

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 12TH DAY OF AUGUST, 2024****BEFORE****THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA****MISCELLANEOUS FIRST APPEAL NO.4313/2023 (MV-D)****BETWEEN:**

1. SAVITHRAMMA
W/O JAVARAIHAH
AGED ABOUT 56 YEARS.
2. JAVARAIHAH
S/O LATE RANGAIAH
AGED ABOUT 56 YEARS.

BOTH ARE R/O KINDIPURA VILLAGE
KASABA HOBLI, HASSAN TALUK
HASSAN DISTRICT-573 201.

...APPELLANTS

(BY SRI. BYRA REDDY G.S. ADVOCATE FOR
SMT. KAVITHA H.C. ADVOCATE)

AND:

1. EKRAR @ EKRAR PASH
S/O LATE H.S. KHALEEL
R/O AMBEDKAR NAGARA
4TH CROSS, HASSAN CITY-573 201
(OWNER OF LORRY BEARING
REG. No.AP-04-U-5526).
2. THE MANAGER
RELIANCE GENERAL INSURANCE CO. LTD.,
1ST FLOOR, KRUTHIKA ARCADE
H.N. PURA ROAD, HASSAN - 573 201.

...RESPONDENTS

(BY SRI. PRADEEP B, ADV., FOR R2
V/O/DTD:12.08.2024 NOTICE TO R1 D/W)



THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 06.04.2023 PASSED IN MVC NO.1257/2015 ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE AND MACT, HASSAN, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION.

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

CORAM: HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

Heard Sri.Byra Reddy.G.S. learned counsel who represents Smt.Kavitha .H.C. learned counsel on record for the appellants. Also heard Sri.Pradeep B learned counsel for respondent No.2.

2. Projecting that the appellants are entitled for the compensation claimed, the present appeal is filed challenging the order passed by Motor Accident Claims Tribunal, Hassan, in MVC No.1257/2015, dated 06.04.2023. The appellants being the parents of the deceased Devaraju filed a petition claiming compensation of Rs.30,00,000/- in total. The Tribunal through the impugned order awarded a sum of Rs.10,76,600/- as compensation and dissatisfied with the same, the present appeal is filed.



3. As per the version of the appellants, their deceased son was earning Rs.25,000/- per month by doing coolie work and granite work. However, no substantive proof is produced in respect of the said occupation and earnings. Learned counsel for the appellants states that the Karnataka State Legal Services Authority is taking the notional income as Rs.9,000/- per month for the relevant period i.e., 2015 in which year the accident occurred. Therefore, the Tribunal atleast should have taken the said figure into consideration for assessing the amount which the appellants are entitled to under the head loss of dependency. The submission made by Sri.Pradeep B learned counsel for respondent No.2 is that in the light of absence of any proof with regard to the occupation and earning, the Tribunal took the notional income as Rs.7,000/- per month.

4. It is not in dispute that the deceased Devaraju was aged about 26 years by the date of accident. Having considered the fact that said age is the right age to work and earn, this Court is of the view that the Tribunal ought to have taken the notional income as Rs.9,000/- per month as submitted by the learned counsel for the appellants. Therefore, this Court



considers it desirable to take the notional income of the deceased Devaraju as Rs.9,000/- per month for the purpose of calculating compensation under the head of loss of dependency. Adding 40% to the actual earnings as future prospects, deducting 50% of the earnings towards personal and living expenses as deceased Devaraju died in the status of bachelor and applying the appropriate multiplier '17' as per the decision of the Hon'ble Apex Court in Salara Verma's case, the amount which the appellants are entitled to under the head loss of dependency is as under:

Description	Amount In Rs.
Notional monthly income	9,000-00
Annual Income (9,000X12)	1,08,000-00
Add 40% towards future prospects (1, 80,000+40%)	1,51,200-00
Deduct 50% towards personal and living expenses	75,600-00
Apply appropriate multiplier '17'	12,85,200-00

5. Together with the amount awarded under the head loss of dependency, the appellants are also entitled to Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses and Rs.40,000/- towards loss of filial



consortium. Thus, the compensation which the appellants are entitled to is as under:

SI No.	Compensation	Amount in Rs.
1	Loss of dependency	12,85,200-00
2	Loss of estate	15,000-00
3	Funeral expenses	15,000-00
4	Loss of filial Consortium	40,000-00
	Total	13,55,200-00

Thus, the compensation which the appellants are entitled to is Rs.13,55,200/-. Therefore, the following:

ORDER

- (i) The appeal is allowed in part.
- (ii) The compensation that is granted by the Motor Accident Claims Tribunal, Hassan, through orders in MVC No.1257/2015, dated 06.04.2023 is enhanced from Rs.10,76,600/- to Rs.13,55,200/-.
- (iii) The enhanced sum shall carry interest at the rate 6% per annum from the date of petition till the date of deposit.
- (iii) Respondent No.2 is directed to deposit the enhanced sum within a period of eight weeks from



the date of receipt of copy of this order.

- (iv) On such deposit, the appellants are permitted to withdraw their respective shares.
- (v) The apportionment made remains undisturbed.

**Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE**

DS
List No.: 1 Sl No.: 4