

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. 103888 OF 2025 (MV-D)

C/W

MFA NO.101583 OF 2025 (MV-D)

IN MFA NO.103888 OF 2025:

BETWEEN:

THE MANAGER,
UNITED INDIA INSURANCE COMPANY LTD.,
BY ITS REGIONAL MANAGER,
N.K. COMPLEX, KESHWAPUR CIRCLE, HUBBALLI,
REPRESENTED BY ITS AUTHORISED SIGNATORY.

... APPELLANT

(BY SRI S.C. BHUTI, ADVOCATE)

AND:

1. SMT. NAZIYA W/O MAHAMADRAFIK NADAF,
AGE. 32 YEARS, OCC. HOUSE WIFE,
2. KUM. MOHAMMEDKAYS
S/O MAHAMADRAFIQ NADAF,
AGE. 09 YEARS, OCC. STUDENT,
3. KUM. SHAZAMAN D/O MAHAMADRAFIK NADAF,
AGE. 06 YEARS, OCC. STUDENT,

RESPONDENT NO.2 AND 3 ARE MINORS
R/BY THEIR M/G RESPONDENT NO.1
SMT. NAZIYA W/O MAHAMADRAFIK NADAF.

4. SMT. MAMTAJ W/O ABDUL NADAF,
AGE. 54 YEARS, OCC. NIL,



5. SRI ABDUL S/O VAJIRASAB NADAF,
SINCE DECEASED BY HIS LR'S.,
R1-R4 ARE LR'S OF R5.

ALL RESPONDENTS NO.1 TO 5
ARE R/O. DESAI PLOT, NEAR URDU SCHOOL,
AMARGOL, HUBBALLI-582 208.

6. MR. R. BASKAR S/O MR. RAMASAMY,
AGE. 47 YEARS, OCC. BUSINESS,
R/O. #7 RCC 206/261, S.G. MUTT ROAD,
CHAMARAJPET, BENGALURU-560 018.

... RESPONDENTS

(BY SRI ANJANEYA M., ADVOCATE FOR R1 TO R3;
R2 AND R3 ARE MINORS R/BY R1;
NOTICE TO R6 IS DISPENSED WITH; R5-DECEASED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR
VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT
AND AWARD DATED 06.01.2025 PASSED IN MVC NO.836/2023
ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND
ADDITIONAL M.A.C.T., AT: HUBBALLI IN THE INTEREST OF
JUSTICE AND EQUITY.

IN MFA NO.101583 OF 2025:

BETWEEN:

1. SMT. NAZIYA W/O MAHAMADRAFIK NADAF,
AGE. 32 YEARS, OCC. HOUSE WIFE,
R/O. DESAI PLOT, NEAR URDU SCHOOL,
AMARGOL, HUBBALLI.
2. KUMAR MOHAMMEDKAYS
S/O MAHAMMADRAFIK NADAF,
AGE. 09 YEARS, OCC. STUDENT,
R/O. DESAI PLOT, NEAR URDU SCHOOL,
AMARGOL, HUBBALLI.

3. KUMARI SHAZAMAN D/O MHAMADRAFIK NADAF,
AGE. 06 YEARS, OCC. STUDENT,
R/O. DESAI PLOT, NEAR URDU SCHOOL,
AMARGOL, HUBBALLI, (SINCE A-2 AND A-3
ARE MINOR R/BY THEIR N/G APPELLANT NO.1).
4. SMT. MAMTAJ W/O ABDUL NADAF,
AGE. 54 YEARS, OCC. NIL,
R/O. DESAI PLOT, NEAR URDU SCHOOL,
AMARGOL, HUBBALLI.
5. SRI ABDUL S/O VAJIRASAB NADAF,
AGE. 58 YEARS, OCC. NIL,
R/O. DESAI PLOT, NEAR URDU SCHOOL,
AMARGOL, HUBBALLI.

... APPELLANTS

(BY SRI ANJANEYA M., ADVOCATE)

AND:

1. MR. R. BASKAR S/O MR. RAMASAMY,
AGE. 47 YEARS, OCC. BUSINESS,
R/O. #7, RCC, 206/261, S.G. MUTT ROAD,
CHAMARAJPET, BENGALURU-560 018.
2. THE MANAGER,
UNITED INDIA INSURANCE COMPANY LIMITED,
BY ITS REGIONAL MANAGER, N.K. COMPLEX,
KESHWAPUR CIRCLE, HUBBALLI-580 029.

... RESPONDENTS

(BY SRI S.C. BHUTI, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO CALL FOR THE RECORDS, HEAR THE PARTIES AND MODIFIED THE JUDGMENT AND AWARD DATED 06.01.2025 PASSED IN MVC NO.836/2023 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, HUBBALLI, BY ALLOWING THIS APPEAL WITH COST PARTLY ALLOWING THE CLAIM PETITION IN THE ENDS OF JUSTICE AND EQUITY.

