



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.1065/2020 (MV-D)

BETWEEN:

1. SMT. MANJULA M.H.
W/O LATE G. SHANKAR
AGED ABOUT 33 YEARS.
2. MASTER. YOGITH .S
AGED ABOUT 3 YEARS
S/O LATE G. SHANKAR.
3. SRI. GALAPPA
S/O LATE G. SHANKAR
AGED ABOUT 55 YEARS.
4. SMT. MAHALAKSHMAMMA
W/O GALAPPA
AGED ABOUT 51 YEARS.

ALL ARE R/AT NO.33
KENGARI HOBOLI, VINAYAKANAGAR
SOUTH RAMOHALLI
BENGALURU 560060.

APPELLANT NO.2 IS MINOR HENCE
REP. BY HIS NATURAL GUARDIAN
MOTHER SMT.MANJULA M.H.

...APPELLANTS

(BY SRI. ANANDA K.S. ADV.,)

Digitally signed by
ARSHIFA BAHAR
KHANAM

Location: HIGH
COURT OF
KARNATAKA



AND:

1. THE MANAGER
UNITED INDIA INSURANCE CO. LTD.,
5TH AND 6TH FLOOR
KRUSHI BHAVAN BUILDING
HUDSON CIRCLE
BENGALURU 560001.
2. SMT. MANJULA .S
W/O SIDDEGOWDA
R/AT NELAMANGALA MAIN ROAD
VARTHUR, TAVAREKERE
BENGALURU 562130.
3. MR. MAHADEVA
NO.106, 1ST MAIN, 1ST CROSS
CHALUVAPPA GARDEN
BHUVANESHWARINAGAR
K.P. AGRAHARA, BENGALURU 23.

...RESPONDENTS

(BY SRI. A. RAVISHANKAR, ADV., FOR R1
V/O/DTD:12.07.2024, NOTICE TO R2 & R3 ARE D/W)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.04.10.2019 PASSED IN MVC NO.3372/2018 ON THE FILE OF THE XI ADDITIONAL SMALL CAUSES JUDGE AND XXXIV ACMM, COURT OF SMALL CAUSES, MEMBER, MACT-12, BENGALURU, (SCCH-12), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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



CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL JUDGMENT

This appeal is filed by the claimants seeking enhancement of compensation being aggrieved by the judgment and award dated 04.10.2019 passed in MVC No.3372/2018 on the file of the IX Additional Small Causes Judge & XXXIV ACMM, Court of Small Causes, and Member, MACT-12, Bengaluru, (for short, 'Tribunal').

2. Sri.Ananda K.S., learned counsel for the appellants-claimants submits that the Tribunal has committed grave error in ignoring Exs.P16 to P18, the income tax returns and the contract certificate, and assessed the income of the deceased G.Shankar at Rs.15,000/- per month by guess work. It is further submitted that the claimants have produced the income tax returns from the year 2012 till 2018 and as per the income tax returns, the income of the deceased is required to be assessed appropriately by adding 40% towards the loss of future prospects. It is also submitted that the



Tribunal has erred in deducting $1/3^{\text{rd}}$ towards the personal and living expenses of the deceased as the claimants are 4 in numbers, appropriate deduction would be $1/4^{\text{th}}$. Hence, he seeks to allow the appeal.

3. Per contra, Sri.A.Ravishankar, learned counsel for the respondent-Insurance Company supports the impugned judgment and award of the Tribunal and submits that the perusal of the income tax returns does not indicate the other expenses and after deducting the income tax, the income is required to be assessed. It is submitted that the claimant No.3 i.e., the father of the deceased who was aged about 55 years and was an earning member, hence he cannot be termed as a dependent. Thus, the Tribunal has rightly assessed the dependency by deducting $1/3^{\text{rd}}$ towards the personal and living expenses of the deceased. Hence, he seeks to dismiss the appeal.



4. I have heard the arguments of the learned counsel appearing on both the sides and meticulously perused the material available on record.

