

**MFA No. 468 of 2023
C/W MFA No. 296 of 2023
MFA No. 820 of 2023**

**Reserved on : 17.03.2026
Pronounced on : 05.06.2026**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

MISCELLANEOUS FIRST APPEAL No. 468 OF 2023 (MV-D)

C/W

MISCELLANEOUS FIRST APPEAL No. 296 OF 2023 (MV-D)

MISCELLANEOUS FIRST APPEAL No. 820 OF 2023 (MV-D)

IN MFA No. 468/2023

BETWEEN:

1. RELIANCE GENERAL INSURANCE
COMPANY LIMITED,
EAST WING, 5TH FLOOR,
No.28, CENTENARY BUILDING,
M. G. ROAD, BENGALURU - 560 001.
NOW REP. BY MANAGER LEGAL.

...APPELLANT

(BY SRI ASHOK N. PATIL, ADVOCATE)

AND:

1. NARASIMHAPPA,
S/O. LATE MUNI VENKATARAMAPPA,
AGED ABOUT 44 YEARS,
OCC: MASON,



MFA No. 468 of 2023
C/W MFA No. 296 of 2023
MFA No. 820 of 2023

R/AT: CHADURLAHALLI VILLAGE,
KAMMADIKE SOMENAHALLI HOBLI
GUDIBANDE TALUK,
CHIKKABALLAPURA DISTRICT - 562 101.

2. VENKATAMMA
D/O. LATE GANGAPPA,
RESIDENT OF NASTHIMMANAHALLI VILLAGE,
KETHINAHALLI POST,
CHIKKABALLAPURA TALUK
AND DISTRICT.

...RESPONDENTS

(BY SRI LATUR SURESH MAHALINGAPPA, ADVOCATE
FOR C/R1; SRI KARTHIK B.Y., ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT,
AGAINST THE JUDGMENT AND AWARD DATED 03.11.2022
PASSED IN MVC No.5566/2018 ON THE FILE OF THE MACT,
BENGALURU CITY, (SCCH-4), AWARDED COMPENSATION OF
RS.15,97,000/- WITH INTEREST AT 6 PERCENT P.A. FROM THE
DATE OF PETITION TILL REALIZATION.

IN MFA No. 296/2023

BETWEEN:

1. SRI NARASIMHAPPA
S/O LATE MUNI VENKATARAMAPPA,
AGED ABOUT 42 YEARS,
R/AT CHADURLAHALLI VILLAGE,
KAMMADIKE SOMENHALLI HOBLI,
GUDIBANDE TALUK,
CHIKKABALLAPURA DISTRICT - 562 101.

...APPELLANT

(BY SRI LATUR SURESH MAHALINGAPPA, ADVOCATE)

AND:

1. SMT. VENKATAMMA,
D/O. LATE GANGAPPA,
R/O NASTHIMMANAHALLI VILLAGE,
KETHINAHALI POST,
CHIKKABALLAPUR TALUK,
CHIKKABALLAPUR DISTRICT - 562 101.

2. THE MANAGER,
M/S. RELIANCE GENERAL INSURANCE
COMPANY LIMITED,
No.28/5, CENTENARY BUILDING,
EAST-WING, M.G.ROAD,
BENGALURU - 560 001.

...RESPONDENTS

(BY SRI. KARTHIK B.Y., ADVOCATE FOR R1;
SRI ASHOK N. PTAIL, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 03.11.2022 PASSED IN MVC No.5566/2018 ON THE FILE OF THE MEMBER, MACT, XVIII ADDITIONAL JUDGE, COURT OF SMALL CAUSES, BENGALURU SCCH-4, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA No. 820/2023

BETWEEN:

1. SMT. VENKATAMMA,
W/O. LATE GANGAPPA,
AGED ABOUT 80 YEARS,
RESIDING AT NASTHIMMANAHALLI VILLAGE,
KETHINAHALLI POST,
CHICKBALLAPUR TALUK AND
DISTRICT - 562 101.

...APPELLANT

(BY SRI. KARTHIK B.Y., ADVOCATE)

AND:

1. SRI NARASIMHAPPA,
S/O LATE MUNI VENKATARAMAPPA,
AGED ABOUT 42 YEARS,
RESIDING AT CHADURLAHALLI VILLAGE,
KAMMADIKE SOMENHALLI HOBLI,
GUDIBANDE TALUK,
CHICKBALLAPUR DISTRICT - 562 101.

2. THE MANAGER
RELIANCE GENERAL INSURANCE
COMPANY LTD.,
No.28/5, CENTENARY BUILDING
EAST WING, M. G. ROAD,
BENGALURU.

...RESPONDENTS

(BY SRI. LATUR SURESH MAHALINGAPPA, ADVOCATE FOR
C/R1; SRI ASHOK N. PATIL, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT
AGAINST THE JUDGMENT AND AWARD DATED 03.11.2022
PASSED IN MVC No.5566/2018 ON THE FILE OF THE XVII
ADDITIONAL JUDGE, COURT OF SMALL CAUSES, BENGALURU
SCCH-4 AWARDED COMPENSATION OF RS.15.97,000/-
WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF
PETITION TILL THE REALIZATION FROM THE RESPONDENTS.

THESE APPEALS HAVING BEEN HEARD AND RESERVED
FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY,
K.V. ARAVIND J., DELIVERED THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard Sri Ashok N. Patil, learned counsel for the insurer, Sri Karthik B.Y., learned counsel for the owner of the vehicle/insured and Sri Suresh M. Lathur, learned counsel appearing for the claimant.

2. These Miscellaneous First Appeals arise out of a common judgment and award dated 03.11.2022 passed in MVC No.5566/2018 by the Motor Accident Claims Tribunal, Bengaluru City (for short 'Tribunal').

2.1 MFA No.468/2023 is filed by the insurer disputing the quantum of compensation as well as the direction to pay and recover. MFA No.820/2023 is filed by the owner of the vehicle, questioning the impugned judgment insofar as it directs pay and recovery. MFA No.296/2023 is filed by the claimant seeking enhancement of compensation.

2.2 Since all these appeals arise from a common judgment and award, and as common arguments have been advanced by the learned counsel appearing for the respective parties, they

are taken up together and are disposed of by this common judgment.

3. The parties are referred to as per their ranks before the Tribunal for the sake of convenience.

3.1 The brief facts of the case are that the petitioner-claimant filed a claim petition seeking compensation on account of the death of one Sri Naveen Kumar N., in a motor vehicle accident that occurred on 08.05.2018, involving a tractor bearing Engine No.AJ5537B01501 and Chassis No.MEA629A1AJ2174681. It is pleaded that the deceased was aged about 12 years and was a student at the time of the accident, and that the accident occurred due to the rash and negligent driving of the driver of the said tractor.

3.2 Upon service of notice, respondent Nos.1 and 2 appeared before the Tribunal through their respective counsel. Respondent No.1 did not file any written statement. However, respondent No.2 filed its written statement admitting issuance of insurance policy in respect of the offending tractor. It was contended that, as on the date of the accident, the tractor was not registered. It was further contended that the vehicle had

been entrusted to a person who did not possess a valid and effective driving licence. It was also contended that there was delay in lodging the complaint.

3.3 In order to substantiate the claim, claimant No.1 examined himself as PW1 and an eyewitness as PW2. The claimants marked Exs.P1 to P15. On behalf of the respondents, RW1 and RW2 were examined and Exs.R1 to R3 were marked.

3.4 The Tribunal, upon consideration of the evidence on record, held that the accident occurred due to the rash and negligent driving of the driver of the offending tractor. The Tribunal assessed the notional income at Rs.10,000/- per month, considered the age of the deceased as 12 years, applied the multiplier of 18, deducted 50% towards personal expenses, and added 40% towards future prospects. In addition, compensation was awarded under conventional heads. In all, the Tribunal awarded a total compensation of Rs.15,97,000/- with interest at 6% per annum.

3.5 The Tribunal, noticing that the driver of the offending tractor did not possess a valid driving licence and taking into account the subsistence of the insurance policy, held that both

the respondents were jointly and severally liable to pay the compensation, and directed the insurer to pay the amount with liberty to recover the same from the owner of the vehicle.

4. Sri Ashok N. Patil, learned counsel appearing for the insurer, submits that the offending vehicle was driven by a minor who did not possess a valid and effective driving licence. It is contended that entrusting the vehicle to a minor amounts to a clear violation of the policy conditions, and in such circumstances, the principle of "pay and recover" would not be applicable.

4.1 It is further submitted that the deceased was not a loader and that the tractor had no provision for carrying passengers. According to him, the accident occurred solely due to the negligence of the owner of the vehicle and the minor driver, and therefore, the insurer is not liable to indemnify the insured.

5. Sri Karthik B., learned counsel appearing for the owner of the vehicle/insured, submits that the compensation awarded by the Tribunal is on the higher side. It is contended that the offending tractor was covered by a valid insurance policy as on the date of the accident, and hence, the liability ought to be

fastened on the insurer. It is further submitted that the offending tractor was being driven by the deceased himself, and being a tortfeasor, he is not entitled to claim compensation by taking advantage of his own wrong.

