



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 30TH DAY OF SEPTEMBER, 2022**

BEFORE

THE HON'BLE MR JUSTICE N S SANJAY GOWDA

MISCELLANEOUS FIRST APPEAL NO. 1601 OF 2020 (MV-D)

BETWEEN:

1. THE ORIENTAL INSURANCE COMPANY LTD.,
DOOR NO.1273,
OLD POLICE STATION ROAD,
CHICKPETE, TUMKUR,
THROUGH ITS BENGALURU
REGIONAL OFFICE,
NO.44/45, LEO SHOPPING COMPLEX,
RESIDENCY ROAD,
BENGALURU-560 025,
REPRESENTED BY ITS DEPUTY MANAGER

...APPELLANT

(BY SRI. S.V. HEGDE MULKHAND, ADVOCATE)

AND:

1. SMT. RATHNAMMA
W/O LATE BYRAPPA,
D/O LATE MUNIYAPPA
AND NARAYANAMMA,,
AGED ABOUT 45 YEARS,
R/O BABU JAGAJIVANRAMNAGARA,
AD COLONY, JIGANI VILLAGE,
ANEKAL TALUK,
BENGALURU RURAL DISTRICT-560 105.

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signed by
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Location:
High Court
of Karnataka



2. SRI. VENKATESH
S/O LATE MUNIYAPPA AND
NARAYANAMMA,,
AGED ABOUT 49 YEARS,
R/O BABU JAGAJIVANRAMNAGARA,
AD COLONY, JIGANI VILLAGE,
ANEKAL TALUK,
BENGALURU RURAL DISTRICT-560 105.
3. SRI. ABDUL RAHIM
MAJOR IN AGE,
R/O NO.24, SYED GOWS BUILDING,
SECOND CROSS,
MUNESHWARA NAGARA,
BENGALURU CITY,
KARNATAKA-560 068.
4. SMT. SHANTAMMA
W/O SHIVARAM,
L S DRIVING SCHOOL,
OPP RENUKESHWARA BHAVAN,
JIGANI VILLAGE,
ANEKAL TALUK,
BENGALURU RURAL DISTRICT-560 105.

...RESPONDENTS

(BY SRI. K. VISHWANATHA, ADVOCATE FOR R2)

THIS MFA FILED U/S.173(1) OF MV ACT, AGAINST THE JUDGMENT AND AWARD DT.24.09.2019 IN MVC NO.63/2014 ON THE FILE OF THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, BENGALURU RURAL DISTRICT, ANEKAL, AWARDED COMPENSATION OF RS.8,55,400/- WITH INTEREST AT 6 PERCENT P.A. FROM THE DATE OF PETITION TILL REALIZATION.



THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

1. This appeal is by the insurer challenging the award of Rs.8,55,400/- awarded for the death of Smt. Narayanamma.
2. It is the contention of the insurer that the claimants were aged more than 40 years and therefore, there will be no question of dependency. It is also stated that the reduction of merely 1/3rd out of the monthly income determined would be improper, since the children were aged above 40 years. It would be appropriate to deduct 50%.
3. As far as the argument that the claimant were major and were married daughters and would not be entitled for the compensation, the said argument cannot be entertained in view of the decision rendered by this Court in MFA.No.102868/2014 decided on 04/08/2022 in which this Court has stated that even married daughters and sons would be entitled for compensation not only under conventional heads but also on the ground of



loss of dependency. The argument of the learned counsel is therefore rejected.

4. The Tribunal has determined the monthly income of the deceased at Rs.7,000/- based on the certificate issued by Y.K.Hospital, Jigani Industrial Area. In my view, the acceptance of the Certificate is just and proper and does not call for any interference. Since the deceased was **55** years old, **10%** of the same would have to be added towards future prospects, which would make the income at **Rs.7,700/-**.

5. However, in respect of reduction, the learned counsel for the insurer would be justified in contending that 50% ought to have been deducted as against $1/3^{\text{rd}}$ since the children were aged more than 40 years. Consequently, instead of $1/3^{\text{rd}}$, 50% would have to be deducted towards personal expenses of the deceased. As a consequence, the claimant is entitled to a sum of **Rs.5,08,200/-** ($\text{Rs.7,700/-} \times 50\% \times 12 \times 11$) towards *loss of dependency*.



6. The Tribunal has awarded loss of love and affection to one of the claimant. In my view, the Tribunal ought to have awarded loss of love and affection for the other claimants also. Thus, in substitution to the award, claimants are entitled for the following sums:

Sl. No.	Heads of Compensation	Amount in (Rs.)
1	Towards loss of dependency	5,08,200-00
2	Towards Loss of love and affection	80,000-00
3	Towards conventional heads	30,000-00
	Total	6,18,200-00

7. The claimant is entitled for compensation of **Rs.6,18,200/-** along with interest at 6% per annum from the date of petition till the date of realization. The insurer is directed to deposit the amount of compensation within eight weeks from the date of receipt of the certified copy of this judgment.



Accordingly, the appeal is ***allowed in part.***

**SD/-
JUDGE**

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List No.: 1 Sl No.: 14