



NC: 2026:KHC:29484-DB
MFA No. 4119 of 2021

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2026

PRESENT

HON'BLE MR. JUSTICE JAYANT BANERJI

AND

HON'BLE MS. JUSTICE TARA VITASTA GANJU

MISCELLANEOUS FIRST APPEAL NO.4119 OF 2021(MV-D)

BETWEEN:

1. SMT. ASHA
W/O LATE PANDURANGAPPA,
AGED ABOUT 30 YEARS,
2. SMT. MAHANTHAMMA
W/O HANUMANTHAPPA,
AGED ABOUT 66 YEARS,

BOTH ARE R/O RAM NAGARA,
INDUSTRIAL AREA, DAVANAGERE,
PERMANENT ADDRESS:
NANDIGAVI VILLAGE, HARIHAR TALUK,
DAVANAGERE DISTRICT - 577 516.

...APPELLANTS

(BY SRI. G.J. SUNKAPUR., ADVOCATE)

AND:

1. RAMAKRISHNA.S. GHATGE
S/O SHIVAJI RAO GHATGE,
AGED ABOUT 37 YEARS,
OWNER CUM DRIVER OF CAR BEARING
REG. NO. KA27/N-4515,
R/O HALEPETE STREET, SAVANUR CITY,
HAVERI DISTRICT - 581 118.



2. DIVISIONAL MANAGER,
NATIONAL INSURANCE COMPANY LTD.,
MELAGIRI PLAZA,
MCC 'B' BLOCK, DENTAL COLLEGE ROAD,
DAVANAGERE - 577 001.
3. GEETHA
LATE PANDURANGAPPA,
AGED ABOUT 31 YEARS,
HOUSEHOLD WORKER,
R/O NANDIGAVI VILLAGE,
NOW R/O ATTIGERE VILLAGE,
DAVANAGERE TALUK - 577 514.
4. KUSHI
D/O LATE PANDURANGAPPA,
AGED ABOUT 8 YEARS,
R/O ATTIGERE VILLAGE,
DAVANAGERE TALUK AND DISTRICT - 577 514.

THE RESPONDENT NO.3 IS REPRESENTING
RESPONDENT NO.4 AS NEXT FRIEND TO MINOR
DAUGHTER AS SHE IS UNDER HER
CARE AND CUSTODY.

...RESPONDENTS

(BY SRI. H.S. LINGARAJ., ADVOCATE FOR R2;
V/O/DTD:27.09.2021, NOTICE TO R1 IS DISPENSED WITH;
R3 & R4-SERVED AND UNREPRESENTED)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 30.11.2020 PASSED IN MVC
NO.765/2019 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL
JUDGE AND CJM, M.A.C.T., DAVANAGERE, 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 JAYANT BANERJI
&
HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORAL JUDGMENT

(PER: HON'BLE MS. JUSTICE TARA VITASTA GANJU)

1. The present appeal seeks to challenge the judgment and award dated 30.11.2020, in MVC No.765/2016, passed by the Principal Senior Civil Judge and IV Motor Vehicles Accident Claims Tribunal, Davanagere (hereinafter referred to as the 'Impugned Award'). By the Impugned Award, the learned Tribunal has awarded compensation to the appellants/claimants in a sum of Rs.15,10,000/-, along with interest at 9% per annum from the date of the petition till its realisation.

2. The challenge in the present case has been made by the appellants/claimants. Although respondents Nos 3 and 4 are served, they have remained unrepresented before this Court. Notice to respondent No.1 was dispensed with by this Court on 27.09.2021. The appeal has been contested by the appellants/claimants and learned counsel for the respondent No.2/Insurance Company.



HC-KAR

**NC: 2026:KHC:29484-DB
MFA No. 4119 of 2021**

2.1 Although the matter was listed for Admission, with the consent of the parties, the matter is taken up for hearing and final disposal at the stage of admission.

3. At the outset, it is pointed out by the learned counsel for both the parties that there was an additional issue raised in this matter, that since respondent Nos.3 and 4 stated before the learned Tribunal that they were 2nd wife and a minor daughter of the deceased, while the claim petition was filed by the first wife and the mother of the deceased.

