HC-KAR

NC: 2026:KHC:64988
MFA No. 7981 of 2026

CNR: KAHC010743922026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

MISCELLANEOUS FIRST APPEAL NO. 7981/2026 (MV-D)

BETWEEN:

THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO., LTD.,
BRANCH OFFICE KARKALA,
P.B.NO.29, 2ND FLOOR,
SUSHILA SANJIV ENCLAVE,
NEAR KARNATAKA BANK LTD.,
MARKET ROAD, KARKALA TALUK,
UDUPI DISTRICT-574 104.
REP. BY ITS DIVISIONAL MANAGER,
UNITED INDIA INSURANCE CO.LTD.,
SALDHANA BUILDING, OLD BRIDGE ROAD,
BALMATTA, MANGALURU, D.K.

ALSO AT THE UNITED INDIA INSURANCE COMPANY LTD.,
MOTOR T.P. DEPARTMENT, REGIONAL OFFICE,
KRISHI BHAVAN, 5TH FLOOR,
NRUPATHUNGA ROAD, BENGALURU-560 001.
NOW REPRESENTED BY MANAGER

...APPELLANT

(BY SMT. MALATHI T N, ADVOCATE)

Digitally signed by B VEENA KUMARI
Location: HIGH COURT OF KARNATAKA

AND:

1. SMT. VIDYA NIRANJAN RAO,
   W/O NIRANJAN RAO.B,
   AGED ABOUT 59 YEARS,
   R/AT B-30 1, EVERSHINE CLASSIQUE,
   NEAR BROADWAY, THESTER,
   EVERSHINE CITY, VASAI, THANE,
   MAHARASHTRA.
   PRESENTLY R/AT 128/1(7), SRIPAVANI,
   THAVARE KOLA EXTEN, HOSABETTU,
   MANGALURU, D.K.

2. SHRI SUDHANVA,
   S/O THIMMA PANARA,

MAJOR,
R/AT PAVITHRA NILAYA, PADEGUDDE,
DARKAS MANE, KELAKILA,
MUDRADI POST AND VILLAGE,
KARKALA TALUK, UDUPI-576 112.

…RESPONDENTS

(BY SRI. RAVISHANKAR SHASTRY G, ADVOCATE FOR C/R1
(CP NO.20980/2026))

THIS MFA FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 23.06.2026 PASSED IN MVC NO.1053/2023 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND MEMBER, MACT, MANGALURU D.K.,

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

CORAM: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

ORAL JUDGMENT

The present appeal is filed by respondent No.2, the insurer, challenging the judgment and award dated 23.06.2026 passed by the Motor Accident Claims Tribunal and II Additional Senior Civil Judge, Mangaluru, Dakshina Kannada (for short, **'Tribunal'**), in MVC No.1053/2023.

2. For the sake of convenience, the parties are hereinafter referred to by their respective ranks assigned to them before the Tribunal.

I. CASE OF THE PETITIONER:

3. The petitioner filed a claim petition contending that, on 19.01.2023, her mother, Kalavathi, was travelling in a car bearing registration No. KA-50-Z-3621, when a Bolero vehicle bearing registration No. KA-43-M-3515, driven in a rash and negligent manner, dashed against the car near Pulkeri Junction, Sannur Village, Karkala.

4. Due to the accident, her mother sustained grievous injuries and subsequently succumbed to the same on 22.01.2023. Prior to the accident, it is contended that the petitioner's mother was around 76 years old and petitioners' father was a retired Bank Manager of Karnataka Bank. On account of which, the petitioner's mother was the beneficiary to a monthly pension of Rs.21,506/-. The petitioner, being the daughter and legal representative of the deceased, sought compensation of Rs.15,00,000/- from the respondents.

II. CASE OF THE RESPONDENTS:

5. Respondent No.1, the owner of the offending Bolero vehicle, remained absent before the Tribunal and was placed *ex-parte*. Respondent No.2, the insurer, contested the claim

and denied the allegations regarding the accident and its liability. It also disputed the claim on the ground that the petitioner was not the legal heir of the deceased and contended that the drivers of both the vehicle in which the petitioner's mother was travelling and the offending vehicle did not possess valid driving licences. Respondent No. 2, however, admitted that the offending vehicle was the one that was insured with respondent No. 2, having an insurance policy from 13.08.2022 to 12.08.2023. Respondent No. 2 further disputed the rate of interest claimed and sought dismissal of the petition.

