



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 7118 OF 2021 (MV-D)

BETWEEN:

1. PAVITHRA C
W/O LATE M.B. BASAVARAJU,
D/O RUDREGOWDA,
AGED ABOUT 30 YEARS,
2. JEEVITHA
D/O LATE M.B.BASAVARAJU,
AGED ABOUT 3 YEARS,
MINOR GUARDIAN MOTHER
PAVITHRA C,
W/O LATE M.B.BASAVARAJU,

BOTH ARE R/AT:
CHIKKAKADLURU VILLAGE,
DUDDA POST, DUDDA HOBLI,
HASSAN TALUK,
HASSAN DISTRICT 573 118.

3. JAYAMMA
W/O BYREGOWDA,
AGED ABOUT 60 YEARS,
4. BYREGOWDA
S/O LATE SIDDEGOWDA,
AGED ABOUT 63 YEARS,
5. SIDDARAJU
S/O BYREGOWDA,
AGED ABOUT 33 YEARS,

APPELLANTS NO.3 TO 4 ARE





R/AT: SIDDEGOWDANA,
DODDIGRAMA,
DODAMARALAVADI,
KANAKAPURA TALUK,
RAMANAGARA DISTRICT 562 117.

...APPELLANTS

(BY SRI. CHETHAN B.,ADVOCATE)

AND:

1. JYOTHIBASU R
S/O S.M.RANGASWAMY,
MAJOR,
R/AT NO.26/157,
PLANIYAPPA NAGAR,
SURAMANGALA POST, SELAM,
TAMILNADU STATE -636 005.
2. THE MANAGER
NATIONAL INSURANCE CO.LTD.,
ORUTI COMPLEX,
F-215, OMALURU MAIN ROAD,
P.B.NO.27, SELAM,
TAMILNADU-636 004,
REPRESENTED BY:
MANAGER,
NATIONAL INSURANCE CO.LTD.,
MANJUNATHA COMPLEX,
OLD BUS STAND ROAD,
HASSAN-573 201.

...RESPONDENTS

(BY SRI.RAVI SAMPRATHI, ADVOCATE FOR R2,
VIDE ORDER DATED 19.11.2024 NOTICE TO
R1 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 29.11.2019 PASSED IN MVC
NO. 1348/2018 ON THE FILE OF THE 5TH ADDITIONAL
DISTRICT AND SESSIONS JUDGE, ADDITIONAL MACT, HASSAN,



PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION
AND SEEKING ENHANCEMENT OF COMPENSATION.

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

CORAM: HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

This appeal has been filed by the claimants against the judgment and award dated 29.11.2019 passed by the 5th Additional District & Sessions Court and Additional MACT at Hassan (for short `Tribunal'), in MVC No.1348/2018 seeking enhancement of compensation.

2. For the sake of convenience, the parties are referred to as per their rankings before the Tribunal.

3. The brief facts of the case of both the parties before the Tribunal were that :

On 14.01.2018, M.B. Basavaraju, was proceeding towards Chikkakadaluru in his motor cycle bearing No.KA-05-HK-6896. He met with an accident by a tanker lorry bearing No.T.N.30-AK-7499 as a result he fell down and sustained fatal injuries



and died at the spot. With these reasons, claimants prayed to award compensation of Rs.50 lakhs.

4. It is further case of the claimants that the deceased was aged 28 years and earning Rs.30,000/- by working as a agriculturist and as a driver. He was contributing his earnings to the family. Claimants are the wife, parents, brother and grandmother of the deceased. (Petitioner No.6 - grandmother was said to be passed away, hence, she is not made party in the present appeal). With these reasons, they prayed to award compensation of Rs.50,00,000/-.

5. Respondent No.1 is the owner and respondent No.2 is the insurer of the offending Tanker lorry. Respondent No.1 remained *exparte* before the Tribunal.

6. The respondent No.2-insurer filed its written statement, denying the contentions of the claim petitioners. It denied its liability to pay the compensation on the ground that accident occurred due to the negligence of rider of the motor cycle. With these reasons, prayed to dismiss the claim petition.



7. From the rival contentions of the parties, the Tribunal framed necessary issues, for its determination.

8. The claimants to prove their case examined two witnesses as PW-1 and PW-2 and marked 11 documents, as per Exs.P-1 to P-11. The respondent neither examined any witnesses nor marked the documents.

9. The Tribunal after hearing both the parties and appreciating the evidence on record, awarded Rs.20,48,000/- as compensation under following heads:

Particulars	Amount in Rs.
Loss of dependency	19,28,000
Funeral expenses	15,000
Loss of estate	15,000
Consortium	40,000
Loss of love and affection	50,000
Total	Rs.20,48,000/-

Being dissatisfied with the award passed by the Tribunal, the claimants have filed the present appeal seeking enhancement of the compensation.



