CNR: KAHC010533602018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO. 10318 OF 2018 (MV-D)

BETWEEN:

1. SRI. NAGARAJU.R
   S/O. H.RUDHRAIAH,
   AGED ABOUT 51 YEARS,

2. SMT. NEELAMMA
   W/O. NAGARAJU.R,
   AGED ABOUT 46 YEARS,

   BOTH ARE R/AT
   NO.3, MALLAPURA VILLAGE,
   BANAVADI POST, SOLUR HOBLI,
   MAGADI TALUK, RAMANAGARA DISTRICT.

...APPELLANTS

(BY SRI. RAGHU.R., ADVOCATE)

Digitally signed by JAI JYOTHI J
Location: HIGH COURT OF KARNATAKA

AND:

1. NATIONAL INSURANCE CO. LTD.,
   REGIONAL OFFICE,
   SUBHARAM COMPLEX,
   M.G.ROAD,
   BENGALURU-560 001.
   REP. BY ITS MANAGER.

2. EFC LOGISTICS PVT. LTD.,
   NO.27, WESTON STREET,
   4TH FLOOR, KOL DISTRICT,
   KOLAKATA, WEST BENGAL-700 012.

...RESPONDENTS

(BY SRI. A.M.VENKATESH., ADVOCATE FOR R1;
R2-SERVED)

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THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 11.09.2018 PASSED IN MVC NO.7578/2017 ON THE FILE OF THE XIX ADDITIONAL SMALL CAUSE JUDGE, MACT, BENGALURU (SCCH-17), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: **HON'BLE MS. JUSTICE TARA VITASTA GANJU**

ORAL JUDGMENT

1. The challenge in the present petition has been made by the appellants/petitioners against an order dated 11.09.2018, passed in MVC No.7578/2017 by the XIX Additional Small Cause Judge, MACT, Bengaluru (SCCH-17) [hereinafter referred to as the 'Impugned Award']. By the Impugned Award, a sum of Rs.16,00,800/- was granted along with interest at 7.5% per annum.

2. The learned counsel Mr.Raghu.R, submits that he has filed the Vakalathnama for the appellant Nos.1 and 2 on 04.11.2026.

3. The Office is directed to print the name of Sri.Raghu.R as appearing for the appellants, in the cause-title.

4. Given the limited issue involved and with the consent of parties, the matter is taken up for hearing and final disposal, at the stage of Admission itself.

5. The facts in brief are not in dispute and neither is the accident that took place on 02.12.2017 by which a 25 years old man lost his life. The claim petition has been filed by the parents of the deceased.

6. Based on the pleadings filed by the parties, the learned Tribunal framed the following issues:

> *"1. Whether petitioners prove that on 02.12.2017 at about 5.30 p.m., when the deceased was riding TVS Moped bearing No.KA-05-HM-5121 on Tumkur-Bengaluru NH-4 road, near Begur bus stop, Nelamangala Taluk, Bengaluru, met with an accident, sustained injuries and succumbs to the same due to actionable negligence on the part of driver of lorry bearing No.NL-01-6-0507 as alleged?*

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

3. What order or award?"

7. The appellants/petitioners examined the father of the deceased as PW1 and 16 documents were filed on placed on record, as Exhibits P1 to P16. No evidence was adduced on behalf of the respondents. Based on the evidence of the appellants/petitioners and the documents produced as the FIR (Exhibit-P1), Complaint (Exhibit-P2), Mahazar (Exhibit-P3), Sketch (Exhibit-P4) and IMV report (Exhibit-P5) and Charge-sheet (Exhibit-P8) and on examination of the learned Tribunal found that the accident had taken place not due to any mechanical defect, but as a result of negligence of the driver of the offending vehicle.

