HC-KAR

NC: 2026:KHC:65009
MFA No. 4720 of 2024
C/W MFA No. 5099 of 2024

CNR: KAHC010399312024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 4720 OF 2024 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 5099 OF 2024 (MV-D)

IN MFA No. 4720/2024

BETWEEN:

TATA AIG GENERAL
INSURANCE CO. LTD.,
NO 69 , 2ND FLOOR, J.P. AND
DEVI JAMBUKESHWARA ARCADE
MILLERS ROAD, BENGALURU - 52
REPRESENTED BY ITS
AVP CLAIMS LEGAL.

...APPELLANT

(BY SRI MURALIDHARA N., ADVOCATE)

AND:

1. SMT. M. KAVANA
W/O KIRAN N. MYSORE
AGED ABOUT 34 YEARS.

2. LAKSHMINARAMANA K
S/O KIRAN N. MYSORE
AGED ABOUT 7 YEARS

SINCE RESPONDENT NO.2 IS MINOR
REP. BY NATURAL GUARDIAN
MOTHER NAMELY M. KAVANA.

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3. M.T. NAGARAJA
S/O M.R.THIMMAPPAIAH
AGED ABOUT 68 YEARS.

4. SMT. H. VARALAKSHMI
W/O M.T. NAGARAJA
AGED ABOUT 60 YEARS

ALL ARE R/AT NO. 1
3RD CROSS, KILLARI ROAD
CHICKPET, BENGALURU - 560 053.

5. M/S EVEREST FLEET PVT. LTD.
R/AT NO .79/1 AND 80/1
RUPENA AGARAHARA
BOMMANAHALLI
BENGALURU - 560 068.

…RESPONDENTS

(BY SRI SHRIPAD V. SHASTRI, ADVOCATE FOR R1 TO R4;
R2 IS MINOR REP. BY R1;
SRI SHANTHAKUMAR H.T., ADVOCATE FOR R5)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 27.04.2024 PASSED IN MVC NO.4879/2022 ON THE FILE OF THE III ADDITIONAL JUDGE AND MEMBER, MACT, COURT OF SMALL CAUSES, BENGALURU SCCH-18, AWARDING COMPENSATION OF RS.70,81,024/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL DEPOSIT.

IN MFA NO. 5099/2024

BETWEEN:

1. M. KAVANA
W/O KIRAN N. MYSORE
AGED ABOUT 34 YEARS.

2. LAKSHMIRAMANA K.
S/O KIRAN N. MYSORE
AGED ABOUT 7 YEARS.

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3. M.T. NAGARAJA
S/O M.R. THIMMAPPAIAH
AGED ABOUT 68 YEARS.

4. H. VARALAKSHMI
W/O M.T. NAGARAJA
AGED ABOUT 60 YEARS.

PETITIONER NO.2 IS MINOR
HENCE REPRESENTED BY NATURAL
GUARDIAN MOTHER NAMELY M.KAVANA
ALL ARE RAT NO.1, 3RD CROSS
KILLARI ROAD, CHICKPET
BANGALORE - 53.

...APPELLANTS

(BY SRI. SHRIPAD V. SHASTRI, ADVOCATE)

AND:

1. THE MANAGER
TATA AIG GENERAL INSURANCE CO. LTD.,
NO 69, 2ND FLOOR, J P AND
DEVI JAMBUKESHWARA ARCAD
MISSION ROAD, BANGALORE 52.

2. M/S. EVEREST FLEET PVT. LTD.
R/AT NO 79/1 AND 80/1
RUPENA AGRAHARA
BOMMANAHALLI
BANGALORE - 560 068.

...RESPONDENTS

(BY SRI MURALIDHARA N., ADVOCATE FOR R1;
SRI SHANTHA KUMAR H.T., ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 27.04.2024 PASSED IN MVC NO.4879/2022 ON THE FILE OF THE III ADDITIONAL JUDGE AND MEMBER, MACT, COURT OF SMALL CAUSES, BENGALURU (SCCH-18), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION

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AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MRS. JUSTICE GEETHA K.B.

ORAL JUDGMENT

MFA No.4720/2024 and MFA No.5099/2024 are filed under Section 173(1) of the Motor Vehicles Act, 1988 (in short, 'the M.V. Act') by the insurance Company and the claimants, respectively, challenging the judgment and award dated 27.04.2024 passed in M.V.C. No.4879/2022, on the file of the III Additional Judge and Motor Accident Claims Tribunal, Court of Small Causes, Bengaluru (SCCH-18) (in short, 'the Tribunal'). The insurance Company seeks dismissal of the claim petition, whereas the claimants seeks enhancement of the compensation.

