HC-KAR

NC: 2026:KHC:29284
MFA No. 2325 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL No. 2325 OF 2023

(MV-D)

BETWEEN:

1. UNITED INDIA INSURANCE CO. LTD.,
REGIONAL OFFICE
KRUSHI BHAVAN, 5TH AND 6TH FLOOR
NRUPATHUNGA ROAD
BENGALURU-560 001
BY ITS MANAGER.

...APPELLANT

(BY SRI JWALA KUMAR, ADVOCATE)

AND:

1. SRI. PANDIYAN VELU @ PANDIYAN
S/O. LATE VELU
AGED ABOUT 54 YEARS
R/AT No. 11A, KUPAI MATTU STREET
PALLIYAPPETTAI
KRISHNAGIRI TOWN AND DISTRICT
TAMILNADU-635 001.

ANOTHER ADDRESS:
DIVISIONAL OFFICE
SATHYANARAYANA BUILDING
NSC BASE ROAD
ROBERTSONPET, KGF- 563 122.

2. SMT. POONGODI PANNEERSELVAM
D/O. LATE VELU
W/O. PANNEERSELVAM

Digitally signed by LAKSHMINARAYANA MURTHY RAJASHRI
Location: HIGH COURT OF KARNATAKA

AGED ABOUT 53 YEARS
R/AT D. No. 3/129-2
PERIYAR NAGAR,
BELATHUR, HOSUR
KRISHNAGIRI TOWN AND DISTRICT
TAMILNADU-635 124.

3. SMT. VALAR MADHI
D/O. LATE VELU
W/O. NATARAJ,
AGED ABOUT 52 YEARS
R/AT No. 110, P BLOCK
CHAMPION REEFS
K.G.F-563 117.

4. SMT. KANNAGI
D/O. LATE VELU
W/O. VELAYUTHAM
AGED ABOUT 51 YEARS
R/AT D. No. 2/516, RAJIV NAGAR
CHOODAPURAM, BELATHUR,
HOSUR, KRISHNAGIRI DISTRICT
TAMILNADU-635 124.

5. SRI. RAHUL D
S/O. DHAKSHINAMURTHY
AGED ABOUT 49 YEARS
R/AT No. 46, NORTH GILBERS
NEAR GOSHA LINE
MARIKUPPAM, KGF
KOLAR DISTRICT.

…RESPONDENTS

(BY SRI. GOPAL KRISHNA N, ADVOCATE FOR R1-R4
V/O DTD. 16.4.2026, NOTICE TO R5 IS HELD SUFFICIENT)

THIS MFA IS FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DATED 23.12.2022 PASSED IN MVC No.299/2019 ON THE FILE OF THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, KOLAR, (SITTING AT KGF), AWARDING COMPENSATION OF Rs.9,71,500/- WITH INTEREST

AT 6 PERCENT P.A. FROM THE DATE OF CLAIM PETITION TILL ITS REALIZATION.

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

CORAM: HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed by the insurer challenging the quantum of compensation awarded in the judgment and award dated 23.12.2022 passed in MVC No.299/2019 by III Additional District and Sessions Judge and Additional M.A.C.T., Kolar sitting at KGF.

2. Claimants –respondent Nos.1 to 4 made a claim petition praying to award compensation for the death of their mother Devi @ Devi Velu, in a road traffic accident which took place on 16.12.2018, contending that the accident occurred due to the rash and negligent driving of the driver of Motorcycle bearing registration No.KA-08/V-9572. Claimants are son and married daughters of deceased Devi @ Devi Velu. The Tribunal recorded the

evidence, assessed the compensation and awarded the compensation under different heads as under:

1.	Transportation of dead body and funeral obsequies	Rs.16,500/-
2.	Loss of estate	Rs.16,500/-
3.	Loss of love and affection	Rs.2,00,000/-
4.	Filial consortium	Rs.1,76,000/-
5.	Loss of dependency	Rs.5,62,500,/-
	Total	**Rs.9,71,500/-**

3. The Tribunal has also awarded interest at the rate of 6% per annum from the date of petition till realisation and directed the appellant -insurer to pay the compensation amount with interest. The insurer aggrieved the award of compensation has filed the present appeal.

4. Heard learned counsel for the appellant –insurer and lerned counsel for respondent Nos.1 to 4.

5. Learned counsel for the appellant would contend that the claimants are the major son and the married daughters and they are not dependent on the income of the deceased. The deceased was aged 72 years as on the date of accident. Claimants have not lead any

evidence to indicate that they are dependent on the income of the deceased. The claimants are not entitled to compensation for loss of love and affection since consortium has been awarded. With these, he prays to allow the appeal.

6. Learned counsel for respondent Nos.1 to 4 would contend that the deceased was aged 72 years and she was doing collie work, earning family member and she was taking care of the family members and therefore the claimants are entitled for loss of dependency. He placed reliance on the decisions of Hon'ble Apex Court in the cases of ***National Insurance Company Limited VS Birender and Ors[1], Seema Rani Vs Ors Vs The Oriental Insurance Co. Ltd and Ors[2] and Jitender Kumar and Anr Vs Sanjay Prasad and Ors[3]***

[1] In AIR 2020 SC 434
[2] In 2025 INSC 192
[3] In Civil Appeal No.7199/2025

7. Having heard learned counsels, the Court has perused impugned judgment, award and trial Court records.

8. The deceased was aged 72 years as on the date of accident. It is a case of claimants that she was doing coolie work and earning Rs.15,000/- per month. As the income has not been established, the Tribunal has taken the notional income of Rs.12,500/- per month as per chart prepared by the State Legal Services Authority for settlement of disputes in Lok Adalath.

9. The Hon'ble Apex Court in recent case of ***Jitender Kumar(supra)*** has considered the aspect of whether married sons and daughters are dependent or not and held as under:

> *" 13. In our considered opinion, the view on this issue cannot be faulted. The exposition of law in Birender (Supra) is clear, wherein it was observed as under:*

> *"14. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a 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 legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only."*

14. Such exposition came to be followed by this Court in Seema Rani and Ors. v. Oriental Insurance Co. Ltd. and Ors. 6 , wherein it was observed that the application for compensation, even by married sons and daughters, must be considered, irrespective of whether they are fully dependant or not. In the present case, it cannot be disputed that the claimant-appellant(s) became partner in the consultancy firm run by the deceased. Moreover, it is not in dispute that that the Flour Mill being run by the deceased, is still being run by the claimant-appellant(s). In such a factual circumstance, it cannot be said that the claimant-appellant(s) were financially dependent upon the deceased.

> *15. Therefore, in view of the above, while the claimantappellant(s) were not dependent upon the deceased, they are entitled to receive compensation as his legal representatives, in accordance with law. Thus, the deduction towards the loss of personal and living expenses is to be ½ (50 % of the income of the deceased) in accordance with law."*

Claimants being married son and married daughters must be considered, irrespective of whether they are fully dependent or not. The Hon'ble Apex Court held that 50% of the income of the deceased has to be deducted towards personal expenses. Considering the said aspect, the loss of dependency is calculated as under:

Rs.12,500/- x ½ =Rs.6,250/- x12x5 =Rs.3,75,000/-

10. The Tribunal has rightly awarded a sum of Rs.16,500/- towards transportation of dead body and funeral expenses and Rs.16,500/- towards loss of estate. The Tribunal has also rightly awarded consortium to claimants in a sum of Rs.1,76,000/-. As claimants have been awarded loss of consortium, they are not entitled to

loss of love and affection separately as awarded by the Tribunal in a sum of Rs.2,00,000/-. Considering the above, the claimants are entitled to total compensation under different heads as under:

1	Transportation of dead body and funeral expenses	Rs.16,500/-
2	loss of estate	Rs.16,500/-
3	loss of consortium	Rs.1,76,000/-
4	loss of dependency	Rs.3,75,000/-
	Total	**Rs.5,84,000/-**

Claimants are entitled to total compensation of Rs.5,84,000/- with interest at the rate of 6% per annum from the date of petition till realisation. The Tribunal has held that the insurer has to pay compensation and recover the same from the owner of the vehicle.

11. Considering the above aspect, the following

ORDER

i) The appeal is ***allowed in part.***

ii) The compensation awarded by the Tribunal is reduced to Rs.5,84,000/- with interest at the

rate of 6% per annum from the date of petition till realization as against Rs.9,71,500/- as awarded by the Tribunal.

iii) The appellant -insurer shall deposit the compensation amount with interest before the Tribunal within a period of 06 weeks from this day failing which it is liable to pay interest at the rate of 9% per annum from this day till payment of compensation.

iv) The appellant -insurer is at liberty to recover the said compensation amount along with interest from owner of the vehicle as held by the Tribunal.

v) Respondent Nos.1 to 4 -claimants are entitled to equal share in the compensation awarded with interest.

vi) The claimants are entitled to release of entire compensation amount with interest.

vii) The amount in deposit is directed to be transmitted to the Tribunal.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP
List No.: 1 Sl No.: 35