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

MISCELLANEOUS FIRST APPEAL NO. 103561 OF 2025 (MV)
C/W
MISCELLANEOUS FIRST APPEAL NO.103437 OF 2025 (MV)

IN MFA NO.103561/2025:
BETWEEN:

THE ORIENTAL INSURANCE CO. LTD.,
DIVISION OFFICE,
YALAMANCHALI COMPLEX,
GROUND FLOOR, STATION ROAD,
NEAR HOTEL KRISHNA PALACE,
HOSPET-583 201, DIST. VIJAYANAGAR,
REP. BY AUTHORIZED SIGNATORY.

... APPELLANT

(BY SRI S.V. YAJI, ADVOCATE)

AND:

1. SRI HANUMANTAPPA S/O SIDDAPPA GHATI,
AGE. 49 YEARS, OCC. GOUNDI WORK,
R/O. KUKANOOR, J.J. NAGAR,
TQ. KUKANOOR, DIST. KOPPAL-583 232.

2. SMT. HULIGEVVA W/O HANUMANTAPPA GHATI,
AGE. 39 YEARS, OCC. HOUSEHOLD,
R/O. KUKANOOR, J.J. NAGAR,
TQ. KUKANOOR, DIST. KOPPAL-583 232.

3. SRI MANOJ, S/O KRISHNEGOUDA @ K.K. MANOJ
S/O KRISHNEGOUDA, AGE. 25 YEARS, OCC. DRIVER,
R/O. KONDENALU (POST: BAGIVALU B.O.),

TQ. ARASIKERI, DIST. HASSAN-573 164.

4. SRI A.R. SUBBAREDDY S/O ALAGARASWAMY REDDY,
AGE. 70 YEARS, OCC. BUSINESS,
R/O. H.NO.403, EAST OF NGEF,
CROSS BDA LAYOUT, NEAR D. MART,
BENGALURU-NORTH, BENGALURU-560 016.

… RESPONDENTS

(BY SRI D.V. PATTAR, ADVOCATE FOR C/R1 AND R2;
SRI B.C. JNANAYYA SWAMI, ADVOCATE FOR R4 (ABSENT);
NOTICE ISSUED TO R3 IS SERVED AND UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO CALL FOR THE RECORDS AND TO SET ASIDE THE JUDGMENT AND AWARD DATED 25.02.2025 PASSED IN MVC NO.243/2021 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL YELBURGA, BY ALLOWING THIS APPEAL AND TO MODIFY THE AWARD AGAINST THE APPELLANT AND ETC.

IN MFA NO.103437 OF 2025:
BETWEEN:

THE ORIENTAL INSURANCE CO. LTD.,
DIVISION OFFICE,
YALAMANCHALI COMPLEX,
GROUND FLOOR, STATION ROAD,
NEAR HOTEL KRISHNA PALACE,
HOSPETE-583 201, DIST. VIJAYANAGAR,
REP. BY AUTHORIZED SIGNATORY.

… APPELLANT

(BY SRI SUBRAYA VISHNU YAJI, ADVOCATE)

AND:

1. SMT. RATNAMMA W/O ANJANEPPA BILIHALA,
AGE. 51 YEARS, OCC. HOUSEHOLD,
R/O. KUKANOOR, H.G. RAMULU COLONY,
TQ. KUKANOOR, DIST. KOPPAL-583 232.

2. SRI RAMESH S/O. ANJANEPPA BILIHALA,
AGE. 24 YEARS, OCC. STUDENT,
R/O. KUKANOOR, H.G. RAMULU COLONY,
TQ. KUKANOOR,DIST. KOPPAL-583 232.

3. SRI MANOJ S/O KRISHNEGOUDA @ K.K. MANOJ
S/O KRISHNEGOUDA, OCC. DRIVER,
R/O. KONDENALU (POST: BAGIVALU B.O.),
TQ. ARASIKERI, DIST. HASSAN-573 164.

4. SRI A.R. SUBBAREDDY S/O ALAGARSWAMY REDDY,
AGE. 71 YEARS, OCC. BUSINESS,
R/O. H.NO.403, EAST OF NGEF,
CROSS BDA LAYOUT, NEAR D. MART,
BENGALURU-NORTH, BENGALURU-560 016.

