

**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD
DATED THIS THE 27TH DAY OF FEBRUARY, 2026**

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

MISCELLANEOUS FIRST APPEAL NO. 100918/2017 (MV)

C/W

MISCELLANEOUS FIRST APPEAL NO.100990/2017 (MV)

IN MFA NO.100918 OF 2017:

BETWEEN:

NEW INDIA ASSURANCE COMPANY LTD.,
CLUB ROAD, BELAGAVI, NOW REPRESENTED
BY ITS DULY CONSTITUTED ATTORNEY,
REGIONAL OFFICE, HUBBALLI.

- APPELLANT

(BY SRI RAJASHEKHAR S. ARANI, ADVOCATE)

AND:

1. SMT. URMILA DEVI W/O. RAM EKBAL PRASAD,
AGE: 41 YEARS, OCC: HOUSEHOLD, R/O: BACHI,
TQ. AND DIST: BELAGAVI-590 001.
2. KUMAR MONUKUMAR S/O. RAM EKBAL PRASAD,
AGE: 21 YEARS, OCC: STUDENT, R/O: BACHI,
TQ. AND DIST: BELAGAVI-590 001.
3. SHRI. DADU S/O. LAXMAN SANGLE,
AGE: MAJOR, OCC: BUSINESS,
R/O: BARSU, GIRMADEVI KOND,
TQ: RAJAPUR, DIST: RATNAGIRI,
STATE: MAHARASTRA-416 702.

- RESPONDENTS

(BY SRI UMESH C, AINAPUR, ADVOCATE FOR
SMT. SUSHMA U. AINAPUR, ADVOCATE FOR R1 AND R2;
NOTICE ISSUED TO R3 IS SERVED AND UNREPRESENTED)



MFA No. 100918 of 2017
C/W MFA NO.100990 of 2017

THIS M.F.A. IS FILED U/S 173(1) OF M.V. ACT, PRAYING FOR SETTING ASIDE THE JUDGMENT AND AWARD DATED 18.01.2017 PASSED IN M.V.C. NO.1411/2016 ON THE FILE OF THE XI-ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MEMBER, AMACT & ETC.

IN MFA NO.100990 OF 2017:

BETWEEN:

1. SMT. URMILA DEVI W/O RAM EKBAL,
AGE: 41 YEARS, OCC: HOUSEHOLD,
2. KUMAR MONUKUMAR S/O RAM EKBAL,
AGE: 21 YEARS, OCC: STUDENT,

BOTH R/O: BACHI,
TAL. AND DIST: BELAGAVI-590 001.

- APPELLANTS

(BY SRI UMESH C. AINAPUR, ADVOCATE)

AND:

1. SHRI DADU S/O. LAXMAN SANGLE,
AGE: MAJOR, OCC: BUSINESS,
R/O. BARSU GIRMADEVI ROAD,
TAL: RAJAPUR, DIST: RATNAGIRI,
STATE: MAHARASHTRA-416 702.
2. THE NEW INDIA ASSURANCE COMPANY LTD.,
CLUB ROAD, BELAGAVI-590 001,
REPRESENTED BY ITS DIVISIONAL MANAGER.

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- RESPONDENTS
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(BY SRI RAJASHEKHAR S. ARANI, ADVOCATE FOR R2;
NOTICE ISSUED TO R1 IS SERVED BUT UNREPRESENTED)

THIS M.F.A. IS FILED U/S 173(1) OF M.V. ACT, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 18.01.2017 PASSED IN MVC NO.1411/2016 ON THE FILE OF THE XI ADDITIONAL DISTRICT AND SESSIONS JUDGE AND AMACT, BELAGAVI & ETC.

THESE MISCELLANEOUS FIRST APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 04.02.2026 COMING ON PRONOUNCEMENT ON THIS DAY, **B. MURALIDHARA PAI J.**, DELIVERED 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)

The New India Assurance Company Limited, the Respondent No. 2 in MVC No.1411/2016 on the file of learned XI Additional District & Sessions Judge & ADDL. MACT, Belagavi, (in short, 'the Tribunal') has preferred the appeal in MFA No. 100918/2017 praying to set aside the judgment and award dated 18.01.2017 passed therein being aggrieved by the finding of the Tribunal that the driver of the offending vehicle was solely responsible for the accident and that the compensation awarded by the Tribunal is on higher side.

