



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 21ST DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

MISCL. FIRST APPEAL NO.202485 OF 2019 (MV-I)

C/W

MISCL. FIRST APPEAL NO.202486 OF 2019 (MV-D)

IN MFA No.202485/2019

BETWEEN:

SHIVANAND S/O SIDDAPPA CHAMNAL
AGE: 15 YEARS, OCC: NIL,
MINOR U/G OF HIS FATHER
SIDDAPPA S/O NINGAPPA CHAMNAL
AGE: 47 YEARS, OCC: COOLIE
R/O: MALKAPNALLI, TQ: & DIST: YADGIR.

...APPELLANT

(BY SRI SANJEEV PATIL, ADV. FOR
SRI AMARESHWAR S RAWOOR, ADVOCATE)

AND:

1. OMPRAKASH
S/O ASHOK PATRE
AGE: 47 YEARS, OCC: OWNER OF THE VEHICLE
BEARING REGD., NO. KA-32/N-2782
R/O: H.NO. 10-2-78/7, S.B. TEMPLE ROAD
SANGMESHWAR COLONY
KALABURAGI-585103.





2. THE ROYAL SUNDARAM ALLIANCE
INSURANCE CO. LTD.,
"SUNDARAM TOWERS"
45 & 46 WHITES ROAD CHENNAI-6000014.
3. MALLAPPA
S/O HANMANTHA ULLESUGUR
AGE: 42 YEARS, OCC: OWNER OF THE VEHICLE,
BEARING REGD. NO.KA-33/9324
R/O HATTIKUNI, TQ: & DIST: YADGIR-585201
4. THE NATIONAL INSURANCE CO. LTD.,
THROUGH ITS DIVISIONAL MANAGER
BILGUNDI COMPLEX
OPP. MINI VIDHANA SOUDHA
SUPER MARKET ROAD
KALABURAGI-585102.

...RESPONDENTS

(R1 AND R3 ARE SERVED;
SMT. PREETI PATIL MELKUNDI, ADV., FOR R2;
SRI S.S.ASPALLI ADV., FOR R4)

THIS MFA IS FILED U/S. 173(1) OF MV ACT, PRAYING TO
MODIFY THE JUDGMENT AND AWARD DATED 05.07.2019,
PASSED BY THE SENIOR CIVIL JUDGE AND MACT-II AT
YADGIR IN FILE BEARING M.V.C.NO.28/2017 BY ENHANCING
THE COMPENSATION, IN THE INTEREST OF JUSTICE AND
EQUITY.

IN MFA NO.202486/2019:

BETWEEN:

1. SIDDAPPA
S/O NINGAPPA CHAMNAL
AGE: 43 YEARS, OCC: COOLIE
2. SIDRAM
S/O NINGAPPA CHAMNAL
AGE: 39 YEARS, OCC: COOLIE



3. NARSAPPA S/O NINGAPPA CHAMNAL
AGE: 27 YEARS, OCC: COOLIE

ALL ARE R/O: MALKAPNALLI
TQ: & DIST: YADGIR.

...APPELLANTS

(BY SRI SANJEEV PATIL ADV., FOR
SRI AMARESHWAR S RAWOOR., ADVOCATE)

AND:

1. OMPRAKASH
S/O ASHOK PATRE
AGE: 47 YEARS, OCC: OWNER OF THE VEHICLE
BEARING REGD., NO. KA-32/N-2782
R/O: H.NO. 10-2-78/7, S.B. TEMPLE ROAD
SANGMESHVAR COLONY, KALABURAGI-585103.
2. THE ROYAL SUNDARAM ALLIANCE
INSURANCE CO. LTD.,
"SUNDARAM TOWERS"
45 & 46 WHITES ROAD, CHENNAI-600014.
3. MALLAPPA
S/O HANMANTHA ULLESUGUR
AGE: 42 YEARS, OCC: OWNER OF THE VEHICLE
BEARING REGD., NO. KA-33/9324
R/O: HATTIKUNI, TQ: & DIST: YADGIR-585201
4. THE NATIONAL INSURANCE CO. LTD.,
THROUGH ITS DIVISIONAL MANAGER
BELGUNDI COMPLEX
OPP. MINI VIDHANA SOUDHA
SUPER MARKET ROAD, KALABURAGI-585102.

