IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

PRESENT

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

AND

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

M.F.A. NO. 2979 OF 2023 (MV-D)

BETWEEN:

1. SMT. B. L. MANASA
D/O LATE LINGAIAH,
W/O LATE MOHAMMED MUSTAFA,
AGED ABOUT 38 YEARS,

2. BABY ADHYA
D/O LATE MOHAMMED MUSTAFA,
AGED 8 YEARS,

SINCE APPELLANT NO.2 IS MINOR
REP. BY THEIR MOTHER AND NATURAL
GUARDIAN SMT. B.L. MANASA

BOTH ARE R/AT NO.203,
ADARSHA SERENE,
2ND MAIN ROAD,
BEHIND GOVT. HIGH SCHOOL
PUTTENAHALLI, 7TH PHASE,
J P NAGAR, BENGALURU-560078.

...APPELLANTS

(BY SRI. SHRIRAM ADIGA, ADV.)

AND:

1. THE ICICI LOMBARD GEN. INS. CO. LTD.,
NO.89, 2ND FLOOR, SVR COMPLEX,
HOSUR ROAD, MADIVALA,
NEAR AYAPPA TEMPLE,
BENGALURU 560068
REP. BY ITS MANAGER.

2. M/S. THIASOHOLA PLANTATIONS PVT. LTD.,
NO.4/1, TUMKUR ROAD,
YESHWANTHPURA,
BENGALURU – 560022
REP. BY ITS MANAGING DIRECTOR.

3. IFFCO TOKIO GEN. INS. CO. LTD.,
3RD FLOOR, 3RD BLOCK KSMFC,
NEAR CHANDRIKA HOTEL,
CUNNINGHAM ROAD,
BENGALURU -560001.

4. SMT. HAZEERA BEGUM
W/O ABID BEARY,
AGED 67 YEARS,

5. SRI ABID BEARY
S/O LATE ABBU BEARY,
AGED 69 YEARS,

R4 & R5 ARE R/AT AYESHA MANZIL,
ABU COMPOUND,
SALIKKERIGRAMA,
BRAHMAVARA TALUK,
UDUPI DISTRICT- 576213.

…RESPONDENTS

(BY SRI. ASHOK N PATIL, ADV. FOR R1
SRI D VIJAYAKUMAR, ADV. FOR R3
V/O DATED 18.09.2025 NOTICE TO R2, R4 & R5 D/W)

THIS APPEAL IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 23.08.2022 PASSED IN MVC NO.1777/2015 ON THE FILE OF THE C/C XXII ADDITIONAL SMALL CAUSES JUDGE AND ACMM, MEMBER-MACT, COURT OF SMALL CAUSES BENGALURU (SCCH-24), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

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)

1. This appeal is filed by the claimants under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'the Act') against the judgment and award dated 23.08.2022 in MVC No. 1777/2015 on the file of XXII Addl. SCJ and ACMM, MACT, Bengaluru (for short 'Tribunal'), saddling of 60% negligence upon the deceased as well as not being satisfied by the quantum of compensation awarded.

2. The brief facts of the case are that the claimants being the wife and daughter of the deceased respectively, filed a claim petition under Section 166 of the Act seeking compensation for the accidental death of Sri. Mohammed Mustafa in an accident involving Maruti Ritz car bearingReg.No.KA-05-MP-2089 and Audi Q7 car bearing Reg.No.KA-02-MH-3776near Deverahalli, Tumkur District on 05.08.2014 at about 2.50 p.m. The said accident also led to the death of one Smt. Yashoda who was an inmate in the

car and multiple injuries to other inmates, namely Sr. Satish and Smt. Vijayalakshmi. It is submitted that the deceased Sri. Mohammed Mustafa was aged 31 years as on the date of the accident, was a B.Com graduate, was working as a Theatre Technician/Lighting Designer and was earning Rs. 1,00,000/- p.m.

3. Before the Tribunal, upon issuance of notice, the respondents No. 1 to 5 appeared, and respondents No. 1 and 3 filed its Written statement and Respondent No. 4 and 5 filed statement of objections and counter claim. The respondent No. 1 and 2 are the insurer and owners, respectively of the Audi Q7 car bearing Reg.No. KA-02-MH-3776. The respondent No. 3 is the insurer of the Maruti Ritz car bearing Reg.No. KA-05-MP-2089. The respondent No. 4 and 5 are the parents of the deceased. In support of their claim, the claimant No. 1 examined herself as PW1 and got marked Exs.P1 to 15. The respondent No. 1 examined its official as RW2 and got marked Exs R1 to 3. The respondent No. 3 examined its official as RW1. The tribunal

upon examination of the material on record, saddled 60% of the negligence upon the deceased and saddled 40% of the negligence upon the driver of the Audi Q7 car and awarded the total compensation of Rs.10,87,600/- along with interest at 6% p.a. to be payable by Respondent No. 1 and 2 jointly and severally, under the following heads:-

Sl No.	Compensation under the Head	Amount
1.	Loss of dependency	Rs. 16,18,536/-
2.	Loss of estate	Rs. 17,000/-
3.	Funeral and Transportation expenses	Rs. 17,000/-
4.	Loss of Consortium	Rs. 1,60,000/-
	TOTAL	Rs. 18,12,536/-

4. While coming to the afore-stated conclusion, the Tribunal assessed the monthly income of the deceased notionally at Rs. 8,500/, added 40% of the monthly income towards future prospects, deducted 1/3rd towards personal and living expenses of the deceased and applied the multiplier of 17.