2. The parties would be referred with their ranks, as they were before the Tribunal for the sake of convenience and clarity.

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3. The facts established before the Tribunal are that, on 08.08.2022, at about 08:20 p.m., the deceased was riding Honda Activa bearing Reg.No.KA-01/ER-8464 in front of Green Wood High School, C.K. Palya Road, towards Koli Farm Gate; at that time, Maruti car bearing Reg.No.KA-05/AL-1675 (in short 'the offending vehicle') came at high speed, in rash and negligent manner, and dashed against the motorcycle, causing the accident.

4. Immediately after the accident, the injured person was shifted to Apollo Hospital, B.G. Road, Bengaluru, wherein he succumbed to the injuries on 14.08.2022.

5. The claimants, being his wife, minor son and parents, filed claim petition under Section 166 of the Motor Vehicles Act, 1988, (in short 'the M.V.Act') claiming compensation under various heads. After service of notice, respondent No.1/insurance Company has filed the objection statement denying the contention of the claimants and prayed for dismissal of the petition.

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Respondent No.2, the owner of the offending vehicle, also filed his objections statement, contending that the insurance policy was valid as on the date of the accident.

6. After framing issues and hearing arguments, the Tribunal concluded the income of the deceased as ₹37,005/- and awarded him total compensation of ₹70,81,024/- under following different heads:

Compensation heads	Amount in ₹
Towards loss of dependency	69,94,024/-
Towards loss of consortium	44,000/-
Towards loss of estate	16,500/-
Towards funeral & obsequies ceremony expenses	16,500/-
Towards transportation of dead body	10,000/-
Total	**₹70,81,024/-**

7. Challenging the said quantum, the insurance Company is before this Court. Not satisfied with the quantum, the claimants are before this Court.

8. Heard arguments of both sides.

9. The learned counsel for the insurance Company Sri Murulidhara N would submit that the deceased was working under PW.2 and getting salary of ₹27,000/- per

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month. To substantiate that PW.2 is capable to engage the employees, the income tax returns and other documents of PW.2 were exhibited. However, the income tax returns of PW.2 were considered and income of the deceased was fixed at ₹37,005/- by the Tribunal, which is exorbitant and not in accordance with law. Hence, prayed for allowing his appeal.

10. The learned counsel for the claimants Sri Shripad V Shastri would fairly concede that the income of PW.2 was taken by the Tribunal to decide the income of deceased is wrong. However, the claimants have produced documents to show that deceased was getting salary of ₹27,000/- per month as per Ex.P.21 and they have also examined the employer to prove this contention and hence, the income of the deceased to be taken at ₹27,000/- per month and prayed for passing appropriate order in respect of 'loss of dependency'.

11. The learned counsel for the claimants would also submit that the accident has taken place on

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08.08.2022, but the husband of claimant No.1 succumbed to the injuries on 14.08.2022. For those days, he was inpatient in the hospital. He has produced the medical bills amounting to ₹3,40,000/-. Out of this amount, ₹3,00,000/- was paid under health insurance. However, as per the recent judgment of the Hon'ble Apex Court in ***New India Assurance Company Ltd. v. Dolly Satish Gandhi & Anr.,***[1], he is entitled for said medical expenses. But the Tribunal has not awarded any compensation under the head 'medical expenses'. Hence, prayed for awarding the compensation under the said head.

12. The learned counsel would also submit that the Tribunal has not awarded compensation under the head 'loss of consortium' to claimant Nos.2 to 4 and therefore, prayed for granting said compensation also.

13. Having heard the arguments of both sides, verifying the appeal papers and the trial Court Records, the point that arise for consideration is:

[1] 2026 SCC OnLine SC 861

"Whether the compensation awarded by the Tribunal requires modification?"

14. Finding of this Court on the above point is in ***'Affirmative'*** for the following:

REASONS

15. The factum of accident on 08.08.2022 and the death of Kiran N. Mysore is not in dispute. The fact that the claimants are his wife, minor son and parents is also not in dispute.