4. Briefly, the facts relevant for this adjudication are that on 09.03.2019, at about 8.30 p.m., when the deceased was riding as a pillion on a motorcycle bearing registration No.KA-17/EL-8528, along with his friend from Nandigave to Meleri Village, at that time, a Maruti Alto Car bearing registration No.KA-27/N-4515 came from Ranebennur side, stated to being driven in a rash and negligent manner with high speed, tried to overtake an Innova Car bearing registration No.KA-49/M-0919, but collided with the front side of Innova Car and after that the Innova car hit the



motorcycle in which the deceased was riding. As a result, the deceased, who was a pillion rider on the motorcycle, fell from the motorcycle and sustained severe injuries and succumbed to the injuries at the spot of the accident.

5. A claim petition was filed by the appellants/claimants stating that the deceased was an agriculturalist and grew flower crops and earned Rs 40,000/- to Rs.50,000/- per month. The appellants/claimants also made respondent nos. 3 and 4 viz., the 2nd wife, as well as the minor daughter of the deceased, as parties to the claim petition. The respondent No.1/owner/driver of the offending vehicle, as well as the respondent No.2/insurance company, appeared before the learned Tribunal and filed their objections. Respondent nos. 3 and 4 also filed objections.

6. Based on the pleadings of the parties the following issues were framed:

- "1) *Whether the petitioners prove that on 09.03.2009 at about 8-30 p.m. the deceased Pandurangappa was going as a pillion rider along with his friend Shivakumar in Motorcycle bearing Reg.No. KA-17/EL-8528 from Nandigavi to Medleri village. While they were going near Karur cross NH.4 road and to cross the road with signal at that time, the respondent No.1*



being owner cum driver of Maruthi Alto Car bearing Reg.No. KA-27/N-4515 drove it in a rash and negligent manner in order to overtake the Innova Car bearing Reg.No. KA-49/M-0919 and dashed to the Innova Car to the front side and without observing the deceased motorcycle, dashed to the deceased motorcycle and caused the accident. As a result, deceased Pandurangappa sustained grievous injuries and died at the spot?

- 2) *Whether the respondent No.2 proves that it is not liable to pay any compensation if terms and conditions of the policy are violated by R1?*
- 3) *Whether the petitioners are entitled for compensation? If so, what quantum and from whom?*
- 4) *What order or award?"*

6.1 An additional issue was framed by the learned Tribunal on the marital relationship between petitioner No.1 and the deceased, which is set out below:

"1. Whether the respondent No.3 and 4 prove that there is no marital relationship between petitioner No.1 and the deceased?"

7. The appellant/claimant was examined as PW1 and one witness was examined as PW2 and marked documents as Exhibits-P1 to P16 including Exhibit-P1 (FIR), Exhibit-P3 (spot mahazar), Exhibit-P4 (vehicle seizure report), Exhibits-P5 and P6 (I.M.V. reports), Exhibit-P9 (final report) Exhibits-P12, P13 and P16 (copy Aadhaar Card of the



petitioner, aadhar card of the mother of the deceased and bank pass book of the petitioner). The respondent No.2/insurance company and the respondent No.1/owner of the vehicle did not lead any evidence. However, the respondent No.3, the second wife was examined as RW-1 and she marked documents as Exhibits R1 to R4.

8. Based on the evidence produced, the learned Tribunal found that the accident occurred due to the rash and negligent driving of the Maruti Auto Car bearing registration No.KA-27/N-4515 and also it was found that there was no breach in the Insurance Policy, and thus the respondent No.2/Insurance Company is liable to make payment of compensation under the provisions of the Motor Vehicles Act, 1988 (hereinafter referred to as 'MV Act').

9. On the Additional Issue No.1, the learned Tribunal found that although there is no dispute that appellant no.2/claimant No.2 is the mother of the deceased, there are two persons being appellant/claimant no. 1 and respondent No.3, both claiming to be the wives of the deceased, while



respondent no.4 is stated to be the daughter of the deceased. The learned Tribunal also found that it cannot adjudicate on the jural relationship of the deceased, with appellant/claimant No.1 and respondent No.3, since it is not a Competent Court for the same and thus held that the issue would not arise. Accordingly, although the learned Tribunal granted compensation, it did not apportion the compensation awarded.