... RESPONDENTS

(BY SRI D.V. PATTAR, ADVOCATE FOR R1 AND R2;
NOTICE ISSUED TO R3 TO R5 IS SERVED BUT
UNREPRESENTED)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO CALL FOR THE RECORDS AND TO SET ASIDE THE JUDGMENT AND AWARD DATED 27.03.2025 PASSED IN MVC NO.157/2021 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL YELBURGA, TO MODIFY THE AWARD AGAINST THE APPELLANT AND ETC.

THESE APPEALS ARE COMING ON PRONOUNCEMENT AND THE SAME HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 03.02.2026, 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)

1. The Oriental Insurance Company Limited, which is Respondent No.3 in MVC Nos.243/2021 and 157/2021 on the file of the learned Senior Civil Judge and MACT, Yelburga, has maintained these appeals being aggrieved by the judgments and awards dated 25.02.2025 and 27.03.2025 respectively, passed therein.

2. These claim petitions have arisen out of the same accident. As such, these appeals are taken up for consideration together.

3. On 31.01.2021, at around 4.00 p.m., when Ms. Radha was returning from Koppal Gavisiddeshwar Jatre on a bike bearing No. KA-36-S-949 as a pillion rider along with its rider, namely Mr. Ganesh, on Koppal–Gadag N.H.-63 bypass road near Kolur Cross, they met with a road traffic accident as their vehicle collided with a truck bearing No. KA-53-D-2583. They sustained grievous injuries and succumbed to the injuries sustained in the accident. In that connection, the parents of Ms. Radha as well as the mother and brother of Mr. Ganesh maintained the claim petitions in MVC Nos.243/2021 and 157/2021 respectively, claiming compensation from the driver, owner, and insurer of the truck in question.

4. Respondent No.3/Insurer contested those petitions. Thereafter, the Tribunal allowed those petitions in part, holding that the accident in question occurred due to actionable negligence on the part of the driver of the truck and directed Respondent Nos.2 and 3 to pay compensation of Rs.33,11,872/- in each of the petitions along with interest at the rate of 6% p.a.

5. The claimants in both the claim petitions have accepted the awards passed by the Tribunal and have not preferred any appeal against the impugned judgments and awards.

6. On the other hand, the insurer has maintained these appeals praying to modify the impugned awards on the ground that the compensation awarded by the Tribunal is on the higher side and without taking into consideration the composite negligence on the part of the rider of the motorcycle.

7. Sri Subraya Vishnu Yaji, learned counsel for the insurer, vehemently submitted that the rider of the motorcycle was not holding a driving licence and that he was under intoxication at the time of the accident. He submitted that though there were sufficient materials on record to show the composite negligence on the part of the rider of the motorcycle, the Tribunal has not considered those aspects while deciding the issue relating to negligence. He further submitted that the

Tribunal has erred in applying the principles laid down in the decisions of ***National Insurance Company Limited Vs Pranay Sethi & Others,*** reported in ***(2017) 16 SCC 680*** and ***Magma General Insurance Co. Ltd. Vs Nanu Ram alias Chuhru Ram and Others,*** reported in ***(2018) 18 SCC 130*** and has awarded exorbitant compensation in these cases. He also contended that the Tribunal has erred in fastening the liability of paying compensation on the insurer though the driver of the truck was not holding a valid and effective driving licence as on the date of the accident. As such, he prayed to allow the appeals and suitably modify the impugned awards.

8. Per contra, Sri D.V. Pattar, learned counsel for the claimants in both the claim petitions, supported the findings recorded by the Tribunal as well as the compensation awarded by it and contended that the Tribunal has awarded just compensation having regard to all relevant factors.

9. This Court has heard the arguments of both sides.

10. The points that arise for consideration of this Court in these appeals are as under:

> i) Whether the rider of the motorcycle contributed to the accident and, if so, to what extent?

ii) Whether the insurer has made out valid grounds to modify the awards?

Point No.(i):

11. The parties to these proceedings are not at dispute regarding occurrence of the accident in question and the vehicles involved therein. On 31.01.2021 Mr.Ganesh was returning from Koppal to Kukanoor in a motor-cycle bearing No.KA-36-S-949 along with Ms.Radha as a pillion rider, at around 4.00 p.m., their vehicle involved in an accident on Koppal - Gadag National Highway near Koluru cross wherein there was collision between their motor-cycle and a truck bearing No.KA-53-D-2583. According to the Claimants, the said accident occurred due to actionable negligence on the part of the driver of the truck. Whereas, the insurer has contended that even Mr.Ganesh, the rider of the motor-cycle has contributed for the accident through his negligent driving and the said aspect has not been properly appreciated by the Tribunal.

