



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.6396 OF 2023(MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO.2099 OF 2024(MV-D)

IN MFA No. 6396/2023

BETWEEN:

M/S. ROYAL SUNDARAM GENERAL
INSURANCE COMPANY LTD.,
NO. 30, 3RD FLOOR,
JNR CITY CENTRE,
RAJARAM MOHAN ROY ROAD,
S.R. NAGAR,
BENGALURU - 560 027.
BY ITS STATE HEAD LEGAL
MR. SUDHAKARA. H.

...APPELLANT

(BY SRI. RAVI S.SAMPRATHI, ADVOCATE)

AND:

1. SRI. MUNIYAPPA
S/O. VENKATAPPA,
AGED ABOUT 46 YEARS,
2. SMT. PADMAMMA,
W/O. MUNIYAPPA,
AGED ABOUT 46 YEARS,

Digitally
signed by
REKHA R
Location:
High Court
of Karnataka



BOTH ARE RESIDING AT
GONKANAHALLI VILLAGE,
JADIGENAHALLI HOBLI,
HOSKOTE TALUK,
BENGALURU RURAL - 562 114.

3. SRI. DEVARAPPUR NARASIMHAM,
S/O. PEDDA MALAKONDAIAH,
MAJOR IN AGE,
R/AT NO.72,
HIRANDAHALLI,
VIRGO NAGAR POST,
BIDARAHALLI HOBLI,
BENGALURU - 560 049.

...RESPONDENTS

(BY SRI. GURUDEV PRASAD K T., ADVOCATE FOR R1 & R2,
NOTICE TO R3 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED:16.06.2023
PASSED IN MVC NO.1884/2022 ON THE FILE OF THE XVII
ADDITIONAL JUDGE, COURT OF SMALL CAUSES AND MEMBER,
MACT, BENGALURU SCCH-21, AWARDING COMPENSATION OF
RS.24,83,600/- WITH INTEREST AT 6 PERCENT P.A. FROM THE
DATE OF PETITION TILL REALIZATION.

IN MFA NO. 2099/2024

BETWEEN:

1. SRI. MUNIYAPPA,
S/O VENKATAPPA,
AGED ABOUT 47 YEARS,
2. SMT. PADMAMMA,
W/O MUNIYAPPA,
AGED ABOUT 47 YEARS,

BOTH ARE R/AT
GONAKANAHALLI VILLAGE,
JADIGENAHALLI HOBLI,



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HOSKOTE TALUK,
BENGALURU RURAL - 562 114.

...APPELLANTS

(BY SRI. GURUDEV PRASAD K T., ADVOCATE)

AND:

1. M/S. ROYAL SUNDARAM
ALLIANCE INS. CO., LTD.,
BY THE MANAGER,
MOTOR CLAIMS HUB,
NO 30, 3RD FLOOR,
JNR CITY CENTRE,
RAJARAM MOHAN ROY ROAD,
S .R. NAGAR,
BENGALURU - 560 027.
2. SRI. DEVARAPPU NARSIMHAM,
S/O PEDDA MALAKONDAIAH,
NO 72, HIRANDAHALLI,
VIRGO NAGAR POST,
BIDARAHALLI HOBLI,
BENGALURU - 560 049.

...RESPONDENTS

(BY SRI. RAVI S SAMPRATHI,
ADVOCATE FOR R1,
VIDE ORDER DATED 06.11.2024
NOTICE TO R2 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV
ACT AGAINST THE JUDGMENT AND AWARD DATED
16.06.2023 PASSED IN MVC NO.1884/2022 ON THE FILE
OF THE XVII ADDITIONAL JUDGE, COURT OF SMALL
CAUSES AND MEMBER, MACT, BENGALURU SCCH-21
PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION.



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

CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

These two appeals are filed by the Insurer as well as claimant challenging the judgment and award dated 16.06.2023 in MVC.No.1884/2022 passed by the XVII Additional Judge, Court of Small Causes and Member, MACT, Mayo Hall Unit, Bengaluru (SCCH-21), ('Tribunal' for short). The insurer is on liability and the claimant is on enhancement.

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

3. Heard Sri.Ravi S.Samprathi, learned counsel appearing for the appellant in MFA.No.6396/2023 and respondent in MFA.No.2099/2024 and Sri. Gurudev Prasad K.T, learned counsel appearing for respondent Nos.1 and 2 in MFA.No.6396/2023 and appellant in MFA.No.2099/2024.

4. Sri.Ravi S.Samprathi, with all vehemence submits that both the vehicles are proceeding in the same direction. The rider of the motorcycle (deceased) was riding the motorcycle



without maintaining any safe distance in terms of the provisions of motor vehicles Act and Rules and responsible for the accident, which was occurred on 12.03.2022. The rider of the motorcycle collided on the hind side of the lorry which is even according to them is the admitted fact as per the police records, but on the different contention that the lorry which was proceeding ahead immediately swerved on the left side and applied brake, this made the rider to collide with the lorry. Even if the case of the claimants is taken as it is, then also in view of the provisions of Motor Vehicles Act, had there been a safe distance maintained by the rider, there may be all chances of avoiding collusion with the lorry. As such, there is negligence on the rider of the motorcycle as he has failed to maintain safe distance. The Tribunal has failed to consider this aspect of the matter while answering issue No.1 with respect to negligence and sought to fasten the liability at least in 50:50 ratio and sought to allow the appeal.

5. In contrast, Sri.Gurudev Prasad K.T, learned counsel with all vehemence submits that the Tribunal after going through the entire police record wherein the charge sheet has been filed against the driver of the lorry, held issue No.1



against the driver of the lorry and fastened entire liability, on the insurer of lorry which does not call for any interference in the hands of the Court.