6. Upon consideration of the pleadings of the parties, the Tribunal framed the following issues:

1) *Whether the petitioner proves that the deceased Mrs Kalavathi (mother of the petitioner) died due to the injuries sustained in the road traffic accident occurred on 19.01.2023 at about 7.30 p.m., at Pulkeri Junction of Sanooru Village, Karkala Taluk, Udupi due to rash and negligent driving of the driver of a Bolero Vehicle bearing Reg.No.KA-43 M 3515 owned by respondent No.1 and isured with respondent No.2?*

2) *Whether the respondent No.2 proves that the driver of both vehicles were not holding valid and effective driving license at the time of accident?*

3) *Whether the petitioners are entitled for compensation? If so, how much and from whom?*

4) *What order or award?*

7. The petitioner examined herself as PW.1, examined Ravindra Beedu as PW.2, and marked documents at Ex.P.1 to Ex.P.20. Respondent No.1 remained absent and was placed *ex-parte*. Respondent No.2 did not lead any oral evidence and produced the insurance policy, which was marked as Ex.R.1.

III. JUDGMENT OF THE TRIBUNAL:

8. The Tribunal, upon considering the evidence, held that the deceased had sustained injuries in the road traffic accident caused by the offending vehicle that was insured with respondent No. 2 and subsequently succumbed to the those injuries. PW.2 - Ravindra Beedu, who was examined as an eyewitness, supported the case regarding the manner in which the accident occurred. The Tribunal also relied upon Ex.P.1, the FIR; Ex.P.2, the first information statement; Ex.P.5, the spot mahazar; Ex.P.6, the spot sketch; and Ex.P.7, the IMV report, which supported the occurrence of the accident. Further, Ex.P.10, the inquest report, and Ex.P.3, the postmortem report, disclosed that the deceased died due to complications arising from the injuries. Ex.P.4, the death intimation issued by Kasturba Hospital, Manipal, also recorded her death.

9. For the purpose of computing compensation, the Tribunal assessed the monthly income of the deceased at Rs.21,405/-, being the pension received by her, applied the multiplier of 5 and the compensation was awarded as hereunder:

Sl. No.	Heads of Compensation	Amount
1.	Loss of dependency	Rs.12,84,300/-
2.	Parental consortium	Rs.48,400/-
3.	Funeral expenses	Rs.16,500/-
4.	Loss of estate	Rs.16,500/-
	Total	**Rs.13,65,700/-**

10. The Tribunal awarded total compensation of Rs.13,65,700/- with interest at 6% per annum from the date of the petition. Aggrieved by the judgment and award dated 23.06.2026 passed by the Tribunal in MVC No.1053/2023, respondent No.2 has preferred the present appeal before this Court.

IV. GROUNDS OF APPEAL:

11. Respondent No.2 has preferred the present appeal by contending, *inter alia*, that the Tribunal erred in calculating the compensation towards loss of dependency. It is contended that the petitioner was married in the year 1991 and had been residing separately with her husband in Mumbai for several

years, even at the time of the occurrence of the accident on 19.01.2023. Therefore, she could not have been treated as financially dependent upon the deceased.

12. It is further contended that the Tribunal erred in taking the entire pension amount of Rs.21,405/- received by the deceased as the basis for computing loss of dependency, without deducting any amount towards her personal and living expenses. According to respondent No.2, even if the said income is accepted, the Tribunal ought to have made deductions towards the personal expenses of the deceased. As such, respondent No.2 has challenged the judgment of the Tribunal before this Court.

V. PROCEEDINGS BEFORE THIS COURT:

13. Heard Shri. Ravishankar Shastry G., learned counsel appearing for the petitioner; Shri. Malathi T.N., learned counsel appearing for respondent No.2; and carefully perused the records of the present appeal placed before us. As such, the only question which arises for consideration is:

> *"Whether respondent No.2 has made out sufficient grounds warranting interference with the judgment and award dated 23.06.2026 passed by the Tribunal in MVC No.1053/2023?"*

VI. REASONING AND ANALYSIS:

14. The principal ground urged by respondent No.2 in the present appeal concerns the computation of compensation under the head of loss of dependency. It is contended that the Tribunal committed an error in awarding Rs.12,84,300/- under the said head by taking the entire pension amount received by the deceased as her income and applying the multiplier of 5, without making any deduction towards her personal and living expenses. Respondent No.2 has also contended that the petitioner, being married from 1991 and residing separately with her husband in Mumbai since then, was not financially dependent upon the deceased and was therefore not entitled to compensation towards loss of dependency.

15. At the outset, it is considered as necessary to deal with the contention regarding the petitioner's entitlement to maintain the claim. The material recorded by the Tribunal shows that the petitioner is the daughter of the deceased and that her relationship with the deceased was established through the documents produced before the Tribunal. The Tribunal also

noticed the evidence of PW.1 that she had been married in the year 1991 and was residing with her husband in Mumbai.