5. Heard Sri. Shriram Adiga, learned counsel for the appellants/claimants, Sri. Ashok N Patil, learned counsel for respondent No.1 and Sri. D Vijaya Kumar, learned counsel for respondent No.3. Perused the entire appeal papers including the Trial Court records.

6. Learned counsel for the claimants Sri. Shriram Adiga would contend that the Tribunal erred in attributing 60% of the negligence for the accident, upon the deceased. It is submitted that on account of misreading the movement of another passenger car, the Audi car came to the middle portion of the road and caused the accident as the deceased was already in the middle portion of the road. It is also submitted that the Tribunal has failed to take into consideration the relevant materials as regards the documents submitted to substantiate the monthly income of the deceased. It is submitted that the Tribunal has erred in holding that the claimant No. 1-wife is not a dependent of the deceased. Further, the learned counsel for the claimants has also filed an IA being IA No.

01/2026 under Order XLI Rule 27 of the CPC for production of additional documents which includes, Income Tax Returns (ITR) for the three assessment years (AY) immediately preceding the date of accident. It is submitted the said ITRs would be relevant for assessment of the appropriate income of the deceased. For all these reasons, the learned counsel would pray that the appeal as well as the IA be allowed and compensation be modified to the above extent. The Orders on IA No. 01/2026 shall be passed in the course of this judgment.

7. *Per contra,* learned counsel for respondent No. 1 Sri Ashok N Patil would submit that the accident occurred solely due to the negligence of the deceased and that the Tribunal erred in attributing 40% negligence towards the driver of the Audi car. As regards the compensation granted by the Tribunal, without prejudice to the above argument, learned counsel for respondent No. 1 would submit that the compensation granted by the Tribunal is just and proper, and does not need any

interference. Thus, he would pray that the appeal filed by the claimants be dismissed.

8. Learned counsel for respondent No.3 Sri. D Vijaya Kumar would submit that the Tribunal has rightly assessed the negligence, liability as well as the compensation and thus, would submit that the appeal filed by the claimants be dismissed.

9. Having heard the learned counsel appearing for the parties and on perusal of the entire appeal papers including the Trial Court Records, the following points would arise for our consideration:

i. *Whether the Tribunal is justified in attributing 60% negligence for the accident upon the driver of the Ritz car, i.e. the deceased?*

ii. Whether the quantum of compensation granted by the Tribunal is just and proper?

iii. Whether the appellants have made out a ground for allowing IA No. 01/2026 for production of additional documents?

10. Answer to the points No. 1 and 3 would be in the Affirmative and to point No. 2 in the Negative for the following reasons:

The accident that occurred on 05.08.2014 at about 2.50 p.m. involving Maruti Ritz car bearingReg.No.KA-05-MP-2089 and Audi Q7 car bearing Reg.No.KA-02-MH-3776 near Deverahalli, Tumkur District, that led to the death of the deceased is not in dispute. However, the claimants have questioned the attributing of 60% negligence for the accident upon the deceased, by the Tribunal.

11. A perusal at the RW3 sketch produced by the respondents would indicate that it was a head on collusion that occurred between Maruti Ritz car bearingReg.No.KA-05-MP-2089 and Audi Q7 car bearing Reg.No.KA-02-MH-3776, that too, in the middle of the road. The Audi car was travelling towards Tiptur and the Ritz car was travelling towards Tumkur. Subsequent to the accident, an FIR was registered by one Sri. Nagaraju who was an eye witness to the accident. A perusal at the FIR would indicate that as

per said Sri. Nagaraju, the drivers of the Audi car as well as the Ritz car were driving in a rash and negligent manner. It is further stated that one Bolero car overtook the Audi car, after which, the drivers of the Audi car and Ritz car were driving on the median line of the road rashly and negligently and dashed head on against each other. Moreover, the said FIR has culminated in charge sheet being filed against the drivers of both the vehicles involved in the accident.

12. Moreover, the claimant No. 1 in her cross examination has stated that the deceased was in a hurry to reach his rehearsals and drop off the inmates of the car at JP Nagar. Further, one of the inmates Smt. Vijayalakshmi in her cross examination in MVC.1779/15 arising out of the same accident has deposed that the driver of the Ritz car was driving in the middle of the road and that the Bolero vehicle and Audi were approaching in succession due to which the driver of the Audi car could not see the oncoming Ritz car. Thus, for all these reasons

recorded above, we do not find fault with the attribution of 60% negligence upon the driver of the Ritz car by the Tribunal.

