IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 27th FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE M.I.ARUN

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

MFA NO. 101294 OF 2024 (MV-D)

BETWEEN:

THE BRANCH MANAGER,
UNITED INDIA INSURANCE COMPANY LIMITED,
ANANTAPUR COMPLEX, 1ST FLOOR,
BASAVESHWAR CIRCLE,
VIJAYAPUR ROAD, JAMKHANDI,
DIST. BAGALKOT-587 101,
REPRESENTED THROUGH ITS AUTHORIZED SIGNATORY,
DIVISIONAL MANAGER.

... APPELLANT

(BY SRI SHARNAPPA S. KOLIWAD, ADVOCATE)

AND:

1. SMT. JAYASHREE
W/O BAHUBALI KORIGERI,
AGE. 46 YEARS,
OCC. HOUSEHOLD WORK,

2. KUMAR SAMMED
S/O BAHUBALI KORIGERI,
AGE. 24 YEARS, OCC. STUDENT,

3. KUMARI SHRUTI
D/O BAHUBALI KORIGERI,
AGE. 28 YEARS,
OCC. HOUSEHOLD WORK,

4. KUMARI JYOTI
D/O BAHUBALI KORIGERI,
AGE. 22 YEARS,

OCC. HOUSEHOLD WORK,

ALL ARE RESIDENT
ARALIKATTI GALLI TERDAL,
TQ. RABKAVI-BANHATTI,
DIST. BAGALKOT.

5. BALACHANDRA
S/O ALAGONDAPPA NADEPPANNAVAR,
AGE. 52 YEARS, OCC. BUSINESS,
R/O. MADANAMATTI,
TQ. RABKAVI-BANHATTI,
DIST. BAGALKOT, PIN-587 101,
(OWNER OF TIPPER VEHICLE
BEARING NO. KH-48/A-1050).

… RESPONDENTS

(BY SRI SANTOSH S. HATTIKATAGI, ADV. FOR C/R1 TO R4;
SRI PRASHANT S. KADADEVAR, ADVOCATE FOR R5)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO CALL FOR THE RECORDS CONNECTED WITH MVC NO.53/2022 PASSED BY IN THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC, XIII MACT AT BANAHATTI, EXAMINE THE SAME AND SET ASIDE THE AWARD DATED 06.12.2023 AS AGAINST THE APPELLANT IN THE INTEREST OF JUSTICE.

THIS APPEAL IS COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 11.02.2026, THIS DAY, **B. MURALIDHARA PAI J.,** MADE THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE M.I.ARUN
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

1. The Insurer of Tipper bearing No.KA-48-A-1054, who was Respondent No.2 in MVC No.53/2022 on the file of learned Senior Civil Judge and JMFC and XIII MACT, Banahatti (for short, 'the Tribunal') has directed this appeal against the judgment and award dated 06.12.2023 passed therein, questioning correctness of the Tribunal's order fastening entire blame of the accident on the driver of the tipper and praying to reduce the compensation awarded, on the ground that it is excessive.

2. The wife and children of Sri Bahubali Korigeri are the claimants in MVC No.53/2022. The case of the claimants is that on 23.10.2021 at about 3.00 p.m., when the deceased Sri Bahubali Korigeri was proceeding in his motor-cycle bearing No.KA-48-EA-6841 towards his farm on Hidakal Road, near 1st Canal Cross on Terdal – Hidakal Road, a Tipper bearing No.KA-48-A-1054 belonging to Respondent No.1 came from the side of Kudachi in a rash and negligent manner and dashed against the motor-cycle of the deceased, due to which he sustained grievous injuries and succumbed to such injuries on the same day, during the treatment.

3. On service of the notice, Respondent No.2 appeared before the Tribunal through their counsel and contested the petition.

4. Later, the Tribunal decided the petition on merits of the case, wherein it held that the accident in question occurred due to actionable negligence on the part of the driver of Tipper and Respondent No.2 being the insurer of the said vehicle, liable to pay the compensation as determined by it. Accordingly, it allowed the petition in part and awarded compensation of Rs.35,95,460/- to the claimants together with interest at the rate of 6% p.a., from the date of petition till its realization.

