HC-KAR

NC: 2026:KHC:60066
MFA No. 8509 of 2017

CNR: KAHC010450812017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO. 8509 OF 2017 (MV-D)

BETWEEN:

THE NEW INDIA ASSURANCE CO. LTD.,
BRANCH OFFICE,
BAGALUR MANSION, 2ND FLOOR,
DODDAPETE, KOLAR - 563 101.

THROUGH ITS REGIONAL OFFICE,
MAHALAKSHMI CHAMBERS,
M.G.ROAD, BENGALURU - 560 001,
REP. BY ITS MANAGER.

...APPELLANT

(BY SRI. ANUP SEETHARAM RAO B.C, ADVOCATE FOR
SRI. B.C. SEETHA RAMA RAO, ADVOCATE)

Digitally signed by ASHWINI MAYAPPA MAVARAKAR
Location: High Court of Karnataka

AND:

1. SMT. SAROJAMMA
AGED ABOUT 37 YEARS,
W/O LATE RAMANJI @ RAMANJAPPA,

2. KUM. ASHWINI
AGED ABOUT 17 YEARS,
D/O LATE RAMANJI @ RAMANJAPPA,

3. KUM. AISHWARYA
AGED ABOUT 16 YEARS,
D/O LATE RAMANJI @ RAMANJAPPA,

RESPONDENTS 2 AND 3 ARE MINORS.

REP. BY HER MOTHER FIRST
RESPONDENT HEREIN.

4. SMT. MUNIVENKATAMMA
AGED ABOUT 67 YEARS,
W/O LATE PAPANNA,

ALL ARE RESIDENTS OF
CHIKKA ANKADAHALLI VILLAGE,
BANGARPET TALUK, KOLAR DISTRICT.

5. SRI. K.R. RAMA REDDY
MAJOR IN AGE,
RESIDENT OF KARADAGUR VILLAGE,
SRINIVAS SANDRA POST,
VIA: OORGAUMPET, ROBERTSONPET,
KGF, BANGARPET TALUK, KOLAR DISTRICT.
(OWNER OF BUS NO.KA.08/6219)

…RESPONDENTS

(BY SRI. GOPAL KRISHNA N, ADVOCATE FOR R1 AND R4;
R2 AND R3 ARE MINORS REPRESENTED BY R1;
VIDE COURT ORDER DATED 04.08.2025, R5 IS PLACED EX-PARTE)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 22.07.2017 PASSED IN MVC NO.532/2015 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE & J.M.F.C., & MACT., KGF. AWARDING COMPENSATION OF RS. 24,40,000/- WITH INTEREST @ 9% P.A. FROM THE DATE OF PETITION TILL THE DATE OF REALIZATION.

CNR: KAHC010450812017

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 22.07.2017 passed by Addl. Senior Civil Judge & JMFC & MACT, K.G.F. (***Tribunal***) in M.V.C.no.532/2015, this appeal is filed.

2. Sri Anup Seetharam Rao, learned counsel appearing for Sri B.C.Seetharama Rao, learned counsel for appellant submitted that appeal was by insurer challenging finding of tribunal on liability as well as on quantum.

3. Brief facts leading to this appeal as per claimant are that at 7:30 p.m. on 22.08.2015, when Ramanji @ Ramanjappa was walking towards his village by side of Kolar-Bangarpet road, driver of bus no.KA-08/6219 drove it in rash and negligent manner and dashed against Ramanjappa. In said accident, Ramanjappa sustained grievous injuries and despite treatment at R.L. Jalappa Hospital, Kolar, and Primus Hospital, Bengaluru, he died on 23.08.2015 at Government Hospital,

Bangarpet. Alleging loss of dependency on account of untimely death his wife, children and mother filed claim petition under Section 166 of Motor Vehicles Act, 1988 (***MV Act***) against owner and insurer of bus.

4. On contest, wherein claim petition was opposed on all grounds including violation of terms and conditions of policy by insured, tribunal framed following issues and recorded evidence:

i. Whether the petitioners prove that the deceased Ramanji @ Ramanjappa, is the victim of the motor vehicle accident caused by the private bus bearing reg.no.KA-08-6219 on 22.08.2015 and succumbed to the injuries as pleaded in the petition?

ii. Whether petitioners are entitled for compensation? If so, from whom and to what amount?

iii. Whether the respondent no.2 proves that petition is not maintainable as pleaded in its objection?

iv. To what order?

5. Claimant no.1 deposed as PW1 and got marked Exs.P1 to P15. Insurer examined ARTO as RW.1 and got marked Exs.R1 to R6.

6. On consideration, tribunal held accident had occurred due to rash and negligent driving of insured vehicle leading to death of Ramanjappa and claimants being entitled for compensation assessed by it, at Rs.24,40,000/- with 9% interest per annum. Aggrieved by same, Appeal was filed.

7. It was submitted that insurer had examined ARTO as RW1 and got marked RC and permit issued to respondents no.4 and 5. Ex.R5 would indicate validility of permit was from 04.11.2006 to 03.11.2011 and establish that as on date of accident i.e., on 22.08.2015 permit had expired and not renewed. This would absolve liability of insurer.