10. In order to calculate the loss of dependency, the learned Tribunal held that since there were four dependents of the deceased, including the respondent Nos. 3 and 4, 1/4th expenses are required to be deducted and since the deceased was 34 years at the time of the accident, the multiplier should be taken at '16'. The learned Tribunal, however, awarded monthly income of the deceased at Rs.10,000/- and calculated the loss of dependency in the following manner:

$$"7500 \times 12 \times 16 = Rs.14,40,000/-"$$



10.1 The learned Tribunal also awarded amounts for 'loss of estate', 'loss of consortium and funeral expenses' in the following manner:

| Sl.No. | Heads | Amount(Rs.) |
|---------------|--|--------------------|
| 1 | Loss of dependency | Rs.14,40,000/- |
| 2 | Toward loss of estate, loss of consortium and funeral expenses | Rs. 70,000/- |
| | Total | Rs.15,10,000/- |

10.2 Thus, it was held that the appellants/claimants were entitled to a sum of Rs.15,10,000/- along with 9% interest per annum.

11. As stated above, the challenge before this Court is only by the appellants/claimants. The learned counsel for the appellants/claimants submits that the notional income for the year 2019 was Rs.14,000/- per month as per the Chart prepared by the Karnataka State Legal Services Authority and the learned Tribunal could not have taken the notional income to calculate dependency as Rs.10,000/-. Thus, it is contended that the amounts awarded for 'loss of



dependency' should be enhanced. In addition, he contends that so far as the additional issue that was framed by the learned Tribunal, the appellant/claimant no.1 and respondent No.3 amicably resolved this issue by each of them taking 50% of the amount awarded before the learned Tribunal.

12. The learned counsel for the respondent No.2/insurance company is unable to controvert the fact that the notional income for the year 2019 is Rs.14,000/- per month. He however challenges the amounts awarded for 'loss of dependency'.

13. The points for determination before this Court are:

- (i) Whether the respondent Nos.3 and 4 are to be treated as dependents, to calculate the 'loss of dependency'?
- (ii) Whether the compensation has been awarded correctly by the learned Tribunal?

14. The appellants/claimants in this case are the wife and the mother. However, it is also stated that the deceased had



a second wife and a minor child who were dependent on him as well. The learned Tribunal has held that the deceased had four dependents including the second wife and minor daughter as dependent on the deceased.

15. The issue as to who can be considered as a dependant for the purpose of a MV Act claim is no longer *res integra*. In ***Gujarat State Road Transport Corporation v. Ramanbhai Prabhatbhai***¹, the Supreme Court while examining the meaning of a legal representative as applicable to the amended MV Act has held that a legal representative need not necessarily be confined to the wife, husband, parent and child of the deceased and that every person who represents the estate of the deceased and also suffers on account of the death of a person in a motor vehicle accident should have a remedy for realisation of compensation. The Court further held that the expression "legal representative" under the Motor Vehicles Act is to be accorded a wider meaning and is not confined merely to the

¹ (1987) 3 SCC 234



spouse, parent and children of the deceased. The relevant extract is below:

"11. Clauses (b) and (c) of sub-section (1) of Section 110-A of the Act provide that an application for compensation arising out of an accident may be made where death has resulted from the accident by all or any of the legal representatives of the deceased or by any agent duly authorised by all or any of the legal representatives of the deceased. The proviso to sub-section (1) of Section 110-A provides that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application. **The expression "legal representative" has not been defined in the Act. Section 2(11) of the Code of Civil Procedure, 1908 defines "legal representative" as a person who in law represents the estate of a deceased person and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued. The above definition, no doubt, in terms does not apply to a case before the Claims Tribunal but it has to be stated that even in ordinary parlance the said expression is understood almost in the same way in which it is defined in the Code of Civil Procedure. A legal representative ordinarily means a person who in law represents the estate of a deceased person or a person on whom the estate devolves on the death of an individual.** Clause (b) of sub-section (1) of Section 110-A of the Act authorises all or any of the legal representatives of the deceased to make an application for compensation before the Claims Tribunal for the death of the deceased on account of a motor vehicle accident and clause (c) of that sub-section authorises any agent duly authorised by all or any of the legal representatives of the deceased to make it. The proviso to sub-section (1) of Section 110-A of the Act appears to be of some significance. It provides that the application for compensation shall be made on behalf of or for the benefit of all the legal representatives of the



deceased. Section 110-A(1) of the Act thus expressly states that (i) an application for compensation may be made by the legal representatives of the deceased or their agent, and (ii) that such application shall be made on behalf of or for the benefit of all the legal representatives. Both the person or persons who can make an application for compensation and the persons for whose benefit such application can be made are thus indicated in Section 110-A of the Act. This section in a way is a substitute to the extent indicated above for the provisions of Section 1-A of the Fatal Accidents Act, 1855 which provides that "every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased". While the Fatal Accidents Act, 1855 provides that such suit shall be for the benefit of the wife, husband, parent and child of the deceased. Section 110-A(1) of the Act says that the application shall be made on behalf of or for the benefit of the legal representatives of the deceased. **A legal representative in a given case need not necessarily be a wife, husband, parent and child. It is further seen from Section 110-B of the Act that the Claims Tribunal is authorised to make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid...."**