6. Sri Suresh M. Lathur, learned counsel appearing for the claimant, submits that the compensation awarded by the Tribunal is on the lower side. It is contended that, even in the case of a deceased minor, compensation has to be determined on the basis of the minimum wages notified by the State. It is further submitted that the notional income requires reconsideration, and an addition of 10% ought to be made to the compensation awarded under the conventional heads.

7. We have considered the submissions made by the learned counsel appearing for the respective parties and have perused the material on record.

8. The occurrence of the accident, involvement of the offending vehicle, age of the deceased, applicable multiplier, and the percentage of deduction towards personal expenses are not in dispute. The controversy in these appeals pertains to (i) the liability of the insurer, particularly with regard to the

direction of “pay and recover”, and (ii) the correctness of the notional income assessed by the Tribunal.

8.1 The Tribunal, on appreciation of the evidence, has recorded a finding that the accident occurred due to the rash and negligent driving of the tractor by its driver, owned by the insured. It has further held that the death of the deceased was on account of the injuries sustained in the said accident. These findings, insofar as the occurrence of the accident and the resultant death, are not seriously disputed. However, the manner in which the accident has occurred is in dispute.

8.2 It is contended on behalf of the insurer that the deceased himself was driving the tractor at the time of the accident. Alternatively, it is contended that one Bhaskar, a minor, was driving the tractor and that the deceased was sitting on the engine, and due to the rash and negligent driving, he fell under the wheels and succumbed to the injuries. It is pertinent to note that owner/insured has neither filed a written statement nor stepped into the witness box to rebut the allegation that the vehicle was driven by a minor without a valid driving licence. The contention of the insurer, therefore, remains un rebutted.

8.3 It is a settled position of law that the initial burden lies on the insurer to *prima facie* establish that the driver of the offending vehicle did not possess a valid and effective driving licence. Once such a burden is discharged, the onus shifts to the owner of the vehicle to establish that the driver possessed a valid licence or that reasonable care was taken to ensure that the vehicle was entrusted to a duly licensed person. In the present case, the owner has failed to discharge this burden.

8.4 The Hon'ble Supreme Court in ***National Insurance Company Limited vs. Swaran Singh & Others [(2004) 3 SCC 297]*** has held that where the owner consciously allows a person without a valid driving licence to drive the vehicle, the insurer can succeed in its defence. At the same time, it is also held that mere absence, fake or invalid driving licence, or disqualification of the driver, by itself, is not sufficient to absolve the insurer of its liability *vis-à-vis* third parties. The insurer must further establish that the insured was guilty of negligence and failed to exercise reasonable care, and that such breach was fundamental and contributed to the cause of the accident. Even in such cases, the principle of "pay and

recover” has been evolved to balance the interests of the claimant and the insurer.

8.5 In ***New India Assurance Company Limited vs. Kamla and Ors [(2001) 4 SCC 342]***, the Hon’ble Supreme Court has reiterated that while the insurer may not be liable to indemnify the insured in case of breach of policy conditions, it remains statutorily liable to satisfy the award in favour of third parties, with liberty to recover the same from the insured.

8.6 In the present case, the Tribunal, having noticed that the offending vehicle was covered by a valid insurance policy, has also recorded a finding that the owner entrusted the vehicle to a minor who did not possess a valid driving licence, thereby violating the policy conditions. Nevertheless, following the settled principles of law, the Tribunal has directed the insurer to pay the compensation and recover the same from the owner.

8.7 The said conclusion is in consonance with the law laid down by the Hon’ble Supreme Court in ***Swaran Singh*** and ***Kamla (supra)***. The same is further fortified by the recent decision of the Hon’ble Supreme Court in ***K. Nagendra vs. New India Insurance Company Limited and Ors [2025***

SCC OnLine SC 2297], wherein it is observed that while the insurer cannot be compelled to bear liability beyond the terms of the contract, the doctrine of “pay and recover” serves to balance the rights of the victim and the insurer.

8.8 The reliance placed by the learned counsel for the insurer on **Beliram vs. Rajender Kumar and Anr [(2022) 15 SCC 572]** is misplaced. In the said case, the Hon’ble Supreme Court, on the peculiar facts where the driving licence had expired long prior to the accident and there was clear lack of due diligence on the part of the owner, declined to apply the principle of “pay and recover”. The factual matrix of the present case is distinguishable, and therefore, the said judgment does not advance the case of the insurer.

