



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 31ST DAY OF JULY, 2024

BEFORE

THE HON'BLE MR. JUSTICE N.S.SANJAY GOWDA

MISCL. FIRST APPEAL NO.201804 OF 2015 (MV-D)

BETWEEN:

1. SRI BHIMRAYA @ BHEEMANNA
S/O LATE KHANAPPA YELLAM PUJARI,
AGE: 53 YEARS, OCC: HOUSEHOLD AND AGRI.
2. KHANAPPA
S/O LATE KHANAPPA YELLAMMA PUJARI
AGE: 20 YEARS, OCC: STUDENT
3. RENUKA D/O LATE KHANAPPA YELLAMMA PUJARI
AGE: 18 YEARS, OCC: STUDENT
4. BHAGYASHREE
D/O LATE KHANAPPA YELLAMMA PUJARI
AGE: 16 YEARS, MINOR, OCC: STUDENT,
5. AYYAMMA D/O LATE KHANAPPA YELLAMMA PUJARI
AGE: 13 YEARS, MINOR OCC: STUDENT

APPELLANT NO.4 TO 5 ARE MINORS U/G OF THEIR
NATURAL FATHER APPELLANT NO.1,

ALL ARE R/O. MAHAL ROZA VILLAGE,
TQ. SHAHABAD, DISTRICT YADGIR,
NOW RESIDING AT BUDDA NAGAR,
TARFILE, GULBARGA-01

...APPELLANTS

(BY SRI GANESH NAIK, ADVOCATE)

Digitally signed
by RENUKA
Location: HIGH
COURT OF
KARNATAKA



AND:

1. SRI YELLAPPA
S/O SHARNAPPA JAGIRI @ HOLAGI
AGE: 24 YEARS,
OCC: DRIVER OF TRACTOR
R/O. PASTAPURSWANT
TQ: SHAHAPUR
DIST: GULBARGA-585223.

2. SRI GUNJALAPPA @ GUJALAPPA
S/O BHIMAPPA DODDAMANI
AGE: 48 YEARS,
OCC: HOUSEHOLD & OWNER OF TRACTOR
R/O. ANWAR VILLAGE
TQ: SHAHAPUR-585223.

...RESPONDENTS

(NOTICE TO R1 AND R2-SERVED)

THIS MFA IS FILED U/S. 173(1) OF MV ACT, PRAYING PLEASED TO ALLOW THE APPEAL AND MODIFY THE JUDGMENT AND AWARD DATED 04.12.2014 IN MVC NO.787/2012 ON THE FILE OF THE PRL. SR. CIVIL JUDGE AND CJM AT GULBARGA C/C/ IN THE COURT OF I ADDL. SENIOR CIVIL JUDGE AND MACT AT GULBARGA AND ENHANCE THE COMPENSATION AS CLAIMED IN THE CLAIM PETITION AND ETC.

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

CORAM: HON'BLE MR. JUSTICE N.S.SANJAY GOWDA



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE N.S.SANJAY GOWDA)

1. The appeal is filed seeking for enhancement of compensation.

2. It is not in dispute that as a result of the motor vehicle accident, which occurred on 18.04.2011, Smt.Sharnamma, a 42 year old died.

3. It is not in dispute that the Insurer is liable to pay the compensation as the offending vehicle was insured.

4. The Tribunal, on assessment of the evidence adduced before it, has come to the conclusion that the driver of the offending vehicle was responsible for the accident which has resulted in the death of Smt.Sharnamma. The Tribunal has thereafter proceeded to award the following sums as compensation:



Sl. No.	Nature of Heads	Amount (In Rs.)
1.	Loss of Dependency	5,04,000/-
2.	Towards love and affection	10,000/-
3.	Funeral expenses & Transportation and obsequies	10,000/-
	Total	5,24,000/-

5. In order to arrive at the *loss of dependency*, the Tribunal has determined the monthly income, notionally at Rs.3,000/-.

6. In cases where there is no evidence to determine the actual income, it is appropriate to adopt the notional income as assessed by the Karnataka State Legal Services Authority, which for the year 2011 would be Rs.6,000/-

7. As per the decision of the Apex Court in the case of ***National Insurance Company Limited vs. Pranay Sethi and Others - (2017) 16 SCC 680***, as the deceased was aged about 42 years, 25% of the same



(Rs.1,500/-) is required to be added to the said income as future prospects (Rs.7,500/-).

8. Out of the said sum, 1/4th depending on the number of dependents (Rs.1,875/-) would have to be deducted towards personal expenses of the deceased. The net income will be Rs.5,625/-.

9. As the deceased was aged 42 years, a multiplier of '14' will have to be applied. Consequently, the claimants would be entitled to a sum of **Rs.12,15,000/-** (Rs.5,625/- x 12 x '18') towards "*loss of dependency*".

10. The claimants being the husband and children, each of them would be entitled to a sum of Rs.44,000/- towards "*loss of consortium*" i.e., in all **Rs.2,20,000/-** and they would also be entitled to a sum of **Rs.33,000/-** under the "*conventional heads*".



11. Thus, the claimants, in modification of the impugned award, would be entitled to the following sums :

Sl. No.	Nature of Heads	Amount (In Rs.)
1.	Loss of Dependency	12,15,000/-
2.	Loss of Consortium	2,20,000/-
3.	Conventional Head	33,000/-
	Total	14,68,000/-

12. Thus, the claimants would be entitled for compensation of **Rs.14,68,000/-** as against Rs.5,24,000/- awarded by the Tribunal, along with interest at the rate of six per cent per annum from the date of petition till its realization.

13. The Insurance Company is directed to deposit the amount of compensation awarded along with interest within a period of eight weeks from the date of receipt of a certified copy of this judgment.



14. The disbursement shall be in terms of the impugned order.

The appeal is accordingly ***allowed in part.***

**Sd/-
(N.S.SANJAY GOWDA)
JUDGE**

MSR,SN
List No.: 1 SI No.: 60