



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 14TH 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. 201312 OF 2023 (MV-I)

BETWEEN:

1. ASHARANI W/O LATE DAYANAND SHAHABAD,
AGE: 24 YEARS, OCC: HOUSEHOLD – 585 102.
2. MARIYAMMA W/O SHARANAPPA,
AGE: 63 YEARS, OCC: HOUSEHOLD-585 102.
(SENIOR CITIZENSHIP NOT CLAIMED)
3. SHARANAPPA S/O BALAPPA,
AGE: 68 YEARS, OCC: NIL,
ALL R/O H.NO.MIG-71 KHB COLONY,
OLD JEWARGI ROAD, KALABURAGI 585 102.
(SENIOR CITIZENSHIP NOT CLAIMED)

...APPELLANTS

(BY SRI. B K HIREMATH, ADVOCATE)

AND:

1. CHANDRAKANTH S/O MARLINGAPPA GHADSE,
AGE: 43 YEARS, OCC: OWNER OF PULSAR
MOTORCYCLE REG. NO.KA-32/W-4181,
R/O H.NO.11-775, HARIJANWADA,
BRAHMPUR (B), KALABURAGI-585101.



2. THE BRANCH MANAGER,
TATA AIG GENERAL INSURANCE CO. LTD.,
ASIAN MALL, NEAR SIDDI PASHA DARGA,
KALABURAGI-585102.

...RESPONDENTS
(BY SMT. PREETI PATIL MELKUNDI, ADV. FOR R1;
R1 IS DISPENSED WITH)

THIS MISCELLANEOUS FIRST APPEAL IS FILED U/S.
173(1) OF MV ACT, PRAYING TO CALL FOR THE RECORDS AND
SET ASIDE THE JUDGMENT AND AWARD PASSED BY THE
PRINCIPAL SENIOR CIVIL JUDGE AND MACT AT KALABURAGI
IN MVC NO.1112/2019 ON DATED 06-07-2022 AND GRANT
THE COMPENSATION AMOUNT AS PRAYED FOR, HOLDING
BOTH THE RESPONDENTS JOINTLY AND SEVERALLY LIABLE TO
PAY THE ENHANCED COMPENSATION TO THE APPELLANTS.

THIS APPEAL, COMING ON FOR ADMISSION, 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)

This appeal under Section 173(1) of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act', for short) has been filed by the claimants being aggrieved by the judgment and award dated 06.07.2022 passed by the Principal Senior Civil Judge and MACT, Kalaburagi (for short 'Claims Tribunal) in MVC No.1112/2019.

2. Facts giving rise to the filing of the appeal briefly stated are that, on 16.07.2019 the husband of the appellant No.1 and son of appellant Nos.2 and 3, deceased Dayanand was returning on motorcycle bearing registration No. KA-32/W-4181 along with his brother from the house of parents of his wife at Taj Sultanpur and the deceased Dayanand was pillion rider. When they reached Aland Check Post near lorry godown at about 8.15 p.m., the rider of the said motorcycle Vineesh rode the vehicle in a rash and negligent manner with high speed and applied



sudden break, due to which, the accident has taken place and Dayanand died in the hospital on 18.07.2019 due to grievous injuries sustained in the accident.

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, the respondent No.1 appeared through his counsel but has not filed any objections and respondent No.2 appeared and filed objection to main petition.

5. On the basis of the pleadings of the parties, the Tribunal framed the issues and thereafter recorded the evidence. The claimants, in order to prove the case, claimant No.1 examined herself as PW-1 and got exhibited documents namely Ex.P1 to Ex.P.17. On the other hand, respondents have neither adduced any oral evidence nor produced any documents on their behalf. The Claims Tribunal, by the impugned judgment, *inter alia*, held that



the accident took place on account of rash and negligent riding of the offending vehicle by its rider, 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.30,54,000/- along with interest at the rate of 6% p.a. and directed the respondent No.2 to deposit the compensation amount along with interest. Being aggrieved, this appeal has been filed.

