HC-KAR

NC: 2026:KHC:61591
MFA No. 7351 of 2024

CNR: KAHC010642362024

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 5TH DAY OF NOVEMBER, 2026**

**BEFORE**

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

**MISCELLANEOUS FIRST APPEAL NO. 7351 OF 2024**

**(MV-D)**

**BETWEEN:**

1. SMT. KEMPAMMA H
   W/O LATE M. GOWDAIAH
   AGED ABOUT 42 YEARS

2. KUM. NAVYA G
   D/O LATE M. GOWDAIAH
   AGED ABOUT 21 YEARS

3. CHI. VIKAS G
   S/O LATE M. GOWDAIAH
   AGED ABOUT 19 YEARS

   ALL ARE R/AT NO. 59, 3RD CROSS
   VEERABHRAMENDRA ROAD
   CHOWDESHWARI NAGAR
   BANGALORE - 560 058.

...APPELLANTS

(BY SRI. NAGARAJU, ADVOCATE)

**AND:**

1. AKSHYA DATTATREYA BHATTA
   AGED ABOUT MAJOR
   S/O DATTATREYA NAGESHA BHATTA
   R/AT NAGARAKHAN BISGOD
   BISAGODA, YELLAPUR

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UTTARA KANNADA - 581 359.

2. DELETED

3. UNITED INDIA INS.CO.LTD.,
JELITTA TOWERS, DOOR NO. 21/1
FLOOR NO. 1, MISSION ROAD
BENGALURU - 560 027.

…RESPONDENTS

(BY SRI. JWALA KUMAR, ADVOCATE FOR R3;
VIDE ORDER DATED 20.12.2024, NOTICE TO R1 IS DISPENSED WITH;R2 DELETED)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.08.08.2024 PASSED IN MVC NO.3479/2022 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRL. MACT, BENGALURU, (SCCH-1), 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 MRS. JUSTICE GEETHA K.B.

**ORAL JUDGMENT**

This is the appeal filed under Section 173 (1) of the Motor Vehicles Act, 1988 (in short 'M.V. Act') by the dissatisfied appellants/claimants in respect of judgment and award dated 08.08.2024 in MVC No.3479/2022 on the file of the Chief Judge, Court of Small Causes, Member Principal Motor Accident Claims Tribunal, Bengaluru (SCCH-1) (in short 'the Tribunal').

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

3. The claimants have filed the claim petition under Section 166 of M.V.Act before the Tribunal claiming compensation from respondent Nos.1 and 3 who are the owner and insurance Company of the motorcycle bearing registration No. KA.31-EC-5734 (in short 'the offending vehicle') in respect of the death of husband of the claimant No.1-M Gowdaiah, who is the father of the claimant Nos.2 and 3.

4. It is stated in the claim petition that on 29.05.2022 at about 05:45 a.m. on outer ring road, Laggare to Sumanahalli near Chowdeshwari bus stop, when Gowdaiah was crossing the road, the rider of the motorcycle rode it rashly and negligently, dashed against Gowdaiah which caused the accident; immediately he was shifted to Lakshmi Multi-speciality Hospital, Sunkadakatte, wherein the doctor declared that he was brought dead. It

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is contented that the deceased was working as operator in Sai Security Printers Private Limited, Machohalli, Bengaluru, getting salary of ₹24,810/- per month. The claimants being his wife, unmarried daughter and son have claimed the compensation under different heads from respondent No.1 & 3 who are the owner and insurer of the offending vehicle.

5. After service of notice, respondent Nos.1 and 3 appeared through their respective counsels. Both of them have filed separate written statements denying the contention of the claimants in *toto*.

6. After framing issues, recording evidence and hearing arguments, the Tribunal concluded that the claimants are entitled for total compensation of ₹23,14,368/- under the following different heads:

| | | |
|---|---|---|
| 1. | Loss of dependency | ₹21,49,368/- |
| 2. | Loss of estate | ₹16,500/- |
| 3. | Funeral and obsequious expenses | ₹16,500/- |
| 4. | Towards loss of consortium | ₹1,32,000/- (₹44,000x3) |
| | TOTAL | ₹23,14,368/- |

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7. Not satisfied with the said compensation, the claimants are before this Court.

8. Heard arguments of both sides.

9. The learned counsel for appellant Sri Nagaraj would submit that even though the deceased was having permanent employment, even though his pay slips are produced and Manager of the Company is examined; on flimsy grounds, the Tribunal has not considered the said income mentioned in the salary slips as the income of deceased and taken the income of deceased only at ₹15,500/- and awarded the compensation. However, the evidence of PW.2 coupled with documents produced by the claimants and also the documents summoned by the respondents from PW.2 clearly establish that the deceased was a permanent employee. Hence, the deceased was a permanent employee in the Private Limited Company drawing salary of ₹24,810/- p.m. Hence, prayed for allowing the appeal.