12. The Tribunal, while answering Issue No.1, held that the driver of the truck was solely responsible for the accident. The reasons given by the Tribunal indicate that it proceeded to hold the driver of the truck responsible for the accident on the

ground that he did not take necessary care in observing movement of the vehicles before taking turn towards Koluru and as a result the accident occurred. This observation of the Tribunal is contrary to the case put forth by the parties and the contents of the documents available on record.

13. It was the case of the Claimants that on particular day when Mr.Ganesh and Ms.Radha were returning from Koppal to Kukanoor in the motor-cycle, near Koluru cross, the truck in question came from opposite direction in rash and negligent manner and hit against their motor-cycle, resulting in accident. The spot mahazar produced at Ex.P4 includes a rough sketch of the place of accident. The said rough sketch goes to show that it was a junction wherein a Dadegal to Koluru road was joining Gadag – Koppal National Highway and that there was median in Gadag – Koppal National Highway. The said sketch further indicates that the motor-cyclists required to take left turn at the junction as they were coming back from Koppal to Kukanoor. As pointed out earlier, it is the definite case of the Claimants that the truck was coming from opposite direction. The said contention of the Claimants indicate that the truck was coming from Gadag towards Koppal on the main road i.e., National

Highway. There being median on the road, there was no occasion for the truck to come to the right side of the road and hit against the motor-cycle which was plying on other portion of the road.

14. Further, the spot mahazar marked at Ex.P4 contains a specific mention that at the relevant point of time the road construction was in progress. Thus, it gives an indication that all the vehicles were moving on one side of the road on account of road work in progress at the place. This probability supports the chance of the vehicles in question having moved in one part of the road and having collided with each other.

15. The sketch referred above shows that the accident in question had occurred at the intersection of the junction on the road leading from Koppal to Gadag. As per the said sketch there was a 40 feet width road at the place of accident and the accident had occurred at a point which was at a distance of 10 feet from edge of the road on left side and 30 feet distance from road median. Thus, the contents of the rough sketch make it clear that the rider of the motor-cycle was going in almost middle of the road at the time of the accident.

16. The RFSL report marked at Ex.R1 and the contents of the charge sheet marked at Ex.P3 clearly go to show that Mr.

Ganesh was riding motor-cycle by consuming liquor more than permissible limit and he was under intoxication. As per the RFSL report the blood alcohol concentration was 105.56 mg/100 ml. Whereas, the permissible limit under M.V. Act is 30 mg/100 ml. Added to the above, he was not holding a driving licence to ride the motor-cycle. Further, there was no insurance coverage for the motor-cycle in question.

17. If we analyse these aspects carefully it would indicate the contributory negligence on the part of the rider of the motor-cycle in the accident. It is because when the motor cyclists were going from Koppal to Kukanooru, there was no necessity for them to ride the motor-cycle at the distance of 10 feet from edge of left side of the road that to in a junction where they supposed to take left turn. In our considered view the materials on record cumulatively probabilise rash or negligent driving even on the part of the rider of the motor-cycle, which resulted in the accident. In the above narrated facts and circumstances of the case, this Court holds that the rider of the motor cycle has contributed for the accident and he was negligent responsible to an extent of 20%. Accordingly, Point No.(i) is answered.

Point No.(ii)

18. The error committed by the Tribunal in computing the compensation and in applying correct principles is apparent on record. The Tribunal has relied on the chart prepared by HCLSC Dharwad for the purpose of deciding the notional income of the deceased. However, it has taken a figure as notional income of the income, which does not find a place in the chart. Further, it has chosen to deduct 1/3rd of the income of the deceased towards the personal expenses of the deceased in place of normal procedure of deducting 50% in case of death of a bachelor/unmarried person. Similarly, the Tribunal has wrongly applied 20% of the amount to enhance the compensation under the conventional heads. Further, it has awarded additional amount under the head of transportation of dead body and loss of love and affection. The Tribunal has committed these mistakes in both the awards under challenge in these appeals.

