

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

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

**BEFORE**

**THE HON'BLE DR. JUSTICE K.MANMADHA RAO**

**MISCELLANEOUS FIRST APPEAL NO.101589 OF 2016**

**BETWEEN:**

THE BRANCH MANAGER,  
NATIONAL INSURANCE COMPANY LTD.,  
BRANCH OFFICE, HONNAVAR,  
NOW REPRESENTED BY ITS MANAGER,  
NATIONAL INSURANCE COMPANY,  
REGIONAL OFFICE, HUBBALLI-580029.

...APPELLANT

(BY SRI. GANGADHAR S. HOSAKERI, ADVOCATE)

**AND:**

1. SMT. PREMA W/O SHANTARAM ACHARI  
AGE: 48 YEARS, OCC. HOUSEHOLD.
2. VINAYAK S/O SHANTARAM ACHARI  
AGE: 28 YEARS, OCC. NIL,  
BOTH ARE PERMANENT RESIDENT OF  
TALAKNI, MAGOD, TQ. HONNAVAR,  
PRESENTLY RESIDING AT ACHARIWADA,  
SADASHIVGAD, KARWAR TALUK.
3. SHRI MANJUNATH NARASHIMHA GOUDA  
AGE. MAJOR, OCC. OWNER OF  
BAJAJ DISCOVER M/C NO.KA-47/J-3323,  
R/O AT GADDENMANE,  
POST. KUDRAGI, TQ. HONNAVAR, DIST. KARWAR.

...RESPONDENTS

(R3-SERVED;  
R1 AND R2-DISMISSED)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLE ACT, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 04.02.2016 PASSED IN MVC NO.58/2013 PASSED BY THE 1<sup>ST</sup> ADDITIONAL MACT KARWAR SO FAR AS FASTENING OF THE LIABILITY AND QUANTUM ON THE APPELLANT COMPANY IN THE INTEREST OF JUSTICE AND EQUITY.



THIS MFA HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 20.02.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE DR. JUSTICE K.MANMADHA RAO

**CAV JUDGMENT**

1. The present appeal is filed by the Insurance Company to set aside the judgment and award dated 04.02.2016 in MVC No.58/2013 on the file of the 1<sup>st</sup> Additional MACT, Karwar so far as fastening of liability and quantum.

2. The appellant herein/Insurance Company is the respondent No.2, respondents No.1 and 2 herein are the claimants No.1 and 2 and the respondents No.3 herein is the respondent No.1 before the Tribunal.

3. For convenience of reference, the parties herein are referred to as per their rankings before the Tribunal.

4. The claim petition is filed by the petitioners/claimants claiming total compensation of Rs.10,00,000/- on account of death of Sri Shantaram Honnappa Achari in a motor vehicle accident.

5. The brief facts leading to the filing of this appeal are that, on 28.03.2013, the deceased was proceeding from Magod to Talakani on his motorcycle bearing No.KA-47/Q-0252 at a moderate speed and on the left side of the road, and upon

reaching near the house of Nagappa Naik at Magod, the rider of motorcycle bearing No. KA-47/J-3323, i.e., respondent No.1, emerged from the compound of Nagappa Naik's house and entered the main Magod-Talkani Road from the left side and dashed against the deceased's motorcycle, resulting in grievous head injuries to the deceased; he was initially shifted to St. Ignatius Hospital, Honnavar and thereafter referred to Al Hospital, Mangalore, where he succumbed to the injuries during the course of treatment. The claimants, being the wife and son of the deceased, entirely were dependent on his earnings and state that the deceased was a skilled carpenter working under one Krishna Achari of Honnavar Taluka earning Rs.1,000/- per day, and that they incurred more than Rs.30,000/- towards conveyance, obsequies and other miscellaneous expenses.

6. After the notice was issued, respondent No.2 – the Insurance Company filed objections. They denied the deceased's age, income, and any alleged negligence on the part of respondent No.1. They argued that the deceased was riding the motorcycle No.KA-47/Q-0252 at high speed and in a rash manner, and collided with another motorcycle in the middle of the road, which contributed to the accident. They also contended

that the insurer and insured of motorcycle No. KA-47/Q-0252 are necessary parties in the case.

7. The insurance company further stated that the deceased did not have a valid driving licence at the time of the accident. They claimed that the demand of Rs.10,00,000/- is exaggerated and not based on sound legal principles. While admitting that motorcycle No.KA-47/J-3323 was insured with them at the time of the accident, they emphasized that this insurance is subject to the terms, conditions, exceptions, endorsements, exclusions, limitations, and warranties of the policy, as well as the requirement of a valid registration certificate and driving licence. Based on these grounds, the insurance company sought dismissal of the petition.