5. The appellants as well as the respondent are not in dispute that in a road accident that occurred on 01.06.2018 one G.Shankar sustained grievous injuries and later died. The deceased was aged about 32 years at the time of the accident and in order to prove the claim, the claimants examined PW1 and got marked Exs.P1 to P18. The respondent did not adduce any evidence. The Tribunal assessed the income of the deceased notionally at Rs.15,000/- per month and awarded total compensation of Rs.27,98,000/- with interest at the rate of 6% per annum by deducting 1/3rd towards the personal and living expenses of the deceased.

6. It is to be noticed that the claimants have produced the income tax returns from the year 2012 to 2018 and the documents to substantiate that the deceased



was a Class-III contractor, used to take up different civil works. The perusal of the income tax returns as per Ex.P18, syndicate bank account statement as per Ex.P17, notarized copy of contractor pass book as per Ex.P16, I am of the considered view that the Tribunal erred in assessing the income of the deceased at Rs.15,000/- per month.

7. The perusal of the income tax returns for the years 2015-16, 2016-17, 2017-18, the average of three years income would be Rs.2,65,130/- and the said income is required to be assessed as yearly income of the deceased and 40% of the said income is required to be added towards the loss of future prospects of the deceased.

8. It is to be noticed that the Tribunal erred in excluding the claimant No.3 - father of the deceased as a dependent without any evidence before it. The father of the deceased was aged about 55 years at the time of



accident and death of G.Shankar. However, there is no evidence before the Tribunal to come to the conclusion that the claimant No.3 was an earning member and residing separately and not dependent on the deceased. In the absence of any such evidence, in my considered view deduction would be **1/4th** towards the personal and living expenses of the deceased and not 1/3rd. Hence, the compensation under the head of loss of dependency would be is re-assessed as under:

$$\text{Rs.}2,65,130 + 40\% \times 16 \times 3/4 = \textbf{Rs.44,54,184/-}.$$

9. The claimants being the wife, son and parents of the deceased G.Shankar are entitled to the compensation under the head of loss of consortium at **Rs.44,000/- each** including 10% escalation. The appellants-claimants would be entitled to a sum of **Rs.16,500/-** under the head of 'loss of estate' and **Rs.16,500/-** under the head of 'funeral expenses & transportation of dead body' including 10% escalation.



Thus, in all, the appellants-claimants shall be entitled to modified compensation under the following heads:

HEADS	AMOUNT (in Rs.)
Loss of estate	16,500
Funeral expenses and transportation of dead body	16,500
Loss of consortium (Rs.44,000 x 4)	1,76,000
Loss of dependency	44,54,184
Total	46,63,184

Thus, the claimants shall be entitled to a total compensation of **Rs.46,63,184/-** as against Rs.27,98,000/- awarded by the Tribunal.

10. In the result, this Court proceeds to pass the following:

ORDER

- a) Appeal is ***allowed in part.***
- b) The impugned judgment and award of the Tribunal is modified to an extent that the claimants would be entitled to total compensation of **Rs.46,63,184/-** as against Rs.27,98,000/- awarded by the Tribunal.



- c) The compensation amount shall carry interest at the rate of 6% per annum from the date of petition till the date of payment.
- d) The Insurance Company shall deposit the enhanced compensation amount with accrued interest before the Tribunal within a period of six weeks from the date of receipt of certified copy of this judgment.
- e) Out of the total compensation amount, the appellant No.1 being the wife of the deceased is entitled to 40% and appellant No.2 being the minor son is entitled to 30% and appellant Nos.3 and 4 being the parents are entitled to 15% each.
- f) Out of their shares, 50% of the award amount of appellant Nos.1, 3 and 4 shall be kept in fixed deposit in any Nationalized Bank/Scheduled Bank for a period of three (03) years. Insofar as appellant No.2, who is a minor, is concerned, the entire award amount of his share shall be kept in fixed deposit in any Nationalized Bank/Scheduled Bank till he attain the age of majority. The appellants



are at liberty to withdraw the periodical interest.

- g) Registry shall transmit the records to the concerned Tribunal forthwith.
- h) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 2 Sl No.: 4