



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 14TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE P SREE SUDHA

MISCL. FIRST APPEAL NO.202001 OF 2022 (MV-D)

BETWEEN:

1. MALLAMMA W/O TIMMAPPA,
AGE: 55 YEARS, OCC: COOLIE AND HH,
2. SAIDAPPA S/O TIMMAPPA,
AGE: 42 YEARS, OCC: NIL,

BOTH ARE R/O. KONALI VILLAGE,
TQ. SHAHAPUR, DIST. YADGIRI.

...APPELLANTS

(BY SRI. GANESH NAIK, ADVOCATE)

Digitally signed
by SUMITRA
SHERIGAR
Location: HIGH
COURT OF
KARNATAKA

AND:

1. HANUMANTHRAYA S/O NINGAPPA,
AGE: 50 YEARS, OCC: BUSINESS AND
AGRICULTURE, R/O. VALMIKI NAGAR,
WADGERA, TQ. WADGERA (SHAHAPUR),
DIST. YADGIRI-585 201.
2. MOHAMMED KAHSIM SAB S/O MAHIBOOB,
AGE: 55 YEARS, OCC: AGRICULTURE,
(OWNER OF THE TRACTOR AND TRAILER
BEARING NO.KA-36-TQ-8534 AND KA-36-TB-5867),
R/O. KURKUNDA VILLAGE, TQ. SHAHAPUR,
DIST. YADGIRI-585 201.



3. THE DIVISIONAL MANAGER,
SHRIRAM GENERAL INSURANCE CO. LTD.,
3RD FLOOR, V.A. KALABURAGI MANSION,
DESAI CROSS, DESHPANDE NAGAR,
HUBLI, TQ. AND DIST. HUBLI-580 009.

...RESPONDENTS

(BY SRI. SANDEEP VIJAYKUMAR, ADV. FOR R1;
SRI. SHANTANU PRADEEP KUMAR, ADV. FOR R2;
SRI. SUDARSHAN M., ADV. FOR R3)

THIS MFA IS FILED U/S 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO A) CALL FOR THE RECORDS. B) TO ALLOW THE ABOVE MISC. FIRST APPEAL AND CONSEQUENTLY BE PLEASED TO SET ASIDE THE JUDGMENT AND AWARD DATED 04.10.2019 PASSED BY THE COURT OF THE SENIOR CIVIL JUDGE AND JMFC AND ADDL. MACT-IV AT SHAHAPUR IN MVC NO.82/2017 AND CONSEQUENTLY BE PLEASED TO ENHANCING THE COMPENSATION AMOUNT TO RS.17,55,000/- AS CLAIMED BY THE APPELLANTS BEFORE THE TRIBUNAL AND DISCHARGE THE 2ND RESPONDENT FROM ITS LIABILITY TO PAY THE COMPENSATION AND ALSO BE PLEASED TO ENHANCING COMPENSATION SUITABLY AND LIABILITY FIXED ON THE RESPONDENT NO.3.

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

CORAM: HON'BLE MRS JUSTICE P SREE SUDHA



ORAL JUDGMENT

Though this appeal is listed for admission, with consent of both sides, the same is taken up for hearing.

2. This appeal is filed against the judgment and award dated 4.10.2019 passed by the Senior Civil Judge and JMFC and Additional MACT-IV, Shahapur, in M.V.C. No.82 of 2017. One Timmappa, aged 58 years, met with an accident on 09.11.2015 and died. His wife and son filed claim petition claiming compensation of Rs.17,55,000/- with interest. The tribunal, considered the entire evidence on record, and granted compensation of Rs.8,57,800/- with interest at the rate of 6% per annum from date of accident till realisation and directed respondent No.2-owner of the tractor trailer, to pay the compensation within one month.

3. Aggrieved by the said order, this appeal is filed in which it is contended that the accident occurred due to collusion of tractor bearing registration No.KA-36/TA-8534 and auto bearing registration No.KA-33/4565. In the auto, the seating capacity is 3 + 1, but 8 persons were traveling and therefore, there is violation of permit by the auto driver. In



case of violation as per Section 86 of the MV Act, permit can be cancelled and penalty can be imposed under Section 192A of the Act. It is further stated that the deceased Timmappa was doing agricultural work and earning Rs.10,000/- per month, but the Tribunal erred in taking his income as Rs.9,000/- per month and awarded meager compensation. The tribunal has not granted any amount under the head loss of expectancy and the rate of interest awarded at 6% per annum, needs to be enhanced to 18%.

4. Heard the arguments on both sides.

5. The deceased Timmappa while travelling in an auto bearing registration No.KA-33-4565, the driver of the auto driven it in a rash and negligent manner and dashed to the tractor bearing No.KA-36/TA-8534, coming from the opposite direction, as there is negligence on the part of both the drivers, the accident occurred due to collusion of these two vehicles and charge sheet is filed against the drivers of both the vehicles. But the petitioners not impleaded the owner of the tractor and also the insurer of the auto. The accident occurred due to collusion of both the vehicles, there is contributory



negligence of 50% on the drivers of both the vehicles and each of the insurance company/owner is liable to pay 50% of the compensation.

