By an order dated 26.09.2024, notice to respondent no.2 / owner of the offending vehicle was dispensed with,

in view of the fact that the liability was fastened only on the respondent No.1 /Insurance Company.

3. Brief undisputed facts of the case are that the accident took place on 30.07.2018, when the deceased who was riding a bike bearing registration No.KA-52-E-311, was hit by a milk tanker bearing registration No.AP-03-TE-9779. It was the contention of the appellants/claimants that the driver of the offending milk tanker vehicle was driving the same in a rash and negligent manner and suddenly took left turn. As a result, the accident occurred and the deceased fell down and succumbed to injuries on the spot.

4. A claim petition under Section 166 of the Motor Vehicles Act 1988, [hereinafter referred to as the "MV Act"] was filed by the parents of the deceased. The claim petition was contested only by the insurance company by filing an objection as respondent No.1 denying the claim of the claimants. Respondent no. 2 / owner of the offending milk

tanker vehicle did not appear and was proceeded with ex parte.

5. Based on the pleadings, the following issues were framed by the learned Tribunal:

> *"1. Whether the petitioners prove that Sri.Manohar N. S/o.Nagaraju Y.K., died due to injuries sustained by him in a motor vehicle accident that was taken place on 30.07.2018 at about 2.30 p.m., near Lonko toll, on Nelamangala-Kunigal NH – 48 road, Bengaluru, involving Milk tanker bearing No.AP-03-TE-9779 belonging to 2nd respondent and the said vehicle insured with 1st respondent?*
>
> *2. Whether the petitioners prove that, the accident has mainly occurred due to the rash and negligent driving of the driver of the said vehicle?*
>
> *3. Whether the petitioners prove that, they are the only legal heirs and the dependents of deceased?*
>
> *4. Whether the petitioners are entitled for compensation as prayed? If so, at what rate and from whom?*
>
> *5. What order or award?"*

6. On behalf of the appellants/claimants, the father of the deceased examined himself as PW1 and 19 documents were marked from Exhibits-P1 to P19, including copy of the FIR, spot mahazar, rough sketch, IMV report, inquest report. The Managing Director of the employer of the

deceased was examined as PW2, who marked documents as Exhibits P20 to P22, which were the certificate of change of name, salary slip of the deceased Exhibit-P21 and the Attendance Register, Exhibit-P22. The respondent / insurance company produced one witness and also marked two documents as Exhibits-R1 and R2.

7. The learned Tribunal after examining the evidence found that the involvement of the offending vehicle and negligent driving was proved given the charge-sheet. On the basis of Exhibits P1 to P7 which is the FIR, Spot Sketch, Rough Sketch, IMV report, Inquest, PM report and the charge sheet, it was also found that the FIR and charge-sheet were not challenged by the respondent No.2.

8. On the compensation, since the deceased was 22 years and earning Rs.11,300/- per month as per the salary slip, Exhibit P12, the compensation towards loss of dependency was awarded in the following terms:

Rs.11,300 + 40% = Rs.15,820 – 50% =

Rs.7,910 x 12 x 18 = Rs.17,08,560/-

9. In addition, the amounts towards loss of consortium, transportation, etc., were awarded by the learned Tribunal in the following terms:

Sl.No.	Particulars	Amount (Rs.)
1	Towards loss of dependency	17,08,560/-
2	Towards loss of consortium	80,000/-
3	Towards transportation of dead body, funeral and obsequies ceremony expenses	15,000/-
4	Towards loss of estate	15,000/-
	TOTAL	**18,18,560/-**

10. Learned counsel for the appellants/claimants submit that he has only one ground of challenge i.e., the loss of dependency should have been awarded by taking the notional income for the year of the accident i.e., 2018.

11. Learned counsel for the respondent on the other hand submits that the appellants/claimants had produced a salary slip, Exhibit-P12, as well as the employer was examined and that there was a definite income of the

claimant. Thus, the notional income could not have been awarded to him.

12. Given the limited issue involved, this matter is taken up for hearing and disposal at the admission stage itself and with the consent of parties.

13. This Court has examined the record. It is not disputed by the appellants that the appellants/claimants produced the salary slip, as well as the employer was examined to prove the income of the deceased. Given these circumstances, this Court is unable to award the notional income since the income was already stood proved. However, given the pendency of this appeal, the appellants/claimants are entitled to escalation on the non-conventional heads. Accordingly, escalation of 20% is awarded to the appellants/claimants in the following terms:

Sl.No.	Particulars	Amount (Rs.)
1	Towards loss of dependency	17,08,560/-
2	Towards loss of consortium (Rs.80,000 + 20%)	96,000/-

3	Towards transportation of dead body, funeral and obsequies ceremony expenses (Rs.15,000 + 20%)	18,000/-
4	Towards loss of estate (Rs.15,000 + 20%)	18,000/-
	TOTAL	**18,40,560/-**

14. Hence, the appellants/claimants are entitled to a total compensation of **Rs.18,40,560/-** along with interest at the rate of 8% per annum from the date of petition till the date of realization.

15. Accordingly, the Court proceeds to pass the following directions:

ORDER

i) The appeal is ***allowed-in-part***.

ii) The Impugned Judgment and Award dated 13.06.2019, passed by the III Additional Judge, Court of Small Causes And MACT, Bengaluru (SCCH-18), in O.S.No.4759/2018 is modified to the extent that the

appellants/claimants are entitled to compensation of **Rs.18,40,560/-** along with interest at the rate of 8% per annum from the date of petition till the date of realization.

iii) The remaining portion of the Impugned Award of the Tribunal remains undisturbed.

iv) The Insurance Company shall deposit the enhanced compensation with interest at 8% p.a. within a period of four weeks from the date of receipt of the judgment.

v) The Registry is directed to draw the modified Award accordingly.

vi) Registry is directed transmit a copy of this judgment to the concerned Tribunal, along with its records.

vii) No order as to costs.

viii) All pending applications stand closed.

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Location: HIGH COURT OF KARNATAKA

(TARA VITASTA GANJU)
JUDGE

JJ
List No.: 1 Sl No.: 24