13. With regard to the compensation under the head 'loss of dependency', the Tribunal has assessed the income of the deceased notionally at Rs. 8,500/- p.m. The learned counsel for the claimants would submit that the Tribunal has failed to take into account the documents such as the Income Tax Returns as well as the bank statements of the deceased to assess the proper income of the deceased. It was submitted before the Tribunal by the claimants that the deceased was earning Rs. 1,00,000/- p.m. on average and to substantiate the same, had merely produced the Income Tax Return for the assessment year 2014-15, which is filed subsequent to the death of the deceased. It is the contention of the claimants that the ITR for the AY 2014-15 needs to be considered for assessing the income of the deceased.

14. The learned counsel for the claimants during the course of hearing, filed IA No. 01/2026 for production of additional documents, which includes the ITRs for AYs 2011-12 to AY 2014-15. A perusal at the ITRs for the aforesaid AYs would indicate that for AYs 2011-12 to 2013-14, the gross income declared by the deceased was in the range of Rs. 2.5 lakhs to 5.8 lakhs. However, for the AY 2014-15, the ITR of the deceased filed posthumously would indicate that the gross income declared has jumped to Rs. 9 lakhs. The tribunal has rightly ignored the said ITR for AY 2014-15 since there is a substantial rise in the income declared for the said year, which does not inspire the confidence of this court as well. The Tribunal in the said circumstances was right in assessing the income of the deceased notionally.

15. However, the learned counsel for the claimants has filed IA No. 01/2026 to produce the ITRs for AYs 2011-12 to AY 2013-14 before this Court. This court is of the opinion that ITRs for AYs 2011-12 to AY 2013-14 are

necessary documents to adjudicate the present appeal in order to do complete justice. In the interests of justice and equity, this court does not find any reasons to disallow the said IA. The documents produced along with I.A would assist the Court in proper assessment of monthly income of the deceased. Thus, the ITR filed by the assessee for the AY 2013-14 which is the year immediately preceding the date of accident is to be taken into consideration for assessing the income of the deceased.

16. For the AY 2013-14, the deceased had declared the gross income of Rs. 5,80,300/-. The applicable income tax on the same would be Rs. 18,522/-. Thus, the net annual income of the deceased is assessed at Rs. 5,61,780/- approximately as against notional income of Rs.8,500/- assessed by the Tribunal. This court does not find any reasons to interfere with the Order of the Tribunal with regards to the number of dependents, the future prospects added and the multiplier applied. Thus, on re-assessment of the net annual income of the deceased,

claimants would be entitled for modified compensation under the head 'loss of dependency' as follows:

5,61,780+40%-1/3X17=**Rs. 89,13,576/-**

17. With regard to the conventional heads, the 4 legal representatives of the deceased, i.e. Claimants No. 1 and 2 as well as Respondents No. 4 and 5 shall be entitled to Loss of Consortium at Rs. 40,000/- each to be enhanced at 10% for every three years. Further, in the absence of any evidence to substantiate the same, the claimants shall be entitled to compensation of Rs. 16,500/- each under the heads, 'Loss of Estate' and 'Funeral and Transportation Charges' to be enhanced at 10% every three years in accordance with the decision of the Hon'ble Apex Court in ***NATIONAL INSURANCE CO. LTD. V. PRANAY SETHI*** reported in ***(2017) 16 SCC 680***.As we have held that the deceased was negligent to an extent of 60%, the claimants shall only be entitled to only 40% of the modified compensation as quantified by

us.The claimants would be entitled for the following modified compensation:

Sl. No.	PARTICULARS	AMOUNT
1.	Loss of Dependency	Rs. 89,13,576/-
2.	Loss of Consortium	Rs. 1,76,000/-
3.	Loss of Estate	Rs. 16,500/-
4.	Funeral Expenses and Transportation Charges	Rs. 16,500/-
5.	**Total**	Rs. 91,22,576/-
6.	**40% of Sl. No. 5**	**Rs.36,49,030/-**

18. The claimants would be entitled to the enhanced compensation of **Rs.36,49,030/-**as against Rs.10,87,600/- awarded by the Tribunal, at the rate of 6% per annum from the date of petition till the date of realization. In the result, we proceed to pass the following:

ORDER

a) IA No. 01/2026 for production of additional documents is allowed.

b) MFA No. 2979/2023 filed by the claimants is allowed in part.

c) The impugned judgment and award of the Tribunal is modified holding that the claimants would be entitled to the enhanced compensation of **Rs.36,49,030/-**as against Rs.10,87,600/- awarded by the Tribunal

d) The entire compensation amount shall carry interest at the rate of 6% per annum from the date of petition till date of realization.

e) The respondent No. 1 -Insurance Company shall deposit the entire compensation amount with accrued interest before the Tribunal within four weeks from the date of receipt of certified copy of this judgment.

f) Apportionment, deposit and disbursement shall be made as per the award of the Tribunal.

g) The amount in deposit, if any, be transmitted to the concerned Tribunal forthwith along with Trial Court Records.

h) Draw modified award accordingly.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

NC
CT:bms
List No.: 1 Sl No.: 22