19. It is the case of the Claimants in MVC No.243/2021 that deceased Ms. Radha was aged about 19 years at the time of accident and she was earning a sum of Rs.15,000/- per month by doing Tailoring work apart from attending to her studies. In the post-mortem report the age of the deceased is shown was 19 years. Further, it has come on record that the deceased was

studying I year B.Com., as on the date of accident. These aspects have not been disputed by the respondents. Thereby it is proved that Ms. Radha was aged 19 years on the date of accident. As such the proper multiplier would be '18'.

20. Though, the Claimants contended that the deceased was earning a sum of Rs.15,000/- per month by doing tailoring work, they did not produce any document before the Tribunal to support the said contention. In the said circumstances, the Tribunal relying upon the chart prepared by HCLSC Dharwad for the purpose of settlement of cases before Lok-Adalath, took the income of the deceased notionally at Rs.15,500/- per month, which is not in consonance with the contents of the chart. Admittedly, the accident in question occurred on 31.01.2021. As per the chart referred above for the year 2021, the notional income is to be taken as Rs.14,250/-. Thereby it is not clear about the basis for the Tribunal to take the notional income as Rs.15,500/- per month, which was even more than the income of the deceased given by the Claimants.

21. As per the guidelines given in ***Pranay Sethi's*** case (*supra)*, 40% of the income of the deceased needs to be added towards future prospects of the deceased in case he is below the

age of 40 years. In that event the gross income of the deceased comes to Rs.19,950/- (i.e., Rs.14,250/- plus Rs.5,700/-).

22. Undisputedly, the deceased was unmarried. As per the decision in ***Sarla Verma and Others vs. Delhi Transport Corporation and Another,*** reported in ***(2009) 6 SCC 121***, 50% of the income has to be deducted towards personal expenses of the deceased unless there is any other justification. In view of the same, 50% of the gross income arrived at requires to be deducted towards personal expenses of the deceased. In that event, the net income of the deceased would be Rs.9,975/- (i.e., 50% of Rs.19,950/-). Thus, the net loss of dependency works out to Rs.21,54,600/- (i.e., Rs.9,975/- X 12 X 18).

23. The Claimants are the parents of the deceased. In ***Pranay Sethi's*** case (*supra*) it is held that a sum of Rs.15,000/- each to be awarded under the head of loss of estate and funeral expenses and that a sum of Rs.40,000/- under the head of loss of consortium. In the said decision Hon'ble Apex Court has held that such amounts should be enhanced at the rate of 10% in every three years. The said decision has been rendered in the month of October-2017. As such it requires adding 10% of the above referred amounts by way of enhancement of the

compensation under these heads. In ***Magma General Insurance Company's*** case *(supra),* it is held that the compensation awarded under loss of consortium even includes the compensation under the head of love affection. In the above circumstances, this Court holds that the Claimants herein are entitled for a sum of Rs.16,500/- each under the head of loss of estate and funeral expenses apart from a sum of Rs.44,000/- each under the head of loss of consortium.

24. For the foregoing reasons, this Court holds that the Claimants in MVC No.243/2021 are entitled for total compensation of Rs.22,75,600/- under the following heads, along with interest at the rate of 6% per annum from the date of petition till its realization:

Sl. No.	Heads	Amount in Rupees
1	Loss of dependency	Rs.21,54,600/-
2	Loss of consortium (Rs.40,000/- plus Rs.4,000/- (10% enhancement) x 2)	Rs.88,000/-
3	Loss of estate (Rs.15,000/- plus 10% enhancement)	Rs.16,500/-
4	Loss of funeral expenses (Rs.15,000/- plus 10% enhancement)	Rs.16,500/-
	Total	Rs.22,75,600/-

25. It is the case of the Claimants in MVC No.157/2021 that deceased Mr. Ganesh was aged 25 years at the time of accident and he was earning a sum of Rs.25,000/- per month by doing coolie work and as a dancer. These claimants have not produced any document to show the actual age of the deceased at the relevant point of time. In the post-mortem report, the age of the deceased is shown as 25 years. As already pointed out, there is no other material on record to corroborate the age of the deceased mentioned in the post-mortem report. In view of the same, this Court opines that it would be proper to presume the deceased was aged between 26 to 30 years at the time of the accident. In that event, the proper multiplier would be '17'.

