HC-KAR

NC: 2026:KHC:11592-DB
MFA No. 8273 of 2024
C/W MFA No. 6557 of 2024
MFA No. 6628 of 2024
AND 3 OTHERS

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

MISCELLANEOUS FIRST APPEAL NO. 8273 OF 2024 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL NO. 6557 OF 2024 (MV-D)

MISCELLANEOUS FIRST APPEAL NO. 6628 OF 2024 (MV-D)

MISCELLANEOUS FIRST APPEAL NO. 6635 OF 2024 (MV-D)

MISCELLANEOUS FIRST APPEAL NO. 7962 OF 2024 (MV-D)

MISCELLANEOUS FIRST APPEAL NO. 7970 OF 2024 (MV-D)

IN MFA No. 8273/2024

BETWEEN:

THE NEW INDIA ASSURANCE
COMPANY LTD.,
REGIONAL OFFICE
T.P.HUB NO. 9/2
MAHALAKSHMI CHAMBERS
M.G.ROAD
BENGALURU -560 001
REP.BY ITS ASSISTANT MANAGER
SMT.NOOJILLA LAKSHMI SAI SUDHA

...APPELLANT

(BY SRI. KRISHNA KISHORE S., ADVOCATE)

AND:

1. SMT. B A GEETHA
AGED ABOUT 55 YEARS
W/O B.R.ANIL KUMAR

SINCE DECEASED
REPRESENTED BY THE
RESPONDENTS 2 & 3 BEING THE
LEGAL REPRESENTATIVES OF THE
RESPONDENT NO.1

2. B.A.ANAGHA
AGED ABOUT 28 YEARS
D/O B.R.ANIL KUMAR

3. B.S RAMAKRISHNAN
AGED ABOUT 89 YEARS
S/O A.V.SRINIVAS AYANGAR

ALL ARE RESIDING AT NO. 1713
8TH CROSS, 17TH A MAIN
J P NAGAR, 2ND PHASE
BENGALURU -560 078

4. SADASHIVAM S
S/O MUNISWAMY
NO. 4/126 PUDHUPATTI
MANJANAICKANAHALLI
KALAPAMPADI POST
PENNAGARAM TALUK
DHARMAPURI DISTRICT
TAMIL NADU- 636 813

…RESPONDENTS

(BY SRI.VISHWANATHA SABARAD, ADVOCATE FOR R1 & R2
[R1 & R2 ARE LR'S OF DECEASED R3]
R4 SERVED AND UNREPRESENTED)

THIS MFA FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED:27.04.2024 PASSED IN MVC NO.4477/2019 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRL. MACT, BENGALURU, (SCCH-1), AWARDING COMPENSATION OF RS.30,94,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT IN COURT.

IN MFA NO. 6557/2024

BETWEEN:

1. SMT B A GEETHA
W/O LATE B R ANIL KUMAR,
AGED 55 YEARS,

2. KUM. B.A. ANAGHA
D/O LATE B.R. ANIL KUMAR,
28 YEARS

ALL ARE RESIDENTS OF
NO.1713, 8TH CROSS,
17TH A MAIN ROAD,
J.P.NAGAR, 2ND PHASE,
BANGALORE - 78.

...APPELLANTS

(BY SRI. VISHWANATH SABARAD, ADVOCATE)

AND:

1. SRI SADASHIVAM S.,
S/O MUNISWAMY,
MAJOR,
NO. 4/126, PUDHUPATTI,
MANJANAICKANAHALLI,
KALAPAMPADI POST,
PEENAGARAM TALUK
DHARAMPURI DIST
TAMIL NADU - 636 813

2. THE NEW INDIA ASSURANCE CO. LTD.,
REGIONAL OFFICE, T.P.HUB.,
NO.9/2, MAHALAKSHMI CHAMBERS,
M.G.ROAD, BANGALORE - 01
BY ITS MANAGER

...RESPONDENTS

(BY SRI.NOTICE TO R1 DISPENSED WITH
SRI.KRISHNA KISHORE S., ADVOCATE)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 27.04.2024 PASSED IN MVC NO.4478/2019 ON THE FILE OF THE CHIEF JUDGE, COURT OF

SMALL CAUSES, MEMBER, PRL. MACT, BENGALURU SCCH-1 PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 6628/2024

BETWEEN:

1. SMT B.A.GEETHA
   W/O LATE B.R.ANIL KUMAR,
   AGED 55 YEARS,

2. KUM B.A.ANAGHA
   D/O LATE B.R.ANIL KUMAR,
   28 YEARS,

   ALL ARE RESIDENTS OF NO.1713,
   8TH CROSS, 17TH A MAIN ROAD,
   J.P.NAGAR, 2ND PHASE,
   BANGALORE - 78.

