



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 13TH 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.202205 OF 2022 (MV-D)

C/W

MISCL. FIRST APPEAL NO.202206 OF 2022 (MV-D)

IN M.F.A.NO.202205/2022:

BETWEEN:

THE UNITED INDIA INSURANCE COMPANY LIMITED.,
"ISWAR DEGAONKAR NIWAS"
OPP: SHUBRAY ART GALLERY,
PARK CHOWK SOLAPUR-413 001.
THROUGH ITS DIVISIONAL MANAGER,
AT CENTURY COMPLEX,
2ND FLOOR, OPP: SANGAM TALKIES,
SUPER MARKET, KALABURAGI - 585 101.

...APPELLANT

(BY SRI MOHD. ABDUL QUAYUM, ADVOCATE)

AND:

1. SHAMA BEGUM
W/O LATE MOHAMMED AEJAZ,
AGE: 34 YEARS,
OCC: HOUSEHOLD (NOW NIL),
2. ZHOURINISSA
D/O LATE MOHAMMED AEJAZ,



AGE: 10 YEARS, MINOR
OCC: STUDENT,

3. MEHARUMSHA
D/O LATE MOHAMMED AEJAZ,
AGE: 10 YEARS, MINOR
OCC: STUDENT,

4. TANZALAJUM
D/O LATE MOHAMMED AEJAZ,
AGE: 8 YEARS,
OCC: STUDENT,

5. MOHAMMED AFMAN
D/O LATE MOHAMMED AEJAZ,
AGE: 5 YEARS,
OCC: STUDENT,

THE RESPONDENTS NO.2 TO 5 ARE MINORS
U/G OF THEIR NATURAL MOTHER RESPONDENT
NO.1.

6. MUNNI BEGUM
W/O MOHAMMED SHAH,
AGE: 57 YEARS,
OCC: HOUSEHOLD, NOW NIL.,

ALL ARE R/O: DEVAMMA TEMPLE AREA,
HALKATTA, TQ: CHITTAPUR,
DIST: KALABURAGI – 585 225

7. M/S. SHRI AUTADE PRIVATE LTD.,
OWNER OF TIPPER LORRY NO.MH-13/CU-1525,
A.P.KHANDOBA GALLI, MANGALVEDHA,
TAL: MANGALVEDHA,
DIST: SOLAPUR – 413 319,
STATE OF MAHARASHTRA.

...RESPONDENTS

(BY SRI SANJEEV PATIL, ADVOCATE FOR C/R-1 TO R6;
NOTICE TO R7 IS DISPENSED WITH)



THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 28.03.2022 PASSED IN MVC NO.843/2020 BY THE SENIOR CIVIL JUDGE AND MACT-XV, CHITTAPUR, EXONERATING THE APPELLANT OF ITS LIABILITY AND ETC.

IN M.F.A.NO.202206/2022:

BETWEEN:

1. SHAMA BEGUM
W/O LATE MOHAMMED AEJAZ,
AGE: 34 YEARS,
OCC: HOUSEHOLD (NOW NIL),
2. ZHOURINISSA
D/O LATE MOHAMMED AEJAZ,
AGE: 10 YEARS, MINOR
OCC: STUDENT,
3. MEHARUMSHA
D/O LATE MOHAMMED AEJAZ,
AGE: 10 YEARS, MINOR
OCC: STUDENT,
4. TANZALAANJUM
D/O LATE MOHAMMED AEJAZ,
AGE: 8 YEARS,
OCC: STUDENT,
5. MOHAMMED AFMAN
S/O LATE MOHAMMED AEJAZ,
AGE: 4 YEARS, MINOR,

THE APPELLANT NOS.2 TO 5 ARE MINORS
U/G OF THEIR NATURAL MOTHER, APPELLANT NO.1.

6. MUNNI BEGUM
W/O MOHAMMED SHAH,



AGE: 57 YEARS,
OCC: HOUSEHOLD, NOW NIL.,

ALL ARE R/O: DEVAMMA TEMPLE AREA,
HALKATTA, TQ: CHITTAPUR,
DIST: KALABURAGI – 585 225

...APPELLANTS

(BY SRI SANJEEV PATIL, ADVOCATE)

AND:

- 1 M/S SHRI S.M.AUTADE PRIVATE LTD.,
OWNER OF TIPPER LORRY NO.MH-13/CU-1525,
R/O: A/P KHANDOBA GALLI, MANGALVEDHA,
TAL: MANGALVEDHA,
DIST: SOLAPUR – 413 319,
2. THE UNITED INDIA INSURANCE COMPANY LIMITED.,
"ISWAR" DEGAONKAR NIWAS,
OPP: SHUBRAY ART GALLERY,
PARK CHOWK SOLAPUR – 413 001.

