NC: 2026:KHC:16535
M.F.A. No.4809/2020

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.4809/2020 (MV-D)

BETWEEN:

1. SRI. R. RAMASWAMY
S/O RAMAIAH .R
AGED ABOUT 58 YEARS.

2. SMT. SHIVAGAMI
W/O R. RAMASWAMY
AGED ABOUT 56 YEARS.

3. SMT. MALINI
D/O R. RAMASWAMY
AGED ABOUT 33 YEARS.

ALL ARE R/AT NO.95
4TH CROSS, KUVEMPUNAGAR
MYSORE 570001.

...APPELLANTS

(BY MS. NITHYA, ADV., FOR
MR. PRAKASH M.H. ADV.,)

AND:

1. UNITED INDIA INS CO LTD
6TH FLOOR, KRUSHI BHAVAN
BENGALURU-560001
REP. BY ITS MANAGER.

2. SRI. ANUTOSH A. POLL
MAJOR
R/AT. 324/A, 7TH CROSS

LAXMI ROAD, SHANTHI NAGAR
BENGALURU-560 027.

...RESPONDENTS

(BY MRS. MANJULA N. TEJASWI, ADV., FOR R1
V/O/DTD:13.07.2023 NOTICE TO R2 IS D/W)

THIS MFA IS FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED. 07.04.2018, PASSED IN MVC NO.955/2017, ON THE FILE OF THE XIII-ADDITIONAL JUDGE, COURT OF SMALL CAUSES AND MEMBER OF MACT, BENGALURU (SCCH-15), 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 VIJAYKUMAR A. PATIL

ORAL JUDGMENT

This appeal is filed by the appellants challenging the judgment and award dated 07.04.2018 in MVC.No.955/2017 by the XIII Additional Small Causes Judge and Member, MACT, Bengaluru, (SCCH-15), (for short 'the Tribunal').

2. Though this appeal is listed for admission, with the consent of learned counsel for the parties, it is taken up for final disposal.

3. Smt.Nithya, learned counsel for Sri.Prakash M.H., learned counsel appearing for the appellants submits that the deceased was aged about 25 years at the time of the accident. After completing his education, he initially joined Infosys and was drawing a monthly salary of Rs.19,268/-. Subsequently, upon being selected as a Postal Assistant, he resigned from Infosys and joined service at Puttur, where he was drawing a salary of Rs.22,931/- per month. It is submitted that during the said employment, he had applied for the post of Junior Assistant in the State Bank of India. He was duly selected and had received appointment order as well as an email indicating that he has been appointed as a Junior Assistant in SBI with an offered salary of Rs.30,000/- per month and he was scheduled to report for training on 19.12.2016. However, unfortunately, on 15.12.2016, he met with a road accident and succumbed to the injuries. It is further submitted that the Tribunal has recorded incorrect finding and assessed the income of the deceased at only

Rs.8,000/- per month and awarded compensation on that basis. It is also submitted that no compensation has been awarded under the head of loss of consortium. As the claimants were parents and sister of the deceased, they are entitled to compensation under the head of consortium. Accordingly, she seeks to allow the appeal.

4. Per contra, Smt.Manjula N. Tejaswi, learned counsel for respondent No.1 supports the impugned judgment and award of the Tribunal and submits that the Tribunal has assigned detailed reasons in paragraph Nos.18 and 19 of its judgment and based on such reasons it has rightly assessed the income of the deceased at Rs.8,000/- per month. It is submitted that as on the date of the accident, the deceased was unemployed and was not earning any income. The claim of the appellants that the deceased was entitled to a salary of Rs.30,000/- per month is contingent upon his successful completion of training and probation in the post offered by the State Bank of India. Therefore, such prospective income cannot

be taken into consideration for the purpose of determining compensation. It is further submitted that as the deceased did not have a confirmed job at the time of the accident, the income cannot be assessed at Rs.30,000/- per month as claimed by the appellants. However, fairly concedes that the appellants may be entitled to consortium of Rs.40,000/- each. It is also submitted that the appellant has restricted their claim to Rs.23,00,000/- inclusive of the Tribunal amount and based on such valuation the appeal is filed, hence the granting relief should be restricted to the said amount. Accordingly, she seeks to dismiss the appeal.

5. I have heard the arguments on both the sides and meticulously perused the material available on record including the Tribunal records.

6. The appellants as well as the respondent do not dispute that the son of the appellant Nos.1 and 2 met with a road accident on 15.12.2016, sustained grievous injuries

and subsequently succumbed to those injuries. The appellants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.25,00,000/-. The Tribunal considering the oral and documentary evidence on record, assessed the income of the deceased at Rs.8,000/- per month and consequently awarded a total compensation of Rs.8,46,000/- along with interest at 6% per annum from the date of petition till the date of payment.

7. The material on record indicates that the deceased was a B.E. graduate who initially joined Infosys and was drawing a salary of Rs.19,268/- per month. Thereafter, he joined the Postal Department as a Postal Assistant at Puttur, earning Rs.22,931/- per month. The appellants have produced Ex.P35(a) and (b) which indicates that the deceased had applied to the post of Junior Assistant in the State Bank of India and was duly selected to the said post and he was offered a salary of Rs.30,000/- per month. The State Bank of India had

issued a communication dated 15.12.2016 directing the deceased to undergo a training programme scheduled from 19.12.2016 to 23.12.2016. However, the records indicate that before joining the said training the deceased met with a road accident on 15.12.2016 and succumbed to his injuries. A perusal of Ex.P35(a) and (b) clearly shows that the deceased had secured employment as a Junior Assistant and had been offered a salary of Rs.30,000/- per month. In other words, the said income was not merely speculative but was an assured and imminent earning, as the job was already in hand. Therefore, in my considered view, the said income is required to be considered for the purpose of assessing compensation under the head of loss of dependency.

8. The Division Bench of this Court in the case of ***Mrs.Sherly Jeevan and another v. R.K.S. Infra Tech Pvt. Ltd. and Another***[1] has considered the decision of the Hon'ble Supreme Court and assessed the income of a

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[1] MFA.No.5654/2016 c/w MFA.No.2961/2016 dated 29.09.2020

B.E. graduate at Rs.30,000/- per month for an accident that occurred in the year 2013. In the case on hand, admittedly, the accident is of the year 2016 and the deceased was having employment in his hand as per Ex.P35(a) and (b) and was offered a salary of Rs.30,000/- per month. Hence, his income is reassessed at Rs.30,000/- per month for the purpose of determination of compensation.

9. It is not in dispute that the deceased was a bachelor at the time of the accident; hence, an appropriate deduction would be 50% of the assessed income towards the personal and living expenses of the deceased in view of the law laid down by the Hon'ble Supreme Court in the case of ***Smt.Sarla Verma and Others v Delhi Transport Corporation and Another***[2]. Having reassessed the income of the deceased at Rs.30,000/- per month and considering the age of the deceased as 27 years and was offered permanent employment in the SBI,

[2] (2009) 6 SCC 121

the appellants-claimants are further entitled to an addition of 50% of the assessed income under the head of loss of future prospects and the appropriate multiplier would be 17. Hence, the appellants-claimants are entitled to compensation towards ***loss of dependency*** as under

30,000 + 50% x 12 x 17 - 50% = 45,90,000/-

10. The appellants-claimants would also 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 for each head. The appellants-claimants are also entitled to a sum of ***Rs.44,000/-*** each towards loss of consortium including 10% escalation.

11. The contention of the respondent that the award of compensation to the appellants cannot exceed than the claim in the appeal as the appellants restricted their claim to Rs.23,00,000/-, in my considered view the said contention has no merit. The Hon'ble Supreme Court

in the case of ***Nagappa vs. Gurdayal Singh and others***[3], it was observed that under the Motor Vehicles Act, 1988 there is no restriction that the Tribunal or a Court cannot award compensation exceeding the amount so claimed. The Tribunal or the Court is required to award 'just' compensation which is reasonable in the facts and circumstances of the case by considering the evidence on record. Therefore, less valuation, if any, made in the Claim Petition or in appeal would not be an impediment to award just compensation which may exceed than the claimed amount.

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

[3] (2003) 2 SCC 274

HEADS	**AMOUNT (in Rs.)**
Loss of dependency	45,90,000/-
Loss of consortium (Rs.44,000 X 3)	1,32,000/-
Transportation of dead body & funeral expenses	16,500/-
Loss of estate	16,500/-
Total	**47,55,000/-**

Thus, the claimants shall be entitled to a total compensation of ***Rs.47,55,000/-*** as against Rs.8,46,000/- awarded by the Tribunal.

13. 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.47,55,000/-*** as against Rs.8,46,000/- 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) The apportionment, deposit and disbursement shall be made as per award of the Tribunal.

f) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 1 Sl No.: 25