



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

MISCELLANEOUS FIRST APPEAL NO. 3288 OF 2019 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 3467 OF 2019 (MV-D)

IN MFA No. 3288/2019

BETWEEN:

1. SMT. JAMUNA GOPAL,
W/O LATE MANJUNATH,
NOW AGED ABOUT 28 YEARS.
2. SRI. RAJAPPA,
S/O SOMBAYYA,
NOW AGED ABOUT 54 YEARS.
3. SMT. GOWRAMMA,
W/O LATE RAJAPPA,
NOW AGED ABOUT 47 YEARS.

ALL ARE RESIDING AT
NO.92, KASABA STREET,
THATTANAHALLI, MARSUR,
ANEKAL, BENGALURU DISTRICT.

1ST APPELLANT'S NATIVE ADDRESS:
NO.5/89, KOTHUR, MOOKANADAPALLI,
KRISHNAGIRI, TAMILNADU.

...APPELLANTS

(BY SRI. SREENIVASAIAH A., ADVOCATE)





AND:

1. SRI. RAJESH T.L.,
S/O LAKSHMINARAYANA,
MAJOR IN AGE
SAPTHAGIRI NILAYA,
KAVERI SCHOOL ROAD,
TUMKUR - 572 102.
2. THE MANAGER,
UNITED INDIA INSURANCE
COMPANY LTD.,
R.O.NO.18, 5TH FLOOR,
KRUSHI BHAVAN,
HUDSON CIRCLE,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. PANCHAM R D., ADVOCATE FOR R1
SRI. JANARDHAN REDDY ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:04.01.2019
PASSED IN MVC NO.6872/2017 ON THE FILE OF THE XIII
ADDITIONAL JUDGE, COURT OF SMALL CAUSES AND MEMBER,
MACT, BENGALURU, PARTLY ALLOWING THE CLAIM PETITION
FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

IN MFA NO. 3467/2019

BETWEEN:

SRI. RAJESH. T. L.,
S/O. LAKSHMINARAYANA,
AGED ABOUT 30 YEARS,
SPATHAGIRI NILAYA,
KAVERI SCHOOL ROAD,
TUMKUR - 572 102.

...APPELLANT

(BY SRI. PANCHAM R D., ADVOCATE)



AND:

1. SMT. JAMUNA GOPAL,
W/O. LATE MANJUNATH,
AGED ABOUT 28 YEARS,
2. SRI. RAJAPPA,
S/O SOMBAIAH,
AGED ABOUT 54 YEARS,
3. SMT. GOWRAMMA,
W/O. RAJAPPA,
AGED ABOUT 47 YEARS,

REONDENT NOS. 1 TO 3, ARE
R/AT NO. 92, KASABA STREET,
THATTANAHALLI MARSUR,
ANEKAL TALUK,
BANGALORE DISTRICT - 562 106.

RESPONDENT NO.1 IS PRESENTLY
R/AT NO.5/89, KOTHUR, MOOKANADAPALLI,
KRISHNAGIRI, TAMILNADU - 635 001.

4. THE MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
NO.18, 5TH FLOOR, KRUSHI BHAVAN,
HUDSON CIRCLE
BANGALORE - 560 001.

...RESPONDENTS

(BY SRI. SREENIVASAIAH A., ADVOCATE FOR R1 TO R3,
SRI. JANARDHAN REDDY, ADVOCATE FOR R4)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV
ACT AGAINST THE JUDGMENT AND AWARD
DATED:04.01.2019 PASSED IN MVC NO.6872/2017 ON
THE FILE OF THE XIII ADDITIONAL JUDGE, COURT OF
SMALL CAUSES AND MEMBER OF MACT, BENGALURU
(SCCH-15), AWARDED COMPENSATION OF
RS.79,64,000/- WITH INTEREST AT 6 PERCENT P.A. FROM
THE DATE OF PETITION TILL REALIZATION.



THESE APPEALS ARE COMING ON FOR FINAL HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M.NADAF)

These two appeals by claimants and owner calling in question the judgment and award dated 04.01.2019 in MVC.No.6872/2017 passed by Motor Accident Claims Tribunal, Bengaluru (SCCH-15) ('Tribunal' for short). The claimants in this appeal are for enhancement and the owner is on liability.

2. The parties are referred to as per their rankings before the Tribunal.

3. The brief fact leading to filing of the present appeals are as under:

In an accident occurred on 18.11.2017 at about 10.20 a.m., one Manjunath, S/o Rajappa who was



proceeding on his motorcycle bearing registration No.KA-51-EV-1287, when reached near Yasha Medical Store, Channakeshava Nagara, Bengaluru, a Tipper lorry bearing registration No.KA-06-D-7895 driven by its driver in a high speed in a rash and negligent manner after losing control over the vehicle came in a wrong side and dashed against deceased motorcycle. The deceased Manjunath fell on the road and sustained grievous injuries and succumbed to the injuries on the spot. His legal representatives that is, wife and parents filed petition seeking compensation.