26. Though, the Claimants contended that the deceased was earning a sum of Rs.25,000/- per month by doing coolie work and as a dancer, they did not produce any document before the Tribunal to support the said contention. In the chart prepared by HCLSC Dharwad for the purpose of settlement of cases before Lok-Adalath, it is suggested that the notional income of a person during the year 2021 is to be taken as Rs.14,250/- per month. As such, it would be proper to assume the notional income of deceased herein as Rs.14,250/- per month. Further, as per the

guidelines in ***Pranay Sethi's*** case *(supra)*, 40% of the income of the deceased needs to be added towards future prospects of the deceased in case he was below the age of 40 years. As such, the gross income of the deceased comes to Rs.19,950/- (i.e., Rs.14,250/- plus Rs.5,700/-).

27. Undisputedly, the deceased was a bachelor. In view of the same, 50% of the gross income arrived at, needs to be deducted towards the personal expenses of the deceased. In that event, the net income of the deceased would be Rs.9,975/- (i.e., 50% of Rs.19,950/-). Thus, the net loss of dependency works out to Rs.20,34,900/- (i.e., Rs.9,975/- X 12 X 17).

28. The Claimants are the mother and brother of the deceased. In compliance with the decisions in ***Pranay Sethi's*** case and ***Magma General Insurance Company's*** case (supra), it is held that the Claimants herein are entitled for a sum of Rs.16,500/- each under the head of loss of estate and funeral expenses apart from a sum of Rs.44,000/- each under the head of loss of consortium.

29. The quantum of the compensation determined by this Court is as under:

Sl. No.	Heads	Amount in Rupees
1	Loss of dependency	Rs.20,34,900/-
2	Loss of consortium (Rs.40,000/- plus Rs.4,000/- (10% enhancement) x 2)	Rs.88,000/-
3	Loss of estate (Rs.15,000/- plus 10% enhancement)	Rs.16,500/-
4	Loss of funeral expenses (Rs.15,000/- plus 10% enhancement)	Rs.16,500/-
	Total	Rs.21,55,900/-

30. While considering Point No.(i), this Court has held that the deceased herein, who was the rider of the motor-cycle, was responsible to the accident to an extent of 20%. In view of the same, the Claimants herein are entitled for only 80% of the compensation amount as determined herein above. For the foregoing reasons, this Court holds that the Claimants in MVC No.157/2021 are entitled for total compensation of Rs.17,24,720/- (i.e. 80% of Rs.21,55,900/-) along with interest at the rate of 6% per annum from the date of petition till its realization.

31. The insurer has disputed its liability to pay the compensation on the ground that the driver of the truck was not holding a valid and effective driving licence as on the date of accident. The documents available on record go to show that the

truck in question was an articulated vehicle with laden weight of 45,500 kgs and the driver of the truck was holding only licence to drive LMV vehicle and motor vehicle with gear. Thereby it is clear from the record that there was violation of policy conditions. However, this aspect does not come to the rescue of the insurer to avoid their liability of satisfying the awards under question. It is because both the deceased fall under the category of 3rd party. As such, the insurer having admitted issuance of policy to the truck in question and such policy being in force as on the date of the accident, they are liable to satisfy the awards under pay and recover principle subject their right of recovery such amount from the owner of the offending vehicle.

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

ORDER

(i) The appeals in MFA Nos.103437/2025 and 103561/2025 filed by the insurer are allowed in part.

(ii) Consequently, the judgment and award dated 25.02.2025 passed in MVC No.243/2021 and the judgment and award dated 27.03.2025 passed in MVC No.157/2021 by learned Senior Civil Judge and MACT, Yelburga are modified as hereunder.

(iii) The Claimants in MVC No.243/2021 are entitled for compensation of Rs.22,75,600/- in place of Rs.33,11,872/- awarded by the Tribunal, together with interest thereon at the rate of 6% per annum from the date of petition till its realization.

(iv) The Claimants in MVC No.157/2021 are entitled for compensation of Rs.17,24,720/- in place of Rs.33,11,872/-awarded by the Tribunal, together with interest thereon at the rate of 6% per annum from the date of petition till its realization.

(v) Respondent No.3/the insurer is directed to pay or deposit entire/balance award amounts, if any, before the Tribunal within a period of 60 days from the date of this order.

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

(vii) Draw modified awards accordingly.

Sd/-
(M.I.ARUN)
JUDGE

Sd/-
(B. MURALIDHARA PAI)
JUDGE

VB/CKK