[Emphasis Supplied]

16. The Supreme Court in **N. Jayasree v. Cholamandalam MS General Insurance Co. Limited**², held that for maintaining a claim petition under Section 166 of the Act, it is sufficient for the claimant to establish loss of dependency and that every legal representative who

² (2022) 14 SCC 712



suffers on account of the death of a person in a motor vehicle accident is entitled to a remedy for realisation of compensation. The Court further held that the percentage of deduction towards personal expenses cannot be governed by a rigid formula or by the nature of relationship between the claimant and the deceased, and that the same depends upon the facts and circumstances of each case. The relevant extract is set out below:

"16. In our view, the term "legal representative" should be given a wider interpretation for the purpose of Chapter XII of the MV Act and it should not be confined only to mean the spouse, parents and children of the deceased. As noticed above, the MV Act is a benevolent legislation enacted for the object of providing monetary relief to the victims or their families. Therefore, the MV Act calls for a liberal and wider interpretation to serve the real purpose underlying the enactment and fulfil its legislative intent. We are also of the view that in order to maintain a claim petition, it is sufficient for the claimant to establish his loss of dependency. Section 166 of the MV Act makes it clear that every legal representative who suffers on account of the death of a person in a motor vehicle accident should have a remedy for realisation of compensation.

17. It is settled that percentage of deduction for personal expenses cannot be governed by a rigid rule or formula of universal application. It also does not depend upon the basis of relationship of the claimant with the deceased. In some cases, the father may have his own income and thus will not be considered as dependent. Sometimes, brothers and sisters will not be considered as dependents because they may either be independent or earning or married or be dependent on the father. The percentage of deduction for personal



expenditure, thus, depends upon the facts and circumstances of each case.

[Emphasis Supplied]

16.1 Relying on the **Gujarat State Road Transport Corporation** case, it was reiterated that every legal representative who suffers on account of the death of a person due to a motor vehicle accident should have a remedy for realisation of compensation and that dependency, rather than strict legal status, is the determinative factor. The Supreme Court also reiterated that the expression "legal representative" is of wide import and is not confined to legal heirs alone. The relevant extract is set out below:

"18. In the instant case, the question for consideration is whether the fourth appellant would fall under the expression "legal representative" for the purpose of claiming compensation. In Gujarat SRTC v. Raman bhai Prabhat bhai [Gujarat SRTC v. Ramanbhai Prabhatbhai, (1987) 3 SCC 234 : 1987 SCC (Cri) 482] this Court while considering the entitlement of the brother of a deceased who died in a motor vehicle accident to maintain a claim petition under the provisions of the MV Act, held as under : (SCC p. 250, para 13)

"13. We feel that the view [Gujarat SRTC v. Ramanbhai Prabhatbhai First Appeal No. 1379 of 1986, order dated 24-12-1986 (Guj)] taken by the Gujarat High Court is in consonance with the principles of justice, equity and good conscience



having regard to the conditions of the Indian society. **Every legal representative who suffers on account of the death of a person due to a motor vehicle accident should have a remedy for realisation of compensation** and that is provided by Sections 110-A to 110-F of the Act. These provisions are in consonance with the principles of law of torts that every injury must have a remedy. It is for the Motor Vehicles Accidents Tribunal to determine the compensation which appears to it to be just as provided in Section 110-B of the Act and to specify the person or persons to whom compensation shall be paid. **The determination of the compensation payable and its apportionment as required by Section 110-B of the Act amongst the legal representatives for whose benefit an application may be filed under Section 110-A of the Act have to be done in accordance with well-known principles of law.** We should remember that in an Indian family brothers, sisters and brothers' children and sometimes foster children live together and they are dependent upon the bread-winner of the family and if the bread-winner is killed on account of a motor vehicle accident, **there is no justification to deny them compensation relying upon the provisions of the Fatal Accidents Act, 1855 which as we have already held has been substantially modified by the provisions contained in the Act in relation to cases arising out of motor vehicles accidents.** We express our approval of the decision in *Megjibhai Khimji Vira v. Chaturbhai Taljabhai* [*Megjibhai Khimji Vira v. Chaturbhai Taljabhai*, 1977 SCC OnLine Guj 3 : AIR 1977 Guj 195] and hold that the brother of a person who dies in a motor vehicle accident is entitled to maintain a petition under Section 110-A of the Act if he is a legal representative of the deceased."

