HC-KAR

NC: 2026:KHC-K:1947-DB
MFA No. 200023 of 2019

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE R.NATARAJ

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO.200023 OF 2019 (MV-D)

BETWEEN:

1. SMT. SUREKHA W/O GURUSIDDAPPA CHANDAGOND, AGED ABOUT: 55 YEARS, OCC: H.H. WORK,

2. KUM. AKKAMAHADEVI D/O GURUSIDDAPPA CHANDAGOND, AGED ABOUT: 31 YEARS, OCC: STUDENT,

3. KUM. CHANNABASAVANNA S/O GURUSIDDAPPA CHANDAGOND, AGED ABOUT: 26 YEARS, OCC: STUDENT,

4. KUM. ALLAMAPRABHU S/O GURUSIDDAPPA CHANDAGOND, AGED: 24 YEARS, OCC: STUDENT,

5. KUM. RAJALAKSHMI D/O GURUSIDDAPPA CHANDAGOND, AGED ABOUT: 22 YEARS, OCC: STUDENT,

ALL ARE R/O. H.NO.LIG-52,
ADARSH NAGAR, VIJAYAPURA.

...APPELLANTS

(BY SRI. BASAVARAJ MATH, FOR SRI. GOURISH S, KHASHAMPUR, ADVOCATES)

AND:

1. CARGO CARRIERS INDIA,
   PROP. PRINCE SHARMA,
   H.NO.958, SECTOR -7, G.K.,
   PANCHKULA PANCHKULA-134 108,
   HARYANA.

2. THE MANAGER,
   SBI, GENERAL INSURANCE,
   'NATARAJ', 101 201 & 301,
   JUNCTION OF WESTERN EXPRESS
   HIGHWAY AND ANDHERI KURLA ROAD,
   ANDHERI (EAST), MUMBAI-400 069.

...RESPONDENTS

(BY SRI. SUBHASH MALLAPUR, ADVOCATE FOR R2)

THIS MFA IS FILED U/S.173(1) OF THE MOTOR VEHICLE ACT, PRAYING TO CALL FOR RECORDS AND SET ASIDE THE JUDGMENT AND AWARD DATED:23.07.2018 PASSED BY THE MACT, VIJAYAPURA, IN M.V.C.NO.824/2015 AND AWARD THE COMPENSATION AS PRAYED FOR IN THE ORIGINAL CLAIM PETITION, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R.NATARAJ
AND
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE R.NATARAJ)

The claimants have filed this appeal challenging the judgment and award dated 23.07.2018 passed by the MACT, Vijayapura (for short 'the Tribunal') and MVC No.824/2015.

2. The claimants filed a claim petition under Section 166 of MV Act, claiming compensation of Rs.40,50,000/- due to the death of Sri Gurusiddappa Chanagond in a road accident on 19.03.2015. They contended that on 19.03.2015 Sri Gurusiddappa and his brother were returning home and when they were crossing the road to reach the bus stand, the driver of a Truck bearing registration No.MH-12/DT-7533 dashed against them. As a result, Sri Gurusiddappa died at the spot. The claimants claimed that the deceased was 63 years old and he was a retired Sheristedar in Judicial Department. They claimed that he was earning Rs.15,000/- per month and

was also earning agricultural income of Rs.2,00,000/- per year. As a result of the death, they had lost an earning member in the family. Therefore, they claimed compensation from the owner and insurer of the offending vehicle.

3. The owner of the offending vehicle contested the claim petition and denied the accident. He also denied that the driver of the offending vehicle was negligent.

4. The insurer also contested the claim petition and denied the assertions made therein and claimed that it was not responsible to indemnify the owner of the vehicle. It also claimed that the driver of the offending vehicle did not possess a valid driving licence.

5. Based on these contentions, the claim petition was set down for trial. The claimant No.1 was examined as PW1 and a witness was examined as PW2 and Exs.P.1 to P.11 were marked. The owner of the offending vehicle authorized his Manager to depose before the Court as RW1

while a Law Officer of the insurer was examined as RW2 and they marked Exs.R1 to R8.

6. Based on the oral and documentary evidence, the Tribunal held that the accident was due to the rash and negligent driving of the offending vehicle. It however noticed that the driving licence of the driver of the offending vehicle was fake and held that the insurer is exempt from indemnifying the owner of the vehicle as the owner had entrusted the vehicle to an unauthorized person.

7. As regards the compensation, the Tribunal considered the pension drawn by the deceased which was a sum of Rs.16,800/- per month and deducted 1/4th towards his personal expenses and awarded the following compensation:

Sl. No.	**Heads of compensation**	**Amount**
1	Loss of Dependency	Rs.10,58,400/-
2	Loss of love and affection	Rs.15,000/-
3	Loss of consortium	Rs.40,000/-

4	Funeral expenses	Rs.15,000/-
	Total	**Rs.11,28,400/-**

8. It directed the owner of the offending vehicle to pay the compensation along with interest at the rate of 9% per annum from the date of claim petition till the date of realization.

9. Being aggrieved by the quantum of compensation awarded by the Tribunal and the liability imposed on the owner to pay the compensation, the claimants are in appeal.

10. Learned counsel for the claimants contended that the insurer cannot avoid liability to pay the compensation on the ground that the driving licence of the driver of the offending vehicle was fake. He contends that this argument is available only if the insurer is able to establish that the owner had entrusted the vehicle to an unauthorized person even after knowing that the driving licence produced by him was fake. He therefore contends that under no circumstances, can the insurer escape from

its liability. He took us through the evidence adduced before the Tribunal and contended that the insurer did not extract any information from RW1 to show that the vehicle was entrusted to an unauthorized person despite knowing that he was not authorized to drive the vehicle. He therefore contends that the insurer is bound to pay the compensation determined by the Tribunal. In this regard, he relied upon the judgment of the Apex Court in the case of ***National Insurance Co. Ltd. V. Swaran Singh***[1] and as well as the judgment of this Court in MFA No.201018/2024 and connected appeal.