8. On quantum, it was submitted that though claimants had stated that deceased was 38 years of age and earning Rs.15,000/- per month as painter, Ex.P9 voter ID of deceased would indicate his age as 41 years. Consequently, addition of future prospects at 50% and application of multiplier of '15' had led to excessive award.

9. It was further submitted that award of Rs.1,00,000/- towards loss of consortium to claimant no.1

Rs.1,00,000/- to each of claimants no.2 and 3 towards loss of love and affection and Rs.50,000/- towards loss of love of love and affection to claimant no.4 were grossly excessive and unsustainable. Even award of rate of interest at 9% was excessive and sought for reduction. On said ground sought for allowing appeal.

10. On other hand, Sri N. Gopal Krishna, learned counsel for claimant opposed appeal. It was submitted that tribunal had determined age by referring to age mentioned in Ex.P7 PM report. It was fairly conceded that addition of 50% towards future prospects would be excessive and conceded for reduction to 40%. It was also submitted that multiplier applied was proper. On said grounds, sought for dismissal.

11. Heard learned counsel, perused impugned judgment and award and record.

12. From above, since this appeal is by insurer on liability as well as quantum, points that would arise for consideration are:

i. Whether tribunal was justified in holding insurer liable to pay compensation?

ii. Whether compensation assessed by tribunal was excessive and calls for reduction?

REASONS

Point no.i :

13. At outset, there is no dispute about occurrence of accident involving insured vehicle leading to death of Ramanjappa and claimants being entitled for compensation. Finding of tribunal on liability challenged is that as per Ex.R5 permit of insured vehicle had expired. To substantiate same, respondent has examined ARTO and produced permit extract as Exs.R5. Ex.R5 discloses that permit was valid from 04.11.2006 to 03.11.2011. Accident occurred on 22.08.2015. Therefore, insured vehicle was being plied without permit. However, on said ground alone, insurer cannot avoid liability against claimants, who is a third party. At best, insurer would have to pay compensation to third party claimants and thereafter recover it from insured. Point no.(i) is answered partly in affirmative, as above.

Point no.ii :

14. Claimants stated that deceased was 38 years of age, by producing PM report and election voter ID card. While passing impugned award, tribunal assessed compensation by considering age as per PM report. Normally resort to age mentioned in PM report or medical records would be justified in absence of specific documents about age.

15. In instant case, claimants themselves have produced voter ID of deceased as Ex.P9 which would indicate year of birth of deceased as 1974 and that deceased was 41 years of age as on date of accident. As held by Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and Others***, reported in ***AIR 2017 SC 5157,*** in case of deceased being self-employed and aged between 40 and 50 years, addition of future prospects would have to be at 25% and multiplier applicable would be '14'. Deduction towards personal expenses would have to be at '¼'. Though claimants had stated that they did not produce any proof about income, in absence tribunal assessed it notionally at Rs.10,000/-, but notional income for year 2015 being Rs.9,000/- per month,

tribunal would not be justified in taken it at Rs.10,000/- per month. Thus, compensation towards loss of dependency would have to be re-computed as follows-

(Rs.9,000/- + 25%) x 12 x 14 x 3/4 = **Rs.14,17,500/-**

16. Apart from above, claimants would be entitled to compensation under conventional heads at Rs.40,000/- each towards spousal consortium, parental consortium and filial consortium i.e., Rs.1,60,000/-. They would also be entitled to Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate i.e., **Rs.1,90,000/-.**

17. Since more than six years have lapsed after decision in ***Pranay Sethi's*** case (*supra*), escalation of 20% has to be added to award under conventional heads i.e., **Rs.38,000/-.** Since Ramanjappa died during treatment, tribunal has awarded **Rs.35,018/-** towards medical expenses, which would also sustain. Thus, claimants would be entitled to total compensation of **Rs.16,80,518/-**.

18. Though learned counsel for insurer has sought to contend that rate of interest awarded at 9% is excessive,

Hon'ble Supreme Court has been consistently awarding interest at 9% per annum. Therefore, there would be no scope for reduction. Consequently, point no.ii is answered *partly in affirmative,* as above.

19. Consequently, following -

ORDER

i. Appeal is ***allowed in part***, judgment and award dated 22.07.2017 passed by Addl. Senior Civil Judge & JMFC & MACT, K.G.F. in M.V.C.no.532/2015 is modified.

ii. Claimants are held entitled for total compensation of **Rs.16,80,518/-** with interest at 9% per annum from date of claim petition till deposit.

iii. Ratio of apportionment of compensation between claimants by tribunal is sustained.

iv. Amount in deposit is ordered to be transmitted to tribunal for disbursal.

v. Respondent-insurer is directed to deposit balance compensation before tribunal within six weeks.

vi. On deposit, entire compensation apportioned in favour of claimants is ordered to be released.

Sd/-
(RAVI V HOSMANI)
JUDGE

HNM
List No.: 1 Sl No.: 8