8. In addition, to calculate the compensation, the learned Tribunal held that since the appellants/petitioners had not produced any proof of income, the notional income was taken, which was Rs.11,000/- in the year 2017, and adding future prospects and deducting personal

expenses, the loss of dependency was calculated as follows:

(Rs.11,000 + 40%) = Rs.15,400 – 50% = Rs.7,700/-
Rs.7,700 x 12 x 17 = Rs.15,70,800/-

9. In addition, the amounts were awarded towards loss of consortium, loss of estate and funeral expenses as follows:

Sl.No.	Heads of Compensation	Amount (in Rs.)
1	Loss of Dependency	15,70,800/-
2	Loss Of Estate	15,000/-
3	Funeral Expenses	15,000/-
	TOTAL	16,00,800/-

10. Thus, the learned Tribunal held that the appellants/petitioners were entitled to Rs.16,00,800/- which was to be paid by the respondent/insurance company in view of an valid and existing policy.

11. Learned counsel for the appellants/petitioners submits that the only ground for challenge in the present claim petition is on the non-award of consortium. The learned Tribunal has not awarded compensation towards

loss of consortium and that the age of the deceased has wrongly been taken as 26 years, when he was 25.

12. The learned counsel for the respondent/insurance company on the other hand submits that since the age was rightly taken by the learned Tribunal and that the Impugned Award does not suffer from any infirmity.

13. Since the deceased was aged about 25 years and self-employed, 40% was also added as per the law laid down in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others***[1]. Given that the deceased was a bachelor, the learned Tribunal deducted 50% towards the personal and living expenses of the deceased. Secondly, escalation was also not awarded, Since the deceased was aged about 25 years, the multiplier of '18' is applied. Accordingly, applying the judgments in the case of ***Sarla Verma (Smt) and others***

[1] (2017) 16 SCC 680

Vs. Delhi Transport Corporation and another[2] and ***Pranay Sethi*** case, the 'loss of dependency' is calculated as follows:

Rs.11,000/- + 40% (4,400/-) = 15,400/-
Rs.15,400 – 50% (7,700) = 7,700/-
7,700 x 12 x 18 = 16,63,200/-

12. So far as concerns the compensation towards loss of consortium/loss of love and affection, in view of the law laid down by the Supreme Court in ***Pranay Sethi*** *case,* loss of consortium is payable at Rs.40,000/- each. Since, there were two family members survived by the deceased along with escalation at 20% is awarded. Thus, a sum of Rs.40,000 x 2 + 20% = Rs.96,000/- is awarded towards loss of consortium.

13. Accordingly, considering the aforegoing reasons, the escalation at the rate of 20%, is awarded on the conventional heads of compensation. Thus, the revised calculation would be as follows:

[2] (2009) 6 SCC 121

Sl. No.	Particulars	Amount (Rs.)
1	Loss of Dependency (Rs.11,000 + 40% - 50% x 12 x 18)	16,63,200/-
2	Loss of Consortium (Rs.40,000 + 20%) x 2	96,000/-
3	Loss of Estate (Rs.15,000 + 20%)	18,000/-
4	Funeral Expenses (Rs.15,000 + 20%)	18,000/-
	Enhanced compensation	**17,95,200/-**

13. Hence, the appellants/petitioners are entitled to total compensation in a sum of **Rs.17,95,200/-.**

14. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The appeal is ***allowed in-part;***

(ii) The Judgment and Award dated 04.06.2019 in 11.09.2018, passed in MVC No.7578/2017 by the XIX Additional Small Cause Judge, MACT, Bengaluru (SCCH-17), is modified, enhancing the compensation by **Rs.17,95,200/-** along with

interest at the rate of 7.5% per annum from the date of petition till realization;

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

(iv) The respondent No.2/Insurance company is directed to pay the enhanced compensation along with interest as awarded by the learned Tribunal, within eight weeks from today;

(v) On deposit of such compensation, the same shall be released in favour of the appellants/ petitioners, as ordered by the learned Tribunal, on filing of an appropriate application;

(vi) All pending applications stand closed;

(vii) No order as to costs;

(viii) The Registry is directed to draw the modified Award accordingly;

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

Digitally signed by TARA VITASTA GANJU
Location: HIGH COURT OF KARNATAKA

(TARA VITASTA GANJU)
JUDGE

JJ
List No.: 1 Sl No.: 1