...RESPONDENTS

(R1 AND R3 ARE SERVED;
SMT. PREETI PATIL MELKUNDI, ADV., FOR R2;



SRI S.S.ASPALLI ADV., FOR R4)

THIS MFA IS FILED U/S. 173(1) OF MV ACT, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 05.07.2019, PASSED BY THE SENIOR CIVIL JUDGE AND MACT-II AT YADGIR, IN FILE BEARING MVC NO.29/2017 BY ENHANCING THE COMPENSATION, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE TYAGARAJA N. INAVALLY

ORAL/CAV JUDGMENT

1. Even though both the appeals are posted for orders, with the consent of learned the counsel for both the parties, the matter is taken up for final disposal.

2. MFA No.202485/2019 is filed by the appellant/claimant - Shivanand, the injured in MVC No.28/2017 and MFA No. 202486/2019 is filed by the dependents of the deceased Ashamma in MVC No.29/2017, challenging the common judgment and award dated 05.07.2019 of the Tribunal for enhancement of the compensation.



3. Common judgment and award was passed by the Tribunal in both the said petitions along with other petitions.

4. The case of the claimants before the Tribunal is that on 02.06.2016 at about 10.30 p.m., injured and the deceased Ashamma and other persons were traveling in Auto Tum Tum bearing Reg.No.KA-33/9324 towards Ghattargi Bhagyawanthi temple. When the said vehicle reached near Moratagi village, the driver of the Tavera Jeep bearing Reg.No.KA-32/N-2782 driving the same in a rash and negligent manner came from opposite and dashed to the Auto Tum Tum. Due to the impact, the claimant in MVC No.28/2017 sustained grievous injuries and the deceased Ashamma in MVC No.29/2017 sustained grievous injuries and thereafter died of such injuries on 20.06.2016 at 5.30 p.m. when she was under treatment.



5. The injured was minor aged 13 years as on the date of accident. The deceased Ashamma was hale and healthy prior to the accident and she was aged about 50 years and working as Coolie and earning Rs.10,000/- p.m. and contributing the income to her family. Due to her death, her dependents suffered loss of income.

6. It is the contentions of the claimants that the accident occurred due to the rash and negligent driving of the driver of the Auto Tum Tum. The respondents No.1 and 3 are owners and the respondents No.2 and 4 are insurers of the vehicles respectively. Therefore, they are jointly and severally liable to pay the compensation.

7. In spite of service of notice, the respondents No.1 and 3 did not appear and hence, they were placed ex parte before the Tribunal. The respondents No.2 and 4 appeared and filed their separate statements of objections denying the petition averments regarding age,



occupation and earning of the deceased and also of the injured claimant as false. It is denied that the accident occurred due to rash and negligent driving of the respective vehicles by its drivers. There was violation of conditions of the insurance policies. Hence, the respondents No.2 and 4 are not liable to pay any compensation and hence, they prayed for dismissal of the petitions.

8. However, at para No.31 of the judgment of the Tribunal, it is clear that during the pendency of the petitions, the claimants filed memo not pressing the petition against the respondent No.2. Hence, the petitions against respondent No.2 was dismissed as not pressed.

9. In support of the case, the father of claimant in MVC No.28/2017 was examined as P.W.1 and he produced documents at Exs.P.9 to P.15. Ex.P.9 is wound certificate of the injured. Ex.P.10 is discharge



summary. Ex.P.11 is disability certificate of the injured. The disability assessed as per Ex.P.11 is 28.64% to the whole body. The Tribunal has taken into consideration the disability of the minor claimant at 20% to the whole body and the compensation of Rs.3,00,000/- is granted besides awarding a sum of Rs.2,59,704/- as compensation towards medical expenses. Hence, the Tribunal has granted total compensation of Rs.5,60,000/- with interest at 6% p.a. and the same is just and proper and it does not call for any interference at the hands of this Court.