16. Merely because the petitioner was married and residing separately, it would not follow that she ceased to be a legal representative of the deceased. The right to maintain a claim as a legal representative is not confined only to persons who were financially dependent upon the deceased. The question of financial dependency is relevant while determining the compensation payable under the head of loss of dependency. It does not, by itself, take away the right of a legal representative to seek compensation under the Motor Vehicles Act.

17. The Tribunal considered the decisions of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Birender***[1] and ***N. Jayasree v. Cholamandalam MS General Insurance Co. Ltd.***[2] and held that a married daughter could maintain a claim as a legal representative of her deceased mother. There is no reason to interfere with that conclusion. The fact that the petitioner was residing separately from the deceased may have

[1] (2020) 11 SCC 356.
[2] (2022) 14 SCC 712.

a bearing on the assessment of loss of dependency, but it cannot be treated as a ground to reject the claim petition in its entirety. Therefore, the contention of respondent No.2 to the extent that it seeks to deny the petitioner any entitlement merely on the ground that she was married and residing separately is rejected.

18. The next question is whether the Tribunal correctly assessed the loss of dependency. On this aspect, the contention of respondent No.2 merits acceptance. The Tribunal assessed the monthly income of the deceased at Rs.21,405/-, being the pension amount received by her. The said amount was taken as the basis for computing the annual income. The Tribunal thereafter applied the multiplier of 5 and awarded Rs.12,84,300/- towards loss of dependency. However, while making the calculation, the Tribunal did not deduct any amount towards the personal and living expenses of the deceased.

19. In that view, the said method of computation cannot be sustained. The entire income received by the deceased could not have been treated as the amount available towards the contribution to the petitioner. Even in a case where

the deceased was receiving pension, it was necessary to make an appropriate deduction towards the personal and living expenses of the deceased before arriving at the amount that could be considered for computing loss of dependency. The Tribunal's failure to make such deduction has resulted in an excessive award under the said head. Therefore, it is not inclined to accept the reasoning adopted by the Tribunal while computing the loss of dependency.

20. It is also noted that a memo of calculation has been filed before this Court, setting out the amount payable after deducting 50% towards the personal and living expenses of the deceased. Having considered the said calculation, it is appropriate to re-compute the compensation under this head. The monthly income of the deceased, as assessed by the Tribunal, is retained at Rs.21,405/-. The annual income, therefore, works out to Rs.2,56,860/-. Out of the said amount, 50% is deducted towards the personal and living expenses of the deceased. After making the said deduction, the annual contribution available for computing loss of dependency works out to Rs.1,28,430/-.

21. The age of the deceased was 76 years as on the date of the accident. The Tribunal applied the multiplier of 5. The said multiplier is not in dispute in the present appeal and there is no reason to alter it. Applying the multiplier of 5 to the annual contribution of Rs.1,28,430/-, the compensation payable towards loss of dependency works out to Rs.6,42,150/-. The Tribunal had awarded Rs.12,84,300/- under this head. The award under the head of loss of dependency is, therefore, required to be reduced to Rs.6,42,150/-.

22. It is made clear that the modification is confined to the computation of loss of dependency. The other heads of compensation awarded by the Tribunal have not been successfully challenged on any independent ground requiring interference. The Tribunal awarded Rs.48,400/- towards parental consortium, Rs.16,500/- towards funeral expenses and Rs.16,500/- towards loss of estate. Having regard to the material and the findings recorded by the Tribunal, there is no reason to disturb the amounts awarded under these heads. The said amounts are accordingly retained.

23. The compensation payable to the petitioner is therefore recalculated as follows:

Sl. No.	Head of compensation	Amount
1.	Loss of dependency	Rs.6,42,150/-
2.	Parental consortium	Rs.48,400/-
3.	Funeral expenses	Rs.16,500/-
4.	Loss of estate	Rs.16,500/-
	Total	**Rs.7,23,550/-**

24. Thus, the total compensation payable to the petitioner stands reduced from Rs.13,65,700/- to Rs.7,23,550/-. The petitioner shall be entitled to interest at the rate of 6% per annum on the modified compensation from the date of the petition till the date of realisation, as awarded by the Tribunal.

25. For the reasons stated above, respondent No.2 has made out sufficient grounds to interfere with the judgment and award of the Tribunal, but only to the limited extent of the compensation awarded towards loss of dependency. The finding of the Tribunal regarding the petitioner's entitlement to maintain the claim is sustained. The compensation under the remaining heads is also retained. Accordingly, the following:

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ORDER

1. The appeal is ***partly allowed***.
2. The judgment and award dated 23.06.2026 is modified.
3. The total compensation payable to the petitioner stands reduced from Rs.13,65,700/- to Rs.7,23,550/- with 6% per annum on the modified compensation from the date of the petition till the date of realisation.

   Pending I.As., stand disposed of.

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

BVK
List No.: 1 Sl No.: 3