NC: 2025:KHC-K:2786
MFA No. 201763 of 2024

HC-KAR

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 2ND DAY OF JUNE, 2025

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

MISCL. FIRST APPEAL NO.201763 OF 2024 (MV-D)

BETWEEN:

1. YALLAMMA
   W/O DANDAPPA MADAR,
   AGE: 38 YEARS,
   OCC: HOUSEHOLD WORK,

2. ANITA
   D/O DANDAPPA MADAR,
   AGE: 20 YEARS,
   OCC: STUDENT.

3. SAKKUBAI
   D/O DANDAPPA MADAR,
   AGE: 17 YEARS,
   OCC: STUDENT,

Digitally signed by RAMESH MATHAPATI
Location: HIGH COURT OF KARNATAKA

4. SOUNDRAY
   D/O DANDAPPA MADAR,
   AGE: 16 YEARS,
   OCC: STUDENT,

5. PRAJWAL
   S/O DANDAPPA MADAR,
   AGE: 14 YEARS,
   OCC: STUDENT,

6. DURGAWWA
   W/O YAMANAPPA HADARAL @ MADAR,
   AGE: 61 YEARS,

OCC: HOUSEHOLD WORK,

7. YAMANAPPA
S/O DANDAPPA HADARAL @ MADAR,
AGE: 71 YEARS,
OCC: AGRICULTURE,

APPELLANT NO.3 TO 5 ARE MINORS,
U/G OF APPELLANT NO.1,

ALL ARE R/O: BILL KERUR,
TQ: AND DIST: BAGALKOT,
NOW AT CHALMI,
TQ: MUDDEBIHAL,
DIST: VIJAYAPURA – 586 101.

…APPELLANTS

(BY SRI SANGANABASAVA B.PATIL, ADVOCATE)

AND:

MANAGING DIRECTOR N.E.K.R.T.C.,
CENTRAL OFFICE,
GOKUL ROAD, HUBLI,
THROUGH,
THE DIVISIONAL MANAGER,
N.E.K.R.T.C. BAGALKOT DIVISION – 587 101.

…RESPONDENT

(BY SRI SHARANABASAPPA M.PATIL, ADVOCATE)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, PAYING TO CALL FOR THE RECORDS AND MODIFY THE JUDGMENT AND AWARD PASSED BY THE PRINCIPAL SENIOR CIVIL JUDGE AND M.A.C.T.-V, AT VIJAYAPUR, AT VIJAYAPURA IN M.V.C.NO.952/2021 DATED 07.10.2023 AND BE PLEASED TO ALLOW THE CLAIM PETITION BY GRANTING THE RELIEF AS

PRAYED FAR BY THE APPELLANTS HEREIN IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL JUDGMENT

Challenging judgment and award dated 07.10.2023 passed by Principal Senior Civil Judge and M.A.C.T., Vijayapura in MVC No.952/2021 this appeal is filed.

2. Sri Sanganabasava B Patil, learned counsel for claimants submitted that in an accident that occurred on 15.03.2021, Dandappa Madar riding his motorcycle bearing registration No.KA-28/X-9225 sustained fatal injuries, when bus belonging to respondent bearing registration no.KA-29/F-1223 dashed against motorcycle, due to rash and negligent driving of bus driver. Despite taking treatment at Dr.H.R.Katti hospital, Bagalkot, he

died on 17.03.2021. His wife, four minor children and parents filed claim petition under Section 166 of MV Act.

3. On appearance, respondent-Corporation opposed petition on various grounds. Trial Court framed issues and recorded evidence, wherein claimant no.1 was examined as PW-1 and got marked Ex.P-1 to P-12. Conductor of bus was examined as RW-1 and Ex.R-1 to R7 were marked.

4. On consideration, Tribunal held that accident had occurred due to rash and negligent driving by driver of bus and therefore, claimants were entitled for compensation computed as under and held Corporation liable to pay same with 6% interest:

Heads	**Compensation Amount**
Loss of income due to Dependency	Rs.20,52,000/-
Towards loss of consortium	Rs.40,000/-
Towards loss of estate	Rs.15,000/-

Towards Transportation and Funeral Expenses	Rs.15,000/-
Medical Expenses	Rs.1,29,295/-
Total **Rounded off to**	**Rs.22,51,295/-** **Rs.22,51,300/-**

5. Not satisfied with same, claimants are in appeal.

6. Learned counsel for appellants submits that while assessing compensation, Tribunal did not add future prospects and awarded inadequate compensation under loss of consortium. Hence, he prayed for allowing this appeal.

7. Sri Sharanabasappa M Patil, learned counsel for respondent-Corporation would oppose this petition.

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

9. Since, occurrence of accident involving bus belonging to respondent-Corporation, resulting in death of

Dandappa due to rash and negligent driving by driver of bus and claimants being entitled for compensation from respondent-Corporation are not in dispute and as claimants are seeking enhancement, only point that would arise for consideration is "whether claimants are entitled for enhancement of compensation as sought for?"

10. Said point is answered partly in affirmative for following reasons.

11. Hon'ble Supreme Court in case of ***National Insurance Company Limited V. Pranay Sethi and Others*** reported in ***AIR 2017 Supreme Court 5157*** has held that even in case of assessment of monthly income of deceased notionally, claimants would be entitled for addition towards future prospects. Deceased was aged 38 years and self employed. Corresponding addition towards future prospects would be 40%. Tribunal had taken monthly income of deceased at Rs.14,250/-. Consequently, computation of loss of dependency would

be: Rs.14,250/- + 40% x 12 x 15 – 1/5 (towards personal expenses)= Rs.28,72,800/-.

12. Apart from same compensation, claimants would be entitled to Rs.40,000/- each i.e. total of Rs.2,80,000/- towards loss of consortium, Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate. Since, deceased died during treatment, Tribunal awarded Rs.1,29,295/- towards medical expenses and claimants would be entitled for same. Thus, total compensation would be Rs.33,12,095/-. Tribunal had deducted Rs.25,000/- paid as ex-gratia amount immediately after accident. After deducting same, total compensation payable would be Rs.32,87,095/-. Point for consideration is answered partly in affirmative as above.

13. Respondent-Corporation would be liable to pay said compensation with 6% interest from date of claim petition, till payment of entire compensation.

14. Consequently, appeal is allowed. Claimants are held entitled for total compensation of Rs.32,87,095/- as against Rs.22,51,300/- awarded by Tribunal. Respondent-Corporation would be liable to pay same with 6% interest p.a. from the date of claim petition till deposit.

Sd/-
(RAVI V HOSMANI)
JUDGE

NJ
List No.: 1 Sl No.: 29
Ct;Vk