6. Though, it is stated that Timmappa was aged 58 years, and was earning Rs.10,000/- per month, no document is filed to prove his income. As he met with the accident on 09.11.2015, as per the guidance of the Karnataka State Legal Services Authority, his income is to be taken at Rs.8,000/- per month and the multiplier applicable is 9.

7. The deceased is entitled for 10% towards future prospects as per the dictum of Hon'ble Apex Court ***National Insurance Company Limited Vs. Pranay Sethi¹***, and thus the amount would become Rs.8,800/- per month (8,000/- +10%). As per the guidelines of the Hon'ble Apex Court in dictum of ***Sarla Verma Vs. Delhi Transport Corporation²***, if the deceased was married and more than two dependants, 1/3rd of his income towards his personal expenses has to be deducted. Thus, the income of the deceased after deducting

¹ (2017) 16 SCC 680

² (2009) 6 SCC 121



personal expenses comes to Rs.5,867/- per month (8,800/- – 1/3rd). The age of the deceased is 58 years, and the applicable multiplier is 9. Thus, the compensation towards loss of dependency comes to Rs.6,33,636/- (5,867/- x 12 x 9).

8. Further, the Hon'ble Supreme Court, by reiterating the comprehensive interpretation of 'consortium' given in the authority of **Magma General Insurance Company Limited vs. Nanu Ram Alias Chuhru Ram & others³**, and in the authority between **United India Insurance Company Limited vs. Satinder Kaur @ Satwinder Kaur and others⁴**, fortified the amounts for loss of consortium. Accordingly, it is just and reasonable to award Rs.40,000/- each, i.e. Rs.80,000/- towards loss of consortium to the claimants. The claimants are also entitled for an amount of Rs.30,000/- under the conventional heads as per the citation in the case of **National Insurance Company Limited Vs. Pranay Sethi**. Thus, the total compensation comes to Rs.7,43,636/-.

³ (2018) 18 SCC 130

⁴ (2020) 9 SCC 644



9. The award of compensation passed by the Tribunal is modified as under:

	Heads	Amount in Rupees
1	Loss of dependency	6,33,636/-
2	Loss of consortium	80,000/-
3	Conventional heads	30,000/-
Total		7,43,636/-

10. Learned counsel for the Insurance company contended that the auto was carrying 9 persons including the driver at the time of the accident and moreover, the permit was valid upto 8 kilometres in the Shahapur city limit. But, he travelled upto Vadagera which is situated at a distance of 30 kilometres from Shahapur. As there is violation of the permit, as per the judgment in the case of reported ***Pappu And Others Vs. Vinod Kumar Lamba and Another*** reported in ***(2018) 3 SCC 208***, pay and recovery can be ordered.

11. Learned counsel for the petitioner-claimants has relied upon the judgment in the case of Bhagappa Vs.

* Retyped and replaced vide court order dated 14.11.2025.



Smt.Akkamma and others decided in M.F.A. No.200356/2021 C/w M.F.A. No.202376/2017 on 17.4.2023 in which it is stated that though there is violation of terms of vehicle permit, insurance company has to indemnify the claimant and recover the same from the owner of the vehicle.

12. The learned counsel further contended that insurance company is at liberty to recover from any one of the joint tort feasons as per the judgment in the case of ***Khenyei Vs. New India Assurance Company Limited And Others*** reported in ***(2015) 9 SCC 273***.

13. In the light of the above observation, the following order is passed:

(i) The appeal is allowed in part.

(ii) The petitioner-claimants are entitled for the compensation of Rs.7,43,636/- with interest rate of 6% per annum.

(iii) Respondent No.3 – insurance company is directed to deposit Rs.7,43,636/- with interest at rate of 6% per annum within one month from the date of this order.



(iv) On such deposit, the petitioners are permitted to withdraw the entire amount along with interest accrued on it, equally.

(v) Respondent No.3 is at liberty to recover 50% of the compensation from the owner of the tractor and trailer, by due process of law.

(vi) As the contributory negligence of both the vehicles was fixed at 50% on each of them, owner and insurer of auto bearing No.KA-33/4565 are also liable to pay 50% of the compensation.

(vii) As respondent No.3 is directed to deposit entire amount, it is at liberty to recover 50% from the owner of the auto bearing No.KA-33/4565. Accordingly, correction is carried out in page No.9 of the judgment.

(viii) In view of the order dated 13.10.2025 passed on I.A.No.1/2022, the claimants are not entitled for interest for the delayed period of 246 days in filing the appeal.

sd/-
(P SREE SUDHA)
JUDGE

CS
List No.: 1 Sl No.: 57
CT: AK