



NC: 2024:KHC-K:6007
MFA No. 200721 of 2019
C/W MFA No. 200722 of 2019
MFA No. 200038 of 2020
MFA NO. 200039 of 2020



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 14TH DAY OF AUGUST, 2024

BEFORE

THE HON'BLE MR. JUSTICE K NATARAJAN

MISCL. FIRST APPEAL NO.200721 OF 2019 (MV-D)

C/W

MISCL. FIRST APPEAL NO.200722 OF 2019(MV-D)

MISCL. FIRST APPEAL NO.200038 OF 2020(MV-D)

MISCL. FIRST APPEAL NO.200039 OF 2020(MV-D)

IN MFA NO.200721/2019:

BETWEEN:

1. SRI. CHIDANANDAYYA
S/O RUDRAYYA HIREMATH
AGED ABOUT 49 YEARS
OCC: AGRICULTURE
2. SMT. MAHANTAMMA
W/O CHIDANANDAYYA HIREMATH
AGED ABOUT 46 YEARS
OCC: HOUSEHOLD WORK

BOTH R/O VADAGANUR
TQ: SURPUR, DIST: YADGIR
NOW R/AT ADARSH NAGAR
VIJAYAPUR-586101

...APPELLANTS

(BY SRI. S. S. MAMADAPUR, ADVOCATE)

AND:

1. SHIVALINGAPPA MALLAPPA BIRADAR
AGED ABOUT 44 YEARS, OCC: BUSINESS





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R/O BANAHATTI, TQ: SINDAGI
DIST: VIJAYAPUR-586101

2. THE BRANCH MANAGER
UNITED INDIA INSURANCE CO. LTD.,
S.S. FROONT ROAD
VIJAYAPUR-586101
3. SHARANAPPA S/O BAGAPPA BAGALI
AGED ABOUT 49 YEARS, OCC: AGRICULTURE
R/O CHIKKASINDAGI, TQ: SINDAGI
DIST: VIJAYAPUR-586101

...RESPONDENTS

(BY SRI. SUDARSHAN M., ADVOCATE FOR R-2;
V/O DATED 16.02.2021 NOTICE TO R-1 IS DISPENSED WITH)

THIS MISC. FIRST APPEAL IS FILED UNDER SECTION 173(1)
OF THE MOTOR VEHICLES ACT, PRAYING TO ENHANCE THE
COMPENSATION AMOUNT BY SUITABLY MODIFYING THE JUDGMENT
DATED 23.11.2018 AND AWARD DATED 17.01.2019 PASSED BY THE
HON'BLE II ADDL. SENIOR CIVIL JUDGE, MACT-VII VIJAYAPUR, IN
MVC NO.1058/2015.

IN MFA NO.200722/2019:

BETWEEN:

1. SMT. GURAMMA @ GURUDEVI
W/O SHARANABASAYYA @ SHARANAYYA
KAMBI @ KAMBIMATH
AGED ABOUT 29 YEARS
OCC: HOUSEHOLD WORK
2. MANOJ @ SANGAMESH
S/O SHARANABASAYYA
@ SHARANAYYA KAMBI @ KAMBIMATH
AGED ABOUT 7 YEARS, OCC: NIL
3. SHASHIDHAR S/O SHARANABASAYYA
@ SHARANAYYA KAMBI @ KAMBIMATH



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AGED ABOUT 5 YEARS, OCC: NIL

APPELLANTS 2 & 3 BEING MINORS
ARE REP. BY THEIR NATURAL MOTHER
& MINOR GUARDIAN THE 1ST APPELLANT

4. BASAYYA S/O SANGAYYA
KAMBI @ KAMBIMATH
AGED ABOUT 52 YEARS
OCC: AGRI
5. RUDRAMMA W/O BASAYYA
KAMBI @ KAMBIMATH
AGED ABOUT 49 YEARS
OCC: HOUSEHOLD WORK

APPELLANTS ARE ALL R/O NARASALAGI
TQ: BASAVANA BAGEWADI
DIST: VIJAYAPUR
NOW R/AT ADARSH NAGAR
VIJAYAPUR-586101

...APPELLANTS

(BY SRI. S. S. MAMADAPUR, ADVOCATE)