2. The claimants in MVC No.1411/2016 have maintained the appeal in MFA No.100990/2017 praying to enhance the compensation on the ground that the compensation awarded by the Tribunal is on lower side and it is not just and reasonable compensation.

3. Parties to these proceedings are referred with their original ranking before the Tribunal.

4. Sri Rajashekar S. Arani, learned Counsel for Respondent No.2 has vehemently submitted that the accident in question occurred solely due to the fault of the deceased in recklessly crossing the highway without observing movement of the vehicles on the road and in spite of the same, the Tribunal has not taken note of contributory negligence on the part of the deceased while determining the compensation. He further submitted that the deceased was not on permanent or fixed income but the Tribunal has taken 50% of the income towards future prospects while computing loss of dependency. Thus he contended that the compensation awarded by the Tribunal is on higher side.

5. On the other hand, Sri Umesh C. Ainapur, learned Counsel appearing for Smt. Sushma U. Ainapur, Counsel for Claimants, vigorously submitted that the deceased was earning a sum of Rs.24,000/- per month as a Painter but the Tribunal has taken notional income of Rs.9,000/- for determining the compensation under the head of loss of dependency. He further

submitted that the Tribunal has committed error in not considering Claimant No.2 as a dependent on the deceased though he is a student. As such, he prayed to modify the impugned judgment and award by enhancing the compensation as prayed in the claim petition.

6. This Court has heard the arguments canvassed on both sides and gone through the case papers. The following points would arise for the consideration of this Court:

- (i) *Whether the deceased had contributed for the accident? If so, to what extent?*
- (ii) *Whether the compensation determined by the Tribunal is proper?*

Point No. (i):

7. Admitted, on 12.11.2015 at around 8:00 p.m., when the deceased was crossing Sangli - Khanapur Road by walk, near Nisarga Dhaba in Hatkanangale Taluk, a car bearing No. MH-08-Z-2884 came and dashed against him. As a result, the deceased sustained grievous injuries, who later succumbed to the injuries sustained in the said accident.

8. The Tribunal, based on the charge sheet filed against the driver of the car in question and other materials on record, held that the deceased met with a road traffic accident due to actionable negligence on the driver of the car. The Respondent No.2 has questioned correctness of the said finding on the ground that the road in question was a four lane highway and the accident in question occurred when the deceased negligently tried to cross the road. As such, they contended that the Tribunal ought to have held the deceased was responsible for the accident or at least he has contributed for the accident.

9. Undisputedly, the accident occurred on a four lane highway and that too when the deceased was crossing the road. However, in the considered view of this Court merely on these grounds it cannot be presumed or held that the deceased was either responsible for the accident or contributed for the said incident. It is to be noted that the respondents have not examined the driver of the car before the Tribunal to give his version regarding cause for the accident and to face cross examination on the side of the claimants. In the absence of such material evidence on record, this Court does not find any valid reason to interfere with the finding recorded by the Tribunal

holding the driver of the car, solely responsible for the accident.

Hence, Point No.(i) is answered in the negative.

Point No. (ii):

10. The Tribunal has awarded a total compensation of Rs.15,33,000/- to the Claimant No.1 on the following heads:

Sl. No.	Heads	Amount Rs.
01	Loss of love and affection to mother	50,000.00
02	Towards loss of dependency	9,72,000.00
03	Loss of future prospects	4,86,000.00
04	Towards transportation of dead body and funeral expenses	25,000.00
	Total	15,33,000.00

11. The school Leaving Certificate marked at Ex.P7 goes to show that the deceased was aged 21 years at the time of accident. Accordingly, the Tribunal applied multiplier of '18' for the purpose of determining loss of dependency, which is proper and correct.

