



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 17TH DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD

AND

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO. 200869 OF 2018 (MV-D)

C/W

MISCL. FIRST APPEAL NO. 200129 OF 2018 (MV-D)

IN MFA NO.200869/2018:

BETWEEN:

THE MANAGER,
SHRIRAM GENERAL INSURANCE CO. LTD.,
E-8, EPIP, RIICO, INUDSTRIAL AREA,
SITAPUR JAIPUR RAJASTHAN,
(REP. BY AUTHORISED SIGNATORY)

...APPELLANT

(BY SRI. SUBHASH MALLAPUR, ADVOCATE)

AND:

1. NANDA W/O ARJUN TUKADE,
AGE:35 YEARS, OCC: HOUSEHOLD,
R/O DAWARGAON, NOW AT H.NO.9-11-108,
VIDYA NAGAR, NEAR BHAVANI TEMPLE,
BIDAR-585 401.



2. GANESH S/O ARJUN TUKADE,
AGE:6 YEARS, MINOR U/G MOTHER
RESPONDENT.1, R/O DAWARGAON,
NOW AT H.NO.9-11-108, VIDYA NAGAR,
NEAR BHAVANI TEMPLE, BIDAR-585 401.
3. VIMALABAI W/O BABURAO TUKADE,
AGE:58 YEARS, OCC:HOUSEHOLD,
R/O DAWARGAON, NOW AT H.NO.9-11-108,
VIDYA NAGAR, NEAR BHAVANI TEMPLE,
BIDAR-585 401.
4. MADIVALAPPA S/O GUNDAPPA,
AGE:48 YEARS, OCC:BUSINESS,
R/O H.NO.170, VILLAGE DIGGI,
TQ.AURAD-B, DIST.BIDAR-585 401.
OWNER OF TUSKER 1813,
BEARING REG.NO.MH-12/CT-9172.

...RESPONDENTS

(BY SRI. RAVI B. PATIL, ADVOCATE FOR R1 & R3;
R2 MINOR REPRESENTED BY R1; R4 SERVED)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER
SECTION 173(1) OF MOTOR VEHICLES ACT, PRAYING TO
ALLOW THE ABOVE APPEAL AND CONSEQUENTLY TO SET
ASIDE THE JUDGMENT AND AWARD DATED 04.09.2017
PASSED THE ADDITIONAL SENIOR CIVIL JUDGE AND
ADDITIONAL MACT, BIDAR, IN MVC NO.245/2015.

IN MFA NO.200129/2018:

BETWEEN:

1. NANDA W/O ARJUN TUKADE,
AGE:34 YEARS, OCC: HOUSEHOLD,
2. GANESH S/O ARJUN TUKADE,
AGE:6 YEARS,



3. VIMALABAI W/O BABURAO TUKADE,
AGE:57 YEARS, OCC:HOUSEHOLD,
ALL ARE R/O. DAWARGAON,
NOW AT H.NO.9-11-108,
VIDYA NAGAR, NEAR BHAVANI TEMPLE,
BIDAR-585 401.

...APPELLANTS

(BY SRI. RAVI B. PATIL, ADVOCATE)

AND:

1. MADIVALAPPA S/O GUNDAPPA,
AGE:45 YEARS, OCC:BUSINESS,
R/O H.NO.170, DIGGI VILLAGE,
TQ:AURAD-B, DIST:BIDAR-585 401.
2. M/S. SHRIRAM GENERAL INSURANCE
COMPANY LTD., E8, EPIP RIICO,
INDUSTRIAL AREA, SITAPURA,
JAIPUR, RAJASTHAN - 302 022,
REPRESENTED BY ITS AUTHORIZED SIGNATORY,

...RESPONDENTS

(BY SRI. SUBHASH MALLAPUR, ADVOCATE)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 04.09.2017 PASSED BY THE ADDITIONAL SENIOR CIVIL JUDGE AND ADDITIONAL MACT AT BIDAR, AND CONSEQUENTLY ALLOW THE PRESENT APPEAL THEREBY ENHANCE THE COMPENSATION FROM Rs.24,37,496/- TO Rs.58,80,000/- AS CLAIMED IN THE PRESENT APPEAL.

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



CORAM: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD
AND
HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.T.NARENDRA PRASAD)

MFA No.200869/2018 is filed by the Insurance Company whereas MFA No.200129/2018 is filed by the claimants under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'the Act') being aggrieved by the judgment and award dated 04.09.2017 passed by the Additional Senior Civil Judge & Additional MACT, Bidar (for short, 'the Tribunal') in MVC No.245/2015. Since the challenge is to the same judgment, both the appeals are heard together and common judgment is passed.

2. Facts giving rise to the filing of the appeals briefly stated are that on 04.03.2015 at about 09.50 a.m., while the deceased Arjun S/o Baburao was proceeding towards Hallikhed (B) to join his duty on his motorcycle on left side of the road, when he was proceeding near Naubad, at that time, driver of the offending vehicle



Tusker 1813 heavy goods vehicle bearing Reg.No.MH-12/CT-9172 came from back side with high speed in a rash and negligent manner and lost control over the vehicle and dashed to the deceased, as a result, the deceased fell down on the road and wheel of the offending vehicle passed over the deceased, due to which, he succumbed to the injuries on the spot.

