

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

**DATED THIS THE 27<sup>TH</sup> DAY OF FEBRUARY, 2026**

**PRESENT**

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

**AND**

**THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI**

**MFA NO. 101546 OF 2020 (MV)**

**BETWEEN:**

THE DIVISIONAL MANAGER,  
RELIANCE GENERAL INSURANCE CO. LTD.,  
HUBBALLI-580 020,  
REP. BY AUTHORIZED SIGNATORY.

... APPELLANT

(BY SRI S.V. YAJI, ADVOCATE IS APPEARED THROUGH VC)

**AND:**

1. SMT. MANJULA W/O SUBHAS  
@ SUBASHCHANDRA SHINDHE,  
AGE: 42 YEARS, OCC: HOUSE WIFE,  
R/O: WARD NO.12, SAIDAPUR,  
GOUDAR ONI, TQ: DHARWAD,  
DIST: DHARWAD, PIN-580 008.
2. KUMARI SUMAN D/O SUBHAS  
@ SUBASHCHANDRA SHINDHE,  
AGE: 16 YEARS, OCC: STUDENT,  
R/O: WARD NO.12, SAIDAPUR,  
GOUDAR ONI, TQ: DHARWAD,  
DIST: DHARWAD, PIN-580 008.
3. KUMARI SUMATI D/O SUBHAS  
@ SUBASHCHANDRA SHINDHE,  
AGE: 14 YEARS, OCC: STUDENT,  
R/O: WARD NO.12, SAIDAPUR,  
GOUDAR ONI, TQ: DHARWAD,  
DIST: DHARWAD, PIN-580 008.



4. KUMAR SAMARTH S/O SUBHAS  
@ SUBHASHCHANDRA SHINDHE,  
AGE: 12 YEARS, OCC: STUDENT,  
R/O: WARD NO.12, SAIDAPUR,  
GOUDAR ONI, TQ: DHARWAD,  
DIST: DHARWAD, PIN-580 008.

SINCE THE RESPONDENT NO.2 TO 4 ARE  
MINORS, REP. BY THEIR NATURAL GUARDIAN  
MOTHER RESPONDENT NO.1  
SMT. MANJULA W/O SUBASH  
@ SUBASHCHANDRA SHINDHE.

5. SMT. PARVATI W/O PARASHURAM SHINDHE,  
AGE: 75 YEARS, OCC: HOUSE WIFE,  
R/O: WARD NO.12, SAIDAPUR,  
GOUDAR ONI, TQ: DHARWAD,  
DIST: DHARWAD, PIN-580 008.
6. SHRI BASAVRAJ S/O GUTTEPPA DHUMMANAVAR,  
AGE: 47 YEARS, OCC: BUSINESS,  
R/O: RAMALINGESHWARANAGAR,  
GOKUL ROAD, HUBBALLI,  
DIST: DHARWAD, PIN-580 030.

... RESPONDENTS

(BY SRI ANJANEYA M., ADVOCATE FOR R1 TO R4;  
SRI RAKESH M. BILKI, ADVOCATE FOR R5;  
NOTICE ISSUED TO R6 IS SERVED BUT UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO CALL FOR THE RECORDS AND TO SET ASIDE THE JUDGMENT AND AWARD DATED 31.12.2019 PASSED IN M.V.C. NO.712/2018 ON THE FILE OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND MOTOR ACCIDENT CLAIMS TRIBUNAL, DHARWAD, BY ALLOWING THIS APPEAL, CONSEQUENTLY MODIFY THE AWARD AGAINST THE APPELLANT AND ETC.

THIS APPEAL IS COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 16.02.2026, 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)

The Insurer of LPT Vehicle 1109 bearing No.KA-63-2872 namely the Reliance General Insurance Company Limited has directed this appeal against the judgment and award dated 31.12.2019 passed in MVC No.712/2018 by learned II Additional Senior Civil Judge and MACT, Dharwad, praying to set aside or modify the award against them.

2. The wife, three children and the mother of Sri Subhash Alias Subhaschandra Shindhe maintained the claim petition in MVC No.712/2018 before the Tribunal under Section 166 of Motor Vehicles Act, seeking compensation of Rs.25,00,000/- from the owner and insurer of vehicle bearing No.KA-63-2872, on the ground that Sri Subhas Alias Subhaschandra Shindhe met with a road traffic accident on 19.08.2018 due to actionable negligence on the part of its driver and succumbed to the injuries sustained in the accident.