[Emphasis Supplied]



17. In addition, in a recent judgment in this behalf, the Supreme Court in the case of ***Sadhana Tomar and Others vs. Ashok Kushwaha and Others***³, has held that:

*"13. This Court has clarified in the case of Meena Devi v. Nunu Chand Mahto [(2023) 1 SCC 204], that the objective of granting compensation under the Motor Vehicles Act, 1988, is to ensure that just and fair compensation is paid to the aggrieved party. **Another question which arose for our consideration, as for the purpose of loss of dependency, the deduction of annual income should be 1/3rd or 1/4th, as there are five claimants. The Tribunal did not consider appellant Nos. 4 and 5, namely, the father and the younger sister, respectively, of the deceased as dependents, stating therein that the father was not dependent on the income of the deceased and since the father is alive, the younger sister is also not dependent on the income of the deceased.** This Court in Gujarat SRTC v. Ramanbhai Prabhatbhai [(1987) 3 SCC 234], observed that a legal representative is one, who suffers on account of death of a person due to a motor vehicle accident and need not necessarily be a wife, husband, parent or child."*

[Emphasis supplied]

18. Concededly, the notional income for the year 2019 is Rs.14,000/- per month and there is no dispute that at the time of the accident, the deceased was 34 years of age. Hence, the multiplier to be taken is '16'. Since 40% is to be added towards future prospects, the loss of dependency

³ 2025 SCC Online SC 554



would require to be calculated keeping in mind the additional issue framed.

19. Accordingly, and in view of the settled law, since the respondent Nos.3 and 4 were also dependents on the income of the deceased, they would be taken into account for calculating the compensation. Thus, the loss of dependency would be calculated as follows:

| Head | Amount |
|--------------------|---|
| Loss of dependency | Rs.14,000 + Rs.5,600 (40%) x $\frac{3}{4}$ x 12 x 16 = Rs.28,22,400/- |

20. Accordingly, the compensation awarded is to be recalculated as follows:

| Sl.No. | Particulars | Amount (Rs.) |
|--------|--|--------------------|
| 1 | Loss of Dependency (14,000+5,600 (40%) x $\frac{3}{4}$ x 12 x 16) | 28,22,400/- |
| 2 | Loss of Consortium (Rs.40,000 x 4) | 1,60,000/- |
| 3 | Loss of Estate | 15,000/- |
| 4 | Funeral Expenses | 15,000/- |
| | TOTAL | 30,12,400/- |
| | Less: Awarded by the Tribunal | 15,10,000/- |
| | Enhanced compensation | 15,02,400/- |



21. Hence, the appellants/claimants and respondent Nos.3 and 4 are entitled to a total compensation in the sum of **Rs.30,12,400/-** along with interest at 9% per annum as awarded by the learned Tribunal, from the date of petition till its realization.

22. Accordingly, this Court proceeds to pass the following:

ORDER

- (i) The appeal is ***allowed in part;***
- (ii) The Judgment and Award dated 30.11.2020, in MVC No.765/2016, passed by the Principal Senior Civil Judge and IV Motor Vehicles Accident Claims Tribunal, Davanagere is modified, enhancing the compensation by **Rs.15,02,400/-** along with interest at the rate of 9% per annum as awarded by the learned Tribunal from the date of petition till realization;
- (iii) The remaining portion of the Impugned Award of the learned Tribunal remains undisturbed;
- (iv) The respondent No.2/Insurance company is directed to pay the enhanced compensation with interest as



awarded by the Tribunal within eight weeks from today;

- (v) On such deposit of compensation, the same shall be released in favour of the appellants/claimants, on filing of an appropriate application for withdrawal of the enhanced amount;
- (vi) The Registry is directed to draw the modified Award accordingly;
- (vii) The Registry is directed to transmit a copy of this judgment to the concerned Tribunal, along with its records;
- (viii) Pending applications, if any, stand closed.
- (ix) No order as to costs.

**Sd/-
(JAYANT BANERJI)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

JJ/YN
List No.: 1 Sl No.: 12