



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

MISCELLANEOUS FIRST APPEAL NO.8404/2018 (MV-D)

BETWEEN:

1. SRI. AJAZ AHMED
S/O LATE MOHAMMED SHAFI
AGED ABOUT 54 YEARS.
2. SRI. RAHMATHULLA
S/O LATE MOHAMMED SHAFI
AGED ABOUT 53 YEARS.
3. SRI. NAYAZ AHMED
S/O LATE MOHAMMED SHAFI
AGED ABOUT 49 YEARS.
4. SMT. SHIRIN BANU
W/O ABDUL MAJEED
AGED ABOUT 39 YEARS.
5. SMT. ZAREENA KHURSHID
W/O IMTIAZ
D/O LATE MOHAMMED SHAFI
AGED ABOUT 37 YEARS.
6. SMT. SABEEN PARVEEN
W/O HAJI SALEEM SAB
D/O LATE MOHAMMED SHAFI
AGED ABOUT 35 YEARS.
7. SRI. NASEER AHMED
S/O LATE MOHAMMED SHAFI
AGED ABOUT 32 YEARS.

Digitally signed
by ARSHIFA
BAHAR
KHANAM
Location: HIGH
COURT OF
KARNATAKA



NC: 2026:KHC:17135
M.F.A. No.8404/2018

8. NUSRATH TAHEEN
D/O LATE MOHAMMED SHAFI
AGED ABOUT 32 YEARS.
9. ISHRATH JABEEN
S/O LATE MOHAMMED SHAFI
AGED ABOUT 30 YEARS.

ALL ARE R/AT BANKAL VILLAGE & POST
MUDIGERE TALUK
CHIKMAGALUR DIST-577 132.

...APPELLANTS

(BY SRI. RAVIKUMAR N.R. ADV.,)

AND:

1. SRI. S. MALLAPPA
S/O LATE SANGAPPA
AGED ABOUT 35 YEARS
RO REVANKI VILLAGE
KUSHTAGI TALUK
KOPPAL DISTRICT-584 121.
2. SRI. KAMBEGOWDA
S/O LATE CHINNAGIRIYAPPA
AGED ABOUT 61 YEARS
R/O DODDACHENNONAVALLI
BANGALORE RURAL DISTRICT-560 009.
OWNER OF LORRY BEARING
REG.NO.KA52/7040
3. THE BRANCH MANAGER
NEW INDIA ASSURANCE CO. LTD.,
PANDURANGA COMPLEX
ANDECHATRA
CHIKMAGALUR-577 101.

...RESPONDENTS



(BY SMT. HARINI SHIVANANDA, ADV., FOR R3
R2 SERVED AND UNREPRESENTED
V/O/DTD:13.06.2025 APPEAL AGAINST R1 IS DISMISSED)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO CALL FOR RECORDS IN MVC NO.68/2014 ON THE FILE OF II ADDL. DISTRICT JUDGE AND MACT AT CHIKMAGALUR, AFTER VERIFYING AND EXAMINING THE SAME MAY KINDLY BE PLEASED TO MODIFY THE JUDGMENT AND AWARD DATED 25.11.2015 BY ENHANCING THE COMPENSATION WITH COST AND INTEREST.

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-claimants challenging the judgment and award dated 25.11.2015 passed in MVC.No.68.2014 by the MACT, Chikkamagaluru, (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. Sri.Ravikumar N.R., learned counsel appearing for the appellants submits that the Tribunal has committed



a grave error in not awarding any compensation under the head of loss of dependency, as the claimants have clearly stated before the Tribunal that the deceased was the sole breadwinner of the family and that they were dependent on him. It is submitted that claimant Nos.8 and 9 being unmarried daughters, are required to be considered as dependents. It is further submitted that the claimants, being the children of the deceased Sri.Mohammed Shafi are entitled to consortium with a 10% escalation. In support of his contentions, he placed the reliance on the decision of ***Seema Rani and Others v. The Oriental Insurance Co. Ltd. and Others***¹. Accordingly, he seeks to allow the appeal.

4. Per contra, Smt.Harini Shivananda, learned counsel for respondent No.3 supports the impugned judgment and award of the Tribunal and submits that the Tribunal taking note of the fact that all the children of the deceased are married and residing separately, has rightly

¹ Civil Appeal No.2323/2025 dated 11.02.2025



declined to award compensation under the head of loss of dependency. It is submitted that claimant No.3 has given a statement before the police which is marked as Ex.P3, stating that the children of the deceased are married, and therefore, they are not entitled to compensation under the said head. It is further submitted that at the most, the claimants may be entitled to compensation under the head of loss of estate. In support of her contention, she places reliance on the decisions of the Hon'ble Supreme Court in the case of ***Deep Shikha and Another v. National Insurance Company Ltd. and Others***² and ***A.Manavalagan v. A.Krishnamurthy and Others***³. 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.

6. The children of deceased Sri.Mohammad Shafi filed a claim petition under Section 166 of the Motor

² SLP (C) No(S).22265-22266/2018 dated 13.05.2025

³ ILR 2004 KAR 3268



Vehicles Act, 1988, (for short 'the MV Act') seeking compensation of Rs.10,00,000/- with interest at the rate of 12% per annum. In order to prove the claim, claimant No.3 examined himself as PW1 and got marked Ex.P1 to Ex.P7. The respondents did not adduce any oral evidence, but with consent got marked Ex.R1 and Ex.R2. The Tribunal considering the evidence on record awarded a total compensation of Rs.50,000/- under different heads.