4. After notice both respondent Nos.1 and 2 appeared and filed their objections denying the averments in the claim petition. The owner of the offending lorry specifically contended that the vehicle is insured with the insurer-respondent No.2 and valid as on the date of accident and if any liability, it is for the insurer to make good. Whereas respondent No.2 apart from denying the claim petition averments has taken a specific contention



that the driver of the offending lorry by name Sri.G.Ganesh was not holding valid and effective driving license as on the date of accident. It was further contended that the accident had occurred due to the negligence of the deceased and sought to dismiss the appeal.

5. Upon consideration of pleadings, the Tribunal framed the following issues:

- "1. Whether the petitioners prove that deceased Sri.Manjunath was died in RTA arising out of accident alleged to have been taken on 18.11.2017 at about 10.20 a.m, near infront of Yasha Medical Store, Chennakeshava Nagara, 1st Cross, Naganathapura, Bengaluru, due to the rash and negligence driving of the driver of Tipper Lorry bearing Reg.No.KA-06-D-7895?*
- 2. Whether the petitioners prove that they are the Dependants of the deceased?*
- 3. Whether the petitioners are entitled for compensation? If so, what amount & from whom?*
- 4. What order or award?"*



6. In order to prove the case, the claimants examined claimant No.1 as PW-1 and examined PW-2, the Manager, Human Resources at Ocwen company, who has deposed regarding the employment of deceased as well as his salary as on the date of accident. In all 25 documents are marked as Exs.P1 to 25.

7. The Insurer examined its official as RW-1 and ARTO, Electronic City, Bengaluru was examined as RW-2 in respect of driving license of the driver of the offending vehicle. Respondent No.1 examined as RW-3 and one Mutthuraj claiming to be the driver of the offending lorry as on the date of accident was examined as RW-4 and Ganesh.G, against whom the police registered FIR and filed charge sheet was examined as RW-5. The respondents have produced totally 10 documents and marked as Exs.R1 to 10.

8. The Tribunal after evaluating the evidence both oral and documentary, answered Issue No.1 on the



negligence of driver of the offending lorry in affirmative and upon consideration of the case of the claimants awarded a total sum of Rs.79,64,000/- with interest at the rate of 6% per annum from the date of petition till realization. However, saddled the entire liability on the owner - respondent No.1, holding that the driver Ganesh.G was not possessing valid and effective driving licence as of the date of accident. It is this judgment and award passed by the Tribunal is called in question both by the claimants as well as owner of the offending vehicle.

9. Heard Sri.Sreenivasaiah, learned counsel for claimants and Sri.Pancham R.A, learned counsel for the owner of the offending vehicle and Sri.Janardhan Reddy, learned counsel for the insurer in both the appeals.

10. Sri.Pancham, with all vehemence submits that the owner of the vehicle as well as two witnesses have been examined on his behalf to prove that it was not the Ganesh.G, but one Mutthuraj was driving the lorry who



was possessing valid and effective driving licence as on the date of accident. Both the persons i.e., Mutthuraj as well as Ganesh.G have been examined as RW-4 and 5 to substantiate the same. The Tribunal has failed to consider this aspect of the matter and fastened the entire liability on the owner of the vehicle. According to him, since the driver was Mutthuraj, who was possessing valid and effective driving license as on the date of accident, the insurer shall be made liable to pay the compensation and accordingly, he sought to set aside the liability fastened on the owner of the vehicle.

11. In contrast, Sri.Janardhana Reddy with all vehemence submits that the police have registered case against Ganesh.G and filed charge sheet against Ganesh.G and not Mutthuraj. The fact remains that neither the Ganesh.G nor the owner of the offending vehicle have challenged the charge sheet filed by the police. In these circumstances, now the say of the owner that it was Mutthuraj, who was driving the vehicle as on the date of



accident does not hold any alter. The Tribunal upon consideration of entire evidence has rightly fastened the entire liability on the owner of the vehicle, since the driver of the vehicle was not having any valid and effective driving license. In these circumstances, the Tribunal with a valid reason fastened the liability on the owner of the offending vehicle, which does not call for any interference.

12. Sri.Sreenivasaiah, learned counsel appearing for the claimant submits that the deceased was a third party. In view of the settled position of law by the Hon'ble Supreme Court in **PAPPU DEO YADAV VS. NARESH KUMAR AND OTHERS**¹, even in the absence of driving licence or whether there is any license or no license or valid or effective license, a violation of policy condition but when a claim is with respect to a third party, the insurer is primarily liable to satisfy the compensation amount with liberty to recover the same from the owner of the vehicle

¹ (2022) 13 SCC 790



and sought to modify the judgment and award passed by the Tribunal.

13. In his appeal, the learned counsel submits that the Tribunal though awarded appropriate compensation, but failed to award filial consortium towards parents and 10% escalation in view of settled position of law by the Hon'ble Supreme Court in ***NATIONAL INSURANCE CO. LTD., VS. PRANAY SETHI***² case and sought to allow his appeal by modifying the compensation.

14. Having considered rival submissions, perused the entire appeal papers as well as trial Court record. The points that would arise for our consideration are as follows:

- (i) *Whether the Tribunal is right in absolutely exonerating the Insurance company?*
- (ii) *Whether the claimants have made out any case for enhancement of compensation?*

² 2017 (16) SCC 680



15. Our answer to both the points for consideration are partly in affirmative for the following:

REASONS

16. **POINT NO.1:** As per the evidence of RW-2, the license which was issued to Sri.Ganesh.G was after the accident. Though in the cross-examination, the Officer of the Transport Department admitted the fact that prior to issuance of license on 21.11.2017, he was possessing license. But the fact remains that as per Ex.R6, he was given license to drive motorcycle with care and LMV non-transport. The vehicle involved in the accident is a tipper lorry. In these circumstances, the ground that the driver was possessing learner license as on the date of accident i.e., 18.11.2017 cannot be countenanced. Besides this, the fact remains that neither Sri.Ganesh.G nor the owner of the vehicle challenged the charge sheet filed by the police, wherein the police have registered case against Sri.Ganesh.G and filed charge sheet against him. In these circumstances the arguments of the learned counsel



appearing for the offending vehicle fails and accordingly, we ***dismiss*** the appeal.

17. It is no more *res-integra*, in view of the law laid down by the Hon'ble Supreme Court in **PAPPU DEO YADAV** stated supra that wherever there is claim petition by a third party for any violation of conditions of insurance policy with respect to driving licence, in view of contract, insurer is primarily liable to pay compensation with liberty to recover it from the owner of the vehicle. In these circumstances the findings of the Tribunal is modified. The absolute exoneration is set aside and the insurer is primarily made liable to pay the compensation with liberty to recover the same from the owner of the vehicle. Accordingly we answer point No.1 partly in affirmative.

18. **POINT NO.2**: So far as claim of enhancement is concerned as seen from the judgment and award, the Tribunal though awarded just compensation but failed to award filial consortium towards parents. Since the parents



are entitled for filial consortium, a sum of Rs.80,000/- is awarded under the head loss of consortium. In view of settled position of law, the claimants are also entitled for 10% escalation on the compensation awarded under the conventional heads. The accident occurred in 2017. The claimants are entitled for escalation of 10% from 2017 for each 3 completed years. In the case on hand, they are entitled for 2 terms of 3 completed years. Accordingly, the claimants are entitled for 20% escalation on the compensation awarded under the conventional heads. Hence, we proceed to reassess the compensation awarded by the Tribunal as follows:

Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Loss of dependency	78,93,168-00	78,93,168-00
2.	Loss of consortium	40,000-00	1,20,000-00 (40,000x3)
3.	Loss of estate	15,000-00	15,000-00
4.	Transportation of dead body and Funeral expenses	15,000-00	15,000-00
5.	20% escalation (for two terms of three completed years on conventional heads)	-	30,000-00
	TOTAL	79,63,168-00 (rounded off to 79,64,000-00)	80,73,168-00 (rounded off to 80,74,000-00)



19. The claimants are entitled for re-determined compensation supra and accordingly, we pass the following:

ORDER

- (i) MFA.No.3467/2019 filed by the owner of the vehicle is ***dismissed*** and MFA.No.3288/2019 filed by the claimants is ***allowed in part.***
- (ii) The judgment and award dated 04.01.2019 in MVC.No.6872/2017 passed by the Motor Accident Claims Tribunal, Bengaluru (SCCH-15) is modified so far as the liability, the insurer is primarily liable to pay the compensation with liberty to recover the same from the owner of the vehicle.
- (iii) The re-determined and reassessed compensation amount of Rs.80,74,000/- shall carry interest at the rate of 6% per annum from the date of petition till realization.
- (iv) The respondent No.2-Insurer shall primarily deposit the compensation amount along with



accrued interest supra before the concerned Tribunal within six weeks from the date of receipt of copy of this order, with liberty to recover the same from the owner of the vehicle by directly filing execution petition against the owner of the vehicle on the basis of the judgment and decree passed modified in this appeal.

- (v) The apportionment and disbursement is as per the order passed by the Tribunal.
- (vi) The Registry is directed to transmit the trial Court records without any further delay.

In view of disposal of the appeals, pending interlocutory applications, if any do not survive for consideration, hence stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**