3. The claimants filed a petition under Section 166 of the Act seeking compensation for the death of the deceased along with interest.

4. On service of summons, respondent Nos.1 and 2 i.e., owner of the offending vehicle and Insurance Company appeared through their counsel and filed separate written statements in which the averments made in the petition were denied. The age, occupation and income of the deceased are denied.

5. On the basis of the pleadings of the parties, the Claims Tribunal framed the issues and thereafter recorded



the evidence. The claimants, in order to prove their case, examined claimant No.1 as PW-1 and another witness as PW-2 and got exhibited documents namely Ex.P1 to Ex.P13. On behalf of respondent No.2 Insurance Company, examined its officer as RW-1 and got exhibited document namely Ex.R1. The Claims Tribunal, by the impugned judgment, inter alia, held that the accident took place on account of sole negligence of driver of the offending vehicle, as a result of which, the deceased sustained injuries and succumbed to the injuries. The Tribunal further held that the claimants are entitled to a compensation of Rs.24,37,496/- along with interest at the rate of 6% p.a. and directed the insurer of the offending vehicle to pay compensation along with interest. Being aggrieved, these appeals have been filed.

6. Learned counsel for the Insurance Company has contended that accident has occurred due to the negligence of deceased himself when he was riding the motorcycle on the highway, he came suddenly to the left



side and therefore, driver of the offending vehicle was unable to control the vehicle and back wheel of the motorcycle touched to the vehicle and deceased rider fell down, suffered injuries and succumbed to the injuries.

a) Secondly, he contended that it is very clear from the sketch Ex.P12 that driver of the offending vehicle was proceeding on the left side of the road. The rider of the motorcycle was proceeding on the same direction in front of the vehicle. The rider of the motorcycle suddenly came to the left side and hence, the accident has occurred and therefore, he also contributed to the accident. The Tribunal has erred in holding that driver of the offending vehicle is alone negligent in causing the accident.

b) In respect of quantum, he contended that even though claimants have produced salary certificate of the deceased stating that he was earning Rs.17,554/- per month as per Ex.P3, they have not examined author of the document and they have not produced any bank statement showing that he was getting the salary.



Therefore, the monthly income assessed by the Tribunal at Rs.17,544/- is on the higher side.

c) Lastly, he contended that considering the age and avocation of the deceased, the overall compensation awarded by the Tribunal is on the higher side and required to be reduced. Hence, he sought for allowing the appeal filed by the Insurance Company and dismissal of the appeal filed by the claimants.

7. Learned counsel for the claimants has raised the following counter contentions:

a) Firstly, when the deceased was proceeding on his motorcycle, the driver of the offending vehicle came in a high speed, in rash and negligent manner and dashed to the hind portion of the motorcycle. Due to the impact, he fell down, suffered injuries and succumbed to the injuries on the spot. Therefore, driver of the offending vehicle alone is responsible in causing the accident.



b) Secondly, he contended that claimants have examined eyewitness i.e., PW-2. He has categorically stated that accident occurred due to negligence of the driver of the offending vehicle. To disprove the same, respondent No.2 has not examined the driver of the vehicle. Even police have registered the FIR against the driver of the vehicle and charge sheet has also been filed against the driver of the offending vehicle. Considering all these documents, the Tribunal has rightly held that the driver of the offending vehicle alone is negligent in causing the accident.

c) In respect of quantum, he contended that the deceased was working as a Teacher in a private educational institution. The claimants have produced the salary certificate as per Ex.P3 which shows that he was getting Rs.17,544/- as his monthly salary. In addition to that, he was also giving private tuitions to the students and getting monthly fees of Rs.5,000/-. But the Tribunal



has considered only Rs.17,544/- which is on the lower side.

d) Lastly, he has contended that in view of the judgment of the Hon'ble Apex Court in the case of ***Magma General Insurance Co. Ltd. vs. Nanu Ram*** reported in ***2018 ACJ 2782***, each of the claimants are entitled to Rs.40,000/- towards loss of love and affection and consortium. Hence, he sought for enhancement of compensation by allowing the appeal filed by the claimants and dismissing the appeal filed by the Insurance Company.

8. Heard the learned counsel for the parties.
Perused the judgment and award of the Tribunal.

9. The case of the claimants is that on 04.03.2015 at about 09:50 a.m., when deceased Arjun was proceeding on his motorcycle towards Hallikhed (B) to join his duty on the left side of the road, the driver of the offending vehicle bearing Reg.No.MH-12/CT-9172 came from back side with high speed in a rash and negligent manner and dashed to



the hind portion of the motorcycle, due to which the deceased lost control over the motorcycle and fell down on the road. Due to the accident, he sustained grievous injuries and succumbed to the injuries.