6. The learned counsel for the claimants has raised the following contentions:

a) Firstly, the claimants claim that the deceased was aged about 30 years at the time of the accident and he was was earning Rs.35,000/- per month by running computer shop and providing computer appliances sales and services and he was VI Semester of BCA from Gulbarga University in first class student. He has also obtained the licence from the Corporation for running the



said business. The Tribunal assessed the monthly income of the deceased is Rs.15,000/- which is on lower side. Hence, he sought for enhancement of compensation.

b) Secondly, considering the age and avocation of the deceased, the overall compensation awarded by the Tribunal is on the lower side. Hence, he prays for allowing the appeal.

7. On the other hand, the learned counsel for the Insurance Company has raised the following counter-contentions:

a) Firstly, even though the claimants claim that the deceased was earning Rs.35,000/- per month, except they have produced that licence issued by the corporation to run the business of the computer appliances sales and service, no other documents including the bank statement has not been produced. Therefore, the Tribunal has rightly assessed the income of the deceased as Rs.15,000/-.



b) Secondly, on appreciation of oral and documentary evidence and considering the age and avocation of the deceased, the overall compensation awarded by the Tribunal is just and reasonable. Hence, sought for dismissal of the appeal.

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

9. It is not in dispute Dayananda died in the road traffic accident occurred on 16.07.2019 along with his brother was returning on motorcycle from his house the parents of his wife they were returning in the night on motorcycle bearing registration No.KA-32/W-4181 and the deceased was pillion rider due to rash and negligent riding of the motorcycle.

10. Even though, claimants have claimed that the deceased was earning Rs.35,000/- per month, they have not produced the bank statements to show that his income was Rs.35,000/- per month. However, the deceased was



passed IV semester BCA student from Gulbarga University in first class. He has also obtained licence from the Corporation to run the business of computer appliances and sales service in the name of 'Amma Communication'. Considering this aspect, Ex.P.15-Trade Licence and Ex.P.16-Qualification Certificate, we are of the opinion that the monthly income of the deceased can be assessed as Rs.16,000/- per month. To the aforesaid income, 40% to be added on account of future prospects in view of the law laid down by the Constitution Bench of the Supreme Court in case of **NATIONAL INSURANCE CO. LTD. -v- PRANAY SETHI AND OTHERS [AIR 2017 SC 5157]**. Thus, the monthly income comes to Rs.22,400/-. Since there are three dependents, it is appropriate to deduct 1/3rd of the income of the deceased towards personal expenses and remaining amount has to be taken as his contribution to the family. The deceased was aged about 30 years at the time of the accident and multiplier applicable to his age group is '17'. Thus, the claimants are entitled to



compensation of Rs.30,46,400/- [Rs.16000 x 40% (6400)*12*17*1/3) on account of 'loss of dependency'.

11. 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'.

12. In view of the law laid down by the Supreme Court in the case of '**MAGMA GENERAL INSURANCE CO. LTD. -V- NANU RAM [2018 ACJ 2782]**', claimant No.1, wife of the deceased is entitled for compensation of Rs.40,000/- under the head of 'loss of spousal consortium', claimant Nos.2 and 3, father and mother of the deceased are entitled for compensation of Rs.40,000/- each under the head of 'loss of filial consortium'.

13. The compensation of Rs.48,000/- awarded by the Tribunal under the head of 'medical expenses' is as per the medical bills produced by the claimants. The same is just and reasonable.



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

Compensation under different Heads	Amount in (Rs.)
Loss of dependency	30,46,400
Funeral expenses	15,000
Loss of estate	15,000
Loss of spousal consortium	40,000
Loss of Filial consortium	80,000
Medical Bills	48,000
Total	32,44,400/-

15. In the result, the following order is passed:

ORDER

- a) The appeal is **allowed in part**.
- b) The judgment of the Claims Tribunal is modified as follows.



- c) The claimants are entitled to a total compensation of **Rs.32,44,400/-** as against Rs.30,54,000/- awarded by the Tribunal.
- d) The Insurance Company is directed to deposit the compensation amount along with interest at 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.
- e) The apportionment, deposit and release of amount shall be made in terms of the award of the Tribunal.

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

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

AMM
List No.: 1 Sl No.: 40
CT; SB