...APPELLANTS

(BY SRI. VISHWANATH SABARAD, ADVOCATE)

AND:

1. SRI SADASHIVAM R
   S/O MUNISWAMY,
   MAJOR,
   NO. 4/126, PUDHUPATTI,
   MANJANACKANAHALLI,
   KALAPAMPADI POST,
   PEENAGARAM TALUK
   DHARAMPURI DIST
   TAMIL NADU - 636 813

2. THE NEW INDIA ASSURANCE CO. LTD.,
   REGIONAL OFFICE T P HUB.,
   NO.9/2, MAHALAKSHMI CHAMBERS,
   M.G.ROAD, BANGALORE - 1
   BY ITS MANAGER

...RESPONDENTS

(BY SRI.KRISHNA KISHORE S., ADVOCATE FOR R2
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 27.04.2024 PASSED IN MVC NO.4476/2019 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRL. MACT, BENGALURU SCCH-1 PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 6635/2024

BETWEEN:

1. SMT B.A.GEETHA
   W/O LATE B.R.ANIL KUMAR,
   AGED 55 YEARS,

2. KUM. B.A.ANAGHA
   D/O LATE B R ANIL KUMAR,
   AGED 28 YEARS

   ALL ARE RESIDENTS OF
   NO.1713, 8TH CROSS,
   17TH A MAIN ROAD,
   J.P.NAGAR, 2ND PHASE,
   BANGALORE - 78

...APPELLANTS

(BY SRI. VISHWANATH SABARAD, ADVOCATE)

AND:

1. SRI SADASHIVAM S.,
   S/O MUNISWAMY,
   AGED MAJOR,
   NO.4/126, PUDHUPATTI,
   MANJANAICKANAHALLI,
   KALAPAMPADI POST,
   PENAGARAM TALUK
   DHARMPURI DIST
   TAMIL NADU - 636 813

2. THE NEW INDIA ASSURANCE CO. LTD.,
   REGIONAL OFFICE T.P.HUB,
   NO.9/2, MAHALAKSHMI CHAMBERS,
   M.G.ROAD, BANGALORE - 1
   BY ITS MANAGER

...RESPONDENTS

(BY SRI.KRISHNA KISHORE S., ADVOCATE FOR R2
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 27.04.2024 PASSED IN MVC NO. 4477/2019 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BENGALURU (SCCH-1), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA NO. 7962/2024

BETWEEN:

THE NEW INDIA ASSURANCE
COMPANY LTD.,
REGIONAL OFFICE, T.P. HUB
NO. 9/2, MAHALAKSHMI CHAMBERS
M.G.ROAD
BENGALURU -560 001
REP. BY ITS ASSISTANT MANAGER
SMT.NOOJILLA LAKSHMI SAI SUDHA.

...APPELLANT

(BY SRI. KRISHNA KISHORE S., ADVOCATE)

AND:

1. SMT. B A GEETHA
AGED ABOUT 55 YEARS
W/O B.R.ANIL KUMAR

SINCE DECEASED
REPRESENTED BY THE
RESPONDENTS 2 & 3 BEING THE
LEGAL REPRESENTATIVES OF THE
RESPONDENT NO.1

2. B.A.ANAGHA
AGED ABOUT 28 YEARS
D/O LATE B R ANIL KUMAR

3. B.S.RAMAKRISHNAN
AGED ABOUT 89 YEARS

S/O A V SRINIVAS AYANGAR
ALL ARE RESIDING AT NO. 1713
8TH CROSS, 17TH A MAIN
J P NAGAR 2ND PHASE
BENGALURU- 560 078

4. SADASHIVAM S.,
S/O MUNISWAMY
NO.4/126, PUDHUPATTI
MANJANAICKANAHALLI
KALAPAMPADI POST
PENNAGARAM TALUK
DHARMAPURI DISTRICT
TAMIL NADU -636 813

...RESPONDENTS

(BY SRI. VISHWANATH SABARAD, ADVOCATE FOR R1 & R2
[R1 & R2 ARE LR'S OF DECEASED R3]
R4 SERVED AND UNREPRESENTED)

THIS MFA FILED U/S 173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 27.04.2024 PASSED IN MVC NO.4476/2019 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BENGALURU (SCCH-1) AWARDING COMPENSATION OF RS. 42,33,680/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT.

