IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 11TH DAY OF JULY, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCL. FIRST APPEAL NO. 201580 OF 2024 (MV-D)

BETWEEN:

1. SHARNAPPA
   S/O TUKARAM @ TUKKAPPA,
   AGE: 31 YEARS,
   OCC: NIL,

2. VIJAY
   S/O TUKARAM @ TUKKAPPA,
   AGE: 36 YEARS,
   OCC: PRIVATE JOB,

3. GUNDAPPA
   S/O TUKARAM @ TUKKAPPA,
   AGE: 42 YEARS,
   OCC: AGRICULTURE,

4. KARTIK
   S/O GUNDAPPA,
   AGED: 14 YEARS,
   OCC: STUDENT,

5. ASHWIN
   S/O GUNDAPPA,
   AGED 11 YEARS,
   OCC: STUDENT,

   THE APPELLANT NO.4 TO 5 ARE MINORS
   U/G OF NATURAL FATHER / NEXT FRIEND,
   THE APPELLANT NO.1 SHARANAPPA

Digitally signed by RAMESH MATHAPATI
Location: HIGH COURT OF KARNATAKA

ALL ARE RESIDENT H.NO.3/31, 571,
JANWADA, BIDAR – 585 402.

…APPELLANTS

(BY SRI RAVI B.PATIL, ADVOCATE)

AND:

1. MOHD. NAWAZ
S/O MOHD. MOIZUDDIN,
AGE: MAJOR,
OCC: AGRICULTURE,
R/O: H.NO.1085/1 NEAR MASJID ROAD,
ALIAMBER, TQ: AND DIST: BIDAR – 585 401.

2. ICICI LOMBARD INSURANCE CO. LTD.,
3RD FLOOR, A.K. AISAN GRAND,
OPP: GESCOM OFFICE, STATION ROAD,
GULBARGA, KARNATAKA 585 102.

…RESPONDENTS

(BY SRI MANJUNATH MALLAYYA SHETTY, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PAYING TO ALLOW THE APPEAL, THE JUDGMENT AND AWARD DATED 19.10.2023 IN M.V.C.NO.439/2022 PASSED BY THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE AND C.J.M., AND ADDITIONAL M.A.C.T., AT BIDAR, MAY KINDLY BE MODIFIED BY ENHANCING THE COMPENSATION, IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 19.10.2023 passed by Principal Senior Civil Judge and CJM & Addl. MACT, Bidar, in MVC no.439/2022, this appeal is filed.

2. Sri Ravi B.Patil, learned counsel submitted appeal was by claimants for enhancement of compensation. It was submitted on 06.01.2022, Bandemma W/o Tukaram was returning home after attending agricultural work along with claimants no.1 and 3. When they were near Janwada village Bridge at 6.00 p.m., rider of motorcycle no.KA-38/Y-1067, rode it in rash and negligent manner and dashed against Bandemma causing accident. In said accident, she sustained grievous injuries and was admitted to hospital, where she succumbed during treatment. Alleging loss of dependency on account of untimely death, her children and grand-children filed claim petition under Section 166 of Motor Vehicles Act against owner and insurer of motorcycle.

3. On contest, wherein claim petition was opposed on all grounds including denying negligence and violation of terms and conditions of policy, tribunal framed issues and recorded

evidence. Claimant no.1 examined himself as PW.1 and got marked Exs.P-1 to P-15. Respondents did not lead any evidence.

4. On consideration, Tribunal held accident had occurred due to rash and negligent riding of insured motorcycle by its rider leading to death of Bandemma and claimants being entitled for compensation from insurer as follows:

Sl.No.	Heads	Amount
1	Loss of dependency	Rs.7,20,036/-
2	Loss of consortium	Rs.44,000/-
3	Loss of estate	Rs.16,500/-
4	Transportation of dead body and funeral expenses	Rs.16,500/-
	Total	Rs.7,97,036/-

5. Dissatisfied with same, claimants were in appeal.

6. It was firstly submitted, in claim petition claimants had stated that deceased Bandemma was 52 years of age working as coolie and earning Rs.18,000/- per month. However, tribunal assessed monthly income at Rs.10,000/- which was on lower side. It was further submitted that tribunal erred in not adding future prospects to monthly income. It was submitted though victim was shifted to BRIMS Hospital, Bidar

and thereafter to Gandhi Hospital, Secundarabad and she died during treatment, there was no award of any amount towards conveyance and medical expenses. Therefore, sought for enhancement.