10. Heard the arguments of the learned counsel appearing for the claimants as well as learned counsel for respondents.

11. The fact of the accident and death of M.B.Basavaraju in the said accident are not in dispute. The main grievance of the claimants are that deceased was earning Rs.30,000/- per month through agriculture and by working as a driver. The Tribunal has not considered the said evidence and assessed the notional income of the deceased as Rs.9,000/- per month, which is on the lower side. The amount of compensation awarded under other heads are also on the lower side. Therefore, prayed to allow the appeal and enhance the compensation.

12. Learned counsel for respondent No.2-insurer contends that the Tribunal has properly considered the case of the claimants and awarded just amount of compensation. He further contends that since the compensation has been awarded under the head of loss of consortium, once again the Tribunal ought not to have awarded compensation under the



head loss of love and affection. On the basis of the law laid down by the Hon'ble Apex Court in the case of *National Insurance Co. Ltd., vs Pranay Sethi*¹, even though the insurer has not filed any appeal, this Court may have to consider regarding awarding of compensation under the head 'loss of love and affection' and prayed to dismiss the appeal.

13. Though claimants in the pleadings and evidence have contended that deceased was earning Rs.30,000/- per month but they have not substantiated the said contention, therefore, the Tribunal assessed the notional income of the deceased as Rs.9,000/- per month. Following the chart prepared by the Karnataka State Legal Services Authority, the notional income of the deceased is taken as Rs.12,500/- per month. Undisputedly, the deceased was aged about 29 years at the time of accident and therefore as per the law laid down by the Hon'ble Apex Court in the case of *Pranay Sethi* (supra), 40% of his income has to be added towards his future prospects.

¹ (2017) 16 SCC 680



14. As per the judgment of the Hon'ble Apex Court, in the case of ***Sarla Verma vs Delhi Transport Corporation and others***,² the multiplier applicable to the facts of the present case is '17'. The Tribunal has rightly deducted 1/4th towards personal expenses of the deceased. On the basis of the aforesaid factors, the amount of compensation is re-calculated under the head 'loss of dependency'

15. Though the Tribunal relied on the judgment in the case of the *Pranay Sethi* (supra), however, awarded less amount of compensation under the head 'loss of consortium' and ought not to have awarded compensation under the head loss of 'love and affection'.

16. As per the law laid down in *Pranay Sathi's case* (supra) and ***Magma General Insurance Company Limited Vs. Nanu Ram @ Chuhru Ram***³ claimant No.1-wife, claimant No.2-daughter, claimant Nos.3 and 4 being parents of the deceased and claimant No.5 is disabled brother are entitled compensation under the conventional heads. Hence, claimant

² (2009) 6 SCC 121

³ (2018) ACJ 2782



Nos.1 to 5 are entitled for compensation under the head 'loss of consortium' and remaining conventional heads.

17. Accordingly, the following compensation is awarded:

Particulars	Amount in Rs.
Loss of dependency (Rs.12,500+40x12x17x3/4)	26,77,500
Loss of consortium (Rs.40,000x5)	2,00,000
Funeral expenses	15,000
Loss of estate	15,000
<i>Total</i>	29,07,500
<i>Amount awarded by the Tribunal</i>	20,48,000
<i>Enhancement</i>	8,59,500
<i>Rounded off-</i>	8,60,000

18. Thus, the claimants are entitled for enhanced compensation of Rs.8,60,000/- with interest at 6% p.a. on the enhanced amount from the date of petition till its realization.

19. It is not in dispute that respondent No.1 is the owner and respondent No.2 is the insurer of the offending vehicle. Therefore, both the respondents are jointly and severally liable to pay the compensation.



20. Accordingly, I proceed to pass the following:

ORDER

- i) The Appeal is ***allowed in part.***
- ii) The judgment and award dated 29.11.2019 passed in MVC.No.1348/2018 by the 5th Addl.District & Sessions Court and Addl.Mact at Hassan stands modified.
- iii) The claimants are entitled to enhanced compensation of Rs.8,60,000/- with interest at the rate of 6% p.a. on the enhanced amount, from the date of petition till its realization
- iv) The respondent Nos.1 and 2 are jointly and severally liable to deposit the amount within a period of six weeks from the date of award.
- v) The apportionment, deposit and release etc., are as per the award passed by the Tribunal.

Since claimant No.6 - Eramma died after passing of the award, the amount apportioned to her is re-distributed equally between claimant Nos.1 to 5.



vi) Draw award accordingly.

Registry is directed to send back the records along with a copy of this judgment to the concerned Tribunal.

Sd/-
(UMESH M ADIGA)
JUDGE

AG
List No.: 1 Sl No.: 46