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10. The learned counsel for respondent Nos.1 to 3 Sri Jwalakumar would submit that by examining the payslips, evidence of PW.2 who is also examined as RW.2, the Tribunal rightly concluded that the income of the claimant shall be taken at ₹15,500/- per month and thus, the judgment of the Tribunal requires no interference.

11. Having heard arguments of both sides verifying the appeal papers and the trial Court records, similarly the point that arises for consideration is:

> *"Whether claimant is entitled for enhancement of compensation?"*

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

## REASONS

13. The facts established before the Tribunal are that the claimants are the wife and children of the deceased and were dependant on the deceased; the age of the deceased was 49 years as on the date of accident and

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the accident has taken place due to rash and negligent riding of rider of the offending motorcycle on 29.05.2022 at 05:30 a.m. The respondent No.3 has satisfied the award passed by the Tribunal.

14. The only point to be decided is whether the income of the deceased mentioned in payslips are to be taken as his income or not. The claimants have produced the salary slips of the deceased as per Exs.P11 to 14 for the months of February, March, April and May 2022. The said salary slips for those months are marked through PW.2 as per Ex.P23. Later, the respondents have summoned the documents from PW.2 who is examined as RW.2 i.e., his SSLC Marks Card, Transfer Certificate, inter Office memo, certified copy of the application dated 09.07.2008, nomination and Declaration Form, ESI Declaration Form as per Exs.R5 to R9 respectively.

15. On perusal of all these documents, it is crystal clear that the deceased was the permanent employee of Sai Security Printers Private Limited, and he was having

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10 years more service. His salary slips establish that his total gross salary was ₹24,810/- per month, which includes Basic, D.A., Conveyance Allowance, HRA, and Special Allowance. The deductions were towards EPF, professional tax and Medi-claim. Amongst these, the amount towards professional tax and Medi-claim are to be deducted from his gross salary because the amount towards Medi-claim is only for the benefit of the deceased and not for the entire family.

16. Even though there is no mention that why Special Allowance was being paid to the deceased; but the said Special Allowance was paid regularly in every month. Hence, that is to be considered towards his net income. Thus, by deducting ₹413/- from the gross salary of ₹24,810/-, the salary of deceased is to be taken at ₹24,397/- per month and not ₹15,500/- taken by the Tribunal. A total of 30% is to be added to this salary towards future prospects as per the judgment of Hon'ble Apex court in ***National Insurance Company Limited vs.***

***Pranay Sethi case***[1] because the job of the claimant even though in a private company was permanent. Thus, the claimants are entitled for **₹32,98,474/-** (₹24,397/-+30% x12x13x2/3) towards 'loss of dependency' instead of ₹21,49,368/- awarded by the Tribunal. The claimants are also entitled for compensation under conventional heads as awarded by the Tribunal. The said compensation under conventional heads was just and reasonable and thus does not require interference.

17. Thus, the claimants are totally entitled for compensation under the following heads:

| | | |
|---|---|---|
| 1. | Loss of dependency | ₹32,98,474/- |
| 2. | Loss of estate | ₹16,500/- |
| 3. | Funeral and obsequious expenses | ₹16,500/- |
| 4. | Towards loss of consortium | ₹1,32,000/- (₹44,000x3) |
| | TOTAL | **₹34,63,474/-** |

Hence, the claimant is entitled for ₹**34,63,474/-** instead of ₹23,14,368/- as awarded by the Tribunal.

18. Hence, this Court passes the following:

[1] (2017) 16 SCC 680 decided on 31.10.2017

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**ORDER**

a. Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is ***allowed in part***.

b. Judgment and award dated 08.08.2024 passed in MVC No.3479/2022 on the file of the Chief Judge, Court of Small Causes, Member Prl. Motor Accident Claims Tribunal, Bengaluru (SCCH-1) is modified holding that the claimant is entitled for total compensation of **₹34,63,474/-** as against ₹23,14,368/- awarded by the Tribunal.

c. The enhanced compensation shall carry interest at 6% per annum from the date of petition till realization.

d. The respondent No.3 shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of 8 weeks from the date of receipt of certified copy of this judgment.

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e. Apportionment, disbursement and deposit shall be as per the order of the Tribunal.

f. No Order as to costs.

g. Draw modified award accordingly.

h. Registry to transmit the TCR to the Tribunal forthwith.

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**(GEETHA K.B.)**
**JUDGE**

SSD
List No.: 1 Sl No.: 7