AND:

1. SHIVALINGAPPA MALLAPPA BIRADAR
AGED ABOUT 44 YEARS, OCC: BUSINESS
R/O BANAHATTI, TQ: SINDAGI
DIST: VIJAYAPUR-586101
2. THE BRANCH MANAGER,
UNITED INDIA INSURANCE CO. LTD.,
S.S. FRONT ROAD
VIJAYAPUR-586101
3. SHARANAPPA S/O BAGAPPA BAGALI
AGED ABOUT 49 YEARS
OCC: AGRICULTURE
R/O CHIKKASINDAGI, TQ: SINDAGI
DIST: VIJAYAPUR-586101

...RESPONDENTS

(BY SRI. SUDARSHAN M., ADVOCATE FOR R-2;
V/O DATED 16.02.2021 NOTICE TO R1 IS DISPENSED WITH)



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THIS MISC. FIRST APPEAL IS FILED UNDER SECTION 173(1) OF THE MOTOR VEHICLE ACT, PRAYING TO ENHANCE THE COMPENSATION AMOUNT BY SUITABLE MODIFYING THE JUDGMENT DATED 23.11.2018 AND AWARD DATED 17.01.2019 PASSED BY THE HON'BLE II ADDL. SENIOR CIVIL JUDGE AND MACT-VII, VIJAYAPUR, IN MVC NO.1059/2015.

IN MFA NO.200038/2020:

BETWEEN:

THE BRANCH MANAGER
M/S UNITED INDIA INSURANCE CO. LTD.,
S. S. FRONT ROAD, VIJAYAPUR
PRESENTLY REPRESENTED BY ITS
THE SR. DIVISIONAL MANAGER
M/S UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE, SUPER MARKET
KALABURAGI-585102.

...APPELLANT

(BY SRI. SUDARSHAN M., ADVOCATE)

AND:

1. SRI. CHIDANANDAYYA
S/O RUDRAYYA HIREMATH
AGED ABOUT 49 YEARS
OCC: AGRICULTURE
R/O VANDAGANUR, TALUK: SURPUR
DISTRICT: YADAGIR
NOW R/AT ADARSH NAGAR
VIJAYAPUR-585216.
2. SMT. MAHANTAMMA
W/O CHIDANANDAYYA HIREMATH
AGED ABOUT 46 YEARS
OCC: H. H. WORK
R/O VANDAGANUR, TALUK: SURPUR
DISTRICT YADAGIR
NOW R/AT ADARSH NAGAR
VIJAYAPUR-585216



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3. SRI. SHIVALINGAPPA
S/O MALLAPPA BIRADAR
AGED ABOUT 44 YEARS
OCC: BUSINESS, R/O BANAHATTI
TALUK: SINDAGI
DIST: VIJAYAPURA-586128
4. SRI. SHARANAPPA S/O BAGAPPA BAGALI
AGED ABOUT 49 YEARS, OCC: AGRICULTURE
R/O CHIKKSINDAGI, TALUK SINDAGI
DISTRICT:VIJAYAPURA-586128

...RESPONDENTS

(BY SRI. S. S. MAMADAPUR, ADVOCATE FOR R1 AND R2;
SRI. KOUJALAGI C. L., ADVOCATE FOR R3)

THIS MISC. FIRST APPEAL IS FILED UNDER SECTION 173 (1) OF MV ACT, CALL FOR RECORDS IN MVC NO.1058/2015 ON THE FILE OF THE II-ADDL. SENIOR CIVIL JUDGE AND MACT-VII, AT VIJAYAPUR. B) PRAYING TO SET ASIDE THE JUDGMENT AND AWARD DATED 23.11.2018 AND 17.01.2019 PASSED IN MVC NO.1058/2015 BY THE II-ADDL. SENIOR CIVIL JUDGE AND MACT-VII, VIJAYAPUR.