THROUGH ITS DIVISIONAL MANAGER,
2ND FLOOR, CENTURY COMPLEX,
OPP: SANGAM TALKIES,
SUPER MARKET, KALABURAGI – 585 101.

...RESPONDENTS

(BY SRI MOHD. ABDUL QUAYUM, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE
MOTOR VEHICLES ACT, PRAYING TO MODIFY THE JUDGMENT
AND AWARD DATED 28.03.2022 PASSED BY THE LEARNED
SENIOR CIVIL JUDGE AND MACT-XV AT CHITTAPUR IN
MVC NO.843/2020 BY THE ENHANCING THE COMPENSATION
AMOUNT AS PRAYED FOR, IN THE INTEREST OF JUSTICE AND
EQUITY.



THESE MFAS COMING ON FOR HEARING, 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)

1. MFA No.202205/2022 is filed by the Insurance company under Section 173(1) of the Motor Vehicles Act calling in question fastening of 80% liability on the appellant-insurance company. MFA No.202206/2022 is filed by the dependents of deceased-Mohammed Aejaaz under Section 173(1) of the Motor Vehicles Act being aggrieved by the judgment and award dated 28.03.2022 passed by the Senior Civil Judge & MACT-XV, Chittapur (for short, 'the Tribunal') in MVC No.843/2020 seeking enhancement of compensation.

2. Facts giving rise to filing of these appeals are that, on 30.06.2018 at about 8.40 p.m. deceased Mohammed Aejaaz was driving the loaded Tanker bearing No.KA-32-C-



3805 from Wadi to Sindhanoor in moderate speed on left of the said highway, near Gali Durgamma Temple on Sindhanoor-Raichur main road, at that time a speeding Tipper Lorry bearing Reg.No.MH-13-CU-1525 driven by its driver in a rash and negligent manner came in opposite direction and its driver lost control over the vehicle and dashed against the Tanker of deceased. Due to impact, both vehicles burned and deceased Mohammed Aejaaz sustained fatal injuries and died on the spot.

3. It is further case that, deceased - Mohammed Aejaaz was earning Rs.25,000/- per month as a driver. Due to untimely death of deceased, claim petition came to be filed by his dependents seeking compensation.

4. Pursuant to notice, respondent No.1 - the owner of Tipper Lorry and respondent No.2 - insurance company appeared and filed separate written statement denying entire averments except admitting involvement of



offending Tipper made in the claim petitions and sought for dismissal of the claim petitions.

5. On the basis of the pleadings of the parties, the Claims Tribunal framed the issues. In order to prove the case, the wife of deceased is examined as P.W.1 and got exhibited documents namely, Ex.P1 to Ex.P7. No evidence was let in on behalf of the respondents nor got marked any documents. The Claims Tribunal, by the impugned judgment, *inter alia*, held that the accident took place on account of rash and negligent driving of the offending Tipper Lorry by its driver and due to which deceased sustained grievous injuries and succumbed to the said injuries on the spot. The Tribunal further held that the claimants are entitled to a total compensation of Rs.17,77,440/- along with interest at the rate of 6% p.a. and directed the insurance company to pay the compensation. Being dissatisfied with the quantum of compensation, the claimants and insurance company



calling in question the liability saddled on it are before this Court in these appeals.

6. Sri. Mohd. Abdul Quayum, learned counsel for the appellant/Insurance company in MFA No.202205/2022 has raised the following contentions:

a. Firstly, the accident was occurred on the middle of the road due to rash and negligent driving of the driver of the Tanker bearing Registration No.KA-32-C-3805. The claimants have not examined any eyewitness to prove that the driver of Tipper/Lorry is negligent in causing the accident. Under these circumstances, the Tribunal has erred in fastening 80% liability on the driver of the Tipper Lorry in causing the accident. He further contended that the Police have registered FIR against the drivers of both the vehicles and driver of both the vehicles died. Therefore, the Tribunal has erred in fastening 80% contributory negligence on the driver of the Tipper.



b. Secondly, in respect of quantum of compensation, learned counsel contended that even though the claimants claimed that deceased was earning Rs.25,000/- p.m. from the profession as Driver, but they have not produced any document to establish the proof of income and the income assessed by the Tribunal at Rs.10,500/- p.m. is on the higher side.

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

7. *Per contra*, Sri Sanjeev Patil, learned counsel appearing for the appellants/claimants contended that the accident has occurred due to negligence of driver of the Tipper/Lorry bearing Reg.No.MH-13-CU-1525. The driver of the Tipper came on the extreme right side and dashed against the Tanker bearing Reg.No.KA-32-C-3805, due to which the driver fell down and sustained injuries and



succumbed to the injuries. Further contended that the Tribunal has erred in fastening 20% liability on the deceased driver of the Tanker and same is contradictory to the material on record. Under these circumstances, the Tribunal ought to have fastened entire liability on the driver of the Tipper.