IN MFA NO. 7970/2024

BETWEEN:

THE NEW INDIA ASSURANCE
COMPANY LTD.,
REGIONAL OFFICE,
T.P.HUB NO. 9/2
MAHALAKSHMI CHAMBERS
M.G.ROAD
BENGALURU -560 001

REP. BY ITS ASSISTANT MANAGER
SMT. NOOJILLA LAKSHMI SAI SUDHA.

...APPELLANT

(BY SRI. KRISHNA KISHORE S., ADVOCATE)

AND:

1. B.S RAMAKRISHNAN
AGED ABOUT 89 YEARS
S/O A V SRINIVAS AYANGAR

SINCE DECEASED
REPRESENTED BY THE
RESPONDENTS 2 & 3 BEING THE
LEGAL REPRESENTATIVES OF THE
RESPONDENT NO.1

2. B.A.ANAGHA
AGED ABOUT 28 YEARS
D/O B.R.ANIL KUMAR
RESIDING AT NO. 1713
8TH CROSS, 17TH A MAIN
J.P.NAGAR 2ND PHASE
BENGALURU -560 078

3. SMT B.A.GEETHA
AGED ABOUT 55 YEARS
W/O B R ANIL KUMAR

ALL ARE RESIDING AT
NO. 1713, 8TH CROSS
17TH A MAIN, J.P.NAGAR
2ND PHASE
BENGALURU -560 078

4. SADASHIVAM S.,
S/O MUNISWAMY
NO. 4/126, PUDHUPATTI
MANJANAICKANAHALLI
KALAPAMPADI POST
PENNAGARAM TALUK
DHARMAPURI DISTRICT
TAMIL NADU -636 813

...RESPONDENTS

(BY SRI.VISHWANATHA SABARAD, ADVOCATE FOR R2 & R3
[R2 & R3 ARE LR'S OF DECEASED R1]
R4- SERVED AND UNREPRESENTED)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 27.04.2024 PASSED IN MVC NO.

4478/2019 ON THE FILE OF THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER, PRINCIPAL MOTOR ACCIDENT CLAIMS TRIBUNAL, BENGALURU (SCCH-1), AWARDING COMPENSATION OF RS. 2,30,040/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL THE DATE OF DEPOSIT IN COURT.

THESE APPEALS, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The above six appeals arise out of the same accident and from a common judgment. Hence, all these appeals are taken up for hearing together and disposed of by this common judgment.

2. MFA No.8273/2024, MFA No.7962/2024 and MFA No.7970/2024 are by the Insurance Company questioning the saddling of 100% liability on it and the quantum of compensation awarded by Tribunal.

MFA No.6557/2024, MFA No.6628/2024 and MFA No.6635/2024 are by the claimants seeking enhancement of compensation, not being satisfied with the compensation awarded under common judgment and award dated

27.04.2024 in MVC No.4476/2019 clubbed with MVC No.4477/2019 and MVC No.4478/2019 passed by the Chief Judge, Court of Small Cases, Member, Principal Motor Accident Claims Tribunal, Bengaluru [for short 'Tribunal'].

3. Brief facts of the case are that the claimants, who are the wife, daughter and father of late B. R. Anil Kumar, filed three separate claim petitions claiming compensation for the accidental deaths of the husband of the first claimant, son of the first claimant and wife of the third claimant in a motor vehicle accident that took place on 05.08.2018 involving car bearing No.KA.05.MN.7201 and lorry bearing No.TN.29.AF.6522.

3.1 It is stated that the husband of the first claimant, late B. R. Anil Kumar was aged 52 years and was earning more than Rs.12,00,000/- per annum; the son was aged 20 years and was pursuing final year of Engineering and wife of the third claimant was aged 77 years and she was homemaker.

3.2 On issuance of notice, the Insurance Company appeared and filed its objections denying the entire claim petition averments as false and baseless. It is stated in the objections that the deceased B.R Anil Kumar drove the car in a rash and negligent manner and at a high speed, and while attempting to overtake the offending lorry, he lost control over the vehicle and dashed against the lorry from behind. It is further stated that there was no negligence on the part of the driver of the lorry and that the lorry has been falsely implicated in the accident. It is also contented that the deceased driver of the car had no valid and effective driving license as on the date of accident and had no valid insurance policy. Further stated that no FIR was registered against the deceased driver of the car; however, a false charge sheet was filed against the driver of the lorry. It is also stated that the driver of the lorry had no valid and effective driving license and the lorry did not have 'Fitness Certificate' or permit as on the date of accident.