IN MFA NO.200039/2020:

BETWEEN:

THE BRANCH MANAGER,
M/S UNITED INDIA INSURANCE CO. LTD.,
S. S. FRONT ROAD, VIJAYAPUR
PRESENTLY REPRESENTED BY ITS THE
SR. DIVISIONAL MANAGER,
M/S UNITED INDIA INSURANCE CO. LTD.,
DIVISIONAL OFFICE
SUPER MARKET,
KALABURAGI - 585102

...APPELLANT

(BY SRI. SUDARSHAN M., ADVOCATE)



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AND:

1. SMT. GURAMMA @ GURUDEVI
W/O SHARANAYYA KAMBI @ KAMBIMATH
AGED ABOUT 29 YEARS
OCC: HOUSEHOLD WORK
R/O NARASALAGI, TALUK B. BAGEWADI
DISTRICT: VIJAYAPUR
NOW R/AT ADARSH NAGAR
VIJAYAPUR-586103.
2. SRI. MANOJ @ SANGAMESH
S/O SHARANABASAYYA
@ SHARANAYYA KAMBI @ KAMBIMATH
AGED ABOUT 7 YEARS, OCC: NIL
R/O NARASALAGI, TALUK B.BAGEWADI
DISTRICT: VIJAYAPUR
NOW R/AT ADARSH NAGAR
VIJAYAPUR-586203
3. SRI. SHASHIDHAR
S/O SHARANABASAYYA @ SHARANAYYA
KAMBI@ KAMBIMATH, AGED ABOUT 4 YEARS
OCC: NIL, R/O NARASALAGI
TALUK: B.BAGEWADI
DISTRICT:VIJAYAPUR-586203

RESPONDENT NOS.2 & 3 ARE MINORS
REPRESENTED BY THEIR NATURAL MOTHER
RESPONDENT NO.1
4. SRI BASAYYA
S/O SANGAYYA KAMBI @ KAMBIMATH
AGED ABOUT 52 YEARS, OCC: AGRICULTURE
R/O NARASALAGI, TALUK:B.BAGEWADI
DISTRICT:VIJAYAPUR
NOW R/AT ADARSH NAGAR
VIJAYAPUR-586203
5. SMT.RUDRAMMA
W/O BASAYYA KAMBI @ KAMBIMATH
AGED ABOUT 49 YEARS, OCC: H H WORK
R/O NARASALAGI, TALUK: B.BAGEWADI
DISTRICT: VIJAYAPUR
NOW R/AT ADARSH NAGAR



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6. SRI.SHIVALINGAPPA
S/O MALLAPPA BIRADAR
AGED ABOUT 44 YEARS
OCC: BUSINESS
R/O BANAHATTI, TALUK:SINDAGI
DISTRICT:VIJAYAPURA-586128
7. SRI.SHARANAPPA
S/O BAGAPPA BAGALI
AGED ABOUT 49 YEARS
OCC: AGRICULTURE
R/O CHIKKSINDAGI
TALUK:SINDAGI
DISTRICT: VIJAYAPURA-586128

...RESPONDENTS

(BY SRI. S. S. MAMADAPUR, ADVOCATE FOR R1 TO R5;
R-2 AND R-3 ARE MINORS U/G OF R-1;
SRI. KOUJALAGI C. L., ADVOCATE FOR R6)

THIS MISCL FIRST APPEAL IS FILED UNDER SECTION 173 (1) OF MV ACT, PRAYING TO CALL FOR RECORDS IN MVC NO.1059/2015 ON THE FILE OF THE II-ADDL. SENIOR CIVIL JUDGE AND MACT-VII AT VIJAYAPUR. B) SET ASIDE THE JUDGMENT AND AWARD DATED 23.11.2018 AND 17.01.2019 PASSED IN MVC NO.1059/2015 BY THE II-ADDL. SENIOR CIVIL JUDGE AND MACT-VII, VIJAYAPUR.

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



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CORAM: HON'BLE MR. JUSTICE K NATARAJAN

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K NATARAJAN)

MFA No.200721/2019 and MFA No.200722/2019 filed by the claimants for enhancement of compensation, whereas MFA No.200038/2020 and MFA No.200039/2020 filed by the insurer questioning the fastening of liability as well as quantum of compensation awarded by the II-Addl. Senior Civil Judge & MACT-VII, Vijayapura (for short, hereinafter referred to as 'the Tribunal') in MVC Nos.1058/2015, 1059/2015, dated 23.11.2018.

2. All four cases arise out of common judgment before the Tribunal, therefore, the same are taken up together for final disposal.