5. The claimants accepted the impugned award and preferred no appeal against it.

6. Sri Sharnappa S. Koliwad, learned Counsel appearing for Respondent No.2 vehemently submitted that the accident in question occurred due to negligence on the part of the deceased, who was riding the motorcycle without holding a driving license and under intoxication. He contended that the deceased was solely responsible for the accident. He further submitted that in the facts and circumstances of the case, the Tribunal ought to

have held the deceased contributed for the accident, if not solely responsible for it. He also contended that the award of the Tribunal is exorbitant and without any basis.

7. Per contra, Sri Santosh S. Hattikatagi, learned Counsel for the Claimants submitted that on investigation of the case registered in connection with the accident, the jurisdictional police have filed the charge sheet against the driver of the tipper holding him responsible for the accident and that the Police have invoked only Sections 3 and 181 of M.V.Act against the deceased. He further submitted that there is no material on record either to prove the negligence or contributory negligence on the part of the deceased. He supported the findings recorded by the Tribunal in connection with determination of the compensation and stated that Respondent No.2 has not made out any valid ground to interfere with the impugned award.

8. We have heard the learned Counsels at length. Based on the grounds urged, the following points arise for this Court's consideration:

i) Whether the deceased was responsible for the accident and if so, to what extent?

ii) Whether the compensation awarded by the Tribunal is excessive?

Point No.(i):

9. It is an admitted position between the parties that the accident in question occurred as alleged, involving a motorcycle and a tipper. On 23.10.2021 at about 3.00 p.m., when the deceased was proceeding in his motorcycle towards his farm on Hidkal Road, near 1st Canal Cross on Terdal - Hidkal Road, his vehicle collided with the tipper. As a result, the deceased sustained grievous injuries and later, he succumbed to the injuries sustained in the said incident.

10. In order to prove the actionable negligence on the part of the driver of Tipper, the claimants have produced copies of police papers before the Tribunal such as copies of FIR, complaint, charge sheet and IMV report. The charge sheet produced at Ex.P2, unequivocally demonstrates that upon completion of the investigation, the jurisdictional police filed charges against the driver of Tipper under Sections 279 (rash driving) and 304A (causing death by negligence) of the Indian Penal Code. The contents of these papers probabilise the contention of the claimants. On the other hand, Respondent

No.2 has not adduced any evidence before the Tribunal to rebut the presumption that would arise from the materials placed on record by the claimants. In the said circumstances, the Tribunal proceeded to hold that the accident occurred due to negligence on the part of the driver of Tipper.

11. No doubt, the materials on record clearly go to show that the deceased was riding the motor-cycle without wearing a helmet at the time of accident and he was not holding a license to ride the motor-cycle. In the said circumstances, the jurisdictional police charge sheeted the deceased for the offences under Sections 3 r/w 181 (driving without a valid license), 185 (drunk driving), and 129 r/w 177 (failure to wear helmet) of the Motor Vehicles Act.

12. The material issue for consideration is whether these alleged lapses by the deceased establish his responsibility for the accident or constitute contributory negligence. In **Sudhir Kumar Rana Vs Surinder Singh**, reported in **(2008) 12 SCC 436**, Hon'ble Apex Court has held that if a person drives a vehicle without a license, he commits an offence. But, the same, by itself, may not lead to a finding of negligence as regards the accident or guilty of contributory negligence, only because he

was not having a license. Notably, Respondent No.2 has not examined the driver of the Tipper to give his version regarding the accident and to face cross-examination on the side of the claimants. Thereby, they have failed to adduce best evidence regarding any role of the deceased in the incident.

13. The charge sheet produced at Ex.P2 goes to show that the deceased had consumed alcohol at the relevant point of time. As per the RFSL report produced by Respondent No.2 at Ex.R3, the quantum of ethyl alcohol in the blood sample of the deceased was 18.75 mg/100 ml blood, which was far less than permissible limit of 30.00 mg/100 ml blood under the M.V. Act. In view of the same, this Court does not find any error committed by the Tribunal in holding the driver of the Tipper entirely responsible for the accident. Hence, Point No.(i) is answered in the negative.