3. On service of the notice, the insurer appeared before the Tribunal and contested the petition by filing their objection. Thereafter, the Tribunal decided the claim petition on merits of the case. Based on the materials placed on record, the Tribunal attributed negligence for the accident to the driver of the offending vehicle bearing No.KA-63-2872 and allowed the claim petition in part, holding that the claimants are entitled for compensation of Rs.20,35,000/- together with interest at the rate of 9% per annum from the date of petition till its realization. Further, the Tribunal directed the owner and the insurer to satisfy the award. Being aggrieved by the said award, the insurer has come before this Court by way of this appeal.

2. The claimants accepted the award passed by the Tribunal and they did not file any appeal against the impugned award.

3. Sri S.V. Yaji, learned Counsel for Insurer vehemently contended that the Tribunal erred in considering the income of deceased as Rs.12,000/- per month, in the absence of any evidence to show the nature of employment of the deceased, and that the Tribunal assessed the income of the deceased solely on the ground that he had license for LMV (NT). He submitted

that the Tribunal awarded higher compensation on conventional heads contrary to the settled principles of law. He also submitted that the Tribunal erred by awarding interest on award amount at a higher rate i.e, 9% p.a., than the rate of interest, being awarded in normal practice. He contended that the Tribunal even failed to consider composite negligence on the part of the deceased. Hence, he prayed to allow the appeal and absolve the insurer from the liability of paying the compensation.

4. Per contra, Sri Anjaneya M., learned Counsel for Claimants supported the findings recorded by the Tribunal and submitted that the Tribunal has awarded just compensation, having regard to the materials available on record.

5. Heard the arguments canvassed on both sides.

6. The points that would arise for our consideration are as under:

- (i) Whether the deceased had contributed for the accident?
- (ii) Whether the compensation awarded by the Tribunal is exorbitant or excessive?

**Point No.(i) :**

7. The case of the claimants is that on 19.08.2018 at about 12.30 p.m., when deceased was proceeding on his motorcycle bearing No.KA-25-S-4868 along with a pillion rider from Dharwad towards Alnavar, near Mangyan Pool, Prabhu Nagar, Honnapura, a LPT Vehicle 1109 bearing No.KA-63-2872 came from opposite direction in rash and negligent manner and dashed against his motorcycle, due to which the deceased sustained fatal injuries and died on the spot.

8. In order to substantiate their contention, the claimants examined Claimant No.1 before the Tribunal as PW1 and got marked relevant police records at Ex.P1 to P8. The Tribunal considering the oral and documentary evidence placed on record and particularly the charge-sheet filed against the driver of LPT Vehicle 1109 bearing No.KA-63-2872, attributed negligence to the driver of the said vehicle on the ground that he caused the accident by driving the offending vehicle to his extreme right side.

9. The Insurer has tried to dispute correctness of the finding recorded by the Tribunal holding the driver of LPT Vehicle

1109 bearing No.KA-63-2872 solely responsible for the accident. However, the materials on record make it clear that the respondents have not adduced any evidence before the Tribunal either to give their version regarding the cause for the accident or to rebut the evidence adduced on the side of the claimants in support of their case. In the said circumstances, this Court does not find any valid reason to interfere with the finding recorded by the Tribunal on the question of negligence. Accordingly, Point No.(i) is answered in the Negative.

**Point No.(ii) :**

10. The Tribunal awarded a total compensation of Rs.20,35,000/- to the claimants under the following heads:

| Sl. No. | Head of loss               | Amount in Rs.       |
|---------|----------------------------|---------------------|
| 1       | Towards Loss of Dependency | 18,90,000.00        |
| 2       | Towards Loss of Estate     | 15,000.00           |
| 3       | Towards Loss of Consortium | 40,000.00           |
| 4       | Towards funeral expenses   | 15,000.00           |
| 5       | Towards love and affection | 75,000.00           |
|         | <b>Total</b>               | <b>20,35,000.00</b> |

11. The Insurer has contended that Tribunal determined the compensation in the case by taking the income of the deceased as Rs.12,000/- per month, ignoring the failure on the part of the claimants to produce relevant documents to prove the actual income of the deceased. They further contended that the Tribunal awarded higher compensation even under the conventional heads ignoring settled principles and awarded interest on the compensation amount at higher rate.

12. In the claim petition it is contended that the deceased was earning Rs.30,000/- per month by plying auto-rickshaw. However, the claimants did not produce any document before the Tribunal to substantiate this contention or to prove the actual income of the deceased at the time of accident. In the said circumstances, the Tribunal opted to make a guess work to determine the notional income of the deceased.

13. The Tribunal, relying on entries in the driving license marked at Ex.P10, held that the deceased was aged 44 years at the time of the accident and applied multiplier of 14 as laid down by Hon'ble Apex Court in **Sarla Verma's case** reported in **(2009) 6 SCC 121**.

14. The claimants produced a Certificate of Registration at Ex.P9 to show that the deceased was owning an auto-rickshaw bearing No.KA-25-M-9907. Based on the said document, the Tribunal presumed that the deceased was earning income by plying the auto-rickshaw and taking into consideration year of the accident, took income of the deceased notionally as Rs.12,000/- per month. In the chart prepared by KSLSA for the purpose of settlement of the cases before Lok-Adalath, notional income of an unskilled person during the year 2018 is shown as Rs.11,750/-. Thereby, it becomes clear that notional income of the deceased taken by the Tribunal is not on higher side.

15. The Tribunal, relying on **Pranay Sethi's case** reported in **(2017) 16 SCC 680**, added 25% of the notional income towards future prospects of the deceased as he was aged within 40 to 50 years at the relevant point of time. Thereby, the Tribunal arrived at gross income of the deceased as Rs.15,000/- (i.e., Rs.12,000/- plus Rs.3,000/-) per month.

16. The deceased has left behind his wife, three children and the mother. In view of the same, the Tribunal, relying on the guidelines in **Sarla Verma's case** (referred supra) deducted  $1/4^{\text{th}}$  of the income towards the personal

expenses of the deceased and arrived at net income of the deceased as Rs.11,250/- (Rs.15,000/- minus Rs.3,750/-) per month. Accordingly, the Tribunal worked out the loss of dependency as Rs.18,90,000/- (i.e., Rs.11,250 x 12 x 14). In the facts and circumstances of this case, this Court does not find any error committed by the Tribunal either in choosing notional income of the deceased or in applying other relevant factors to arrive at compensation under the head of loss of dependency.

17. The Tribunal awarded Rs.40,000/- under the head of loss of consortium, Rs.75,000/- under the head of love and affection and Rs.15,000/- each under the head of loss of estate and funeral expenses. If we appreciate the materials on record in the light of the decision in **Magma General Insurance Company's case** reported in **(2018) 18 SCC 130**, it is to be held that the compensation awarded by the Tribunal under the head of parental and filial consortium (loss of love and affection) is on lower side. However, it is to be noted that the claimants did not choose to seek for enhancement of the compensation awarded by the Tribunal. Further, the compensation awarded by the Tribunal on other conventional heads is in consonance with

the settled law. Hence, the compensation awarded by the Tribunal under these heads is retained.

18. The Tribunal has awarded interest on the compensation amount at the rate of 9% per annum as against normal practice of awarding interest at the rate of 6% per annum. Though the rate of interest adopted by the Tribunal in the case is slightly on higher side, this Court does not find a valid reason to interfere with it, particularly having noticed that the compensation awarded by the Tribunal under the head of consortium is on lower side. For the foregoing reasons, it is held that the Insurer has failed to make out any valid ground to interfere with impugned award or to modify the same, as prayed in the appeal. Hence, Point No.(ii) is answered in the negative.

19. In the result, this Court passes the following:

**ORDER**

- i) The appeal filed by the insurer is dismissed.
- ii) Consequently, the judgment and award dated 31.12.2019 passed in MVC No.712/2018 by learned II Additional Senior Civil Judge and MACT, Dharwad is confirmed.

- iii) The office is directed to transmit the amount deposited before this Court, if any, to the concerned Tribunal along with trial court record, forthwith.
- iv) Draw an award accordingly.

**Sd/-  
(M.I.ARUN)  
JUDGE**

**Sd/-  
(B. MURALIDHARA PAI)  
JUDGE**