



HC-KAR

NC: 2026:KHC-D:4610-DB  
MFA No. 100313 of 2023  
C/W MFA.CROB No. 100043 of 2023

**IN THE HIGH COURT OF KARNATAKA AT DHARWAD**

**DATED THIS THE 24<sup>TH</sup> DAY OF MARCH, 2026**

**PRESENT**

**THE HON'BLE MR. JUSTICE B.M.SHYAM PRASAD**

**AND**

**THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR**

**MISCELLANEOUS FIRST APPEAL NO.100313 OF 2023 (MV-D)**

**C/W**

**MFA CROSS OBJ NO.100043 OF 2023 (MV-I)**

**IN MFA No. 100313/2023:**

**BETWEEN:**

THE MANAGER  
UNITED INDIA INSURANCE CO. LTD.,  
DIVISIONAL OFFICE NO.1 AND 2  
ENKAY COMPLEX HUBBALLI-580023,  
POLICY NO. 240003116P103966885,  
VALID FROM: 16-07-2016-15-07-20-17.  
REPRESENTED BY IT'S REGIONAL MANAGER  
AUTHORITY SIGNATORY.

...APPELLANT

(BY SRI. G.N.RAICHUR, ADVOCATE)

**AND:**

1. NARASMAMMA W/O. CHENNAYYA ANATHAPUR  
AGE. 63 YEARS,  
R/AT. #19/20 KRUPA NAGAR,  
MANTUR ROAD, HUBBALLI-580025.
2. GOWRESHWARI D/O. CHENNAYYA ANTHAPUR  
AGED ABOUT 40 YEARS,  
R/AT. #19/20 KRUPA NAGAR,  
MANTUR ROAD, HUBBALLI-580025.

VISHAL  
NINGAPPA  
PATTIHAL

  
Digitally signed by  
VISHAL NINGAPPA  
PATTIHAL  
Location: HIGH COURT  
OF KARNATAKA  
DHARWAD BENCH



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3. KARASIDDAPPA  
S/O. AMRUTAPPA KUSUGAL CHOUDARY,  
AGE. 56 YEARS, R/AT. #1374/D,  
RAILWAY QUARTERS VIBERT ROAD,  
KESHWAPUR, HUBBALLI-580025,  
(OWNER OF THE CAR BEARING ITS  
REG NO. KA-17/M-3760)

...RESPONDENTS

(BY SRI. G.N.BADIGER AND  
SRI. SANTOSH D.NARAGUND, ADVOCATE FOR R1 & R2;  
NOTICE TO R3 IS DISPENSED WITH)

THIS MISCELLANEOUS FIRST APPEAL IS FILED  
UNDER SECTION 173 (1) OF MOTOR VEHICLES ACT,  
AGAINST THE JUDGMENT AND AWARD DATED  
07.10.2022 PASSED IN MVC NO.292/2018 ON THE FILE  
OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND  
ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL,  
HUBBALLI, AWARDING COMPENSATION OF  
RS.26,46,592/- WITH INTEREST AT 6 PERCENT P.A.  
FROM THE DATE OF PETITION TILL ITS REALIZATION.

**IN MFA.CROB NO. 100043 OF 2023:**  
**BETWEEN:**

1. SMT. NARASAMMA W/O. CHENNAYYA ANANTHPUR  
AGE. 63 YEARS, OCC. HOUSEWIFE,  
R/O. H.NO. 19/20, KRUPA NAGAR,  
MANTUR ROAD, HUBBALLI-580024,  
DIST. DHARWAD.
2. GOWRESHWARI D/O. CHENNAYYA ANANTHPUR  
AGE. 40 YEARS, OCC. HOUSEWIFE,  
R/O. H.NO. 19/20, KRUPA NAGAR,  
MANTUR ROAD, HUBBALLI-580024,  
DIST. DHARWAD.

...CROSS-OBJECTORS

(BY SRI. G.N.BADIGER AND  
SRI. SANTOSH D.NARAGUND, ADVOCATES)



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MFA No. 100313 of 2023  
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**AND:**

1. SRI. KARASIDDAPPA S/O. AMRUTAPPA KUSUGAL  
AGE. 56 YEARS, OCCU. NOT KNOWN,  
R/O. #1374/D, RAILWAY QUARTERS,  
VIBERT ROAD, KESHWAPUR,  
HUBBALLI, TQ. HUBBALLI, DIST. DHARWAD,  
(OWNER OF THE VEHICLE BEARING  
REGN. KA-17/M-3760)
2. THE MANAGER  
UNITED INDIA INSURANCE COMPANY LIMITED,  
DIVISIONAL OFFICE NO.1 AND 2,  
ENKAY COMPANY, HUBBALLI-580023,  
TQ. HUBBALLI, DIST. DHARWAD.  
(INSURER OF VEHICLE BEARING  
REGN. NO.KA17.M3760,  
POLICY NO. 2403003116P103966885,  
POLICE VALID FROM 16-07-2016 TO 15-07-2017)

...RESPONDENTS

(BY SRI. G.N.RAICHUR, ADVOCATE FOR R2;  
NOTICE TO R1 IS DISPENSED WITH)

MFA.CROB IN MFA NO.100313/2023 FILED UNDER  
ORDER 41 RULE 22 OF CPC., AGAINST THE JUDGMENT  
AND AWARD DATED 07.10.2022 PASSED IN MVC NO.  
292/2018 ON THE FILE OF THE II ADDITIONAL SENIOR  
CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT  
CLAIMS TRIBUNAL, HUBBALLI,, PARTLY ALLOWING THE  
CLAIM PETITION FOR COMPENSATION AND SEEKING  
ENHANCEMENT OF COMPENSATION.

THIS APPEAL AND MFA CROSS OBJECTION  
COMING ON FOR FINAL HEARING THIS DAY,  
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B.M.SHYAM PRASAD  
AND  
HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR



**ORAL JUDGMENT**

(PER: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR)

MFA No.100313/2023 is filed by the insurer challenging the judgment and award dated 07.10.2022 passed in MVC No.292 of 2018 by the II Additional Senior Civil Judge and Additional, M.A.C.T, Hubballi.

2. The claimants have filed cross objection in MFA Crob No.100043/2023 seeking enhancement of the compensation as awarded by the Tribunal.

3. The facts leading to filing of a claim petition are as under;

On 23.10.2016 at about 12.30 p.m., the claimant was going towards Navalagund by his motorcycle bearing registration No.KA-26/U-6227 on left side and car bearing registration No.KA-17/M-3760 came without any signal with great speed and in rash and negligent manner and dashed to motorcycle, due to which, the claimant fell down and



sustained fractures. The claimant was shifted to KIMS, Hubballi and then shifted to SDM Hospital, Dharwad and admitted as an indoor patient from 23.10.2016 to 25.10.2016 and again admitted in Shivakrupa Hospital on 25.10.2016. Thereafter, the claimant came to be admitted in Apollo Hospital, Bengaluru as an inpatient and taken treatment from 27.10.2016 to 14.11.2016 and again admitted on 27.01.2017 to 24.02.2017. The claimant has taken treatment in Krishna Ayurveda Wellness Center, Karkala from 03.07.2017 to 24.09.2017. The claimant filed claim petition contending that he is Government Railway employee and he was drawing salary of Rs.26,000/- per month and maintaining the family. Due to grievous injuries, the claimant is unable to attend his routine work. The accident was occurred due to sole negligence on the part of driver of the car bearing No.KA-17/M-3760. With this, the claimant has prayed for awarding compensation under different heads.



4. Respondent No.1 -owner of the car in his objections has totally denied the case of the claimant and submitted that if the Court comes to the conclusion that the claimant is eligible to get compensation, then liability is to be saddled on respondent No.2 who is the insurer as the policy was in force as on the date of the accident.

5. Respondent No.2 -insurer in the objections denied the claim petition averments and mode of accident as narrated in the petition and contended that the offending vehicle was not involved in the accident and the claimant never sustained any injuries. The accident itself is false, created by the claimant in collusion with respondent No.1 and One Harish V Gondakar. There is a delay in lodging the complaint, which creates suspicion in the nature of the involvement of the vehicle insured with respondent No.2. The claimant drove his bike without



holding any driving licence. With these, respondent No.2 -insurer prayed to dismiss the petition.

6. During the pendency of the petition, the claimant died on 14.03.2020. The legal heirs of the claimant were brought on record as claimant Nos.1 and 2 and they are mother and sister of the claimant. Claimants also got amended the claim petition.

7. Respondent No.2 has filed additional written statement after amendment of the petition and contented that the injured was not admitted in Vivekananda Hospital for further treatment of alleged injury sustained by him in the alleged road traffic accident. There is no nexus between the alleged treatment taken by him at Vivekananda Hospital and alleged injury sustained by him in the alleged accident.

8. The Tribunal based on the pleadings of the parties has framed the following issues;



**“Issue No.1:** *Whether the petitioner proves that, he has sustained injuries in the accident took place on 23.10.2016 at about 12.30 PM, near Ingalalli Cross, Hubballi Navalgund Road, Hubballi due to rash and negligent driving of the Car bearing Reg No.KA 17 M 3760 by its driver?*

**Issue No.2:** *Whether the petitioner is entitled for the compensation ? If so, what is the quantum of compensation and from whom?*

**Issue No.3:** *What order or Award?”*

8. The claimant has been examined as P.W.1 and got marked documents as Ex.P1 to P12. The claimant examined the treated doctor as P.W.2 and got marked documents as Ex.P13 to P15. After death of the claimant, claimant No.1 -the mother has been examined as P.W.3 and got marked documents as Ex.P16 to P21. The Assistant Manager of respondent No.2 -insurance company has got examined as R.W.1 and got marked documents as Ex.R1 and R2. The Tribunal, after hearing the arguments on both sides and appreciating the evidence on record, has



answered Issue No.1 in the affirmative and Issue No.2 partly in the affirmative and awarded total compensation of Rs.26,46,592/- under different heads which reads as under;

| S1. No. | NATURE OF THE HEADS                     | COMPENSATION           |
|---------|-----------------------------------------|------------------------|
| 01      | Medical Expenses                        | Rs.5,06,686=00         |
| 02      | Loss of income during treatment         | Rs.72,450=00           |
| 03      | Attendant, Food and Nourishment charges | Rs.72,000=00           |
| 04      | Loss of dependency                      | Rs.19,95,456=00        |
|         | <b>TOTAL</b>                            | <b>Rs.26,46,592=00</b> |

9. The liability to pay the said compensation has been saddled on respondent No.2 -insurer. Therefore, the insurer has challenged the judgment and award in the MFA No.100313/2023. Claimants seeking enhancement have filed cross-objections in MFA Crob No.100043/2023.

10. Heard learned counsels appearing for the parties.



11. Learned counsel for the appellant -insurer would contend that the accident has taken place on 23.10.2016 and complaint has been filed after 03 days. The claimant died after three years of the accident and there is no nexus for the death of the claimant and injuries sustained in the alleged accident. Ex.P5 – wound certificate indicates that the claimant has sustained injury to his back. P.W.3 -the mother of the claimant -deceased has admitted in her cross-examination that they have got reimbursement of the medical expenses and same is mentioned in Ex.P7 and P8. He contended that as the injured - claimant died, the cause does not survive for consideration and placed reliance on the decision of this Court rendered in the case of ***Kannamma Vs General Manager***<sup>1</sup>. On these grounds, he prayed to allow the appeal and set aside the impugned judgment and award passed by the Tribunal.

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<sup>1</sup> In ILR 1990 KAR 4300



12. Learned counsel for claimants would contend that the Tribunal, rightly relying on the decision of the Hon'ble Apex Court in the case of ***Oriental Insurance Co. Ltd. Vs Kahlon***<sup>2</sup> has rightly awarded the compensation for the accident under which the claimant sustained injuries and for death of the claimant relying on para Nos. 19 and 20 of the said decision. He further contended that the claimant -deceased was aged 30 years as on the date of accident and therefore, the multiplier applicable is 17 instead of 16 as applied by the Tribunal. The Tribunal has erred in taking the net salary of the claimant - deceased, whereunder there are deduction towards loan in a sum of Rs.400/- and Rs.5,875/- which are required to be included while taking the net salary of the claimant -deceased. With this, he prayed to enhance the compensation by allowing the cross-objections.

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<sup>2</sup> In (2022) 13 SCC 494



13. Having heard learned counsels, we have perused the impugned judgment, award and the trial Court records.

14. The claimant himself has filed a complaint, the copy of which is at Ex.P2. Based on complaint, FIR came to be registered, the copy of FIR is at Ex.P1 and Ex.P4 is the spot mahazar. The police, after conducting investigation, filed charge sheet, the copy of which is at Ex.P3. The charge sheet has been filed against the driver of the car bearing No.KA-17/M-3760 for offence punishable under Sections 279, 337, 338 of IPC and Sections 134 and 187 of the Motor Vehicles Act. The said filing of charge sheet against the driver of the car itself indicates that the accident has occurred due to rash and negligent driving of the car, which dashed to the claimant, as result of which he has sustained injuries. Considering the said aspect, the Tribunal has rightly answered Issue No.1 in the affirmative



holding that the accident was caused due to the sole rash and negligent driving of offending car driver.

