



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF JUNE, 2024

BEFORE

THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR

MISCELLANEOUS FIRST APPEAL NO. 4413 OF 2015 (MV-D)

BETWEEN:

1. SMT. SHAHEJANA BEGUM
W/O LATE ALLA BAKASH,
AGE:49 YEARS
2. KUM. FARHANA KHANUM
D/O LATE ALLA BAKASH,
AGED:23 YEARS,

BOTH ARE R/O HOLALUR VILLAGE,
SHIVAMOGGA TALUK AND DISTRICT

...APPELLANTS

(BY SMT. MANJULADEVI R.KAMADALLI, ADVOCATE)

AND:

1. THE MANAGING DIRECTOR
N.W.K.S.R.T.C.
NARAGUNDA DEPOT, GADAG,
OWNER OF KSRTC BUS NO.KA-42/F-596.
2. SHEKHAPPA B. CHIMMANAKATTE
S/O BHEEMAPPA CHIMMANAKATTE,
AGE:43 YEARS,
DRIVER OF KSRTC BUS
NO.KA-42/F-596.
BADGE NO.621,
NWKSRTC DEPOT,
NARAGUNDA, GADAG DISTRICT.
3. UNITED INDIA INSURANCE CO.LTD.,
1ST FLOOR, RVR COMPLEX,
OPP. LIC OFFICE,
BEHIND KSRTC BUS STAND,
IJOOR RAMANAGARAM-562169,
POLICE NO.072383/31/11/02/00000280.





4. HARSHA
S/O PRABHURAO,
MAJOR,
R/O BEHIND V ANDANA TALKIES,
SEEGEHATTI SHIMOGA TALUK-577201,
(R.C.OWNER OF VEHICLE BEARING
REG. NO.KA-14/TR-31641)
5. SAMIULLA
S/O NAZEER SAB,
MAJOR,
VEGETABLE MERCHANT,
R/O HALOLURU VILLAGE,
SHIMOGA TALUK-577201,
(RIDER OF VEHICLE BEARING
REG. NO.KA-14/TR-31641)
6. NATIONAL INSURANCE CO.LTD.,
S.S.COMPLEX, 1ST FLOOR,
OPP. TO CHURCH,
B.H.ROAD, SHIMOGA.
(POLICY COVER
NO.214600/31/KA/10838/2012/884302)

...RESPONDENTS

(BY SRI. C SHANKARA REDDY, ADVOCATE FOR R3;
VIDE ORDER DATED 10.08.2015, NOTICE TO
R1, 2, 4 TO 6 IS DISPENSED WITH)

THIS MFA FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE
JUDGMENT AND AWARD DATED 24.11.2014 PASSED IN MVC NO.326/2012
ON THE FILE OF THE PRESIDING OFFICER, FAST TRACK COURT,
ADDITIONAL MACT-III, SHIVAMOGGA, PARTLY ALLOWING THE CLAIM
PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF
COMPENSATION

THIS APPEAL, COMING ON FOR *FINAL HEARING*, THIS DAY,
THE COURT DELIVERED THE FOLLOWING:



JUDGMENT

This appeal is filed under Section-173(1) of the Motor Vehicles Act, 1988, (hereinafter referred to as 'MV Act' for brevity) by the appellants-claimants, challenging the judgment and award dated 24.11.2014 in MVC No.326/2012 passed by the Fast Track And Additional MACT-III, Shivamogga, (hereinafter referred to as 'the Tribunal' for brevity) seeking enhancement of compensation.

2. Brief facts of the case are as under:

Appellant No.1 is the mother and appellant No.2 is the sister of the deceased-Vasim Akram Khan. It is the case of the appellants-claimants that on 19.02.2012 at about 1:00 p.m., deceased Vasim Akram Khan was proceeding in a motor cycle bearing Registration No.KA 14 TR 3164 as a pillion rider near the field of Doddappara Revanna, Shivamogga-Honnali road near Holalur and at that time, the second respondent came driving the bus, bearing Registration No.KA 42 F 596, in a rash and negligent manner with high speed and dashed against the deceased. Due to which the deceased sustained grievous injuries succumbed to the injuries at Mc.Gann Hospital, Shivamogga.



3. The Tribunal, on appreciating the materials on record, allowed the petition in part, and awarded a compensation of Rs.4,45,000/-, along with interest at 6% per annum from the date of petition till realization.

