HC-KAR

NC: 2026:KHC:21545-DB
MFA No. 1398 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

MISCELLANEOUS FIRST APPEAL NO.1398 OF 2023 (MV-D)

BETWEEN:

1. JAYANTHI,
   AGED ABOUT 59 YEARS,
   W/O. LATE VITTALA DEVADIGA,

2. LAKSHMI
   AGED ABOUT 39 YEARS,

3. VISHNU PRASAD V.,
   AGED ABOUT 38 YEARS,

4. RASITHA V.,
   AGED ABOUT 35 YEARS,

   APPELLANT NO.2 TO 4 ARE CHILDREN
   OF LATE VITTAL DEVADIGA,

   ALL ARE RESIDING AT "SRI DUGA HOUSE",
   DUGGANNABETTU, KUKKUNDOOR POST,
   (WEST) AND VILLAGE,
   KARKALA TALUK - 576117.

...APPELLANTS

(BY MS. PAYAL DECHAMMA.C.V., ADV. FOR
SRI. H.PAVANA CHANDRA SHETTY, ADV.)

AND:

1. RAGHUNATH,
   AGED ABOUT 31 YEARS,

S/O. VADIRAJA,
R/AT. H.NO- 2-B, 217 A3,
INDIRA NAGARA, 8TH CROSS,
KUKKIKATTE,
26 BADAGABETTU VILLAGE,
UDUPI TALUK AND DISTRICT -576107

2. THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
KARKALA BRANCH, PB NO.29,
2ND FLOOR, SUSHILA SANJIV ENCLAVE,
NEAR KARNATAKA BANK,
MARKET ROAD,
KARKALA - 574104

...RESPONDENTS

(BY SRI. RAVISH BENNI, ADV. FOR R2;
NOTICE TO R1 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 06.07.2022 PASSED IN MVC NO.584/2021 ON THE FILE OF THE COURT OF SENIOR CIVIL JUDGE AND ACJM AT KARKALA UDUPI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION AND ETC.

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

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The claimants are in appeal not being satisfied with the quantum of compensation awarded under judgment and award dated 06.07.2022 in MVC.No.584/2021 on the file of the Senior Civil Judge and ACJM, Karkala, Udupi and seeking for enhancement of compensation.

2. The accident that occurred on 16.02.2021 involving two wheeler bearing Reg.No.KA-20-X-0529 and the death of one Vittala Devadiga, husband of first claimant, is not in dispute in this appeal. The claimants have stated that the deceased-Vittala Devadiga was earning a sum of Rs.1,00,000/- per month by doing agricultural activity and he was aged 65 years as on the date of accident.

3. Before the Tribunal, the first claimant-wife of the deceased examined herself as PW.1, apart from marking the documents at Exs.P1 to P15. The respondent-insurance company marked Ex.R1-insurance policy with consent.

4. On scrutiny of the materials on record, the Tribunal awarded total compensation of Rs.7,70,128/- with interest at the rate of 7% per annum from the date of petition till its realization, on the following heads:

1	Loss of Estate	Rs.16,500/-
2	Transportation and funeral expenses	Rs.16,500/-
3	Loss of spousal consortium, parental consortium	Rs.1,76,000/-
4	Loss of Dependency	Rs. 5,60,028/-
5	Medical expenses of deceased prior to his death	Rs.1,100/-
	Total	**Rs. 7,70,128/-**

5. Heard Ms. Payal Dechamma.C.V., learned counsel for Sri. H.Pavana Chandra Shetty, learned counsel for the appellants and learned counsel Sri. Ravish Benni for respondent No.2-Insurance Company. Perused the entire appeal papers and also the Tribunal's original records.

6. Learned counsel for the appellants would submit that the Tribunal has assessed income of the deceased-Vittala Devadiga on the lower side and submits that the claimants have stated that the deceased was earning a sum of

Rs.1,00,000/- per month by doing agricultural activity. Further, learned counsel submits that the assessment of the income of deceased by the Tribunal is much lesser than the notional income fixed by the Karnataka State Legal Services Authority. Learned counsel further submits that as per the chart prepared by the Karnataka State Legal Services Authority, the notional income fixed for the year 2021 is Rs.15,000/- per month. Thus, learned counsel would pray for re-assessment of income of the deceased.

7. Learned counsel for the appellants further submits that there are four claimants and the Tribunal committed an error in deducting 1/3rd of the income towards personal expenses of the deceased and submits that the Tribunal ought to have deducted 1/4th as there are four claimants. Thus, she prays for allowing the appeal.

8. Per contra, learned counsel Sri. Ravish Benni for respondent No.2-Insurance Company would submit that in the absence of any material placed on record to establish the income of the deceased, the Tribunal is justified in assessing the income of the deceased at Rs.10,000/- per month. Further,

learned counsel submits that though there are four claimants, except first claimant, other claimants are his children who are all married, that too, two daughters of the deceased are residing with their husbands. Therefore, he submits that the Tribunal is justified in deducting 1/3rd of the income towards personal expenses of the deceased. Thus, he would pray for dismissal of the appeal.

9. Having heard the learned counsel for the parties and on perusal of the material on record, the only point that would fall for consideration is as to *"Whether the claimants are entitled for enhancement of compensation?"*. Answer to the said point would be in the 'Affirmative' for the following reasons:

10. As stated above, the accident that occurred on 16.02.2021 involving two wheeler bearing Reg.No.KA-20-X-0529 and the death of one Vittala Devadiga, husband of first claimant is not in dispute in this appeal. The claimants have stated that the deceased was earning a sum of Rs.1,00,000/- per month by doing agricultural activity. But the claimants have failed to establish the income of the deceased. In the

absence of material to assess the income of the deceased, it is for the Tribunal/Courts to determine the income of the deceased notionally. The notional income as determined by the Karnataka State Legal Services Authority for the year 2021 is Rs.15,000/- per month. As such, the Tribunal ought to have assessed the notional income of the deceased at Rs.15,000/- per month. Accordingly, the income of the deceased is re-assessed at Rs.15,000/- per month as against Rs.10,000/- per month assessed by the Tribunal. Further, the Tribunal is justified in deducting 1/3rd of the income towards personal expenses of the deceased. Out of four claimants, two claimants are married daughters and as such, only two claimants were dependents of the deceased. As such, deduction of 1/3rd of the income towards personal expenses of the deceased is proper and correct. Since the deceased was aged 65 years as on the date of accident, the claimants would not be entitled for adding future prospects. As the income of the deceased is re-assessed at Rs.15,000/- per month, the modified compensation would be as follows:

1	Loss of Estate	Rs.16,500/-
2	Transportation and funeral expenses	Rs.16,500/-
3	Loss of spousal consortium, parental consortium	Rs.1,76,000/-
4	Loss of Dependency **(15,000-1/3 = 10,000x7x12=8,40,000)**	Rs. 8,40,000/-
5	Medical expenses of deceased prior to his death	Rs.1,100/-
	Total	**Rs. 10,50,100/-**

The appeal is **allowed-in-part** to the above extent and the claimants are entitled for the enhanced compensation of **Rs.2,79,972/- (7,70,128-10,50,100=2,79,972)** with interest at the rate of 7% per annum.

The amount in deposit be transmitted to the Tribunal.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

SMJ; List No.: 1 Sl No.: 10