12. The Tribunal has considered notional income of Rs.9,000/- per month for the purpose of determining the loss of dependency in the absence of any corroborative material to show the actual income of the deceased. The Tribunal has taken the

notional income as Rs.9,000/- per month based on a presumption. It is well settled that even while considering the notional income, it should not be on higher side. In this case, the accident in question occurred on 12.11.2015 and the claimants have not adduced any evidence to prove the actual income of the deceased. In view of the same, this Court opines that it would be proper to rely on the chart prepared by HCLSA, Dharwad for the purpose of settlement of motor vehicle cases before Lok-Adalat, for determining the notional income. As per the said chart the notional income of an unskilled labour during the year 2015 was Rs.8,000/-. Accordingly, same figure is taken as the notional income of the deceased in this case.

13. Admittedly, the deceased was a bachelor. The Tribunal deducted 50% of his income towards the personal expenses. The Claimants contend that even Claimant No.2 was dependent on the deceased. Whereas, the admission of Claimant No.1 indicates otherwise. Hence, it is held that the Tribunal is justified in deducting 50% of the income towards personal expenses of the deceased.

14. The Tribunal, relying on the decision in ***Munnalal Jain Vs Vipin Kumar Sharma***, reported in **2015 ACJ 1985**,

added 50% of the notional income as compensation under the head of future prospects. However, in view of the decision in ***Pranay Sethi's case***, this Court opines that it would be proper to add 40% to the notional income towards his future prospects, as the deceased was below 40 years of age at the time of the accident. Thereby, the gross income of the deceased would be Rs.11,200/- (i.e., Rs.8,000/- plus Rs.3,200/-). Thus, the recalculated compensation under the head of loss of dependency comes to Rs.12,09,600/- [i.e., Rs.5,600/- (50% of Rs.11,200/-) X 12 X 18].

15. The Tribunal awarded a sum of Rs.50,000/- under the head of loss of love and affection. In view of the decision in **Magma General Insurance Co. Ltd. Vs Nanu Ram Alias Chuhru Ram and Others** reported in **(2018) 18 SCC 130**, this Court holds that it would be proper to award a sum of Rs.40,000/- to Claimant No.1 under the head of filial consortium, which includes compensation towards loss of love and affection.

16. The Tribunal awarded a sum of Rs.25,000/- under the head of transportation of the dead body and funeral expenses. In view of the decision in ***Pranay Sethi's case***, the said amount needs to be reduced to Rs.15,000/-.

17. The Tribunal has not awarded any compensation under the head of loss of estate. As such, following the decision in ***Pranay Sethi's case***, a sum of Rs.15,000/- is awarded under the head of loss of estate.

18. The Tribunal has awarded interest at the rate of 9% per annum on the compensation amount. This case pertains to an accident that occurred in the year 2015. Further, the claimants have not made out any special circumstances that justify ordering interest at a higher rate. As such, it is held that Claimant No.1 is entitled to interest only at the rate of 6% per annum.

19. For the foregoing reasons, this Court holds that Claimant No.1 is entitled to total compensation of Rs.12,79,600/- under the following heads:

Sl. No.	Head of Compensation	Amount (Rs.)
1	Loss of dependency	12,09,600.00
2	Filial consortium	40,000.00
3	Funeral expenses	15,000.00
4	Loss of estate	15,000.00
	Total	12,79,600.00

20. Hence, this Court proceeds to pass the following:

ORDER

- (i) MFA No.100918/2017 filed by the Insurance Company is partly allowed.
- (ii) MFA No.100990/2017 filed by the claimants is partly allowed.
- (iii) The impugned judgment and award dated 18.01.2017 passed in MVC No.1411/2016 by learned XI Additional District & Sessions Judge & ADDL. MACT, Belagavi is modified to the extent stated above.
- (iv) The Claimant No.1 is entitled to a total compensation of Rs.12,79,600/- in place of Rs.15,33,000/- awarded by the Tribunal, together with interest thereon at the rate of 6% per annum from the date of petition till realization.
- (v) Respondent No.2 is directed to pay or deposit balance award due, if any, within 60 days from the date of this order.

- (vi) The amount in deposit before this Court, if any, along with trial court record shall be transmitted to the concerned Tribunal forthwith.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE

Vb/Ckk
CT:BCK