3. Though these appeals are listed for admission, with the consent of both the learned counsels, they are taken up together for final disposal.



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4. The parties will be referred as per their ranks before the Tribunal for sake of convenience.

5. The case of the petitioners before the Tribunal is that they have filed claim petition under section 166 of Motor Vehicles Act (for short, hereinafter referred to as 'the M.V.Act') for granting compensation for the death of two persons namely, Kirayya in MVC No.1058/2015 and Sharanabasayya @ Sharanayya in MVC No.1059/2015, who died in the road traffic accident occurred on 10.04.2015.

6. It is alleged that on 10.04.2015 at about 20:30 hours when the deceased were traveling in motorcycle and they were proceeding towards Vandaganur from Sindagi on extreme left side of the road, at that time, near Kalakeri bypass road, one tractor bearing Reg.No.KA-28/TA-1672 and trailer bearing Reg.No.CNJ/6723 came from opposite direction with a high speed and dashed to the motorcycle. As a result of which, both Kirayya and



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Sharanabasayya were sustained grievous injuries and died on the spot.

7. The claimants are the parents of deceased-Kirayya in MVC No.1058/2015, whereas the claimants are wife, children and parents of deceased-Sharanabasayya in MVC No.1059/2015. Hence, they claimed compensation on various heads.

8. The respondent No.1 filed statement of objections by denying age, occupation and income of the deceased; and rash and negligent driving of the driver of the tractor and trailer and further contended that the tractor was duly insured with respondent No.2 and covered risk of the accident. Hence, respondent-insurance company is liable to pay compensation.

9. The respondent No.2/insurance company filed statement of objections contending that there is no involvement of the vehicle in question and the tractor bearing Reg.No.KA-28/TA-1672 was alone insured with



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respondent No.2 under 'Farmer's Package Insurance Policy', whereas trailer bearing Reg.No.CNJ:6723 was not insured with respondent No.2. The owner of the trailer also necessary party to the petition. The driving licence hold by the driver of the tractor is only light motor vehicle licence, therefore, no liability shall be fixed on the insurance company. Apart from that the driver of the tractor did not hold valid and effective driving licence to drive the said vehicle. The claimants claimed compensation is on higher side and exorbitant. Hence, prayed for dismissal of petitions.

10. From the rival contentions of both the parties, the Tribunal had framed the following issues for determination.

ISSUES IN MVC NO.1058/2015

- 1. Whether petitioners prove that the death of Kirayya s/o Chidanandayya Hiremath, was in the road accident due to the negligent driving of the driver of the Tractor bearing Reg.No.KA.28/TA. 1672, on the alleged date, time and place as asserted?*



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2. *Whether the Respondent NO.2 proves that, due to violation of policy conditions, they are not liable to pay the compensation?*
3. *Whether the petitioners prove that they are entitled for the compensation? If so, what an extent and from whom they are entitled?*
4. *What order or award?*

ISSUES IN MVC NO. 1059/2015

1. *Whether petitioners prove that the death of Kirayya S/o Chidanandayya Hiremath, was in the road accident due to the negligent driving of the driver of the Tractor bearing Reg. No.KA.28/TA. .1672, on the alleged date, time and place as asserted?*
2. *Whether the Respondent NO.2 proves that, due to violation of policy conditions, they are not liable to pay the compensation?*
3. *Whether the petitioners prove that they are entitled for the Compensation? If so, what an extent and from whom they are entitled?*
4. *What order or award?*



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11. The claimants to prove their case were examined in both cases as PWs.1 to 3 and got marked Exs.P.1 to P9. On behalf of respondents, RW.1 examined and got marked Exs.R.1 and 2.