8. In order to substantiate the claim, petitioner/claimant No.2 examined himself as PW1 and one more witness as PW2 and marked documents as per Exs.P1 to P18. On the other hand the manager of respondent No.2-Insurance Company got himself examined as RW1 and RTO as RW2 and got marked documents as per Exs.R1 to R6.

8. Based on the pleadings, oral and documentary evidence, Tribunal by fastening the liability on the Insurance

Company, partly allowed the claim petition and awarded total compensation of Rs.8,85,404/- with interest at the rate of 6% per annum.

9. The principal contention urged by the appellant-Insurance Company is that the deceased was not holding a valid and effective driving licence as on the date of the accident; in this regard, the RTO, Honnavar was examined as RW-2 and the driving licence extract was marked as Ex.R-3, which discloses that the licence was valid only from 02.11.1996 to 19.05.2011, whereas the accident occurred on 28.03.2013; it was further contended that the accident took place in the middle of the road and the panchanama indicates tyre marks at the centre of the road, thereby establishing that the deceased contributed to the occurrence of the accident to the extent of 50% on the principles of contributory negligence. It was also urged that the compensation awarded by the Tribunal to the claimants is exorbitant.

10. Heard learned counsel appearing for the appellant/Insurance Company and perused the materials on record.

11. Having considered the contention advanced, regarding contributory negligence, this Court finds that the material placed on record does not establish any negligence on the part of the deceased so as to attribute contributory negligence. The mere presence of tyre marks at the centre of the road, as reflected in the panchanama, by itself is insufficient to conclude that the deceased had contributed to the occurrence of the accident. In the absence of cogent evidence demonstrating that the deceased was riding the motorcycle in a rash or negligent manner, the plea of contributory negligence cannot be accepted.

With respect to the quantum:

12. It is evident that no evidence has been adduced to establish the actual income of the deceased as claimed by the claimants. In the absence of any documentary proof substantiating a higher income, the Tribunal ought to have adopted the income fixed under the Lok Adalat guidelines. Therefore, the Tribunal has erred in assessing the notional monthly income of the deceased at Rs.8,000/-. The accident occurred in the year 2013, and as per the Lok Adalat chart, the notional income applicable to the said year is Rs.7,000/- per

month. Hence, the loss of dependency is re-worked as under:-

Rs.7,000/- less  $\frac{1}{3}$  = Rs.4667 x 12 x 13 = Rs.7,28,052

13. On considering notional Income at Rs.7,000/- and re-assessment of the loss of dependency, this Court finds that the compensation awarded by the Tribunal under the other conventional heads is just and proper. The same does not suffer from any infirmity warranting interference. Hence, the modification in the present appeal is confined solely to the reassessment of the notional income and the resultant variation in the loss of dependency, while the award under all other heads is hereby affirmed.

14. In view of the above calculation, the claimants are entitled for the compensation on the following heads:-

| Sl.No. | Head of compensation           | Tribunal's Award     |
|--------|--------------------------------|----------------------|
| 1.     | Loss of dependency             | Rs.7,28,052/-        |
| 2.     | Conveyance and funeral charges | Rs.20,000/-          |
| 3.     | Loss of love and affection     | Rs.10,000/-          |
| 4.     | Loss of estate                 | Rs.10,000/-          |
| 5.     | Medical expenditure            | Rs.13,456/-          |
|        | <b>TOTAL</b>                   | <b>Rs.7,81,508/-</b> |

15. In view of the foregoing discussions, this Court proceeds to pass the following:-

### **ORDER**

(i) The appeal is ***allowed-in-part.***

(ii) The judgment and award dated 04.02.2016 passed in MVC No.58/2013 by the I Additional MACT, Karwar, is hereby **modified**.

(iii) The claimants are entitled for total compensation of **Rs.7,81,508/-** as against **Rs.8,85,404/-** with interest at the rate of 6% per annum from the date of petition till realization.

(iv) The Insurance Company is directed to deposit the modified compensation amount, if not already deposited, within six weeks from the date of receipt of a certified copy of this judgment.

(v) If any excess amount has already been deposited, the same shall be refunded to the appellant-Insurance Company.

**Sd/-**  
**(DR. K.MANMADHA RAO)**  
**JUDGE**

KGK  
CT:VP