



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 3707 OF 2021 (MV-D)

BETWEEN:

1. SMT. RATHNAMMA
W/O LATE SHANKAREGOWDA K.N.,
AGED ABOUT 51 YEARS ,
2. PREMA
W/O Late SHANKAREGOWDA K.N.,
AGED ABOUT 46 YEARS,
3. DHARANISHA M S
S/O LATE SHANKAREGOWDA K.N.,
AGED ABOUT 27 YEARS,
4. AJAY GOWDA.M.S.
S/o LATE SHANKAREGOWDA,
AGED ABOUT 19 YEARS,
5. ANU SHREE M.S.
D/O LATE SHANKAREGOWDA K.N.,
AGED ABOUT 18 YEARS

ALL ARE RESIDING AT
NO. 107, MALAGOORU,
KR PETE TALUK,
MANDYA DISTRICT-571 432.

...APPELLANTS

(BY SRI. MAHADEVA SWAMY P., ADVOCATE)

AND:

1. THE REGIONAL MANAGER,
UNITED INDIA INS. CO. LTD.,
5TH AND 6TH FLOOR, KRISHI BHAVANA,





HUDSON CIRCLE,
BANGALORE-01.

2. SRI. SHANTHOSH D.S.,
S/O SRIRAM N.,
NO:143, DAMANAHALLI VILLAGE,
PANDVAPURA TALUK,
MANDYA- 571 434.

...RESPONDENTS

(BY SRI. KRISHNA KISHORE S., ADVOCATE FOR R1,
VIDE ORDER DATED 08/02/2024,
NOTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST
THE JUDGMENT AND AWARD DATED 23.01.2020 PASSED
IN MVC NO.3831/2019 ON THE FILE OF THE V
ADDITIONAL SMALL CAUSES JUDGE AND XXIV ACMM,
MEMBER MACT, BENGALURU SCCH-20 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 MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

This appeal is filed by the claimants being aggrieved
by the judgment and award dated 23.01.2020 passed by the
V Additional Small Causes Judge and XXIV A.C.M.M,
Member, MACT, Bengaluru (for short `Tribunal'), in MVC
No.3831/2019 seeking enhancement of compensation as
well as fastening of the entire liability on the respondents to
pay the compensation.



2. The matter is stated for hearing on admission. With the consent of both the side, it is taken up for final disposal.

3. For the sake of convenience, the parties are referred to as per their rankings before the Tribunal.

4. The brief facts of the case of both the parties before the Tribunal were that :

On 12.03.2019, at about 9.00 a.m., the deceased Shankeregowda was proceeding on his motor cycle bearing registration No.KA-02-JC-9722 near Karikyathanahalli circle, KR pet road, Honkere Hobli. He met with an accident due to rash and negligent driving of a goods auto bearing No.KA-11-A-9723. As a result, the deceased sustained grievous injuries. While undergoing treatment, he succumbed to the injuries on 17.04.2019 at Sparsh Hospital, Bengaluru.

5. It is further case of the claimants that the deceased was aged about 55 years; was earning Rs.40,000/- per month from agriculture and by working as a driver. The deceased had two wives and three children,



who were depending on him. With these reasons, they prayed to award compensation of Rs.50,00,000/-.

6. The respondent No.1 filed its written statement, denying the contentions of the claim petitioners. It denied its liability to pay the compensation on the ground that accident occurred due to the negligence of rider of the motor cycle. With these reasons, prayed to dismiss the claim petition.

7. From the rival contentions of the parties, the Tribunal framed necessary issues, for its determination.

8. The claimants to prove their case examined two witnesses as PW-1 and PW-2 and marked 24 documents, as per Exs.P-1 to P-24. The respondent examined two witnesses as RW-1 and RW-2 and marked documents as per Ex.R1 to R7.

9. The Tribunal after hearing both the parties held that accident occurred due to contributory negligence of the deceased as well as the driver of the offending goods vehicle and apportioned negligence in the ratio of 20% and 80%.



Tribunal assessed the age of the deceased as 59 years and his income as Rs.9,000/- per month, applied multiplier as '9' and awarded compensation of Rs.16,56,519/- as under and directed respondent Nos.1 and 2 to pay 80% of the award amount.

Particulars	Amount in Rs.
Loss of dependency	8,01,90
Loss of estate	15,00
Loss of consortium	40,00
Funeral and obsequies ceremonies	15,00
Medical expenses	7,84,61
Total	Rs.16,56,519/-

Being dissatisfied with the award passed by the Tribunal, the claimants have filed the present appeal seeking enhancement of the compensation.

10. Heard the arguments of the learned counsels for both the side.

11. Learned counsel for the appellant contend that accident has not occurred due to negligence of the deceased. The Tribunal in paragraph No.13 held that since deceased had no license to drive the two wheeler, he had contributed to an extent of 20% and remaining 80% of the



negligence was of the driver of the goods vehicle. No reasons assigned by the Tribunal to hold that deceased was also riding the vehicle in a negligent manner. Merely not holding a driving licence to drive the said class of vehicle cannot, by itself, establish that he contributed to the accident. In support of his contention, he has relied upon the judgment of Hon'ble Apex Court in the case of ***Sudhir Kumar Rana vs. Surinder Singh and others***¹ which held that if a person is driving a vehicle without licence, he commits an offence. The same, by itself, can not lead to a presumption of driving of vehicle negligently.

