



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 190 OF 2021 (MV-D)

BETWEEN:

1. SMT. SREE JYOTSNA @ JYIOSHSNA
W/O LATE RANJITH KUMAR M @ RANJITH,
AGED 24 YEARS,
2. SMT JAYAMMA
W/OMOTAIHAH,
AGED 60 YEARS,
3. MOTAPPA
S/O CHIKKATHEMMEGOWDA,
AGED 66 YEARS,
4. SHIVAKUMAR M
S/O MOTAPPA,
AGED 30 YEARS,

ALL ARE RESIDING AT NO.47,
3RD MAIN ROAD, VINAYAKANAGAR,
VRUSHABHAVATHINAGAR,
BENGALURU- 560 079.

...APPELLANTS

(BY SRI. SRIDHAR D.S.,ADVOCATE)

AND:

1. G A SUDHAKARA
5TH CROSS,
BANGARAPPANAGAR,
RAJARAJESHWARI NAGAR ,
BENGALURU- 560 098.

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2. M/S THE NEW INDIA ASSURANCE CO.LTD.,
R/BY ITS MANAGER,
REGIONAL OFFICE,
NO.9/2, MAHALAKSHMI CHAMBERS,
M.G. ROAD,
BENGALURU-560 001.

...RESPONDENTS

(BY SRI.T.M. VENKATA REDDY, ADVOCATE FOR R1,
SMT. H. C. LOKESHWARI, ADVOCATE AND
SRI. A. RAVISHANKAR, ADVOCATE FOR R2)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 05.07.2019 PASSED IN MVC
NO. 4841/2018 ON THE FILE OF THE MEMBER, MACT, XVI
ADDITIONAL JUDGE, COURT OF SMALL CAUSES, BENGALURU
CITY (SCCH-14), 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 UMESH M ADIGA

ORAL JUDGMENT

This appeal has been filed by the claimants being
aggrieved by the judgment and award dated 05.07.2019,
passed by the Member, MACT, XVI Additional Judge, Court of
Small Causes, Bengaluru (for short `Tribunal'), in MVC
No.4841/2018.

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



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

On 12.07.2018, at about 9.30 p.m., when the deceased Rankith Kumar M @ Ranjith, was proceeding on a motor cycle bearing registration No.KA-01-HY-8516 as a pillion rider, its rider rode it in a rash and negligent manner and caused the accident, due to which, Ranjith Kumar sustained fatal injuries and succumbed to the injuries on the spot.

4. It is the further case of the claimants that the deceased was aged 26 years and was earning Rs.20,000/- per month, by working as Sales Executive. He was contributing his earnings to the family. Claimants are parents and brother of the deceased. With these reasons, they prayed to award compensation of Rs.30,00,000/-.

5. Respondent No.1 is the owner and respondent No.2 is the insurer of the offending motorcycle.

6. The respondent Nos.1 and 2 appeared and filed their written statements, denying the contentions of the claim



petitioners. Respondent No.2 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 three witnesses as PW-1 to PW-3 and marked 13 documents, as per Exs.P-1 to P-13.

9. The Tribunal after hearing both parties and appreciating the evidence on record, held that accident took place due to negligence of the rider of the offending motor cycle and awarded Rs.16,88,500/- as compensation under following heads:

Particulars	Amount in Rs.
Loss of dependency	16,18,500
Towards transportation of dead body and funeral expenses	15,000
Loss of consortium	40,000
Loss of estate	15,000
<i>Total</i>	Rs.16,88,500



10. The Tribunal assessed the age of the deceased as 26 years; His earnings as Rs.8,500/- per month; applied the multiplier as '17' and added 40% of his income towards future prospects and awarded the compensation and held that both respondents Nos.1 and 2 are jointly and severally liable to pay the compensation.

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

12. Heard the arguments of the learned counsel appearing for the claimants as well as learned counsel for respondents.

13. Learned counsel for the appellants vehemently contended that the Tribunal has not properly assessed the income of the deceased. He was working as a sales executive and earning Rs.20,000/- per month. Even if the Tribunal has not believed the said contention, the Tribunal ought to have followed the chart prepared by the Karnataka State Legal Services Authority and the notional income ought to be taken



as Rs.12,500/- per month, since the accident occurred during the year 2018. The Tribunal has not added future prospects as per the law laid down by the Hon'ble Apex Court in the case of *National Insurance Co. Ltd., -vs- Pranay Sethi*¹. Therefore, the amount of compensation awarded under the head 'loss of dependency' is on the lower side, which needs to be enhanced.

14. It is the further submission of learned counsel for the appellant that, as per the law laid down in ***Pranay Sethi's case (supra)*** and in the case of ***Magma General Insurance Co. Ltd., -vs- Nanu Ram Alias Chuhru Ram***,² the amount of compensation awarded under the head 'loss of consortium' is also on the lower side. Therefore, prayed to enhance the same.

15. The fact of the accident and death of Ranjith in the said accident are not in dispute. The claimants have contended that deceased was earning Rs.20,000/- per month but they were unable to substantiate the same. Undisputedly, the age of the deceased was 26 years as on the date of the accident.

¹ (2017) 16 SCC 680

² (2018) SC 1247



The Tribunal has taken the notional income as Rs.8,500/- per month, which is on the lower side. Following the chart of notional income prepared by KSLSA, the notional income of the deceased is taken as Rs.12,500/- per month. 40% of his income has to be added towards future prospects. Undisputedly multiplier applicable is 17 and $1/3^{\text{rd}}$ shall be deducted towards personal expenses. On the basis of the aforesaid factors, the amount of compensation is calculated under the head 'loss of dependency'.

16. As per the law laid down in ***Pranay Sathi's case*** (supra) and ***Magma General Insurance Co. Ltd., case*** (supra), claimant Nos.1 to 3 are wife and parents of the deceased. They were dependent on the earnings of the deceased. Following the law laid down in the case of *Magma*(supra), the claimant Nos.1 to 3 each are entitled to compensation of Rs.40,000/- each under the head 'loss of consortium'. Amount of compensation awarded under other two conventional heads are proper.



17. Accordingly, the following amount of compensation is awarded:

Particulars	Amount in Rs.
Loss of dependency (Rs.12,500/- +40% x 12 x 17x2/3)	23,80,000
Loss of consortium (Rs.40,000x3)	1,60,000
Funeral expenses	15,000
Loss of estate	15,000
<i>Total</i>	25,70,000
<i>Amount awarded by the Tribunal</i>	16,88,500
<i>Enhancement-</i>	8,81,500
<i>Rounded off-</i>	8,82,000

18. Thus, the claimants are entitled to enhanced compensation of Rs.8,82,000/- with interest at 6% p.a. on the enhanced amount from the date of petition till its realization.

19. The learned counsel for the appellant vehemently contends that the Tribunal deducted 10% of the compensation on the ground of contributory negligence for not wearing helmet. The said finding is erroneous. Therefore, prayed to set aside the same.

20. Learned counsel for respondent No.2 vehemently contend that the Tribunal after appreciating all materials on



record rightly deducted 10% of the compensation on the ground of contribution made by the deceased, who was a pillion rider on the motor cycle without helmet. There was no reason to interfere with the said findings.

21. Admittedly, the deceased was a pillion rider. There are no materials to show that because the deceased was not wearing helmet, the accident occurred. Not wearing helmet at the time of accident may be an offence under Motor Vehicle Act for which he may be liable to pay fine. At the most, it would have protected him from head injury. However, this alone cannot be considered as a contributory factor by the deceased in causing the accident. Accident is undoubtedly caused by the negligent riding of motor cycle by its rider. Under these circumstances, deduction of 10% of the compensation is not tenable.

22. It is not in dispute that respondent No.1 is the owner and respondent No.2 is the insurer of the offending vehicle. Therefore, both the respondents are jointly and severally liable to pay the compensation.



23. Accordingly, I proceed to pass the following:

ORDER

- i) The Appeal is ***allowed in part.***
- ii) The judgment and award dated 05.07.2019 passed by the XVI Additional Judge, Court of Small Causes and MACT, Bengaluru in MVC.No.4841/2018 stands modified.
- iii) The claimants are entitled to enhanced compensation of Rs.8,82,000/- with interest at the rate of 6% p.a. on the enhanced amount, from the date of petition till its realization, excluding the delayed period of 151 days in filing the appeal.
- iv) Deduction of 10% of the compensation by the Tribunal on the ground of contributory negligence of the deceased is set aside. Respondents are liable to pay the same.
- v) The respondent No.2 shall deposit the amount within a period of six weeks from the date of award.



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

vii) Draw award accordingly.

Registry is directed to send back the records along with a copy of this judgment to the concerned Tribunal.

Sd/-
(UMESH M ADIGA)
JUDGE