



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 4507 OF 2023

(MV-D)

BETWEEN:

1. MRS M LATHA KUMARI
@ K LATHA RAO
W/O MR. K. RAJA RAO
AGED ABOUT 67 YEARS
RESIDING AT MAHALAXMI NILAYA
ADU MAROLI, NEAR MARIGUDI TEMPLE
MAROLI POST, KULSHEKAR
MANGALURU
D.K. DISTRICT – 575 007.
2. MR. KARTHIK RAO
S/O MR. K RAJA RAO
AGED ABOUT 36 YEARS
DOOR No.2-72/37b
RESIDING AT MAHALAXMI NILAYA
ADU MAROLI, NEAR MARIGUDI TEMPLE
MAROLI POST, KULSHEKAR
MANGALURU
D.K. DISTRICT – 575 007.
3. K. KAVYA RAO,
D/O MR. K. RAJA RAO
AGED ABOUT 30 YEARS
DOOR No.2-72/37b
RESIDING AT MAHALAXMI NILAYA
ADU MAROLI, NEAR MARIGUDI TEMPLE
MAROLI POST, KULSHEKAR





MANGALURU
D.K. DISTRICT – 575 007.

...APPELLANTS

(BY SMT. POOJA PARVATHI, ADVOCATE FOR
SRI RAVISHANKAR SHASTRY G, ADVOCATE)

AND:

1. MR. MOHAMMED SHAFI C M
S/O ABDULLA C.M.
ADULT
RESIDING AT K.K.PURAM
CHERKALA POST, CHENGALA
KASARGOD
KERALA – 671 541.
2. THE NEW INDIA ASSURANCE COMPANY
NEW INDIA BHAVAN, 2ND FLOOR
34 38 BANK STREET, FORT MUMBAI
MAHARASHTRA – 400 023.

...RESPONDENTS

(BY SMT. GEETHA RAJ, ADVOCATE FOR R2
V/O DTD. 07.07.2023, NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED:30.01.2023
PASSED IN MVC No.1089/2018 ON THE FILE OF THE I
ADDITIONAL SENIOR CIVIL JUDGE AND MACT, MANGALURU
D.K., PARTLY ALLOWING THE CLAIM PETITION FOR
COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION .

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR



ORAL JUDGMENT

This appeal is filed by claimants seeking enhancement of compensation awarded in the judgment and awarded dated 30.01.2023 passed in MVC No.1089/2018 by I Additional Senior Civil Judge and MACT, Mangaluru D.K.

2. Even though the appeal is listed for admission, it is taken up for disposal with the consent of learned counsel for the appellant and learned counsel for respondent No.2 –insurer.

3. Appellants -claimants made a claim petition praying to award compensation for the death of Raja Rao (husband of claimant No.1 and father of claimant Nos.2 and 3) in a road traffic accident occurred on 23.07.2017 contending that the accident occurred due to the rash and negligent driving of the car bearing registration No.KL-14/P-8998. The Tribunal after recording evidence, appreciating the evidence on record has assessed



compensation and awarded compensation under different heads as under:

1. Loss of dependency	Rs.6,30,000/-
2. Medical Expenses	Rs.17,097/-
3. Consortium	Rs.40,000/-
4. Loss of Estate	Rs.15,000/-
5. Funeral and obsequies ceremonies	Rs.15,000/-
6. Loss of Love and Affection	Rs.10,000/-
Total	Rs.7,27,097/-

4. The Tribunal has also awarded the interest at the rate of 9% per annum from the date of petition till realisation and directed respondent No.2 -insurer to deposit the award amount. Claimants seeking enhancement of compensation have filed the present appeal.

5. Heard learned counsel for appellants and learned counsel for respondent No.2 –insurer.

6. Learned counsel for appellants would contend that claimants are the wife and two children of the deceased and therefore, deductions towards personal expense of the deceased is to be taken at 1/3rd since he is



a married man having wife and two children. The Tribunal has taken deductions at 50%. Claimants being the wife and two children are entitled to consortium in a sum of Rs.40,000/- each. But the Tribunal has erred in awarding consortium only in a sum of Rs.40,000/- and loss of love and affection in a sum of Rs.10,000/- . With these, she prays to allow the appeal and enhancement of compensation.

7. Learned counsel for respondent No.2 –insurer would contend that deductions taken by the Tribunal at 50% is just and proper since the other two claimants are major children of the deceased. The compensation awarded by the Tribunal under other heads is just and proper.

8. Having heard learned counsels, this Court has perused impugned judgment and award.

9. The deceased was aged 62 years. Claimant No.1 is wife and claimant Nos.2 and 3 are son and



daughter of the deceased. Considering the evidence lead, the Tribunal has rightly taken the income of the deceased at Rs.15,000/-. Since the claimant is a married man having wife and two children, the deductions taken by the Tribunal at 50% is not proper. The deduction towards 50% is to be taken in the cases where the deceased was bachelor. But in the case on hand, the deceased was a married man having wife and two children. Therefore, the deductions towards personal expense of the deceased is to be taken at $1/3^{\text{rd}}$. The Tribunal, considering the age of the deceased has rightly applied multiplier 7. In view of the above, the loss of dependency is calculated as under:

$$\text{Rs.15,000/- less } 1/3^{\text{rd}} = \text{Rs.10,000/-} \times 12 \times 7 = \text{Rs.8,40,000/-}$$

10. The claimant's being wife and two children are entitled to consortium in a sum of Rs40,000/- each i.e. Rs.1,20,000/- (Rs.40,000/- x 3). The Tribunal has rightly awarded medical expenses of Rs.17,097/-, loss of estate in a sum of Rs.15,000/- and funeral expenses in a sum of Rs.15,000/-. In view of award of consortium, the



claimants are not entitled to loss of love and affection in a sum of Rs.10,000/- as awarded by the Tribunal. In view of above, the claimants are entitled to total compensation as under:

1. Loss of dependency	Rs.8,40,000/-
2. Medical Expenses	Rs.17,097/-
3. Consortium	Rs.1,20,000/-
4. Loss of Estate	Rs.15,000/-
5. Funeral expenses	Rs.15,000/-
Total	Rs.10,07,097/-

11. The claimants are entitled to total compensation of Rs.10,07,097 /- as against Rs.7,27,097/- as awarded by the Tribunal with interest. Consequently the claimants are entitled to enhanced compensation of Rs.2,80,000/- with interest at the rate of 6% per annum from the date of petition till realisation. Respondent No.2 -insurer shall deposit the enhanced compensation with interest.

12. In view of the above, the following

ORDER

i) The appeal is ***allowed in part.***



- ii) Claimants are entitled to enhanced compensation of Rs.2,80,000/- with interest at the rate of 6% per annum from the date of petition till realisation.
- iii) Respondent No.2 -insurer shall deposit the enhanced compensation before the Tribunal within a period of 06 weeks from this day, failing which it is liable to pay interest at the rate of 9% per annum from this day till payment.
- iv) Claimants are entitled to release of entire enhanced compensation.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP
List No.: 1 Sl No.: 21
Ct.sm