6. So far as enhancement is concerned Sri.Prasad, with all vehemence submits that the deceased was a third year B.Sc. student. The claimants have produced the marks cards of B.Sc., at Ex.P12 to Ex.P15. The Tribunal has failed to consider this aspect of the matter while considering the monthly income. The Tribunal has taken the notional income as per the chart, which is far below. The amount fixed under the chart is with respect to an unskilled labour, a person who is pursuing degree cannot be equated with an unskilled labour. There are all chances of the deceased getting a job with lucrative salary, after finishing the degree. The Tribunal has failed to consider this aspect of the matter.

7. To buttress his argument, Sri. Prasad., placed reliance on the judgment passed by the Division Bench of this Court in MFA.No.104894/2019 c/w MFA.No.103864/2018 dated 28.02.2020, wherein this Court way back in the year 2018 considering the fact that the deceased is involved in the accident in the said case was a third semester B.E., student



had taken Rs.25,000/- as income per month. At least the said income must have been taken by the Tribunal. Further, the Tribunal has not awarded escalation of 10% on the compensation awarded under the conventional head, for every completed 3 years from 2017. With this he further submits that the Tribunal has not considered to award consortium and sought to allow the appeal and enhance the compensation.

8. Having considering the rival submissions the points that would arise for consideration of this Court are as follows:

- (i) Whether the Tribunal is right in fastening the entire liability on the insurer to pay the compensation?
- (ii) Whether the claimants have made out any case for enhancement of compensation?

9. My answer to both the points are partly in affirmative for the following:

REASONS

Point No.1: As per the provisions of the Motor Vehicles (Driving) Regulation, 2017, a driver or rider proceeding behind another vehicle must maintain sufficient distance, in consonance with the road traffic conditions, if the vehicle



moving ahead suddenly slows down or stops in order to avoid any possible collision. Though the police records are against the driver of the lorry, the fact remains that had there been a safe distance maintained by the rider of the motorcycle while following the vehicle and was a little circumspect, there may be all probabilities avoiding the unfortunate accident, on immediate slowdown or stopping of the vehicle, as conducted by the claimants, in their claim petition and complaint to the police.

10. Besides this even on the principle of *Res ipsa loquitur*, the chances of the rider being a little negligent cannot be ruled out. As such this Court is of the considered opinion that there should be some amount of negligence be recorded against the rider of the motorcycle, which has contributed to the accident. Accordingly, the Court holds that there is 10% negligence on the part of the rider of the motorcycle. Accordingly, Issue No.1 is answered Partly-in-affirmative, thereby holding negligence at 90:10 ratio i.e., 90% on the part of the driver of the lorry and 10% on the rider of the motorcycle.



11. So far as the monthly income is concerned, the law is no more *res integra*. The Division Bench of this Court in MFA.No.104894/2019 c/w MFA.No.103864/2018 stated *supra*, after elaborate consideration of the facts and the educational qualification fixed the income at Rs.25,000/- way back in the year 2018. The accident in the case on hand occurred on 2022. A person who was pursuing the third degree B.Sc., cannot be equivocated with an unskilled labour and there are all chances of his getting a job in nearest future, with lucrative package. Accordingly, a sum of Rs.25,000/- is considered towards the monthly income. Since the deceased age was within 40 years, 40% shall be added towards the future prospectors.

12. The Tribunal has not awarded appropriate compensation under 'filial consortium' for both the claimants, which requires consideration. The claimants are also entitled for 10% escalation on the compensation awarded under the conventional heads. Accordingly, in view of higher income as well as compensation under head 'filial consortium' and 10% escalation stated *supra*, the re-assessed compensation would be as follows:



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Sl. No.	Heads	Compensation awarded by the Tribunal In Rs.	By this Court In Rs.
1.	Towards love and affection	30,000-00	-
2.	Towards funeral expenses and transportation charge	15,000-00	15,000-00
3.	Towards loss of dependency	23,43,600-00	37,80,000-00 (25,000+40% $\times$ 12 $\times$ 18 $\times$ 50%)
4.	Towards loss of estate	15,000-00	15,000-00
5.	Towards filial consortium	40,000-00	80,000-00 (40,000 $\times$ 2)
6.	Medial bills	40,000-00	40,000-00
7.	20% escalation (for two terms of three completed years on conventional heads, since 2017)	-	22,000-00
	TOTAL	24,83,600-00	39,52,000-00

13. Accordingly, the claimants are entitled for re-determined compensation of **Rs.39,52,000/-** which shall carry interest at the rate of 6% per annum from the date of petition till its realization. The appellant and respondent-insurer in both the appeal shall deposit 90% of re-determined compensation before the concerned Tribunal, after deducting the amount towards statutory deposit as well as other deposit, if any. Accordingly, this Court proceeds to pass the following:



ORDER

- i) Both appeals are ***allowed- in-part***.
- ii) The insurer appeal in MFA.No.6396/2023 is allowed-in-part thereby modifying the judgment and award towards liability by fixing liability of 90% on the insurer of the lorry and 10% on the rider of the motor cycle.
- iii) The appeal in MFA No.2099/2024 is allowed-in-part by re-determining the compensation from Rs.24,83,600/- to Rs.39,71,000/-. The amount in deposit in MFA.No.6396/2023 shall be transmitted to the Tribunal for disbursement.
- iv) The appellant and respondent-insurer in both the appeals shall deposit balance of 90% of re-determined compensation before the concerned Tribunal along with interest at the rate of 6% per annum from rate of petition till realization within six weeks from the rate of receipt of copy of this order.



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v) Upon deposit the apportionment and
disbursement is as per the order of the
Tribunal.

Sd/-
(T.M.NADAF)
JUDGE

PK
List No.: 1 Sl No.: 20
ct-vn