3.3. Before the Tribunal, common evidence was recorded. On behalf of the claimants, wife of the deceased B. R. Anilkumar examined herself as PW1 and an eyewitness was examined as PW2, apart from marking Exs.P1 to P34 documents. On behalf of the respondents, RW1-Investigating Officer, RW2-Official of the Insurance Company and RW.3-Official from the RTO Office were examined, apart from marking Exs.R1 to R8.

3.4 The Tribunal, on appreciating the material on record, awarded a total compensation of Rs.42,33,680/- towards the accidental death of the husband of the first claimant in MVC No.4476/2019. While awarding the said compensation, the Tribunal assessed the income of the deceased husband of the first claimant at Rs.42,600/- per month, added 10% towards 'future prospects', deducted 1/3rd towards 'personal expenses' and applied multiplier of '11'.

Insofar as the deceased son of the first claimant is concerned, the Tribunal awarded a total compensation of Rs.30,94,000/- in MVC No.4477/2019. While awarding the above compensation, the Tribunal assessed the income of the deceased son of the first claimant at Rs.20,000/- per month, added 40% of the assessed income towards 'future prospects', deducted 50% towards 'personal expenses' and applied multiplier of '18'.

In so far as wife of the third claimant is concerned, the Tribunal assessed the notional income at Rs.5,000/- per month, deducted 1/3rd towards her 'personal expenses', applied multiplier of '5' and awarded a total compensation of Rs.2,30,040/- in MVC No.4478/2019.

3.5 The claimants not being satisfied with the quantum of compensation are before this Court seeking enhancement, whereas the Insurance Company is before this Court questioning the saddling of entire liability on it without proper consideration of the contention of regarding contributory negligence.

4. Heard Sri S. Krishna Kishore, learned counsel for the Insurance Company and Sri Vishwanath Sabarad, learned counsel for the claimants, and perused the entire appeal papers including the Trial Court records.

5. Sri S. Krishna Kishore, learned counsel for the Insurance Company, would submit that the Tribunal committed grave error in saddling the entire liability on the Insurance Company without examining the contention that the deceased driver of the car also contributed to the occurrence of the accident by his negligence. Learned counsel would specifically contend that the

deceased driver of the car i.e., the husband of the first claimant, failed to maintain the required distance, due to which he dashed against the lorry from behind. If the driver of the car was cautious and maintained required distance, the accident would not have occurred. Learned counsel would submit that initially the complaint was filed against the deceased driver and subsequently, charge sheet is filed against the driver of the lorry.

6. Learned counsel invites the attention of this Court to the evidence of RW.1-Investigating Officer and submits that the Investigating Officer recorded the statements of certain witnesses who have clearly deposed that the accident occurred solely due to the negligence of the driver of the car. Learned counsel in that regard, places reliance on the decision of the Hon'ble Apex Court in the case of ***Nishan Singh and others vs. Oriental Insurance Co. Ltd. and others, [(2018) 6 SCC 765]***. Learned counsel also invites the attention of this Court to Ex.P5-IMV report and submits that no damage is caused to the lorry.

7. Insofar as the quantum of compensation is concerned, learned counsel would submit that the Tribunal failed to deduct the income tax paid by the deceased husband of the first claimant while determining the monthly income of the deceased. Insofar as the compensation awarded to the son of the first claimant, learned counsel would submit that in the absence of any material to indicate the income of the deceased son, Tribunal has determined the monthly income of the deceased son on the higher side. Further, in so far as compensation awarded to the wife of the third claimant is concerned, learned counsel submits that the same is also on the higher side and prays for reduction of the same. Thus, learned counsel prays for modification of the award and also to consider the contributory negligence of the driver of the car.