16. The Tribunal has taken the income of the deceased at ₹37,005/- by considering the IT returns, bank statements and other documents of PW.2. However, admittedly those documents are of PW.2 and not the documents pertaining to the deceased. Only Ex.P.21-salary slip is pertaining to the deceased. According to this document, the deceased was appointed as Manager in the Company of PW.2 during April-2022 and he died on 14.08.2022. According to this document, the salary was ₹27,000/-. But the cross-examination of PW.2 reveals that

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the deceased was consultant with the Company of PW.2, and thus, there was no permanent employment of the deceased. He admitted that if the deceased was under permanent employment then his name would have been found place in payment register and muster rolls and that is not found in the present case. The deceased was not an employee but only the consultant with PW.2. Thus, no document is produced to prove his actual income. Under these circumstances, the income of the deceased is to be taken as per the chart prepared by the KSLSA. Accordingly, the income of the deceased is taken at ₹15,500/-. By placing reliance on the judgment of Hon'ble Apex Court in ***National Insurance Company Limited vs Pranay sethi & others***[2], 40% is to be added to the said income towards 'future prospects' because the age of deceased was 38 years as on the date of accident and the relevant multiplier is '15'. The deceased left behind four dependants. Hence, by placing reliance on the judgment of

[2] (2017) 16 SCC 680

the Hon'ble Apex Court in ***Sarla Verma and Others vs Delhi Transport Corporation and Another***[3] case, 1/4th of his income is to be deducted towards his personal expenses. Thus, the claimants are entitled for ₹29,29,500/- (15,500+40%x12x15x3/4) under the head 'loss of dependency'.

17. The deceased left behind his wife, minor child and parents. All of them are entitled for compensation towards 'loss of consortium' as per the dictum of ***Pranay Sethi's*** case cited supra and ***Magma General Insurance Co. Limited Vs. Nanu Ram & Others***[4]***.*** Hence, the claimants are entitled for ₹40,000/- plus 10% escalation charges each under the head 'loss of consortium'. But the Tribunal has awarded 'loss of consortium' only to the wife which is not proper.

18. The claimants further entitled for the compensation towards 'funeral expenses and

[3] AIR 2009 SCC 3104

[4] 2018 ACJ 2782

transportation of the dead body' at ₹15,000/- plus 10% escalation charges. However, the Tribunal awarded separate compensation to 'funeral expenses and transportation of the dead body'. Hence, it is to be reduced.

19. Admittedly, the deceased was inpatient in the hospital for 7 days before his death. In this regard, medical bills i.e., inpatient is produced amounting to ₹3,41,000/-.

20. Admittedly, ₹3,00,000/- was reimbursed to the claimants from the health insurance policy coverage of the deceased.

21. In this regard, in the recent judgment of Hon'ble Apex Court in ***Dolly Satish's***[5] case cited supra paragraph No.15 held as follows:

> *"15. In fine, we hold that the amount received as part of Mediclaim/medical insurance is not deductible from compensation as calculated by the concerned Tribunal, adjudicating a claim for compensation under*

[5] 2026 SCC OnLine SC 861

the MVA which may also include compensation under the head of medical expenses, if claimed. These two stand on a different footing - one is statutory while the other is contractual and the latter is only a sequitur of premiums having been paid in the past while the other is an entitlement as a consequence of an accident or death in a motor vehicle accident."

22. By placing reliance on the aforesaid judgment, this Court holds that amount of ₹3,00,000/- paid to the claimants from the health insurance cannot be deducted under the head 'medical expenses'. Thus, the claimants are entitled for total ₹3,41,000/- under the said head.

23. As far as the compensation awarded under the head 'loss of estate' is proper; hence, it requires no interference.

24. Thus, the claimants are entitled for total compensation of **₹34,79,500/-** under the following heads:

Compensation heads	Amount in ₹
Towards loss of dependency	29,29,500/-
Towards loss of consortium (₹40,000/- x 4 + 10%)	1,76,000/-
Towards medical expenses	3,41,000/-
Towards loss of estate (₹15,000/- + 10%)	16,500/-

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Towards transportation & funeral expenses (₹15,000/- + 10%)	16,500/-
Total	**₹34,79,500/-**

25. Hence, this Court passes the following:

ORDER

i) MFA No.4720/2024 & M.F.A.No.5099/2024 filed under Section 173(1) of the MV Act are ***allowed-in-part***.

ii) The judgment and award dated 27.04.2024 passed in M.V.C. No.4879/2022, on the file of the III Additional Judge and Motor Accident Claims Tribunal, Court of Small Causes, Bengaluru (SCCH-18) modified holding that the claimants are entitled for compensation of **₹34,79,500/-** instead of ₹70,81,024/- awarded by the Tribunal.

iii) The compensation shall carry interest at 6% per annum.

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iv) The insurance Company shall deposit the compensation amount with accrued interest before the Tribunal within the period of eight weeks from the date of receipt of certified copy of this judgment.

v) Amount in excess; be refunded to the insurer on proper identification.

vi) Apportionment, Disbursement and deposit shall be as per the award of the Tribunal.

vii) No order as to costs.

viii) Draw modified award accordingly.

ix) Registry to transmit TCR to the Tribunal forthwith.

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(GEETHA K.B.)
JUDGE

SPV
List No.: 1 Sl No.: 19