12. The Tribunal after hearing both the parties and appreciating the evidence available on record, the Tribunal answered issue No.1 in the Affirmative; issue No.2 in the Negative, issue No.3 in partly in the Affirmative and had awarded the following amount of compensation along with interest at the rate of 9% per annum, which is under challenge:

In MVC No.1058/2015:

Sl.No	Heads	Amount
1.	Loss of dependency	Rs.5,10,000/-
2.	Loss of love and affection	Rs.40,000/-
3.	Transportation of dead body, Funeral expenses	Rs.25,000/-
4.	Loss of estate	Rs.20,000/-
Total		Rs.5,95,000/-



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In MVC No.1059/2015:

Sl.No	Heads	Amount
1.	Loss of income due to dependency	Rs.8,10,000/-
2.	Towards love and affection	Rs.25,000/-
3.	Loss of Estate	Rs.20,000/-
4.	Towards loss of consortium	Rs.30,000/-
5.	Towards Transportation and funeral expenses	Rs.25,000/-
	Total	Rs.9,10,000/-

13. Being aggrieved by the quantum of compensation, the claimants have filed two appeals, whereas fixing the liability on the insurer and the insurer has filed two appeals before this Court.

14. The learned counsel for the claimants has contended that the age of the deceased were aged about 26 and 25 respectively. The income considered by the Tribunal at Rs.5,000/- per month each, which is incorrect. Even in the Lok-Adalath settlement Rs.8,000/- per month considered as notional income. Therefore, the income considered by the Tribunal is on the lower side, which



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needs to be enhanced. He further submitted that 40% of the income shall be added as future prospects, which was not considered by the Tribunal. Hence, prayed for allowing the appeals.

15. He further contended that the tractor caused the accident and the driver was holding licence of light motor vehicle, which is permissible to drive the vehicle, which is unladen weight of 7500kg. Therefore, the driver can drive the vehicle i.e. tractor and it is insured with respondent No.2. Hence, prayed for allowing the appeals and dismissing the appeals filed by the insurance company.

16. Whereas learned counsel for the Insurance Company who filed appeals contended that the tractor was insured but trailer was not insured. The driver of the vehicle was not holding valid and effective driving licence. Therefore, fastening the liability on the insurance company is not correct. Further he has contended that the Tribunal



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awarded interest at the rate of 9% p.a., which is exorbitant and it is reduced to 6% p.a. Hence, prayed for allowing the appeals filed by the insurance company.

17. Having heard the arguments of both the learned counsel and on perusal of the records, the points arise for my consideration are:

- 1) Whether the Tribunal was justified in fastening the liability on the insurance company in view of the trailer is not insured with the insurance company and driver was not holding the valid and effective driving licence?
- 2) Whether the claimants are entitled for enhancement of compensation, if so, to what extent?

18. On perusal of the records, it is not in dispute that the accident dated 10.04.2015 occurred due to rash and negligent driving of the driver of the tractor and trailer. Due to which both the deceased persons Kirayya and Sharanabasayya died on the spot. The police have



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filed charge-sheet after the investigation. The evidence also led by the PWs.1 and 2 and PW.3 is eyewitness. Though the appeals filed by the insurer not disputing the accident, but only questioning the fixing of liability. Therefore, the accident was not in dispute.

19. The contention taken by the learned counsel for the insurer that the driver of the tractor having only light motor vehicle licence and he is not holding valid and effective driving licence to drive the vehicle. It is contended by the learned counsel for the claimants that the tractor is less than 7500kg unladen weight. Therefore, the driver holding driving licence for light motor vehicle is permitted to drive the vehicle i.e. tractor. In this regard, learned counsel for the claimants relied on the judgment of the Hon'ble Supreme Court in the case of ***Mukund Dewangan vs. Oriental Insurance Company Limited*** reported in ***(2017) 14 SCC 663***, wherein it is categorically held that the person who is holding light motor vehicle driving licence is permitted to drive the



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vehicle which is unladen weight not exceeding 7500kg would be light motor vehicle like tractor, road roller. Even a transport vehicle or Omnibus, which is not exceeding 7500kg.

20. In view of the judgment of the Hon'ble Supreme Court, the case of the claimants is that tractor and trailer was less than 7500kg unladen weight. It is not case of the insurance company that tractor and trailer is more than 7500kg unladen weight. Such being the case the driver of the vehicle is having valid and effective driving licence to drive the said vehicle in view of the judgment in the case of ***Mukund Dewangan*** (*supra*). Therefore, the contention of the Insurance Company cannot be acceptable that the driver was not having valid and effective driving licence is not acceptable.

21. Another contention raised by the insurance company is that the tractor was insured with the respondent No.2 and policy was issued but not to the



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trailer. In this regard, the learned counsel for the insurance company relied upon the judgment of the Hon'ble Supreme Court in the case of ***Dhondubai vs. Hanmantappa Bandappa Gandigude since deceased through His LRs. & Ors. [2023 Live Law (SC) 725] DD 28.08.2023***, wherein it is held that when the claimant was travelled in the trailer, which was not insured the liability on the insurance company cannot be fastened when the tractor and trailer were involved in the accident both tractor as well as trailer are required to be insured. However, invoking Article 142 insurance company liable to pay the award amount and recover the same from the owner of the vehicle.

22. On perusal of the above judgment where the accident was occurred when the injured persons were traveled in the trailer, which was connected with the tractor driven by the driver. Therefore, in that case the tractor was insured and trailer was not insured. Therefore, the Hon'ble Supreme Court not fastened the liability on the



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owner. There is no second thought in respect of principle laid down in the case of ***Dhondubai*** (*supra*) where the facts of these cases are different. Since in this case though trailer was connected with tractor, but the accident was occurred due to rash and negligent driving of the driver which was driven by the driver of the tractor and the tractor was hit on the motorcycle and caused the death and trailer is nothing to do with the accident that the accident caused by the tractor and not by the trailer. Therefore, the said case is not applicable to this case, wherein this case tractor was insured with insurance company. Therefore, the Trial Court rightly fastened the liability on the insurance company as tractor was duly insured with respondent No.2. Therefore, I answered point No.1 in favour of claimants as against the Insurance Company.

23. With regard to quantum of compensation the deceased-Kirayya was aged about 26 years and the Tribunal has considered income of the deceased at



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Rs.5,000/- per month, which is incorrect. Even in the Lok-Adalath chart they are considered income at Rs.8,000/- per month as notional income. In view of the judgment of the Hon'ble Supreme Court in the case of **National Insurance Co. Ltd., Vs. Pranay Sethi** reported in **(2017) 16 SCC 680**, 40% of the income has to be added towards income of the deceased, which comes to Rs.11,200/- per month. The deceased was bachelor, as per the case of the Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation** reported in **(2009) 6 SCC 121**, 50% shall be deducted towards his personal expenses, which comes to Rs.5,600/- and applicable multiplier is '17'. Thus, the loss of dependency works out to Rs.11,42,400/- (Rs.5,600/- x 12 x 17).

24. Both the claimants (in MVC No.1058/2015) are entitled to Rs.40,000/- each towards filial consortium as per **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others** reported in **(2018) 18 SCC 130**. Accordingly, Rs.80,000/- is awarded



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towards loss of consortium. An amount of Rs.30,000/- is awarded towards funeral expenses and loss of estate.

25. Thus, the claimants in MVC No.1058/2015 i.e. in MFA No.200721/2019 are entitled the following amount of compensation:

Sl.No	Heads	Amount awarded by this Court
1.	Loss of dependency	Rs.11,42,400/-
2.	Loss of filial consortium	Rs.80,000/-
3.	Towards funeral expenses	Rs.15,000/-
4.	Towards loss of estate	Rs.15,000/-
Total		Rs.12,52,400/-
Amount awarded by the Tribunal		Rs.5,95,000/-
Enhancement		Rs.6,57,400/-

26. Thus, the claimants are entitled to enhancement of compensation of Rs.6,57,400/- (in MVC No.1058/2015).

27. In MVC No.1059/2015 in MFA No.200722/2019: The deceased-Sharanabasayya aged about 25 years, which is not in dispute. The Tribunal also considered the income of the deceased as Rs.5,000/-per month, which is



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on the lower side. Hence, as per the Lok-Adalath chart, it should be Rs.8,000/- per month as notional income. As per the case of **Pranay Sethi** (*supra*), 40% of income has to be added towards income of the deceased, then it comes to Rs.11,200/-per month. The claimants are five in numbers, therefore, as per the case of **Sarla Verma** (*supra*), 1/4th has to be deducted towards his personal expenses. Then it comes to Rs.8,400/- (Rs.11,200/- - Rs.2,800/-). The multiplier applicable is '18'. Therefore, loss of dependency works out to Rs.18,14,400/- (Rs.8,400/- x 12 x 18).

28. There are five claimants (in MVC No.1059/2015) then Rs.2,00,000/- is awarded towards loss of consortium i.e. the claimant No.1 is entitled to Rs.40,000/- towards spousal consortium; claimant Nos.2 and 3 are entitled Rs.40,000/- each towards parental consortium; claimant Nos.4 and 5 are entitled Rs.40,000/- each towards filial consortium. Rs.30,000/- is awarded towards funeral expenses and loss of estate.



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29. Thus, the claimants in MVC No.1059/2015 i.e. in MFA No.200722/2019 are entitled the following amount of compensation:

Sl.No	Heads	Amount awarded by this Court
1.	Loss of dependency	Rs.18,14,400/-
2.	Loss of consortium	Rs.2,00,000/-
3.	Towards funeral expenses	Rs.15,000/-
4.	Towards loss of estate	Rs.15,000/-
Total		Rs.20,44,400/-
Amount awarded by the Tribunal		Rs.9,10,000/-
Enhancement		Rs.11,34,400/-

30. Thus, the claimants are entitled to enhancement of compensation of Rs.11,34,400/- (in MVC No.1059/2015).

31. Regarding liability this Court already held that the insurance company is liable to pay the compensation. The Tribunal by considering the judgment of the Hon'ble Supreme Court in the case of **Municipal Corporation of Delhi, Delhi vs. Association of Victims of Uphaar Tragedy and Others** reported in **AIR 2012 SC 100**, awarded interest at the rate of 9% per annum long back.



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However, the learned counsel for the insurance company stated that the Tribunal awarded interest at the rate of 9% per annum is very exorbitant it should be reduced. In this regard he relied on judgment of the Hon'ble Supreme Court in the case of ***Sri.Benson George vs. Reliance General Insurance Co. Ltd. & Anr.*** in ***Civil Appeal No.1540 of 2022***, wherein interest awarded at the rate of 6% per annum as peculiar facts and circumstances of the case exercise power under Article 136 of the Constitution of India.

32. Therefore, I am of the view that the judgment is not applicable to the case on hand. Therefore, interest awarded at the rate of 9% by the Tribunal is confirmed.

33. However, the claimants are entitled interest at the rate of 6% per annum on the enhanced amount of compensation.

34. Accordingly, I proceed to pass the following:



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ORDER

- i) The appeals filed by the claimants in MFA No.200721/2019 and in MFA No.200722/2019 are allowed part.
- ii) The appeals filed by the Insurance Company in MFA No.200038/2020 and MFA No.200039/2020 allowed in-part regarding interest is reduced from 9% p.a. to 6% p.a. on the enhanced amount of compensation and with regard to liability is concerned appeals are dismissed.
- iii) The impugned judgment and award passed by the II-Addl. Senior Civil Judge & MACT-VII, Vijayapura in MVC.No.1058/2015 and MVC No.1059/2015 dated 23.11.2018 is modified.
- iv) The claimants in MVC No.1058/2015 are entitled for total compensation of Rs.12,52,400/- as against Rs.5,95,000/-



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awarded by the Tribunal. The claimants are entitled for enhancement of compensation of Rs.6,57,400/- with interest on the enhanced amount of compensation at the rate of 6% per annum from the date of petition till its realization.

v) The claimants in MVC No.1059/2015 are entitled for total compensation of Rs.20,44,400/- as against Rs.9,10,000/- awarded by the Tribunal. The claimants are entitled for enhancement of compensation of Rs.11,34,400/- with interest on the enhanced amount of compensation at the rate of 6% per annum from the date of petition till its realization.

vi) The respondent – insurance company shall deposit the said amount with interest within a period of 60 days from the date of receipt of copy of this judgment.



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- vii) The order pertaining to apportionment, deposit and release etc., passed by the Tribunal is not disturbed.
- viii) The amount in deposit, if any, by the Insurance Company in MFA No.200038/2020 and MFA No.200039/2020 is ordered to be transmitted to the Tribunal.
- ix) Office to send back the Trial Court Records, if any, and copy of this judgment to the Tribunal forthwith.

Sd/-
(K NATARAJAN)
JUDGE

SDU
LIST NO.: 2 SL NO.: 18
CT:SI