8. *Per contra,* learned counsel for the claimants would submit that the Tribunal, upon consideration of the material on record, has rightly saddled the liability on the Insurance Company. It is submitted that the accident had occurred solely due to the negligent driving of the driver of the lorry. Learned counsel, inviting the attention of this Court to the evidence of

PW2, cross-examination portion of RW.1 and Ex.P3-sketch, would submit that the driver of the lorry suddenly applied brake without any signal, which resulted in dashing of the car by the deceased driver on the hind side of the lorry. Learned counsel would further submit that the Investigating Officer recorded the statements of persons who were not eyewitnesses and who had made statements on the information of the cattle rearers. However, he submits that the statements of those cattle rarers have not been recorded by the Investigating Officer. Moreover, he submits that the offending vehicle was inspected by the Motor Vehicle Inspector after more than 8 months and therefore, he submits that the IMV report cannot be relied upon.

9. Insofar as quantum of compensation is concerned, learned counsel for the claimants would submit that insofar the income of the husband of the first respondent is concerned, the monthly income as assessed by the Tribunal is on the lower side and the Tribunal ought to have considered the entire material on record while assessing the income. Thus, he would pray for dismissal of the appeals filed by the Insurance

Company and to allow the claimants' appeal by enhancing the compensation.

10. Having heard learned counsel for the parties and on perusal of the entire record including the Trial Court records, the following points would arise for consideration;

(i) Whether the Tribunal is justified in saddling the entire liability on the Insurance Company holding that the accident had occurred solely due to the negligent driving by the driver of the car?

(ii) Whether the claimants would be entitled for enhanced compensation?.

11. The answer to the above points is in the 'affirmative' for the following reasons.

12. The accident that occurred on 05.08.2018 involving car bearing No.KA.05.MN.7201 and lorry bearing No.TN.29.AF.6522 and the accidental death of three persons namely, the husband of the first claimant, son of the first claimant and wife of the third claimant is not in dispute. However, the Insurance

Company is questioning the manner of accident and saddling of entire liability on it, whereas the claimants are before this Court seeking enhancement of compensation not being satisfied with the quantum of compensation awarded by the Tribunal.

13. Learned counsel for the Insurance Company mainly contended that the accident occurred solely due to the negligent driving of the deceased driver of the car and there is no negligence on the part of the driver of the lorry. The said contention cannot be accepted in view of the material on record i.e. evidence of PW2-eyewitness as well as Ex.P3-sketch.

14. It is relevant to note in the evidence of PW2-eyewitness to the accident, who has deposed that on 05.08.2018, when he was in the village at around 08.00 a.m., and going for College work by walk, he saw a lorry coming from Bengaluru side, suddenly lorry driver applied brake, due to which, the car which was behind the said lorry dashed against the back side of the lorry. He has also deposed that the rear portion of the lorry and front portion of the car was damaged. Nothing in favour of the Insurance Company is elicited in the cross-examination of PW2.

15. RW.1-Investigating Officer after investigation has filed charge sheet against the driver of the lorry. In his evidence, he deposed that he has recorded the statements of LW 6 to 8. He has further deposed that, he enquired with the cattle rearers, who were the eyewitnesses to the accident, but admitted that he has not recorded the statements of those cattle rearers.

16. Learned counsel for the Insurance Company submitted that initially claimant No.1, wife of the deceased B.R Anil Kumar filed complaint before the Police complaining rash and negligent driving by the driver of the car i.e. her husband. In the cross-examination, PW1 complainant has clarified the same stating that the complaint was written by someone in Telugu language and she has signed the said complaint. She is not conversant with Telugu language and she could not read while signing the complaint. Therefore, no credence could be attached to the said submission of learned counsel for the Insurance Company. Thus, on examination and on assessing the entire material on record, we find that the Tribunal is justified in saddling the liability on the Insurance Company. The Tribunal, on careful examination of spot mahazar, has noticed that to a distance of

about 15 feet length, there is a skid mark from North to South and from the said skid mark, at a distance of 160 feet towards North, there are broken glass pieces, plastic and fibre pieces belonging to car and has come to the conclusion that the accident occurred on account of the lorry driver applying sudden brake.

17. Learned counsel for the Insurance Company also stated that that the IMV report would not indicate any damage to the lorry. However, it is to be noticed that the vehicle i.e. the offending vehicle was inspected more than 8 months from the date of the accident as such, no importance could be attached to IMV report.

18. Learned counsel placed reliance on the decision of the Hon'ble Apex Court in ***Nishan Singh*** *(supra),* wherein it has been observed that, one shall maintain sufficient distance, placing reliance on Regulation 23 of the Road Regulations, 1989. In the instant case, when the driver of the lorry had suddenly applied brake, even if the vehicle which was coming behind had sufficient distance also, the accident could not be avoided. As stated above, the skid marks would indicate the

application of sudden brake and as such, the Insurance Company's contention that there is contributory negligence is liable to be rejected.