Point No.(ii):

14. The next point for our consideration is whether the award granted by the Tribunal is excessive and exorbitant, warranting interference by this Court.

15. The Tribunal has awarded a total sum of Rs.35,95,460/- to the Claimants under the following heads:

Sl. No.	Heads	Amount (in Rs.)
1	Loss of dependency and loss of estate	34,65,000.00
2	Funeral and death ceremony of the deceased	20,000.00
3	Transportation of dead body of the deceased	10,000.00
4	Spousal Consortium for Petitioner No.1	20,000.00
5	Filial consortium to Petitioners No.2 to 4 (Rs.20,000/- each)	60,000.00
	Total	**35,95,460.00**

16. Firstly, the total compensation awarded under the heads at Sl. Nos. 1 to 5 aggregates to Rs.35,75,000/-, and not Rs.35,95,460/- as shown in the award. This constitutes an arithmetical mistake apparent on the face of the record.

17. The Tribunal, based on entry in the post-mortem report (Ex.P4) considered age of the deceased as 55 years and applied multiplier '11' for the purpose of determining the loss of dependency. This Court does not find any error committed by the Tribunal in this regard.

18. The claimants have contended that the deceased was earning a sum of Rs.20,00,000/- per year. In support of this

contention they produced extract of record of rights before the Tribunal at Ex.P10 to P12. Further, they produced some sugarcane bills and bank statements at Ex.P.13 to P38. Based on these documents the Tribunal proceeding to observe that the deceased had sufficient income and held that "… Therefore, income of the deceased has to be takemn for Rs.35,000/- per month. So his yearly income will be Rs.35,000/- X 12 = Rs.4,20,000/-. …".

19. Respondent No.2 has questioned the correctness of such conclusion of the Tribunal on the ground that even if the deceased was getting income from his lands as contended by the claimants, the claimants have not suffered any loss of income on account of his death as they continue to hold the lands and get the income from those lands. In this regard, Respondent No.2 has drawn the attention of this Court to the admission of PW-1 that during the life time of the deceased they were getting income of Rs.20 Lakhs per annum and even after his death, they are getting same income.

20. Per contra, learned Counsel for the Claimants relied on the decision of a co-ordinate Bench of this Court in **Sri Boyineni Narasimhulu @ Narasimhulu @ Venkata**

Narasimhulu @ Boyanani Kamma Narasimhulu S/o. Sri Boyneni Naidu @ Naidu Vs. Sri P. Sidda S/o. Sri Hanumanthappa and Two Others [MFA No.102680/2018 (MV) connected with MFA No.102093/2018 (MV), decided on 20.06.2019], wherein loss of service and assistance in agricultural operations was factored into loss of income assessment. He submitted that, on facts, the deceased's role mirrors this precedent, entitling claimants to similar benefit.

21. In the above referred decision, the Co-ordinate Bench of this Court while dealing with question of awarding compensation to a victim of accident, who was an agriculturist by profession, under the head of loss of future income, held that

> *"Even if it were to be so, it cannot be accepted that entire 19 acres was being cultivated by him personally. What would be lost on account of permanent physical disability suffered by the claimant would be the supervision charges, the claimant will have to expend for carrying out agricultural operations through supervision, by appointing a supervisor. Even by modest estimate if the supervision charges is considered at ₹3,000/- per acre, for 19 acres claimant would have to spend ₹57,000/- per month towards supervision charges. On account of paralysis suffered by the claimant as a result of accidental injuries, he would not be in a position to move around, supervise, check, give instructions to workers or in other words, ensure there is proper execution of agricultural operations in his land. As such he has to necessarily depend upon a supervisor to act on his behalf, for which minimum*

> *amount which will have to be spent by the claimant would be around ₹3,000/- per month per acre. Thus, for 19 acres of land, the supervision charges which the claimant will have to expend would be not less than ₹57,000/- per month to which claimant will be entitled to seek for being awarded."*

