HC-KAR

NC: 2026:KHC:62300
MFA No. 2556 of 2017

CNR: KAHC010506832017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCELLANEOUS FIRST APPEAL NO.2556 OF 2017(MV-D)

BETWEEN:

1. VIJAYALAKSHMI
W/O LATE HANUMANTHAIAH K.,
MAJOR,

2. ANITHA
D/O LATE HANUMANTHAIA K.,
PHYSICALLY HADICAPPED,
MAJOR,

3. MARUTHI H.,
S/O LATE HANUMANTHAIA K,
MAJOR,
WORKING AS ASST.
HORTICULTURE OFFICER,
DODDABALLAPURA TALUK,

4. SUNITHA
W/O RAVI,
D/O LATE HANUMANTHAIAH K.,
MAJOR,
R/AT OF BANNINAGAR,
SIRA TOWN,
TUMKUR DISTRICT - 575 101.

APPELLANTS NO.1 TO 3 ARE ALL
R/A HUNASEHALLI VILLAGE AT POST,
GOWDAGERE HOBLI,
SIRA TALUK,
TUMKUR DISTRICT - 572 101.

...APPELLANTS

[BY SRI K.HANUMANTHARAYAPPA, ADVOCATE (PH)]

Digitally signed by ANUSHA V
Location: High Court of Karnataka

CNR: KAHC010506832017

AND:

1. JAYA GANESH A.,
   1/83, KULATHUPALAYAM,
   PUDUR, DEVANAMPALAYAM,
   TAMILNADU.

2. THE NEW INDIA ASSURANCE CO.LTD.,
   HAVING ITS BRANCH AT CHITTUR,
   TAMILNADU STATE.
   INSURER OF CAR BEARING
   NO.TN-41-AC-6003 VIDE INSURANCE
   POLICY NO.761102311201000013 57.

…RESPONDENTS

[BY SRI S.KRISHNA KISHORE, ADVOCATE FOR R2 (PH);
V/O DATED 11.06.2025, NOTICE TO R1 IS D/W]

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 28.01.2016 PASSED IN MVC NO.45/2014 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MACT, SIRA, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS APPEAL IS 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 28.01.2016 passed by Senior Civil Judge and Additional MACT, Sira in MVC no.45/2014, this appeal is filed.

2. Sri K Hanumantharayappa, learned counsel for appellants submitted that appeal was by claimant for enhancement of compensation. Brief facts leading to this appeal were that at 11:20 a.m. on 15.02.2013, when Hanumanthaiah was riding motorcycle no.KA-06-L-5911 on NH-4 Service Road near Javagondanahalli, driver of Car no.TN-41-AC-6003 drove it in rash and negligent manner and it dashed against motorcycle causing death of Hanumanthaiah. Claiming compensation on account of his death, his wife, son and two daughters filed a claim petition under Section 166 of Motor Vehicles Act, 1988 (**MV Act**) against owner and insurer of Car. Despite service of notice, owner did not appear and was placed *ex parte*. Only insurer contested claim petition on all grounds.

3. Based on pleadings Tribunal framed following:

ISSUES:

1. *Whether the petitioners prove that on 15.02.2013, at about 11.20 a.m., when the husband of petitioner No.1 by name Hanumanthaiah K. was proceedings on his motor cycle bearing Reg. No. KA-06-L-5911 and when he took 'U' turn on N.H.4 service road to go to H.B. Hotel from Javagondanahlli then at that time the driver of a car bearing Reg. No. TN-41-AC-6003 came from Hiriyur side in a rash and negligent manner and dashed to the above said Hanumanthaiah's motor cycle and as a*

result of it he has sustained grievous injuries and later on succumbed to the said injuries?

2. *Whether the petitioners are entitled for compensation ? If so, at what rate, from whom?*

3. *What order or award?*

4. Claimant no.1 along with another deposed as PWs.1 and 2 and got marked Exhibits P1 to P9. Insurer examined its official as RW.1 and got marked copy of insurance policy as Exhibit R1.

5. On consideration, Tribunal held that accident had occurred due to rash and negligent driving of Car by its driver and claimants were entitled for compensation and assessed it at Rs.4,40,000/- with interest at 6% p.a. from date of petition till deposit. Dissatisfied with same, appeal was filed.

6. It was submitted that as of date of accident, deceased Hanumanthaiah was 65 years of age and stated to have been earning Rs.5,00,000/- p.a. from agriculture. However, Tribunal considered his monthly income at meager amount of Rs.4,500/- and awarded inadequate compensation. It was submitted that even compensation awarded under conventional heads was not commensurate as per ratio laid

down in **National Insurance Co. Ltd. v. Pranay Sethi & Ors.** reported in **(2017) 16 SCC 680** and sought for enhancement.

7. On other hand, Sri S. Krishna Kishore, learned counsel for respondent no.2 opposed appeal. It was submitted that Tribunal had considered facts and circumstances of case in an appropriate manner and assessed compensation under each heads and there was no scope for enhancement.

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

9. From above, death of Hanumanthaiah in an accident involving insured vehicle due to its rash and negligent driving and claimants being entitled for compensation from insurer are not in dispute. Only question is about quantum. Therefore, point that arises for consideration is:

> *"Whether assessment of compensation calls for modification?"*

Same is answered *partly in affirmative* for following reasons:

10. Though it was stated that claimant was earning Rs.5,00,000/- p.a. from agriculture, there was no specific evidence led to substantiate same. In absence, Tribunal would be justified in assessing income notionally. But notional income for year 2013 being Rs.8,000-/ per month, Tribunal was not justified in taking it at Rs.4,500/-. Referring to PM Report and Ration Card, Tribunal assessed age of deceased at 65 years and applied multiplier of '7', which is found to be correct. Considering claimants being wife, son and two daughters i.e., four in number, deduction towards personal expenses at 1/4th could also be justified. Thus, compensation towards loss of dependency would be:

(Rs.8,000 - 1/4) X 12 X 7 = **Rs.5,04,000/-**

11. Apart from said sum, claimants would be entitled for spousal consortium and filial consortium at Rs.40,000/- each and Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses i.e. total of Rs.1,90,000/-. As per **Pranay Sethi**'s case (supra), since more than 9 years have elapsed after said decision, 30% escalation has to be added, which totals to **Rs.2,47,000/-** (Rs.1,90,000/- + 30%). Total

compensation thus would be **Rs.7,51,000**/- (Rs.5,04,000/- + Rs.2,47,000/-).

12. Consequently, following:

ORDER

(i) Appeal is ***allowed in part***;

(ii) Judgment and award dated 28.01.2026 passed by Tribunal in MVC no.45/2014 is *modified;*

(iii) Claimants are held entitled for re-assessed compensation of **Rs.7,51,000/-** with interest at 6% p.a. from date of claim petition till deposit excluding period of 299 days being delay in filing this appeal;

(iv) Insurer to deposit balance compensation before Tribunal within six weeks;

(v) On deposit, 50% of compensation with interest is ordered to be apportioned in favour of claimant no.1 and remaining amount to be

shared by claimants no.2 to 4 equally.

(vi) Entire compensation with interest as per above apportionment is ordered to be released in favour of claimants.

Sri Krishna Kishore, learned counsel is permitted to file vakalathnama for respondent no.2-insurer in Registry within four weeks.

Sd/-
(RAVI V HOSMANI)
JUDGE

AV
List No.: 1 Sl No.: 3