4. The Tribunal after appreciating the evidence on record has awarded the compensation on various heads as follows:

1.	Loss of love and affection	Rs. 20,000/-
2.	Transportation, funeral and obsequies	Rs. 10, 000/-
3.	Loss of estate	Rs. 25,000/-
4.	Loss of dependency	Rs. 3,90,000/-
Total		Rs. 4,45,000/-

5. The Tribunal has fastened the liability on the Insurance Company to pay compensation.

6. Heard the arguments of learned counsel on both sides and perused the records.

7. Learned counsel for the appellants-claimants submitted that the deceased was aged 22 years and was working as a Mechanic in a APE Showroom, Chamundi Motors, Bengaluru, earning Rs.8,000/- per month as per Exhibit P7-Salary



certificate. Further, learned counsel for the appellants submitted that the compensation awarded by the Tribunal under the various heads is not sufficient. Therefore, prays to enhance the compensation on various heads.

8. Learned counsel for respondent No.3-Insurance Company argued opposing the appeal and prays to dismiss the appeal.

9. It is submitted that the deceased was working as a Mechanic in APE Showroom, Chamundi Motors, Bengaluru, and earning Rs.8,000/- per month. In support, the appellants have produced the Salary Certificate at Exhibit-P7 and therefore, requested to consider the income of the deceased at Rs.8,000/- per month. Therefore, the compensation awarded by the Tribunal considering the income of the deceased at Rs.5,000/- is not correct. The appropriate multiplier applicable as per the judgment of the Hon'ble Supreme Court, in the case of **Smt.Sarla Verma & Others. Vs. Delhi Transport Corporation and Another** reported in **AIR 2009 SC 3104**, is '18', since the appellant was aged 22 years at the time of accident. Further, the accident has occurred in the year 2012. Therefore, as per the Salary Certificate, monthly income of the deceased **Rs.8,000/-** is to be taken into consideration.



Further, as per principle of law laid down by the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. Vs. Pranay Sethi*** reported in **(2017) 16 SCC 680**, 40% of his monthly income is added towards 'Loss of Future Prospects in life', i.e., **Rs.3,200/-** (Rs.8,000/- x 40%). Therefore, the monthly income of the deceased is taken at **Rs.11,200/-** (Rs.8,000/- + Rs.3,200/-). Since, the deceased was a bachelor, 50% of deceased income is deducted towards personal expenses and the contribution to the family is taken as **Rs.5,600/-** per month. Therefore, the compensation under the head 'Loss of Dependency' is recalculated and quantified as follows:

$$\text{Rs.11,200} / 50\% \times 18 \times 12 = \text{Rs.12,09,600/-}$$

10. If the loss of consortium is taken at Rs.44,000/- for each dependent (Rs.40,000/-+ 10% escalation), the amount would work out to **Rs.88,000/-** (Rs.44,000x2)

11. The amount towards loss of estate can be awarded at **Rs.16,500/-** (Rs.15,000/- + 10% escalation).



12. The amount towards funeral expenses can be awarded at Rs.16,500/- (Rs.15,000 + 10% escalation). Hence, the total compensation is worked out as under:

Sl.No.	Particulars	Amount
1.	Loss of dependency	Rs. 12,09,600-00
2.	Loss of consortium	Rs. 88,000-00
3.	Loss of estate	Rs. 16,500-00
4.	Funeral expenses	Rs. 16,500-00
Total		Rs. 13,30,600-00

13. In view of the aforesaid observations, the judgment and award passed by the Tribunal is modified. The appellants-claimants are entitled for a total enhanced compensation of Rs.13,30,600/- as against Rs.4,45,000/- awarded by the Tribunal. Hence, the appellants are entitled for an additional compensation of **Rs.8,85,600/-** [Rs.13,30,600(-)Rs.4,45,000], along with interest at the rate of 6% per annum from the date of petition till the date of realization.

14. Accordingly, I pass the following

ORDER

(i) Appeal is ***allowed in part;***



- (ii) The judgment and award dated 24.11.2014 in MVC No.326/2012 passed by the Fast Track and Additional Motor Accidents Claims Tribunal-III, Shivamogga, is modified to the above extent;
- (iii) The appellants are entitled to an enhanced compensation of **Rs.8,85,600/-** (Rs.13,30,600 - Rs.4,45,000), along with interest at the rate of **6% per annum** from the date of petition till the date of realization, in addition to what has been awarded by the Tribunal;
- (iv) Registry is directed to return the Trial Court Records to the Tribunal, along with certified copy of the order passed by this Court, forthwith; and
- (v) Draw award accordingly.

Sd/-
JUDGE

AV
List No.: 1 Sl No.: 29