22. In the present case also, the claimants have contended that the deceased was an agriculturist by profession and same was not disputed by the respondents. The documents produced at Ex.P10 to P12 go to show that out of around 15 acres of land, only 5 acres of land stands in the name of the deceased and remaining extent is in the name of Claimant No.2. A close look at the documents indicate that the name of Claimant No.2 came to be entered in the revenue records based on the partition that took place on 04.03.2022 and 20.09.2022, i.e, after the death of his father – the deceased. Though the documents marked at Ex.P13 to Ex.P34 indicate that the deceased and his family members had some other lands, the contents of these documents give an impression that those lands being cultivated through some other persons. Even then, this Court does not find any reason to doubt the contribution of the deceased to his family by way of supervising the properties and its agricultural operations. In the above facts and circumstances

of this case, following the decision in ***Boyineni Narasimhulu @ Narasimhulu @ Venkata Narasimhulu @ Boyanani Kamma Narasimhulu (referred supra),*** it would be proper to presume the income of the deceased as Rs.30,000/- per month.

23. The deceased was aged about 55 years as on the date of the accident. In the light of decision in **National Insurance Company Limited Vs Pranay Sethi and others,** reported in **AIR 2017 SC 5157**, which mandates a 10% addition to income towards future prospects for self-employed or fixed-salary deceased aged between 50-60 years, it requires to add 10% of such income of the deceased towards his future prospects. Thereby, the gross income of the deceased would be Rs.33,000/- per month (i.e, Rs.30,000/- plus 10% of Rs.30,000/-).

24. The deceased has left behind his wife and three children. In view of the same, following the guidelines laid down in Sarla Verma's case, it would be proper to deduct a sum of Rs.8,250/- (i.e, 1/4th of Rs.33,000/-) towards the personal expenses of the deceased. Thus, on recalculation, we arrive at a sum of Rs.32,67,000/- [i.e, Rs.24,750/- (Rs.33,000/- minus

Rs.8,250/-) X 12 X 11] as compensation under the head of loss of dependency.

25. The Tribunal has awarded a sum of Rs.20,000/- towards funeral expenses, Rs.10,000/- towards transportation of dead body and Rs.80,000/- (Rs.20,000/- each) towards spousal and filial consortium. As per ***Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others,*** reported in ***(2018) 18 SCC 130***, a sum of Rs.40,000/- each to be awarded under the head of spousal and parental consortium. Hence, it is held that the Claimants are entitled for a sum of Rs.1,60,000/- (i.e. Rs.40,000/- each) under the head of spousal and parental consortium.

26. Further, as laid down in **Pranay Sethi's Case** (referred supra), a conventional sum of ₹15,000/- each is awardable to the claimants under the heads of loss of estate and funeral expenses.

27. For the foregoing reasons, it is held that the Claimants are entitled for compensation of **Rs.34,57,000/-** under the following heads:

Sl. No.	**Head of Compensation**	**Amount (Rs.)**
1	Loss of dependency	32,67,000.00
2	Spousal and parental consortium	1,60,000.00
3	Funeral expenses	15,000.00
4	Loss of estate	15,000.00
	Total :	**34,57,000.00**

28. In the result, this Court proceeds to pass the following:

ORDER

(i) The appeal is allowed in part.

(ii) The judgment and award dated 06.12.2023 passed in MVC No.53/2022 by the learned Senior Civil Judge and JMFC and XIII MACT at Banahatti is modified.

(iii) The Claimants are entitled for compensation of Rs.34,57,000/- in place of Rs.35,95,460/- awarded by the Tribunal, together with interest thereon at the rate of 6% per annum from the date of petition till its realization.

(iv) Respondent No.2 is directed to deposit entire compensation amount before the Tribunal (minus the amount already paid/deposited, if any) within a period of 60 days from the date of this order.

(v) The Claimants are entitled for their share in the compensation amount at the rate/proportion and in terms of the award of the Tribunal.

(vi) The Registry is directed to transfer the amount deposited before this Court, if any, to the Tribunal along with trial court award, forthwith.

(vii) Draw a modified award accordingly.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE

VB
CT:BCK