7. On other hand, Sri Manjunath Mallayya Shetty, learned counsel for respondent no.2-insurer, opposed appeal. It was submitted that tribunal had taken note of facts and circumstances of case and awarded compensation under separate heads. Same was adequate and did not call enhancement.

8. Heard learned counsel, perused impugned judgment and award.

9. From above and since claimants are in appeal, only point that would arise for consideration is:

> "Whether claimants are entitled for enhancement of compensation as sought for?"

10. Though claimants stated that deceased was working as agricultural coolie and earning Rs.18,000/- per month, same was not substantiated with specific evidence. In absence, same has to be assessed notionally. But notional income for year

2022 being Rs.14,750/- as adopted by Karnataka State Legal Services Authority for settlement of cases before Lok Adalath, tribunal was not justified in taking Rs.10,000/- per month. Same has to be considered at Rs.14,750/- per month.

11. As per decision of Hon'ble Supreme Court in case of ***National Insurance Company Limited v. Pranay Sethi and Others***[1]***,*** claimants would be entitled for addition of future prospects to monthly income of deceased. Taking note of self-employed occupation and age of deceased at 59 years, there has to be addition of 10% towards future prospects. Since deceased was married and claimants no.1 to 3 are children, deduction towards personal expenses has to be at 1/3rd. Tribunal adopted correct multiplier of 9. Thus, loss of dependency has to be re-computed as follows:

(Rs.14,750/- + 10%) – 1/3rd x 12 x 9 = Rs.11,68,198/-

12. As per decision of Hon'ble Supreme Court in case of ***Magma General Insurance Company Limited v. Nanu Ram Alias Chuhru Ram and Others***[2]***,*** claimants no.1 to 3 each

[1] AIR 2017 SC 5157

[2] (2018) 18 SCC 130

would be entitled for parental consortium of Rs.40,000/-. Claimants no.4 and 5 being grand-children would not be entitled for same. Apart from above, claimants would be entitled for Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses.

13. Further as per decision of Hon'ble Supreme Court in case of ***Pranay Sethi*** (supra), 10% has to be added for every three years under conventional heads. Since more than six years have lapsed after said decision, 20% has to be added towards escalation which would be Rs.30,000/-.

14. As per decision of this Court in case of ***Shriram General Insurance Company Limited, Rajasthan v. Smt.Laxmi and others***[3]***,*** claimants would be entitled for interest at 6% per annum on enhanced compensation from date of petition till date of deposit.

15. Thus, claimants would be entitled for total compensation of Rs.13,48,198/- as follows:

[3] 2018 (4) AKR 808

Sl.No.	Heads	Amount
1	Loss of dependency	Rs.11,68,198/-
2	Loss of consortium	Rs.1,20,000/-
3	Loss of estate	Rs.15,000/-
4	Transportation of dead body and funeral expenses	Rs.15,000/-
5	Towards escalation (20% of 1,50,000)	Rs.30,000/-
	Total	Rs.13,48,198/-

16. Consequently, following:

ORDER

i. Appeal is allowed in part, judgment and award dated 19.10.2023 passed by Principal Senior Civil Judge and CJM & Addl. MACT, Bidar, in MVC no.439/2022 is modified.

ii. Claimants are held entitled for total compensation of Rs.13,48,198/- as against Rs.7,97,036/- awarded by Tribunal, with interest at 6% per annum on enhanced compensation from date of claim petition till deposit.

iii. Respondent-insurer to deposit same before Tribunal within six weeks.

iv. On deposit, conditions imposed by tribunal for apportionment, deposit and release of compensation would apply as per award of tribunal to enhanced compensation proportionately.

Sd/-
(RAVI V HOSMANI)
JUDGE

MSR
List No.: 1 Sl No.: 50