THESE APPEALS ARE COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 24.02.2026, 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 insurer of lorry bearing No.KA-01-AE-6667, who is Respondent No.2 in MVC No.836/2023 on the file of learned Principal Senior Civil Judge and Additional MACT, Hubballi, has preferred the appeal in MFA No.103888/2025, praying to set aside the judgment and award dated 06.01.2025 passed therein, on the ground that the compensation awarded by the Tribunal is exorbitant.

2. The claimants in MVC No.836/2023 have maintained the appeal in MFA No.101583/2025, praying to modify the impugned award and enhance the compensation awarded by the Tribunal on the ground that the Tribunal has not properly considered the relevant materials placed on record.

3. The case of the claimants is that on 20.08.2023 at about 04.30 a.m., deceased Mohammad Rafiq was standing by the side of Hubballi-Gadag Ring Road, near Old Mantur Road

Cross, Hubballi. At that time, the driver of lorry bearing No.KA-01-AE-6667 came from the side of Haliyal Bridge towards Gadag in rash and negligent manner, lost control over the vehicle and dashed against the deceased. Due to the said impact, the deceased died on the spot. In the said circumstances, the wife, the children and the parents of the deceased maintained a claim petition in MVC No.836/2023 before the Tribunal under Section 166 of Motor Vehicles Act, praying for compensation of Rs.55,00,000/- from the owner and insurer of the offending vehicle.

4. On service of the notice, the insurer appeared before the Tribunal through their counsel and contested the petition by filing their objection. On completion of the pleadings, the Tribunal framed the issues, recorded the evidence adduced by the parties and then decided the claim petition on merits of the case. The Tribunal, based on the materials available on record, attributed negligence for the accident to the driver of the lorry, allowed the claim petition in part and awarded compensation of Rs.44,04,296/- to the claimants together with interest at the rate of 6% p.a., from the date of petition till its realization. Being

aggrieved by the said award, both the insurer and the claimants have come up with these appeals.

5. Sri S.C. Bhuti, learned Counsel for Insurer vehemently submitted that the Tribunal has awarded excessive compensation in the case contrary to law and facts. According to him the Tribunal erred in considering the income of the deceased as Rs.20,096/- based on a letter issued by the Car Drivers Employment Co-operative Society Limited and wage slips, without examining the author of the said document. He submitted that in the facts and circumstances of the case, the Tribunal ought to have referred to the chart prepared by KSLSA to determine notional income of the deceased. He further submitted that the Tribunal even erred in awarding excessive compensation under the conventional heads. As such, he prayed to set aside the impugned award.

6. On the other hand, Sri Anjaneya M., learned counsel for claimants vigorously submitted that the Tribunal has erred in not considering the evidence on record which shows that the deceased was earning Rs.24,000/- per month and that the impugned award is against the oral and documentary evidence placed before the Tribunal. He further submitted that the

Tribunal has not awarded proper compensation under the conventional heads. In the above circumstances, he prayed to modify the impugned award and enhance the compensation as prayed in the claim petition.

7. Having heard the arguments advanced by the counsels appearing for both sides and perused the materials available on record, the following points would arise for consideration of this Court:

- i. Whether the compensation awarded by the Tribunal is excessive and needs modification?
- ii. Whether the claimants have made out valid ground to seek enhancement of the compensation?

Point Nos.(i) and (ii):

8. The parties herein are not at dispute regarding the accident occurred on 20.08.2023 near Old Mantur Road Cross in Hubballi, involving lorry bearing No.KA-01-AE-6667 and the death of Sri Mohammad Rafiq due to the injuries sustained in the said incident. They are not at dispute even regarding driver of the lorry being responsible for the accident.

9. The claimants are the wife, the children and the parents of the deceased. Amongst them, the father of the deceased died during pendency of this appeal.

10. The Tribunal awarded a total sum of Rs.44,04,296/- to the claimants by way of compensation under the following heads:

Sl.No.	Nature of the heads	Compensation
1	Towards funeral expenses	₹33,000/-
2	Towards loss of estate and consortium	₹2,20,000/-
3	Towards loss of dependency	₹40,51,296/-
	Total	₹44,04,296/-

11. Perusal of the case papers indicates an apparent arithmetical mistake in the impugned judgment. The total of the compensation awarded by the Tribunal under three heads i.e., funeral expenses, loss of estate and consortium and loss of dependency comes to Rs.43,04,296/-. However, in the impugned judgment its total is wrongly shown as Rs.44,04,296/-.

12. It is the case of the claimants that the deceased was aged about 34 years as on the date of accident and he was earning Rs.24,000/- per month as a car driver in Commercial Tax

Office in Navanagar, Hubballi. The insurer has not disputed the age of the deceased at the time of the accident. However, they have disputed his income and contended that there is no proof of his occupation and actual income. The Tribunal, based on the materials available on record held that the deceased was earning Rs.20,096/- per month as a Car driver, on daily wage contract.