8.9 Further reliance is placed on the Full Bench decision of this Court in **Gadhilingappa @ Gadhilinga and Another v. K. Guleppa and Others [2021 SCC OnLine Kar 12137]** to contend that a person travelling on the mudguard of a tractor is not an authorized passenger and that the insurer is not liable. The Full Bench, relying on the judgment of the Hon’ble Supreme Court in **Shivraj vs. Rajendra and Anr [(2018) 10 SCC 432]**, has held that the insurer is not liable to indemnify

the owner for such passengers. However, even in such circumstances, following the principle laid down in **Swaran Singh** (*supra*), the Hon'ble Supreme Court has directed the insurer to pay the compensation and recover the same from the owner.

8.10 Thus, the conclusion arrived at by the Tribunal in directing "pay and recover" is in conformity with the settled legal principles. We find no infirmity or illegality in the said finding warranting interference.

9. Insofar as the claim for enhancement is concerned, the Tribunal, having regard to the fact that the deceased was a 12-year-old student, assessed the notional income at Rs.10,000/- per month for the year 2018.

9.1 The Hon'ble Supreme Court in **Hitesh Nagjibhai Patel vs. Bababhai Nagjibhai Rabari and Anr [CA No.10278/2025] dated 08.08.2025** has held that, in the case of a minor who has suffered injuries or has died in an accident, the loss of income is to be computed on the basis of the minimum wages payable to a skilled worker in the respective State at the relevant point of time. In the absence of

proof of actual income, this Court ordinarily adopts the notional income as indicated in the chart prepared by the Karnataka State Legal Services Authority. As per the said chart, the notional income for the year 2018 is Rs.12,500/- per month. Accordingly, Rs.12,500/- is taken as the notional income for the purpose of computation.

9.2 Once compensation towards loss of dependency, including future prospects, is computed, there is no scope for awarding compensation under the head "loss of love and affection". The Tribunal has erred in awarding Rs.25,000/- under the said head, and the same is liable to be set aside. Further, the compensation awarded under the head "funeral expenses" would include the cost of transportation of the dead body. Therefore, the award of Rs.5,000/- towards transportation of the dead body is unwarranted and is accordingly set aside.

9.3 It is noticed that the Tribunal has not awarded the compensation under the head of loss of estate. The same is awarded at Rs.15,000/-.

10. Insofar as the contention that increment of 10% is to be made towards conventional heads, the same is not permissible

as the date of accident is 08.05.2018 and the date of the judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited vs. Pranay Sethi [(2017) 16 SCC 680]*** is 31.10.2017.

11. Thus, the total compensation is recomputed as under;
 $12,500 \times 12 \times 18 - 50\% = 13,50,000$
 $13,50,000 + (40\% \text{ of } 13,50,000) = \mathbf{18,90,000/-}$

SI No.	Heads of Compensation	Compensation by the Tribunal in Rs.	Compensation by the Tribunal in Rs.
1.	Loss of dependency	10,80,000/-	18,90,000/-
2.	Loss of future prospects	4,32,000/-	
3.	Loss of consortium	40,000/-	40,000/-
4.	Loss of love and affection	25,000/-	-----
5.	Funeral expenses	15,000/-	15,000/-
6.	Transport of dead body	5,000/-	-----
7.	Loss of estate	-----	15,000/-
Total		15,97,000	19,60,000/-
Enhanced Compensation		3,63,000/-	

The claimant is entitled to a total compensation of Rs.19,60,000/- as against Rs.15,97,000/- as awarded by the Tribunal.

12. Insofar as the contention of the owner that the compensation awarded is on the higher side is concerned, the

same stands answered in the foregoing discussion, and no further consideration is necessary.

13. The contention that the deceased himself was driving the tractor at the time of the accident and, being a tortfeasor, is not entitled to compensation, is also unsustainable. The owner/insured has neither filed a written statement nor entered the witness box to substantiate the said plea. The contention, being devoid of any evidentiary basis, is liable to be rejected and is accordingly rejected.

14. In the result, the following:

Order

- (i) MFA No.468 of 2023 is ***dismissed***.
- (ii) MFA No.820 of 2023 is ***dismissed***.
- (iii) MFA No.296 of 2023 is ***allowed-in-part***.
- (iv) The judgment and award dated 3.11.2022 passed in MVC No.5566/2018 by the Motor Accident Claims Tribunal, Bengaluru City, is modified.
- (v) The claimant is entitled to a total compensation of Rs.19,60,000/- against Rs.15,97,000/- as awarded by the Tribunal.

MFA No. 468 of 2023
C/W MFA No. 296 of 2023
MFA No. 820 of 2023

- (vi) The rate of interest and disbursement/investment as ordered by the Tribunal shall remain unaltered.
- (vii) Draw modified decree accordingly.
- (viii) No order as to costs.

Sd/-
(S.G.PANDIT)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

MV*