19. With regard to compensation to be awarded, the Tribunal has granted total compensation of Rs. 42,33,680/- to the claimants in MVC No. 4476/2019, i.e. Claim Petition filed for the death of Mr. B R Anil Kumar. In doing so, the Tribunal has assessed the monthly income of the deceased at Rs. 42,600/-, added 10% towards future prospects, deducted 1/3rd towards personal and living expenses of the deceased, applied the multiplier of '11', granted Rs.15,000/- each under the heads 'loss of estate' and 'funeral expenses', and Rs.40,000/- each to the claimants under the head 'loss of consortium'.

20. It is contended on behalf of the claimants that the deceased B R Anil Kumar was earning a sum of Rs. 70,000/- p.m. and that the Tribunal erred in assessing the income of the deceased at Rs. 42,600/- p.m. The Corporation, on the other hand, has contended that the monthly income assessed by the Tribunal is on the higher side. We have perused the appeal papers as well as the Trial Court records. The claimants have

not produced any evidence to corroborate their claim that the deceased was earning a sum of Rs. 70,000/- p.m. On the other hand, on perusal of the Income Tax Return(ITR) filed for the AY 2018-19(year of the death of the deceased), the deceased Mr. B R Anil Kumarhas declared a gross income of Rs.5,11,200/- which amounts to a sum of Rs. 42,600/- p.m. The Tribunal on the basis of the ITR filed for the AY 2018-19 is right in assessing the monthly income of the deceased at Rs. 42,600/- p.m. However, the Tribunal has failed to deduct the applicable Income Tax on the gross total income for the year concerned. The Hon'ble Apex Court in ***MANORMA SINHA V. ORIENTAL INSURANCE CO.*** reported in ***2025 SCC OnLine SC 2241*** has held that income tax ought to be deducted while calculating the monthly income of the deceased at such rate which the annual income may be subjected to in the relevant year. The applicable income tax on the gross total income after all the allowed deductions would be Rs. 13,340/-. Thus the net annual income of the deceased is assessed at Rs. 4,97,860/-. Thus, on re-assessment of the net annual income of the deceased, claimants in MVC No. 4476/2019would be entitled for modified compensation under the head 'loss of dependency' as follows:

4,97,860+10%-1/3X11=**40,16,070**

21. We do not find any other infirmities with the compensation granted by the Tribunal in MVC No. 4476/2019 and the same is maintained. Thus, the claimants in MVC No. 4476/2019 would be entitled to the following compensation:

Sl.No.	PARTICULARS	AMOUNT
1.	Loss of Dependency	Rs. 40,16,070/-
2.	Loss of Consortium (enhanced at 10%)	Rs. 88,000/-
3.	Loss of Estate (enhanced at 10%)	Rs. 16,500/-
4.	Funeral Expenses and Transportation Charges (enhanced at 10%)	Rs. 16,500/-
	TOTAL	**Rs.41,37,070/-**

Thus, the claimants in MVC No.4476/2019 would be entitled for total compensation of Rs.41,37,070/- as against Rs.42,33,680/- awarded by the Tribunal.

22. Insofar as the compensation to be awarded in MVC No. 4477/2019 is concerned, the Tribunal has assessed the monthly income of the deceased at Rs.20,000/-, added 40% towards future prospects, deducted 50% towards personal and living expenses of the deceased, applied the multiplier of '18', granted Rs.15,000/- each under the heads 'loss of estate' and 'funeral expenses', and Rs.40,000/- to the claimant under the head 'loss of consortium'.

23. We do not find any infirmities with the compensation awarded by the Tribunal insofar as the addition towards future prospects, the deductions made, the multiplier applied and the compensation granted under the conventional head is concerned. However, it has been argued on behalf of the claimants that the notional income assessed by the Tribunal is on the lower side. It is stated that the deceased BA Adithya was hale and healthy, was a bright student at an Engineering College and hence the Tribunal has assessed the income on the lower side. We are in complete agreement with the arguments put forth by the learned counsel for the claimants in MVC No. 4477/2019. A Co-ordinate Bench of this Court in its judgment dated 28.02.2020 in MFA No. 104894/2019 and connected matter, for an accidental death that occurred in the year 2016, of a 3rd year Engineering Student, taken Rs. 25,000/- as the appropriate income, even in the absence of material to show that the deceased was an earning member, by taking into consideration the earning capacity and the earning potentiality of the deceased therein. The said judgment has not been taken up in appeal before the Supreme Court and hence, has attained finality. Thus, this Court is of the opinion that, in accordance

with the coordinate bench judgment, Rs. 25,000/- would be the appropriate amount that would meet the ends of justice.Thus, on re-assessment of the net annual income of the deceased, claimants in MVC No. 4477/2019 would be entitled for modified compensation under the head 'loss of dependency' as follows:

(25,000+40%)-1/2X12X18=**37,80,000**

24. Thus, the claimants in MVC No. 4477/2019 would be entitled to the following compensation:

Sl. No.	PARTICULARS	AMOUNT
1.	Loss of Dependency	Rs. 37,80,000/-
2.	Loss of Consortium (enhanced at 10%)	Rs. 44,000/-
3.	Loss of Estate (enhanced at 10%)	Rs. 16,500/-
4.	Funeral Expenses and Transportation Charges (enhanced at 10%)	Rs. 16,500/-
	TOTAL	**Rs.38,57,000/-**

Thus, the claimants in MVC No.4477/2019 would be entitled for total compensation of Rs.38,57,000/- as against Rs.30,94,000/- awarded by the Tribunal.

25. Insofar as compensation to be awarded in MVC No. 4478/2019 is concerned, the Tribunal has assessed the monthly income of the deceased Smt. B R Kamal at Rs. 5,000/-, deducted 1/3rd towards personal and living income of the

deceased, applied the multiplier of '5' and granted Rs.15,000/- each under the heads 'loss of estate' and 'funeral expenses'. We do not find any infirmities insofar as the multiplier applied and the deductions made. However, we are of the considered opinion that the monthly income assessed by the Tribunal is on the lower side. Thus, the monthly income of the deceased is assessed at Rs. 10,000/- p.m. Thus, on re-assessment of the net annual income of the deceased, claimants in MVC No. 4478/2019 would be entitled for modified compensation under the head 'loss of dependency' as follows:

10,000-1/3X12X5=**4,00,000/-**

26. Thus, the claimants in MVC No. 4478/2019 would be entitled to the following compensation:

Sl.No.	PARTICULARS	AMOUNT
1.	Loss of Dependency	Rs. 4,00,000/-
2.	Loss of Estate (enhanced at 10%)	Rs. 16,500/-
3.	Funeral Expenses and Transportation Charges (enhanced at 10%)	Rs. 16,500/-
	TOTAL	**Rs.4,33,000/-**

Thus, the claimants would be entitled for total compensation of Rs.4,33,000/- as against Rs.2,30,040/- awarded by the Tribunal.

27. In the result, we proceed to pass the following:

ORDER

a. MFA No. 8273/2024 and MFA No. 7970/2024 filed by the Insurance Company is dismissed. MFA No. 7962/2024 filed by the Insurance Company in MVC NO.4476/2019 is partly allowed.

b. MFA No. 6557/2024 and MFA No. 6635/2024 filed by the claimants are allowed in part. MFA No. 6628/2024 filed by the claimants in MVC NO.4476/2019 is dismissed.

c. The impugned judgment and award of the Tribunal in MVC No. 4476/2019 is modified holding that the claimants are entitled to compensation of Rs. **41,37,070/-**as against Rs.42,33,680/- awarded by the Tribunal.

d. The impugned judgment and award of the Tribunal in MVC No. 4477/2019 is modified holding that the claimants are entitled to enhanced compensation of

Rs.38,57,000/-as against Rs. 30,94,000/- awarded by the Tribunal.

e. The impugned judgment and award of the Tribunal in MVC No. 4478/2019 is modified holding that the claimants are entitled to modified compensation of **Rs.4,33,000/-** as against Rs. 2,30,040/- awarded by the Tribunal.

f. The entire compensation amount shall carry interest at the rate of 6% per annum from the date of petition till date of realization.

g. The Insurance Company shall deposit the entire compensation amount with accrued interest before the Tribunal within four weeks from the date of receipt of certified copy of this judgment.

h. Apportionment, deposit and disbursement shall be made as per the award of the Tribunal.

i. The amount in deposit, if any, be transmitted to the concerned Tribunal forthwith along with Trial Court Records.

j. Draw modified award accordingly.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

MV
List No.: 1 Sl No.: 3