8. In respect of enhancement of compensation the learned counsel contends under:

a) That at the time of accident deceased was earning Rs.25,000/- p.m. from the profession as a Driver. However, the Tribunal has assessed the notional monthly income of deceased at Rs.10,500/-, which is on the lower side.

b) Secondly, as per the judgment of the Hon'ble Supreme Court in the case of **MAGMA GENERAL INSURANCE CO. LTD. -V- NANU RAM AND OTHERS [2018 ACJ 2782]**, the claimants are entitled for compensation of Rs.40,000/- each.



c) Lastly, 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.

9. Heard the learned counsel appearing for the parties and perused the judgment and award.

10. The case of the claimants is that, on 30.06.2018 at about 08.40 p.m. deceased Mohammed Aejaz was driving the loaded tanker bearing registration No.KA-32/C-3805 from Wadi to Sindhnoor in a moderate speed on left side of the highway. When he reached near Gali Durgamma Temple on Sindhanur Raichur main road, at the time, a Tipper Lorry bearing registration No.MH-13/CU-1525, driven by its driver in a rash and negligent manner came in opposite direction and lost control over the vehicle and dashed against the Tanker of deceased Mohammed Aejaz. Due to said impact, the deceased Mohammed Aejaz fell down and suffered injuries.



11. To prove the case, claimant No.1-wife of the deceased has been examined as PW1. In her evidence, she has categorically stated that the accident has occurred due to the negligence of driver of the Tipper Lorry. In cross-examination of PW1, the respondents have not elicited any worthwhile information. The respondent No.2 has examined the officer of the company. None of the parties have examined any eyewitnesses to that extent. The police have filed the FIR and charge sheet against both the drivers of the vehicles. The spot sketch has been produced as Ex.P4. Considering the spot sketch, FIR, charge sheet and evidence of PW1, it appears that both the drivers are negligent in causing the accident. The driver of the Tanker came with a high speed in rash and negligent manner and there is no evidence to prove that he has made any attempt to control the speed since it is straight road. Considering all these facts and circumstances, the Tribunal has rightly held that the driver of the offending Tipper Lorry was driving the same in a



rash and negligent manner and contributed to the extent of 80% and deceased was contributed to the extent of 20%. Hence, in respect of negligence is concerned, the finding of the Tribunal is confirmed.

12. In respect of the quantum, though the claimants claim that deceased was earning Rs.25,000/- per month, but they have not produced any documents to prove the income of the deceased. In the absence of proof of income, the notional income has to be assessed. As per the guidelines issued by the Karnataka State Legal Services Authority, for the accident taken place in the year 2018, the notional income of the deceased has to be taken at Rs.11,750/- p.m. At the time of accident, the deceased was aged 31 years. To the aforesaid income, 40% has to be added on account of future prospects in view of the law laid down by the Constitution Bench of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi And Others [AIR 2017 SC 5157]***. Since there are six dependents, it is appropriate to deduct 1/4th of the income



of the deceased towards personal expenses and remaining amount has to be taken as his contribution to the family. The multiplier applicable to his age group is '16'. Thus, the claimants are entitled to compensation of Rs.23,68,800/- ($\text{Rs.}16,450 \times 12 \times 16 \times 3/4$) on account of 'loss of dependency'.

13. 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'.

14. In view of the law laid down by the Supreme Court in the case of '**Magma General Insurance**' (supra), claimant No.1, wife of the deceased is entitled to compensation of Rs.40,000/- under the head of 'loss of spousal consortium', claimants Nos.2 to 5 being the children of the deceased are entitled to compensation of Rs.40,000/- each under the head of 'loss of parental consortium' and claimant No.6 who is mother of the deceased is entitled to



compensation of Rs.40,000/- under the head of 'loss of filial consortium'.

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

Compensation under different Heads	Amount in (Rs.)
Loss of dependency (16450 x $\frac{3}{4}$ x 12 x 16)	23,68,800/-
Funeral expenses	15,000/-
Loss of estate	15,000/-
Loss of spousal consortium	40,000/-
Loss of Parental consortium	1,60,000/-
Loss of Filial consortium	40,000/-
Total	26,38,800/-

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

ORDER

- a) The appeals are ***disposed of***.
- b) The judgment of the Claims Tribunal is modified.



c) The claimants are entitled to a total compensation of **Rs. 26,38,800/-** as against Rs.17,77,440/- awarded by the Tribunal.

d) The Insurance Company is directed to deposit the 80% of 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.

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

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE