



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MRS. JUSTICE P SREE SUDHA

MISCELLANEOUS FIRST APPEAL NO.6880/2017 (MV-D)

BETWEEN:

1. MANJUNATHA
S/O LATE KOLLURAPPA
AGED 22 YEARS
2. SATHISHA
S/O LATE KOLLURAPPA
AGED ABOUT 26 YEARS
3. THIPPAMMA
D/O LATE KOLLURAPPA
AGED ABOUT 24 YEARS
4. SARASWATHI
W/O DHANPAL
AGED ABOUT 28 YEARS
5. DEEVAMMA
W/O MAHANTHESH
AGED ABOUT 33 YEARS
6. SHANKARAPPA
S/O LATE KOLLURAPPA,
AGED ABOUT 30 YEARS
7. NINGAPPA
S/O LATE KOLLURAPPA
AGED 30 YEARS
8. THIMMANNA
S/O LATE KOLLURAPPA,
AGED ABOUT 30 YEARS





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9. PRAKASHAPPA
S/O LATE KOLLURAPPA,
AGED ABOUT 30 YEARS

ALL ARE R/AT KODAPURA VILLAGE,
HOLALKERE TALUK 577526
CHITRADURGA DISTRICT.

...APPELLANTS

(BY SRI. SHASHIDHARA R.,ADVOCATE)

AND:

1. LATHEFF KHAN
S/O B AMEER KHAN,
MAJOR, OWNER OF THE TRAX
BEARING NO.KA-64/0687, #36,
R/O HUNASEHALLI, SIRA TALUK,
TUMAKURU DISTRICT 572137
2. THE DIVISIONAL MANAGER
THE NATIONAL INSURANCE CO LTD,
OPP BAPUJI DENTAL COLLEGE
MCC B BLOCK, DAVANAGERE TOWN,
DAVANAGERE TQ AND DISTRICT 577001
3. KAKAPPA
S/O THIMMAPPA,
MAJOR, OWNER OF TRACTRO BEARING
NO.KA-17/TB-9592,
R/O PALAVANAHALLI
HONNALI TALUK, BELAGUTTI HOBLI
HONNALI TALUK, DAVANAGERE DISTRICT
PIN 577217

...RESPONDENTS

(BY SRI. ASHOK N PATIL.,ADVOCATE FOR R2;
R1 AND 2 ARE SERVED)

THIS MFA FILED UNDER SECITON 173(1) OF MV ACT PRAYING
TO SET ASIDE THE JUDGMENT AND AWARD DATED 06.02.2017
PASSED IN MVC NO.439/2016 ON THE FILE OF THE SENIOR CIVIL
JUDGE & MACT, HOLALKERE, PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MRS. JUSTICE P SREE SUDHA

ORAL JUDGMENT

Heard the arguments on both sides.

2. This appeal is filed against the award of the Tribunal in MFA No.439/2016 dated 06.02.2017. Madamma/deceased met with an accident on 06.02.2015 and died subsequently. Her children filed claim petition claiming compensation of Rs.15,00,000/-. Tribunal considering the entire evidence on record, granted an amount of Rs.1,65,000/- with interest at the rate of 6% per annum from date of petition till realization. Aggrieved by the said judgment and award, the appellants preferred this appeal and mainly contented that the Tribunal granted meager amount under other heads and Madamma was earning more than Rs.2,50,000/- per annum by doing agriculture. It is further stated that it is composite negligence of two vehicles. Madamma was travelling in Toofan Trax bearing registration No.KA.64/0687 and the said vehicle was validly insured with respondent No.2 and the driver of the said Trax is also having valid and effective driving licence and the Tribunal has to direct respondent No.2-Insurance Company to pay the amount and they are at liberty to recover 50% of the



compensation from the other side. It is further stated that the appellants are at liberty to recover from any one of the joint tortfessors, in a case of composite negligence and they also seek for enhancement of the compensation.

3. This appeal is filed against the owner and the insurer of Toofan Trax vehicle and also owner of the Tractor and the owner of the Tractor has no insurance policy.

4. Though it is stated that Madamma was earning more than Rs.2,50,000/- per annum, they have not filed any income proof. As she met with accident in the year 2015, her notional income is to Rs.9,000/- per month as per the chart prepared by the Karnataka State Legal Services Authority. She was aged 70 years at the time of accident as per the postmortem, therefore, the multiplier is '5'. There are dependents 9 in number are her children, therefore $1/5^{\text{th}}$ has to be deducted towards her personal expenses. She is not entitled for any future prospects. Therefore, 'loss of dependency' comes to Rs.4,32,000/- $(\text{Rs.9,000} \times 12 \times 5 - 1/5^{\text{th}})$. The deceased had nine children and each of them are entitled for an amount of Rs.3,60,000/- $(\text{Rs.40,000} \times 9)$ towards parental consortium and apart from that, they are entitled for Rs.30,000/- towards



under the conventional heads. Thus, in all components awarded by this Court are as below:

Sl. No.	Particulars	Amount (Rs.)
1.	Loss of dependency	4,32,000/-
2.	Consortium	3,60,000/-
3.	Conventional head	30,000/-
	Total	8,22,000/-
	Tribunal awarded	1,65,000/-
	Enhanced amount	6,57,000/-

5. The Tribunal observed that it is a case of composite negligence and thus, directed the owners of both the vehicles to deposit amount at the rate of 50% by each of them. The driver of Toofan Trax was having LMV driving licence and it is permissible for driving the Toofan Trax vehicle and as such respondent No.1 has to be indemnified by respondent No.2.

6. As per the judgment in ***Khenyei Vs. New India Assurance Comapany Limited and others***¹, in a case of composite negligence, the claimants are at liberty to file claim petition against anyone of the joint tortfeasors. In this case,

¹ (2015) 9 SCC 273



the owner of the Tractor has no insurance and as such respondent No.2 is directed to deposit the entire compensation of Rs.8,22,000/- with interest at the rate of 6% and respondent No.2 is at liberty to recover 50% of the compensation from respondent No.3 owner of the Tractor. In the result, I pass the following:

ORDER

- i. Miscellaneous First Appeal ***allowed in-part.***
- ii. Judgment and award dated 06.02.2017 passed in M.V.C. No.439/2016 on the file of the Senior Civil Judge and Motor Accident Claims Tribunal at Holalkere is modified;
- iii. The appellants-claimants are entitled for compensation of Rs.8,22,000/- along with interest at the rate of 6% per annum from the date of petition till the date of realisation;
- iv. The respondent No.2-Insurance Company is directed to deposit the compensation of Rs.8,22,000/- with interest at the rate of 6% per annum within one month from the date of this order;



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- v. Respondent No.2 is at liberty to recover 50% of the compensation from respondent No.3 owner of the Tractor by due process of law;
- v. On such deposit, the appellants-claimants are permitted to withdraw the entire amount along with interest accrued on the same;

Sd/-
(P SREE SUDHA)
JUDGE

PKN
List No.: 1 Sl No.: 71