11. Insofar as the quantum of compensation is concerned, he contended that the deceased was earning Rs.2,00,000/- per annum from agricultural sources and the Tribunal has failed to consider the same. He therefore prays that the income of the deceased may be reconsidered. He also contends that the Tribunal failed to

[1] ***(2004) 3 SCC 297***

award ‘Loss of Filial Consortium’ to claimant Nos.2 to 5 and therefore prays that the same be awarded.

12. Per contra, the learned counsel for the insurer submitted that RW1 categorically deposed that the driving licence of the driver was in force from 19.11.2011 to 17.11.2017. He contends that driving licence in respect of a heavy goods vehicle is issued only for a period of 3 years and since the owner had a fleet of vehicles, he was bound to know that the driving licence furnished by the driver of the offending vehicle was prima facie false. He therefore contends that the owner was fully aware that the driving licence of the driver of the offending vehicle was fake and yet he took the risk of entrusting the vehicle to that person. He therefore contends that the Tribunal after considering these facts has rightly come to the conclusion that the insurer is not liable to pay the compensation. Therefore, he prays that the order of the Tribunal insofar as it relates to the liability fastened on the owner of the vehicle to pay the compensation, be not disturbed.

13. We have considered the submissions of the learned counsel for the claimants as well as the learned counsel for the insurer. We have also perused the records of the Tribunal as well as its judgment.

14. The deceased was aged 63 years and at the relevant point of time, was a retired pensioner drawing Rs.16,800/- per month. The claimants have claimed that the deceased was also earning income from the agricultural lands. In support of this contention, the revenue records is marked as Ex.P.10. The children of the deceased were studying at the time of his death. Therefore, the possibility of the deceased looking after and supervising the upkeep of the land cannot be ruled out. However, the land owned by the deceased has come to the lands of the claimants and they are entitled to cultivate it and generate income therefrom. Therefore, the contention of the claimants that they are entitled to the entire income generated by the deceased from the agricultural lands cannot be accepted. Be that as it may,

the contribution of the deceased towards the overall supervision and upkeep of the lands cannot be ignored. Therefore, if the claimants were to cultivate the lands in question by engaging the services of a supervisor the family would have spent sum of Rs.5,000/- per month. Thus, the loss to the extent of Rs.5,000/- per month could be factored in, instead of granting compensation of Rs.2,00,000/- per annum, which was purportedly the income generated by the deceased from the agricultural lands.

15. Since the deceased was earning Rs.16,800/- per month as pension, if we add the supervision charges of Rs.5000/* per month to the pension income, the total monthly income will have to be considered at a sum of Rs.21,800/- (Rs.16,800 + 5,000), which is rounded off to Rs.22,000/-. If 1/4th of the same is deducted towards personal expenses of the deceased, the 'Annual Loss of Dependency' would be a sum of Rs.1,98,000/- (Rs.16500 x 12). Applying the multiplier of '7', which is applicable to

the age of the deceased at the time of accident, the total compensation under the head of 'Loss of Dependency' would work out as under:

Rs.16,500/- x 12 x 7 = **Rs.13,86,000/-**

16. In addition, the claimants are entitled to compensation towards 'Loss of Filial Consortium' at the rate of Rs.40,000/- each, as per the law laid down by the Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd vs. Nanu Ram @ Churu Ram***[2]. Accordingly, the compensation determined by the Tribunal is reconsidered and the compensation worked out as follows:

Sl. No.	**Heads of compensation**	**Amount**
1	Loss of Dependency	Rs. 13,86,000/-
2	Loss of Consortium to claimant No.1	Rs.40,000/-
3	Loss of Filial Consortium to	Rs.1,60,000/-

[2] (2018) 18 SCC 130

	claimant Nos.2 to 5 (Rs.40,000 x 4)	
4	Funeral expenses	Rs.16,000/-
5	Loss of estate	Rs.16,000/-
	Total	**Rs.16,18,000/-**

17. As regards the liability to pay the compensation as discussed above, the insurer is bound to pay the compensation as there is nothing on record to suggest that the owner of the offending vehicle had notice or knowledge that the driving licence furnished by the driver of the offending vehicle was fake and that the owner had knowingly entrusted the vehicle to the said driver. The evidence adduced by RW2 does not disclose anything to this extent and there is nothing suggested to RW1 to show that the owner of the offending vehicle knew the said fact and deliberately entrusted the vehicle to the driver. In that view of the matter, as held by this Court in MFA No.201018/202024 and connected appeal, we are of the opinion that the insurer is bound to pay the compensation determined by us.

18. Hence, we proceed to pass the following:

<u>O R D E R</u>

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

(ii) The compensation of **Rs.11,28,400/-** awarded by the Tribunal is enhanced to a sum of **Rs.16,18,000/-**, which is payable by the insurer along with interest of the rate of 6% per annum from the date of claim petition till the date of realization.

(iii) The enhanced compensation shall be deposited by the insurer before the Tribunal within 30 days from the date of this judgment, failing which, the interest shall be charged 9% per annum from the date of claim petition till the date of realization.

(iv) The excess interest paid shall be recovered from the person responsible for the delay in depositing the compensation.

(iv) It is made clear that the enhanced compensation shall be apportioned between the claimants in the same manner as is done by the Tribunal.

Sd/-
(R.NATARAJ)
JUDGE

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

AMM
List No.: 1 Sl No.: 1