7. The parties to the proceedings are not in dispute that in a road accident dated 05.10.2013, Sri.Mohammed Shafi succumbed to the injuries sustained and the claimants are the legal representatives of the deceased. The deceased was aged about 70 years and it was claimed that he was engaged in hotel business. The evidence of PW1 indicates that the deceased was hale and healthy, he was the owner of the Hotel Naaz and was earning Rs.10,000/- per month. It is deposed that due to his untimely death, the income of the family was severely affected, as he was the sole earning member, resulting in



financial difficulties and acute financial quench, and the claimants being the children have also lost love and affection of their beloved father. It is further deposed that the income of the deceased was being utilized for the maintenance of the family and due to untimely death, they have lost their earning member of their family. The said witness was cross-examined; however, nothing has been elicited.

8. It is to be noticed that the respondent/Insurance Company filed a written statement to the claim petition; however, there is no specific plea therein that the claimants were not dependents of the deceased or that they were not entitled to compensation under the head of loss of dependency. Even during the cross-examination, no suggestion was put to PW1 disputing the dependency of the claimants. The learned counsel for the respondent has mainly relied on Ex.P3, the alleged statement given by PW1 before the police. In my considered view, the said statement cannot be used



against the claimants to come to conclusion that all the children of the deceased are married, residing separately and not dependent on him. The material on record clearly indicates that claimant Nos.1 to 7 are married and have independent income and claimant Nos.8 and 9 are major and unmarried daughters and were residing with the deceased. Hence, claimant Nos.8 and 9 are required to be considered as dependents.

9. The Hon'ble Supreme Court in the case of **Seema Rani** referred *supra* by considering the earlier decision of the Hon'ble Supreme Court in the case of **National Insurance Company Ltd. v. Birender and Others**⁴ has held that even married children of the deceased are entitled to maintain a claim petition under Section 166 of the MV Act. The Hon'ble Supreme Court in the case of **Birender** referred *supra* at paragraph Nos.12 and 13 by referring on its earlier decision in **Manjuri Bera**

⁴ (2020) 11 SCC 356



v. Oriental Insurance Company Limited⁵ has held that a major married son who is also earning and not fully dependent on the deceased, would be still covered by the expression "legal representative" of the deceased. Notably, the expression "legal representative" has not been defined in the MV Act. The Hon'ble Supreme Court has further held that the Tribunal has a duty to make an award to determine the amount of compensation which is just and proper and specify the person or persons to whom such compensation would be paid. In the case on hand, there is sufficient material on record to come to conclusion that claimant Nos.8 and 9 i.e., appellant Nos.8 and 9 are unmarried daughters and were dependent on the deceased. Hence, they are entitled to the compensation under the head of loss of dependency. Further, the claimants being the children of the deceased, each one are entitled to consortium as per the law laid down by the Hon'ble Supreme Court in the case of ***Magma***

⁵ (2007) 10 SCC 643



General Insurance Co.Ltd v Nanu Ram @ Chuhru Ram and Others⁶. Accordingly, compensation is required to be re-determined.

10. The deceased was aged about 70 years at the time of the accident and as the his income was not proved before the Tribunal, the same is notionally assessed at Rs.8,000/- per month by placing reliance on the notional income chart prepared by the KSLSA and the appropriate multiplier would be 5. Since the number of dependents are nine, deduction would be 1/3rd. Accordingly, the appellants-claimants are entitled to compensation towards ***loss of dependency*** as under:

$$\text{Rs.8,000} \times 12 \times 5 - 1/5 = \text{Rs.3,84,000/-}$$

11. 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. The

⁶ (2018) 18 SCC 130



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

12. The contention of the learned counsel for the respondent that the claimants would be entitled to the compensation under the head of loss of the estate only has no merits. In view of the aforesaid finding that the claimant Nos.8 and 9 are considered as dependents. Hence, the decision in the case of **A.Manavalagan** referred supra has no application under the facts and circumstances of the case.

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

HEADS	AMOUNT (in Rs.)
Loss of dependency	3,84,000/-
Loss of consortium (Rs.44,000 X 9)	3,96,000/-
Transportation of dead body & funeral expenses	16,500/-
Loss of estate	16,500/-
Total	8,13,000/-



Thus, the claimants shall be entitled to a total compensation of **Rs.8,13,000/-** as against Rs.50,000/- awarded by the Tribunal.

14. 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.8,13,000/-** as against Rs.50,000/- awarded by the Tribunal.
- c) The enhanced compensation amount shall carry interest at the rate of 6% per annum from the date of petition till the date of payment excluding the interest for the delayed period of 951 days as per the order dated 31.07.2025.



- 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 appellant Nos.8 and 9 each are entitled to 50% of the compensation of Rs.3,84,000/-. All the appellants/claimants would be entitled to the remaining compensation equally.
- f) Draw modified award accordingly.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

ABK
List No.: 2 Sl No.: 3