IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 8TH DAY OF JULY, 2025

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MRS. JUSTICE K S HEMALEKHA

MISCL. FIRST APPEAL NO.203760 OF 2024 (MV-D)

BETWEEN:

THE MANAGER,
SHRIRAM GENERAL INSURANCE COMPANY
LIMITED, E8, EPIP, RIICO
INDUSTRIAL AREA, SITAPURA JAIPUR
RAJASTHAN.
AUTHORSIED SIGNATORY.

...APPELLANT

(BY SRI SUBHASH MALLAPUR, ADVOCATE)

Digitally signed by BASALINGAPPA SHIVARAJ DHUTTARGAON
Location: HIGH COURT OF KARNATAKA

AND:

1. GUNDAPPA
   S/O. BHIMSHA,
   AGE: 52 YEARS,
   OCC: COOLIE,

2. MAHESH
   S/O GUNDAPPA,
   AGE: 24 YEARS,
   OCC: COOLIE,

3. PARVATHI
   D/O GUNDAPPA
   AGE: 18 YEARS,
   OCC: STUDENT,

4. LAKSHMI
D/O GUNDAPPA,
AGE: 14 YEARS,
OCC: STUDENT,
U/G HER FATHER, CLAIMANT-1.

5. SHARANGOUDA
S/O APPRAO KALSHETTY,
AGE: MAJOR,
OCC: DRIVER-CUM-OWNER OF
AUTO NO.KA-29/A-0612,
R/O: BOLEWAD,
TQ & DIST. KALABURAGI -585102.

6. RAVINDRA KUMAR
S/O KALAPPA GUTTEDAR,
AGE: MAJOR,
OCC: OWNER OF AUTO NO.KA-29/A-0612,
R/O: ALADIHAL, TQ: CHITTAPUR,
DIST: KALABURAGI – 585 102.

…RESPONDENTS

(BY SRI SANJEEV PATIL, ADVOCATE FOR R1 TO R3;
R4 IS MINOR REPRESENTED BY R1;
R5 & R6 ARE SERVED)

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 173(2) OF MOTOR VEHICLES ACT, PRAYING TO ALLOW THE ABOVE APPEAL BY SETTING ASIDE THE JUDGMENT AND AWARD DATED 13.05.2024 IN MVC NO.494/2022 PASSED BY THE I ADDL. SENIOR CIVIL JUDGE AND MACT, KALABURAGI IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
AND
HON'BLE MRS. JUSTICE K S HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MRS. JUSTICE K S HEMALEKHA)

Assailing the correctness and legality of the judgment and award dated 13.05.2024 in M.V.C.No.494/2022 on the file of the I Additional Senior Civil Judge and M.A.C.T, Kalaburagi (hereinafter referred to as "Tribunal" for short) the Insurance Company has preferred the present appeal.

2. In a road traffic accident that occurred on 14.12.2021, when the deceased Sivakantamma was traveling in Auto bearing registration No.KA-29/A-0612 from Korwar to Malagan village, at that time the driver of the auto drove the vehicle in a rash and negligent manner, as a result of which, the auto overturned (turtled) causing grievous injuries to Sivakantamma and other occupants. Later, the Sivakantamma succumbed to the injuries. Husband and the children of the deceased filed claim petition claiming compensation.

3. The Tribunal while awarding compensation held that the accident occurred due to the rash and negligent driving of the auto driver and the deceased Sivakantamma succumbed to the injuries sustained in the road traffic accident. The Tribunal further held that the claimants are entitled for compensation and accordingly awarded a sum of Rs.32,83,000/- with interest at the rate of 6% per annum from the date of petition till actual realization.

4. The primary contention of the learned counsel appearing for the appellant-Insurance Company is that the husband and the major son of the deceased Sivakantamma are not the dependents, as they themselves have stated in the claim petition that they are working as coolies. Therefore, it is argued that presumption of dependency does not arise and the deduction towards personal expenses ought to have been 1/3rd instead of 1/4th as considered by the Tribunal. It is further contended that there is no nexus between the accident and the subsequent death of deceased. Reference

is made to Ex.P8 and Ex.P9, stating that the deceased was discharged from the hospital in a stable condition, *albeit* against medical advice. It is argued that due to the negligence on part of the claimants in not ensuring proper post discharge care, the deceased eventually succumbed to her injuries. In light of the same, it is submitted that the death cannot be directly, attributed to the accident and therefore, the Insurance Company cannot be held liable to pay compensation.

5. Learned counsel appearing for the claimants relying upon the decision of the Apex Court in the case of ***National Insurance Company Limited Vs. Birendar and Others***[1] *(Birendar)* submits that the compensation awarded constitutes part of the estate of the deceased and therefore, the legal representatives of the deceased are entitled to claim and receive compensation. It is contended that the Tribunal has rightly awarded

[1] *(2020) 11 SCC 356*

compensation and the same does not warrant any interference.

6. The Apex Court in the case of ***Birendar*** stated *supra* has held that the legal representatives of deceased have right to apply for compensation. Further held that even the major married and earning sons of the deceased being legal representatives have right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependent on the deceased and not to limit the claim towards conventional heads only. The Apex Court affirming that the term "legal representative" in Section 166 of the Motor Vehicles Act, 1988 is broad and includes all legal heirs, regardless of dependency. Therefore, the Tribunal was right in holding that the husband and the major son being the legal representative are entitled for compensation, even if they are earning or not directly dependent. The claimants are four in numbers and the

deduction to be applied is 1/4th in light of the decision of the Apex Court in the case of ***Sarla Verma and Others Vs. Delhi Transport Corporation and Another***[2].

7. Insofar as the contention of the appellant that the death was not attributable to the accident occurred, it is argued that the deceased was discharged from the hospital in a stable condition, and that his eventual death was due to post discharge negligence. However, it cannot be overlooked that unless conclusively established to the contrary, the later demise of the injured is presumed to have resulted from the injuries sustained in the accident. Thus, the said contention is found to be devoid of merit, and the finding of the Tribunal that the death was a consequence of the accident is affirmed.

8. The compensation awarded by the Tribunal is stated below:

[2] *AIR 2009 SCW 3014*

Sl. No.	Heads	Award by the Tribunal (Amount in Rs.)
1.	Towards dependency Monthly income : Rs.14,250/- Add future prospects 40% : Rs.5,700/- After addition monthly income : Rs.19,950/- Deduction 1/4th : Rs.4,987.5/- Monthly income after deduction : Rs.14,962.5/- [14,962.5 x 12x 15] = Rs.26,93,250/- Rounded off to:	26,93,000/-
2.	Towards medical bills incurred during treatment period	4,00,000/-
3.	Loss of consortium a. Spousal consortium b. Parental consortium and children to each(Rs.40,000 X 3)	40,000/- 1,20,000/-
4.	Towards loss of estate and funeral expenses	30,000/-
	Total compensation	**32,83,000/-**

9. The award of compensation by the Tribunal is just, fair and proper warranting no interference by this Court. Accordingly, we pass the following:

ORDER

i. The Miscellaneous First Appeal is hereby ***dismissed***.

ii. The judgment and award dated 13.05.2024 in M.V.C.No.494/2022 passed by the I Additional Senior Civil Judge and M.A.C.T, Kalaburagi stands ***confirmed***.

iii. The amount in deposit shall be transmitted to the Tribunal forthwith.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(K S HEMALEKHA)
JUDGE

AT
List No.: 1 Sl No.: 16
CT:NI