15. Ex.P5 is the wound certificate which indicates that the claimant has sustained spine injury T8/9 T11/12 compression dislocation and compression paraplegia and injury to right side of chest. Ex.P7 is the discharge summary issued by SDM Hospital, Dharwad which indicate that the claimant has been admitted in the hospital on 23.10.2016 and discharged on 25.10.2016. Ex.P8 and P9 are discharge summaries issued by Apollo Hospital, Bangalore, which indicate that the claimant was admitted on 27.10.2016 and discharged on 14.11.2016 and again admitted on 27.01.2017 and discharged on 24.02.2017. Ex.P10 is the Certificate issued by Krishna Ayurveda Wellness Center, Karkala, which indicate that the claimant was admitted on 03.07.2017 and discharged on 24.09.2017. P.W.2 is the doctor who treated the



claimant. P.W.2 in his evidence has stated that he treated the injured in Apollo Hospital and the injured has sustained injury to chest and mid-back and was unable to move both the lower limbs and had pain over the back. The claimant had undergone surgery of T7-12 transpedicular stabilization and spinal decompression. Considering the said aspect, P.W.2 has opined that the claimant has physical disability of 95% in respect of spinal injury. The medical records indicate that the claimant has sustained paraplegia, which has affected the movement of his lower limbs.

16. The claimant died on 14.03.2020 i.e., during pendency of the claim petition. As per Ex.P20 -Death summary issued by Vivekananda General Hospital, Hubballi indicates that the claimant was admitted on 12.03.2020 for treatment of spine injury sustained by the claimant in the road traffic accident. Considering the said aspect, the Tribunal has rightly



opined that the injured died due to injuries sustained in road traffic accident.

17. The claim petition was made by the injured –claimant during his lifetime. The injured –claimant died during pendency of the claim petition. The mother and sister of the claimant have been brought on record as legal heirs and the petition came to be got amended claiming compensation for the death of the injured -claimant.

18. Learned counsel for the appellant -insurer placing reliance on the decision of this Court rendered in the case of **Kannamma** (supra) contended that in case of death of injured, the cause does not survive for claiming compensation. The said judgment rendered in the case of **Kannamma** (supra) has been overruled in the decision which the Tribunal has relied on in the case of **Oriental Insurance Co. Ltd.**, (Supra). In the said case the Hon'ble Apex Court has held as under:



*“19. We see no reason to deviate from the consistent judicial view taken by more than one High Court that loss of estate would include expenditure on medicines, treatment, diet, attendant, doctor’s fee, etc. including income and future prospects which would have caused reasonable accretion to the estate but for the sudden expenditure which had to be met from and depleted the estate of the injured, subsequently deceased.*

*20. However, the compensation under the head pain and suffering being personal injuries is held to be unsustainable and is disallowed.”*

19. In the said case also, the claimant died during pendency of the claim petition and the Hon'ble Apex Court has considered under what heads the claimants are entitled to compensation. The Hon'ble Apex Court has taken view that loss of estate would include expenditure on medicines, treatment, diet, attendant, doctor's fees etc., including income and future prospects which would have caused reasonable accretion to the estate but for the sudden



expenditure which had to be met from and depleted the estate of the injured who subsequently died. The Hon'ble Apex Court also held that compensation under the head of pain and suffering being personal injuries is held to be unsustainable and disallowed it. Considering the said judgment, the claimants are entitled to compensation under different heads.

20. The date of birth of the claimant as per Ex.P11 - salary certificate is 16.06.1986. The accident has taken place on 23.10.2016. On the date of accident, the claimant was aged 30 years. Considering the age of the deceased, the multiplier applicable is 17. The doctors have given treatment to the claimant - injured for spine injury. The claimant - injured who died during pendency of the petition was treated for paraplegia. The claimant died during the pendency of the claim petition due to the injury to the spine.



