



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF NOVEMBER, 2022

BEFORE

THE HON'BLE MR JUSTICE HANCHATE SANJEEVKUMAR

MISCELLANEOUS FIRST APPEAL NO.7582 OF 2018 (MV-D)

BETWEEN:

SMT CHIKKAMMA
S/O THAMMAIAH @ CHOWDEGOWDA,
AGED ABOUT 69 YEARS,
R/AT FIROZ FARM
ARCHAKARAHALLI DAKHALE
KASABA HOBLI
RAMANAGARA TALUK - 562 159.

...APPELLANT

(BY SRI. SHANTHARAJ K.,ADVOCATE)

AND:

1. CHANDRAHASA M S
S/O SUBHASH CHANDRA
AGED MAJOR,
R/AT NO.271/18, 3RD CROSS,
ESHWARINAGAR
HOSAKEREHALLI
BSK 3RD STAGE,
BENGALURU - 560 085.
2. THE MANAGER
RELIANCE GEN. INS. CO. LTD.,
2ND FLOOR, SM TOWERS,
11TH MAIN, 3RD BLOCK,

Digitally
signed by
PÁVITHRA B
Location:
High Court
of Karnataka



JAYANAGAR,
BENGALURU - 560 011.

...RESPONDENTS

(BY SRI. H.N. KESHAVA PRASHANTH., ADVOCATE FOR R2;
R1 – NOTICE DISPENSED WITH V/O DATED 21.02.2019)

THIS MFA FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 02/02/2018, PASSED IN MVC NO.2164/2017, ON THE FILE OF THE XIII ADDITIONAL JUDGE, COURT OF SMALL CAUSES & MEMBER, MACT, BENGALURU (SCCH-15), PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

THIS MFA COMING ON FOR HEARING THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

The present appeal is filed by the appellant/claimant challenging the judgment and award dated 02.02.2018 in MVC.No.2164/2017 passed by the Motor Accident Claims Tribunal, Bengaluru, (SCCH-15), for seeking enhancement of compensation.

2. Brief facts of the case are that, on 19.04.2017 at about 6.00 pm., Thammaiah @ Chowdegowda was standing near Firoz Farm, Gate, Archakarahalli, B.M.Road, Ramanagar, at that time, one car Mahindra Verito Car



bearing Reg.No.KA-41-A-4311 driven by its driver in a rash and negligent manner and hit the said Thammaiah @ Chowdegowda and he sustained injuries and died while he was shifting to the hospital for treatment. The appellant/claimant is the wife of the deceased. The deceased was working as an Agriculturist, Sericulturist and dairy farmer. The appellant/claimant is depending on the income of the deceased. Thus, she filed a claim petition before the Tribunal seeking compensation. The Tribunal has partly allowed the petition and awarded compensation of Rs.2,60,000/- with interest at 8% p.a., from the date of petition till realization.

3. Heard the arguments from both sides and perused the records.

4. The Tribunal has awarded the compensation under various heads as follows:



Loss of dependency	Rs. 2,10,000/-
Loss of consortium	Rs. 20,000/-
Loss of estate	Rs. 15,000/-
Transportation of dead body and funeral expenses	Rs. 15,000/-
Total	Rs.2,60,000/-

5. The deceased was aged 72 years as on the date of the accident and was working as an agriculturist and sericulturist and dairy farmer and died in the accident on 19.04.2017. The Tribunal has taken the notional income at Rs.7,000/- p.m., and deducted half of the income towards his personal and living expenses, which is not correct. As the accident is of the year 2017, notional income at Rs.11,000/- p.m., is to be taken into consideration and as the deceased is a married man, therefore, $\frac{1}{3}^{\text{rd}}$ of income has to be deducted towards his personal and living expenses. The deceased was aged 72 years as on the date of the accident, hence, the appropriate multiplier applicable is '5'. Therefore, the compensation under the



head loss of dependency is re-assessed and quantified as follows:

Rs.11,000/- x $\frac{2}{3}$ x 5 x 12=Rs.4,39,999/-, which is rounded off to **Rs.4,40,000/-**.

Accordingly, compensation **Rs.4,40,000/-** is awarded under the head loss of dependency.

6. The compensation of Rs.20,000/- awarded towards loss of consortium is on the lesser side and the same is awarded at Rs.40,000/- with 10% escalation as per the judgment of the Hon'ble Supreme Court in the case of ***Magma General Insurance Co. Limited v. Nanu Ram & Others¹***. Accordingly, compensation of **Rs.44,000/-** Rs.40,000/- + 10% of Rs.40,000/- is awarded under the head loss of consortium.

¹ **2018 ACJ 2782**



7. The compensation of Rs.15,000/- each awarded under the heads loss of estate and transportation of dead body and funeral expenses is needed to be escalated by 10%.. Accordingly, **Rs.33,000/-** is awarded under these heads.

8. Thus, in all, the appellant/claimant is entitled to enhanced compensation as follows:

Loss of dependency	Rs. 4,40,000/-
Loss of consortium	Rs. 44,000/-
Loss of estate and Transportation of dead body and funeral expenses	Rs. 33,000/-
Total	Rs.5,17,000/-

9. The Tribunal has awarded compensation of Rs.2,60,000/-, but the appellant/claimant is entitled to total compensation of **Rs.5,17,000/-**. Hence, the appellant/claimant is entitled to enhanced compensation of **Rs.2,57,000/-** (Rs.5,17,000/- - Rs.2,60,000/-).



Therefore, the appellant/claimant is entitled to enhanced compensation of **Rs.2,57,000/-** along with interest at the rate of 6% per annum from the date of petition till the date of realization.

10. Accordingly, I proceed to pass the following:

ORDER

Appeal is ***allowed-in-part***.

The impugned judgment and award dated 02.02.2018 in MVC.No.2164/2017 passed by the Motor Accident Claims Tribunal, Bengaluru, (SCCH-15), is modified to the extent that the appellant/claimant is entitled to enhanced compensation of **Rs.2,57,000/-** along with interest at 6% p.a., from the date of petition till realization, in addition to what has been awarded by the Tribunal.

Draw award accordingly.



No order as to costs.

Registry is directed to transmit the TCR along with a copy of this order to the Tribunal forthwith.

The appellant/claimant is not entitled for interest for the delay period of 121 days in filing the appeal.

**Sd/-
JUDGE**

PB