10. Regarding death of Ashamma, the contention of the claimants is that the deceased Ashamma was doing coolie work and earning Rs.10,000/- p.m. and she was contributing her income to her family. The claimant No.3 got examined himself as P.W.3 and produced the document at Ex.P.7 the postmortem report is produced. As per the said document, the deceased was aged 55 years. Hence, on the basis of the



said document, the age of the deceased is taken as 55 years and the Tribunal has taken notional income of Rs.6,000/- p.m.

11. In view of the law laid down by the Apex Court in the case of ***Sarla Verama and Others Vs. Delhi Transport Corporation and Others*** reported in ***(2009) 6 SCC 121***, the multiplier applicable to the case on hand is '11'. Since there are three dependents, 1/3rd of the income of the deceased is deducted towards personal expenses of the deceased. As submitted by the learned counsel for the respondent No.2, the Tribunal has properly assessed the compensation of Rs.5,28,000/- towards loss of dependency. Further, as per the documents produced by the claimants, the compensation of Rs.1,28,208/- is granted in favour of the claimants towards medical expenses of the deceased incurred by her earlier to her death.



12. It is undisputed fact that the claimants No.1 to 3 are sons of the deceased Ashamma. Hence, compensation of Rs.40,000/- each is granted in favour of the claimants No.1 to 3 under the head 'loss of parental consortium'. Further, the claimants are entitled to compensation of Rs.15,000/- under the head 'funeral expenses' and Rs.15,000/- towards 'loss of estate'.

13. Thus, the compensation is re-assessed and re-determined payable to the claimants in MFA No.202486/2019 (MVC No.29/2017) as hereunder:

Compensation under different Heads	As awarded by the Tribunal (Rs.)	As awarded by this Court (Rs.)
Loss of dependency	Rs.5,28,000/-	Rs.5,28,000/-
Loss of consortium	--	Rs.1,20,000/-
Loss of funeral expenses	--	Rs.15,000/-
Loss of estate	--	Rs.15,000/-
Medical expenses	Rs.1,28,208/-	Rs.1,28,208/-
Total	Rs.6,56,20/-	
Rounded off	Rs.6,60,000/-	Rs.8,06,208/-



14. As held by the Tribunal, the claimants have failed to prove that there was negligence on the part of the driver of the Auto Tum Tum in which the deceased and the claimant in MVC No.28/2017 were traveling. Moreover, the claimants were already got dismissed the petitions against respondent No.2. Therefore, the appeals against the respondent No.2 do not survive for consideration.

15. Further, the respondents No.3 and 4 are owner and insurer of the Auto Tum Tum vehicle. As discussed by the Tribunal, there was no negligence on the part of the driver of the said vehicle. Therefore, as rightly held by the Tribunal, the claim petitions do not survive for consideration against respondents No.3 and 4. Therefore, as held by the Tribunal, fastening of liability to pay compensation should be fastened only on respondent No.1.



16. Accordingly, the appeal filed by the claimant in MFA No.202485/2019 is liable to be dismissed, as no grounds made out for enhancement of compensation. On the other hand, the appeal filed by the claimants in MFA No.202486/2019 deserves to be allowed in part.

17. In the result, I proceed to pass the following:

ORDER

- a) The appeal filed by the appellant/claimant in MFA No.202485/2019 is ***dismissed***.
- b) The appeal filed by the appellants/claimants in MFA No.202486/2019 is **allowed in part**.
- c) The judgment of the Claim Tribunal in MFA No.202486/2019 is modified.
- d) The claimants in MFA No.202486/2019 are entitled to a total compensation of Rs.8,06,208/- as against Rs.6,60,000/-, awarded by the Tribunal.



NC: 2026:KHC-K:3482
MFA No. 202485 of 2019
C/W MFA No. 202486 of 2019

- e) The claimants are entitled to enhanced compensation of Rs.1,46,208/- with interest at 6% p.a. from the date of petition till realization. The respondent No.1 is liable to pay the compensation.
- f) The respondent No.1 is directed to deposit the compensation amount with interest at 6% p.a. from the date of petition till realization, within a period of one month from the date of receipt of copy of the judgment and award in this appeal.

Sd/-
(TYAGARAJA N. INAVALLY)
JUDGE

BL
List No.: 1 Sl No.: 13
CT:SI