21. Ex.P11 is the salary slip of the claimant, which indicates that his gross salary is Rs.23,647/-. The said salary certificate indicates that the net salary is Rs.14,490/-. The deductions in the said salary slip indicate that Rs.9,157/- are deducted. The said deductions are NPST-I Rs.1852/-, CGIS-C Rs.30/-, Recovery Scoote Rs.400/-, P-Tax-KTK Rs.200/-, CL.-MAS Rs.800/-, Gem LN -MAS Rs.5875/-. The deductions towards loan availed by the employee cannot be taken into consideration while calculating the net salary. The gross salary of the claimant is Rs.23,647/- excluding the recovery of scoote and general loan in sum of Rs.400/- + Rs.5,875/, the net deductions is Rs.2,882/-. Considering deductions of Rs.2,882/- in the gross salary of Rs.23,647/-, the net salary is Rs.20,765/-. The claimant was an employee in the Railways, having fixed income. Considering his age as below 40 years, he is entitled to future prospects at 50%. Therefore, 50% of Rs.20,765/- i.e., Rs.10,383/-



requires to be added i.e., Rs.20,765/- + Rs.10,383/-  
=Rs.31,148/-. The deceased was unmarried and  
therefore, personal expenses to the extent of 50%  
requires to be deducted in a sum of 15,574/-.  
Therefore, the compensation for loss of dependency is  
calculated as under;

$$\text{Rs.15,574/-} \times 12 \times 17 = \text{Rs.31,77,096/-}$$

22. The Tribunal, after considering the documents produced has awarded medical expenses in a sum of Rs.5,06,686/-. The learned counsel for the appellate -insurer would contend that P.W.3 -the mother of the claimant deceased has admitted in her cross-examination that they got reimbursement of the medical expenses and it is mentioned in Ex.P7 and P8. Even on considering Ex.P8 -discharge summary issued by Apollo Hospital, which indicates that there is an agreement by South Western Railway for reimbursement of medical expenses. The same is also mentioned in Ex.P9 -discharge summary issued



by Apollo Hospital. Even though the claimant has got reimbursement of medical expenses incurred by him while he was treated in Apollo Hospital, but the claimant has also taken treatment in other hospitals which can be seen in Ex.P7 –discharge summary issued by SDM College of Medical Sciences and Hospital, Dharwad and Krishna Ayurveda Wellness Center, Karkala. The medical bills which the Tribunal has considered under Ex.P12 are not pertains to the period of treatment taken in the Apollo Hospital, but in the other hospitals. Since original bills have been produced, it does indicate that the claimant has not got reimbursement of the medical expenses from the Railways. Considering the said aspect, the Tribunal has rightly awarded medical expenses in a sum of Rs.5,06,686/-.

23. Since the claimant was employed with Railways, he is not entitled for loss of income during laid up period as no document is produced to show



that due to the absence of the claimant to duty, his salary has been deducted. The claimant has been admitted in the hospital for total period of 134 days. Considering the fact that the claimant has no sense in the lower limbs as he has suffered paraplegia, he requires continuous attendant to attend him and therefore, towards attendant food and nourishment charges, he is entitled to a sum of Rs.1,000/- per day for 134 days which comes to Rs.1,34,000/-. Considering the above aspects, the claimants are entitled to total compensation as under;

| Sl.No. | Heads              | Amount in Rupees   |
|--------|--------------------|--------------------|
| 1      | Loss of dependency | 31,77,096/-        |
| 2      | Attending Charges  | 1,34,000/-         |
| 3      | Medical Expenses   | 5,06,686/-         |
|        | <b>Total</b>       | <b>38,17,782/-</b> |

Considering the said aspect, the claimant is entitled to total compensation of **Rs.38,17,782/-** as against Rs.26,046.592/- as awarded by the Tribunal with interest.



24. In view of the above, the following

ORDER

- i) The appeal filed by the insurer in MFA No.100313/2023 is ***dismissed.***
- ii) The cross objections filed by claimants in MFA Crob. No.100043/2023 is ***allowed in part.***
- iii) The claimants are entitled to total compensation of **Rs.38,17,782/-** as against Rs.26,046.592/- as awarded by the Tribunal with interest at the rate of 6% per annum from the date of petition till realisation.
- iv) The appellant -insurer shall deposit the said compensation amount with interest within a period of 08 weeks from this day, excluding the amount already deposited.



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v) The amount in deposit, deposited by the insurer, if any, is ordered to be transmitted to the Tribunal.

vi) Draw award accordingly.

**Sd/-**  
**(B.M.SHYAM PRASAD)**  
**JUDGE**

**Sd/-**  
**(SHIVASHANKAR AMARANNAVAR)**  
**JUDGE**

DSP  
CT:VH  
List No.: 3 Sl No.: 19