13. The claimants have produced some wage slips and a certificate issued by Car Drivers' Employment Co-operative Society Limited, Bengaluru at Ex.P-17 to P-22, to support their contention that the deceased was working as a driver in Commercial Tax Office and his earnings as a car driver. The contents of the police record produced before the Tribunal make it clear that the deceased had met with the accident while he was on duty with the officials of Commercial Tax Office. Further, the materials on record also indicate that the deceased was on such employment on daily wage contract.

14. The certificate marked at Ex.P-22 claims that the deceased was getting gross salary of Rs.20,096/- per month and after deductions, he was getting take home salary of Rs.17,771/- per month. As rightly pointed out by the Insurer, the claimants have not examined author of this document to prove its

contents. As such, the contents of Ex.P-22 cannot be taken on face value without necessary corroboration.

15. The claimants have produced some wage slips pertaining to the deceased for the month of April-2023 to August-2023 at Ex.P-17 to P-21. These documents go to show that the deceased was not getting fixed salary for his employment. As per these documents, the basic salary of the deceased was Rs.15,112/- that to subject to his number of working days. The claimants have even not examined the author of these documents to prove its contents.

16. The claimants have produced a bank passbook pertaining to the deceased at Ex.P-16. This document contains an entry regarding credit of Rs.17,201/- to the bank account of the deceased towards salary for the month of July-2023. This entry has been made in the regular course of banking business. In the said circumstances and taking into other materials available on record, this Court holds that it would be proper to assume that the deceased was earning Rs.17,000/- per month from his employment/avocation as a car driver, on daily wage contract.

17. As already pointed out, the deceased was aged about 35 years at the time of the accident. As such, proper multiplier would be '16'. Further, the deceased being aged below 40 years at the time of the accident, it requires to add 40% of his income towards the future prospects, in compliance with the guidelines issued in **National Insurance Company Ltd., v. Pranay Sethi** reported in **(2017) 16 SCC 680**. Thus, the gross income of the deceased would be Rs.23,800/- (i.e., Rs.17,000/- plus Rs.6,800/-).

18. The deceased has left behind his wife, two children and the parents. As such, taking into consideration number of dependants on the deceased, it would be proper to deduct 1/4th of the gross income towards the personal expenses of the deceased. In that event, the net income of the deceased comes to Rs.17,850/- (Rs.23,800/- minus Rs.5,950/-). Thus, total loss of dependency works out to Rs.34,27,200/-.

19. As per the judgment in **Magma General Insurance Company Ltd., v. Nanu Ram** reported in **(2018) 18 SCC 130** a fixed sum of Rs.40,000/- each to be awarded under the head of spousal/parental/filial consortium. Whereas the Tribunal has awarded a sum of Rs.2,20,000/- under the head of loss of estate

and consortium. It is true that Claimant No.5 died during pendency of this appeal. Even then, taking into consideration his presence at the time of filing of this appeal, this Court holds that compensation under the head of consortium need to be awarded even to Claimant No.5. Hence, it is held that the claimants are entitled for a sum of Rs.2,00,000/- (i.e. Rs.40,000/- x 5) under the head of loss of consortium.

20. As per the decision in Pranay Sethi's case (referred supra) a fixed sum of Rs.15,000/- each to be awarded under the head of loss of estate and funeral expenses. In view of the same, the compensation awarded by the Tribunal under these heads is suitably modified.

21. For the foregoing reasons, this Court holds that the claimants are entitled for compensation of Rs.36,57,200/- under the following heads:

Sl.No.	Nature of the heads	Compensation
1	Loss of Dependency	34,27,200.00
2	Loss of Consortium	2,00,000.00
3	Loss of Estate	15,000.00
4	Funeral Expenses	15,000.00
	Total	36,57,200.00

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

ORDER

- i) MFA No.103888 of 2025 filed by the Insurer is allowed in part.
- ii) MFA No.101583 of 2025 filed by the claimants is dismissed.
- iii) The judgment and award dated 06.01.2025 passed in MVC No.836/2023 by the learned Principal Senior Civil Judge and Additional MACT, Hubballi is modified.
- iv) The Claimants are entitled for a total compensation of Rs.36,57,200/- in place of Rs.43,04,296/- awarded by the Tribunal, together with interest thereon at the rate of 6% per annum from the date of petition till its realization.
- v) The Insurer/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.

- vi) The Claimants are entitled for their share in the compensation amount at the rate/proportion and in terms of the award of the Tribunal.
- vii) The Registry is directed to transfer the amount deposited before this Court, if any, to the Tribunal along with trial Court records, forthwith.
- viii) Draw a modified award accordingly.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE