



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 26TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

MISCL. FIRST APPEAL NO.202150 OF 2025 (MV-D)

C/W

MFA CROSS OBJ NO.200089 OF 2025 (MV-D)

IN MFA No.202150/2025

BETWEEN:

THE UNITED INDIA INSURANCE COMPANY LTD.,
S.S. FRONT ROAD VIJAYPURA,
REPRESENTED BY ITS DIVISIONAL MANAGER,
M/S. UNITED INDIA INSURANCE CO. LTD.,
1ST FLOOR, MAHANT SQUARE,
CTS NO.1027/B WARD NO.III,
OPPOSITE VINAYAKA HOSPITAL,
(INDI BUS STOP) NEAR APMC
1ST GATE, ATAL BIHARI VAJPAYEE ROAD,
VIJAYAPURA – 586 101.

...APPELLANT

(BY SRI MANVENDRA REDDY, ADVOCATE)

AND:

1. KASHIBAI
W/O PUJAPPA NAIKODI @ HARINDRAL,
AGE: 32 YEARS, OCC: HOUSE WIFE,
R/O: MINAJAGI, TQ: MUDDEBIHAL,
DIST: VIJAYAPUR – 586 214.



2. MR.GURUSIDDAPPAGOU DA B.BIRADAR
AGE: MAJOR, OCC: BUSINESS,
R/O: MINAJAGI, TQ: MUDDEBIHAL,
DIST: VIJAYAPUR – 586 214.

GOURAWWA W/O BHIMAPPA NAIKODI
SINCE DECEASED BY HER LRS.

3. KASHIBAI
W/O SOMAPPA SHIVANAGI,
AGE: MAJOR,
OCC: HOUSEHOLD WORK,
R/O: MINAJAGI, TQ: MUDDEBIHAL,
DIST : VIJAYAPUR - 586 214.

4. EARANNA @ IRANNA
S/O ESHWARAPPA TEKUR,
AGE: 50 YEARS, OCC: BUSINESS,
R/O: MINAJAGI, TQ: TALIKOTE,
DIST: VIJAYAPUR – 586 214.

...RESPONDENTS

(BY SRI S.S.SAJJANSHETTY, ADVOCATE FOR R1;
SMT. LAKSHMI G.E., ADVOCATE FOR R3;
R2 AND R4 SERVED)

THIS MFA IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLES ACT, PRAYING TO CALL FOR THE RECORDS AND SET ASIDE THE JUDGMENT AND AWARD DATED 05.02.2025 PASSED BY THE II ADDL. SENIOR CIVIL JUDGE AND MEMBER, MACT-VII, VIJAYAPUR IN MVC NO.189/2019 BY ALLOWING THE APPEAL AS PRAYED FOR IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA.CROB NO.200089/2025

BETWEEN:

SMT. KASHIBAI
W/O LATE PUJAPPA NAIKODI @ HARINDRAL,
AGE : 31 YEARS, OCC: HOUSEWIFE,
R/O: MINAJAGI VILLAGE,
TQ: MUDDEBIHAL, DIST: VIJAYAPURA.

...CROSS OBJECTOR

(BY SRI S.S.SAJJANSHETTY, ADVOCATE)



AND:

1. MR. GURUSIDDAPPAGOUDA B. BIRADAR
AGE : MAJOR, OCC: BUSINESS,
R/O: MINAJAGI VILLAGE,
TQ: MUDDEBIHAL,
DIST: VIJAYAPURA – 586 212.
2. THE UNITED INDIA INSURANCE CO., LTD.,
S.S. FRONT ROAD, VIJAYAPURA – 586 101.

SMT.GOURAWWA
W/O LATE BHIMAPPA NAIKODI,
SINCE DECEASED BY LRS.,
3. SMT. KASHIBAI W/O SOMAPPA SHIVANAGI,
AGE : MAJOR, OCC: HOUSEHOLD WORK,
R/O: MINAJAGI VILLAGE,
NOW AT TQ; MUDDEBIHAL,
DIST: VIJAYAPURA – 586 212.
4. ERANNA @ IRANNA
S/O ESHWARAPPA TEKUR,
AGE : 50 YEARS, OCC : BUSINESS,
R/O: MINAJAGI VILLAGE,
TQ: MUDDEBIHAL NOW TALIKOTE,
DIST: VIJAYAPUR – 586 212.

...RESPONDENTS

(BY SRI MANVENDRA REDDY, ADVOCATE FOR R2;
SMT. LAKSHMI G.E., ADVOCATE FOR R3;
V/O DATED 01.12.2025, NOTICE TO R1 AND R4 DISPENSED
WITH)

THIS MFA CROB., IS FILED UNDER ORDER 41 RULE 22
READ WITH SECTION 151 OF CPC, PRAYING TO DISMISS THE
ABOVE APPEAL FILED BY THE INSURER (APPELLANT) BY
ALLOWING THE ABOVE CROSS OBJECTIONS BY SETTING ASIDE
THE JUDGMENT AND AWARD DATED 05.02.2025 PASSED IN
MVC NO.189 OF 2019 B II ADDL. SENIOR CIVIL JUDGE AND
MACT-VII AT VIJAYAPURA AND FURTHER BE PLEASED TO
ENHANCE THE TOTAL COMPENSATION AS JUST AND PROPER



NC: 2026:KHC-K:2765-DB
MFA No. 202150 of 2025
C/W MFA.CROB No. 200089 of 2025

UNDER ALL THE REQUIRED HEADS CONSIDERING THE CO-CLAIMANT RESPONDENT NO.3(A) BEING LRS IN THE FACTS AND CIRCUMSTANCES OF THE CASE AND WITH ANY OTHER SUITABLE ORDER OR DIRECTION THE HON'BLE COURT DEEMS FIT AND PARTIES FOUND ENTITLED IN ACCORDANCE WITH LAW, TO MEET THE REAL ENDS OF JUSTICE, EQUITY AND GOOD CONSCIENCE.

THIS MFA AND MFA CROB., COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ
and
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

(PER: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA)

Heard Sri.Manvendra Reddy, learned counsel for the appellant in MFA No.202150/2025. He is also representing respondent No.2 in the connected Cross objection appeal. Also heard Sri.S.S.Sajjanshetty, learned counsel for respondent No.1 in MFA No.202150/2025 who is representing the cross objector in connected MFA CROB No.200089/2025.

2. These two appeals arise out of the award that is passed by the Motor Accident Claims Tribunal No.VII,



Vijayapura (hereinafter referred to as 'the Tribunal' for brevity) in MVC No.189/2019 dated 05.02.2025. The wife of the deceased Pujappa i.e., cross objector in MFA CROB No.200089/2025 filed a petition claiming compensation. She has shown the mother of the deceased Pujappa (hereinafter referred to as 'deceased' for brevity) as respondent No.3. Material available on record reveals that on the death of respondent No.3/mother of the deceased, her daughter Kashibai came on record.

3. The manner of happening of accident as projected by the claimant is that on 18.08.2018 while the deceased was returning to his house after completing his labour work, he was hit by a lorry bearing registration No.KA-25/A-905 which was driven by its driver in a rash and negligent manner, due to which the deceased sustained grievous injuries and succumbed to the injuries while taking treatment at hospital.



4. The defence taken by the Insurance Company who is the insurer of the lorry and who is the appellant in MFA No.202150/2025 is that accident did not occur in the manner projected by the claimant. While the deceased was traveling in the said lorry, due to his own negligence, he fell down, sustained injuries and died due to those injuries.

5. The Tribunal negating the defence taken by the Insurance Company, directed it to pay compensation to the dependents.

6. On the ground that the findings given by the Tribunal are erroneous, the insurer of the lorry filed an appeal. With a contention that the compensation granted is on the lower side, claimant is before this Court.

7. Arguing on the merits of the matter, learned counsel who represents the Insurance Company i.e., the insurer of the lorry in question, contends that the deceased was present in the lorry when the accident



occurred. Medical record also speaks so. The Tribunal without considering the medical record more particularly, the contents of Ex.R2-case sheet, gave a finding to the effect that claimant has established her version and thus, she is entitled for compensation.

8. On this aspect, the submission that is made by learned counsel for the claimant is that the police records speak that the deceased was hit by a lorry from backside and the same is even spoken to by PW.2 and thus, considering the positive evidence produced, the Tribunal rightly held that Insurance Company is liable to pay compensation.

9. No doubt, in Ex.R2 case sheet, there is a mention that the deceased fell from the lorry. However, as rightly observed by the Tribunal, it is not known who gave such information to the person who mentioned so in the case sheet. Also there is no material on record to show the details of the person who filled the required



column in Ex.R2 case sheet. Even insurer of the lorry who has taken such a defence has not taken care to summon the concerned hospital authorities to state about the information, basing on which, the manner of happening of accident is narrated in Ex.R2 case sheet. It is not in dispute that soon after the accident, basing on the complaint given, concerned police registered a case against the driver of the lorry, investigated into and ultimately filed charge sheet. The claimant produced the certified copy of the FIR and also certified copy of the charge sheet. If as contended by the Insurance Company, the deceased was present in the lorry, he could not have been hit by the same lorry. Nowhere in the charge sheet there is a mention that the deceased was present in the lorry in question. It is not the version of the Insurance Company that police without proper investigation laid charge sheet and that contents of charge sheet are against the statements of witnesses who were examined by the Investigating Agency. Therefore we are of the view that



the Insurance Company failed to establish its defence before the Tribunal and thus the Tribunal arrived at just conclusion that the death of the deceased is due to hit by lorry.

10. Coming to the quantum of compensation awarded, though learned counsel who represents the claimant contends that even sister of the deceased who was brought on record as respondent No.3A before the Tribunal is entitled for compensation, we are unable to agree with his submission. Respondent No.3A i.e., sister of the deceased has not claimed any compensation. She came on record upon the death of her mother as the legal representative of her mother. Also there is no mention that she was residing along with the deceased and the deceased was maintaining her. Furthermore respondent No.3A i.e., sister of the deceased has not chosen to file atleast an affidavit to the effect that she is also entitled for compensation along with the claimant who is the wife of the deceased. Hence the claimant who is the wife of the



deceased and respondent No.3 before the Tribunal who is mother of the deceased alone have to be considered as dependents of the deceased.

11. The Tribunal took the notional income of the deceased as Rs.11,750/- per month, added 40% towards future prospects which are required to be added, applied appropriate multiplier of '16' and deducted 50% of the earnings of the deceased towards his personal and living expenses which he would have incurred for himself had he been alive. However, as the dependents are two in number i.e., mother and wife, as per the decision of the Hon'ble Apex Court in the case of *Sarla Verma (Smt.) and Others vs. Delhi Transport Corporation and Another* reported in (2009) 6 SCC 121, 1/3rd of the earnings are required to be deducted towards personal and living expenses which the deceased would have incurred for himself had he been alive. Therefore taking the notional income of the deceased at Rs.11,750/- per month, adding 40% towards future prospect, applying appropriate



multiplier of '16' and deducting $1/3^{\text{rd}}$ of the earnings towards personal and living expenses, the compensation which the claimant and respondent No.3 are entitled to towards 'loss of dependency' will be as under:

Notional monthly income	Rs.11,750/-
Add 40% towards future prospects	Rs.16,450/-
Annual income	Rs.1,97,400/-
On deducting $1/3^{\text{rd}}$ towards personal and living expenses	Rs.1,31,600/-
Loss of dependency on applying multiplier '16'	Rs.21,05,600/-

Thus, the claimant/wife and mother are entitled to a sum of Rs.21,05,600/- towards loss of dependency.

12. Together with the said amount, they are entitled to Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. Further, wife is entitled to Rs.40,000/- towards loss of spousal consortium and mother is entitled to Rs.40,000/- towards loss of filial consortium.



13. Thus, the compensation which the claimant/wife and mother are entitled to is as under:

Sl.No.	Heads	Compensation awarded by this Court
1.	Loss of dependency	Rs.21,05,600/-
2.	Funeral expenses	Rs.15,000/-
3.	Loss of estate	Rs.15,000/-
4.	Loss of spousal consortium	Rs.40,000/-
5.	Loss of filial consortium	Rs.40,000/-
	Total	Rs.22,15,600/-

14. Therefore, the aforementioned discussion makes it clear that the claimant and mother are entitled to a sum of Rs.22,15,600/- as compensation. However, the Tribunal through the impugned judgment held that the claimant is entitled to a sum of Rs.16,63,200/-. Therefore, both the appeals are disposed of with the following:



ORDER

- i. The appeal in MFA No.202150/2025 is dismissed.
- ii. The appeal in MFA Crob.No.200089/2025 is allowed in part.
- iii. The compensation that is granted by the by the Motor Accident Claims Tribunal-VII, Vijayapura through orders in MVC No.189/2019 dated 05.02.2025 is enhanced from Rs.16,63,200/- to Rs.22,15,600/-.
- iv. The enhanced amount shall carry interest at the rate of 6% per annum from the date of petition till the date of deposit.
- v. The Insurance Company is directed to deposit the enhanced amount with interest within a period of eight weeks from the date of receipt of a certified copy of this judgment.



- vi. Out of the total compensation granted, claimant/wife is entitled to 75% and deceased respondent No.3/mother is entitled 25%.
- vii. As mother died during pendency of the proceedings before the Tribunal, as the dependents are her daughter who was brought on record as respondent No.3A and also the claimant being the wife of the deceased son, they are entitled to equal share i.e., 12.5% each out of the amount that is awarded as compensation to the mother i.e., 25% of the total sum.
- viii. On deposit, claimant and respondent No.3A to the claim petition are permitted to withdraw their respective shares.
- ix. Amount if any in deposit be transmitted to the concerned Tribunal for disbursal.
- x. Trial Court records to be sent to the concerned Tribunal.



- xi. In the light of the disposal of appeals, the proceedings in I.A No.1/2026 in MFA No.202150/2025 are closed.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

VNR/Srt
List No.: 2 Sl No.: 37