12. The learned counsel for the appellant further contended that deceased was working as a driver as well as an agriculturist. Claimants have produced driving license as well as RTC of the property at Exs.P5 and P6. The Tribunal has not considered the same to assess the income properly. Therefore, prayed to recalculate the same and enhance the compensation.

¹ (2008) 12 SCC 436



13. Learned counsel for the respondent supported the impugned judgment and prayed to dismiss the appeal.

14. The fact of the accident and death of Shankaregowda due to the injuries sustained in the accident are not disputed. The Tribunal, in paragraph No. 13 at page No. 8 of the impugned judgment, observed that the deceased did not possess a licence to drive a two-wheeler. On that basis, it held that he had contributed to the extent of 20% towards the occurrence of the accident. However, based on the charge sheet and its enclosures, the Tribunal has not determined that he had also contributed by riding the vehicle in a negligent manner. In the judgment of the Hon'ble Apex Court in the case of *Sudhir Kumar Rana* (Supra), the Hon'ble Apex Court held that :

"9. If a person drives a vehicle without a licence, he commits an offence. The same, by itself, in our opinion, may not lead to a finding of negligence as regards the accident. It has been held by the courts below that it was the driver of the mini truck who was driving rashly and negligently. It is one thing to say that the appellant was not possessing any licence but no finding of fact has been arrived at that he was driving the two-wheeler rashly and negligently. If he was not driving rashly and negligently which contributed to the accident, we fail to see as to how, only because he was not having a licence, he would be held to be guilty of contributory negligence".



15. Therefore, merely not holding a licence by the deceased cannot be considered as negligence in riding the vehicle. Hence, the finding of the Tribunal that the deceased had contributed to the extent of 20% towards causing the accident is required to be set aside.

16. The Tribunal has taken the income of the deceased as Rs.9,000/- per month, which appears to be on lower side. Following the chart prepared by the Karnataka State Legal Services Authority, the notional income of the deceased is taken as Rs.14,000/- per month. The claimants have not produced any material to show that the deceased was driving a vehicle belonging to another person and earning a salary. It is also not the case of the claimants that, after the death of Shankaregowda, they were unable to cultivate the said land and had to sell it. The RTC records still stand in the name of the deceased. Under these circumstances, it cannot be said that they have lost the income derived from the said lands. In view of the said reasons, the notional income of the deceased is assessed.



Undisputedly, the deceased was aged about 59 years at the time of accident and therefore as per the law laid down by the Hon'ble Apex Court in the case of *Pranay Sethi* (supra), 10% of his income has to be added towards his future prospects.

17. As per the judgment of the Hon'ble Apex Court, in the case of ***Sarla Verma vs Delhi Transport Corporation and others***,² the multiplier applicable to the facts of the present case is '9'. The Tribunal has rightly deducted 1/4th of his income towards personal expenses of the deceased since there were five dependants. On the basis of the aforesaid factors, the amount of compensation is re-calculated under the head 'loss of dependency'.

18. As per the law laid down in *Pranay Sathi's* case (supra) and ***Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram***³ claimant Nos.1 to 5 are entitled to compensation under

² (2009) 6 SCC 121

³ (2018) ACJ 2782



the head 'loss of consortium' and conventional heads.
There is no dispute with regard to the medical expenses
awarded by the Tribunal

19. Accordingly, the following compensation is
awarded:

Particulars	Amount in Rs.
Loss of dependency (Rs.14,000+10% $\times$ 12 $\times$ 9 $\times$ 3/4)	12,47,400
Loss of consortium (Rs.40,000 $\times$ 5)	2,00,000
Funeral expenses	15,000
Loss of estate	15,000
Medical expenses	7,84,619
<i>Total</i>	22,62,019
<i>Amount awarded by the Tribunal</i>	16,56,519
<i>Enhancement</i>	6,05,500

20. Thus, the claimants are entitled for enhanced
compensation of Rs.6,05,500/- with interest at 6% p.a. on
the enhanced amount from the date of petition till its
realization.

21. It is not in dispute that respondent No.1 is the
insurer and respondent No.2 is the owner of the offending



vehicle. Therefore, both the respondents are jointly and severally liable to pay the compensation.

22. Accordingly, I proceed to pass the following:

ORDER

- i) The Appeal is ***allowed in part.***
- ii) The judgment and award dated 23.01.2020 passed in MVC.No.3831/2019 by the V Additional Small Causes Judge and XXIV A.C.M.M., Member, MACT, Bengaluru stands modified.
- iii) The claimants are entitled to enhanced compensation of Rs.6,05,500/- with interest at the rate of 6% p.a. on the enhanced amount, from the date of petition till its realization
- iv) The respondent Nos.1 and 2 are jointly and severally liable to pay the same. Respondent No.1 shall deposit the above amount within a period of six weeks from the date of award.



NC: 2025:KHC:41489
MFA No. 3707 of 2021

- v) The apportionment, deposit and release etc., are as per the award passed by the Tribunal.

Send the copy of the judgment to the Tribunal.

Sd/-
(UMESH M ADIGA)
JUDGE

AG
List No.: 1 Sl No.: 10