10. Under the Motor Vehicles Act in the claim petition before the Claims Tribunal the standard of proof is much below than what is required in a criminal case as well as in the civil case. No doubt, before the Tribunal, there must be some material on the basis of which the Tribunal can arrive or decide things necessary to decide for awarding compensation, but the Tribunal is not expected to take or to adopt a nicety of a civil or criminal case. After all it is a summary enquiry and it is the legislation for the welfare of the Society. The proceedings under the Motor Vehicles Act are not akin to the proceedings under civil rules. Hence, strict rules of evidence are not required to be followed in this regard. In the case of ***Mangla Ram vs. Oriental Insurance***



Company Limited reported in **(2018) 5 SCC 656**, the Hon'ble Apex Court has held as hereinbelow:

"25. In Dulcina Fernandes, this Court examined similar situation where the evidence of claimant's eyewitness was discarded by the Tribunal and that the respondent in that case was acquitted in the criminal case concerning the accident. This Court, however, opined that it cannot be overlooked that upon investigation of the case registered against the respondent, prima facie, materials showing negligence were found to put him on trial. The Court restated the settled principle that the evidence of the claimants ought to be examined by the Tribunal on the touchstone of preponderance of probability and certainly the standard of proof beyond reasonable doubt could not have been applied."

11. To prove the case, claimant No.1 is examined as PW-1. PW-1 in her evidence has reiterated the statements made in the claim petition. The claimants have also examined one eyewitness as PW-2. He has categorically stated that accident has occurred due to rash and negligent driving of the offending vehicle and stated



that driver was driving the vehicle in a high speed in rash and negligent manner. The complaint was lodged by one Anil Kumar as per Ex.P2. The records show that he is also an eyewitness. In his complaint, he has stated that according to the stated fact, the driver of the offending vehicle is negligent in causing the accident. On the basis of complaint as per Ex.P2, police have registered the FIR as per Ex.P1 against the driver of the offending vehicle. After thorough investigation, police have filed charge sheet against the driver of the offending vehicle. Even the sketch has been produced at Ex.P12(a). It is very clear that the width of the road is 30ft, the accident has occurred 10ft from the left side of the road. On perusal of the same, it is very clear that driver of the offending vehicle is negligent in causing the accident. To disprove the evidence of the claimants, the Insurance Company has not adduced any evidence, much less driver of the offending vehicle, except producing insurance policy, they have not marked any document.



12. Considering the evidence of PW-1 and PW-2, and going through complaint (Ex.P2), FIR (Ex.P1) sketch (Ex.P12(a)), charge sheet (Ex.P11), the Tribunal has rightly come to the conclusion that accident has occurred due to rash and negligent driving of the driver of the offending vehicle.

13. In respect of quantum, indisputably, at the time of accident, deceased was aged about 37 years. He was working as Teacher in a private educational institution. The claimants have produced the salary certificate Ex.P3, it is very clear that deceased was getting monthly salary of Rs.17,544/-, except that the claimants have not produced any document to show that he was earning Rs.5,000/- per month by giving tuition to the students. Therefore, the Tribunal has rightly considered the income of the deceased at Rs.17,344/- after deducting Rs.200/- towards Professional Tax. The Tribunal has rightly added 50% of the income of the deceased towards future prospects as per the law laid down by the Hon'ble Apex Court in the



case of ***National Insurance Co. Ltd. vs. Pranay Sethi and Others*** reported in ***AIR 2017 SC 5157***. The Tribunal has rightly deducted $1/3^{\text{rd}}$ of the income towards personal expenses as there are three dependents and applied multiplier of '15'. Thus, the Tribunal referring to the judgment of the Hon'ble Supreme Court in the case of ***Shyamwati Sharma vs. Karam Singh and Others [(2010) 12 SCC 378]*** case awarded Rs.23,37,496/- towards loss of dependency.

14. In addition, the claimants are entitled to compensation of Rs.15,000/- on account of 'loss of estate' and compensation of Rs.15,000/- on account of 'funeral expenses'. Claimant No.1, wife of the deceased is entitled for compensation of Rs.40,000/- under the head of 'loss of spousal consortium'. Claimant No.2 is entitled for compensation of Rs.40,000/- towards loss of parental consortium and Claimant No.3 is entitled for compensation of Rs.40,000/- towards loss of filial consortium.



15. Thus, the claimants are entitled to the following compensation:

Compensation under different Heads	Amount in (Rs.)
Loss of dependency	23,37,496/-
Funeral expenses	15,000/-
Loss of estate	15,000/-
Loss of spousal consortium	40,000/-
Loss of parental consortium	40,000/-
Loss of filial consortium	40,000/-
Total	24,87,496/-

16. In the result, we pass the following:

ORDER

- i) The appeal filed by the Insurance Company in MFA No.200869/2018 is ***dismissed***.
- ii) The appeal filed by the claimants in MFA No.200129/2018 is ***allowed in part***.



iii) The judgment of the Claims Tribunal is modified.

iv) The Insurance Company is directed to deposit the compensation amount of **Rs.24,87,496/-** along with interest @ 6% p.a. from the date of filing of the claim petition till the date of realization, within a period of six weeks from the date of receipt of copy of this judgment.

v) The amount in deposit in MFA No.200869/2018 is directed to be transmitted to the concerned Tribunal.

Sd/-
(H.T.NARENDRA PRASAD)
JUDGE

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE