

**(2014) 04 KAR CK 0004**  
**In the Karnataka High Court**  
**Case No : M.F.A. No. 3752 of 2013 (MV)**

A.B. Some Gowda and Kamalamma

APPELLANT

Vs

Ram Babu and The Oriental Insurance Co. Ltd.

RESPONDENT

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**Date of Decision :** 03-04-2014

**Acts Referred:**

Motor Vehicles Act, 1988 — Section 166

**Citation :** (2014) 04 KAR CK 0004

**Hon'ble Judges :** P.D. Waingankar, J;N.K. Patil, J

**Bench :** Division Bench

**Advocate :** R. Chandrashekhar, Advocate for the Appellant; A. Ravishankar, Advocate for R2, Advocate for the Respondent

**Final Decision :** Partly Allowed

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## Judgement

N.K. Patil, J.—Though this matter is posted today in orders list, with the consent of learned counsel appearing for both the parties, the same is taken up for final disposal. This appeal by the appellants-claimants is arising out of the impugned judgment and award dated 05/10/2012 passed in MVC No. 6874/2010, by the XVI Additional Judge and Motor Accident Claims Tribunal, Bangalore (SCCH-14), (hereinafter referred to as "Tribunal" for short), for enhancement of compensation, on the ground that a sum of Rs. 6,97,000/- awarded by the Tribunal under different heads, with interest at 6% per annum against the claim of Rs. 30,00,000/-, on account of the death of the deceased Sri. Sandesh. A.S., in the road traffic accident is inadequate.

2. In brief, the facts of the case are:

The appellant Nos. 1 and 2 are the parents of the deceased Sri. Sandesh A.S. They filed a claim petition before the Tribunal u/s 166 of M.V. Act, claiming compensation against the respondents, on account of the death of the deceased in the road traffic accident, contending that, on 29.7.2010 at about 7.30 p.m., deceased was riding motor cycle bearing Reg. No. KA.01.EQ.2773 on Belur-

Gendehalli road from Belur town towards his native place Aggadalu and while proceeding near Kalasinakere kodi, at that time, the driver of the lorry bearing Reg. No. KA.16.A.1401 came from opposite direction with high speed in a rash and negligent manner and dashed against the aid motor cycle and caused the accident. Due to which, deceased fell down and sustained severe fatal injuries. Immediately, he was shifted to Government Hospital, Belur, after first aid, he was taken to Government Hospital, Hassan and then to Bhagwan Mahaveer Jain Hospital Bangalore, where he was admitted as inpatient, but on 4.8.2010, he succumbed to the injuries sustained in the accident.

3. It is the further case of the appellants that, deceased was aged about 26 years, hale and healthy prior to the accident and was working as Training Coordinator at Linova Info Private Limited, Bangalore and drawing the salary of Rs. 8,950/- per month. Due to his untimely death, appellant Nos. 1 and 2 who were completely depending upon his earnings have lost their son, who was their future hopes and security, apart from mental shock and agony.

4. The said claim petition had come up for consideration before the Tribunal. The Tribunal, after appreciating the oral and documentary evidence and other material available on file, has allowed the claim petition in part and awarded the compensation of Rs. 6,97,000/- under different heads, with interest at 6% per annum from the date of petition till its payment.

5. Being dissatisfied with the quantum of compensation awarded by the Tribunal, the appellants have presented this appeal, for enhancement of compensation.

6. We have heard the learned counsel appearing for the appellants and learned counsel for Insurer.

7. Learned counsel for the appellants submitted that, the Tribunal has erred in assessing the income of the deceased at Rs. 4,000/- per month, on the ground that deceased was aged about 26 years, working as Training coordinator at Linova info Private Limited and drawing the salary of Rs. 8,950/- per month and contributing the entire amount to the welfare of the family. Therefore, he submitted that the income of the deceased may reassessed reasonably. Further, he submits that the compensation awarded by the Tribunal towards conventional heads is inadequate and it needs to be enhanced. Therefore, he submitted that the impugned judgment and award is liable to be modified.

8. As against this, learned counsel appearing for the Insurer, inter-alia, contended and substantiated that the impugned judgment and award passed by the Tribunal is just and proper and after due appreciation of the oral and documentary evidence available on file and taking into consideration the age, occupation of the deceased and year of the accident and therefore, it does not call for interference."

9. After hearing the learned counsel for the parties and after perusing the materials available on record, including the impugned judgment and award

passed by the Tribunal, the only point that arises for our consideration is:

Whether the compensation awarded by the Tribunal is just and reasonable?

10. The occurrence of the accident on 29.7.2010 and resultant death of the deceased on 4.8.2010 are not in dispute. It is also not in dispute that deceased was aged about 26 years, working as Training coordinator at Linova info Private Limited, and hale and healthy prior to the accident and the dependants are his parents who has lost their son who was their future hope and security, apart from mental shock and agony. Further it emerges that, the Tribunal has assessed the income of the deceased at Rs. 4,000/- per month which is on lower side and it needs to be modified. Therefore, having regard to the age and occupation of the deceased and year of the accident, we re-assess his income at Rs. 6,000/-. Out of which, if 50% ( Rs. 3,000/-) is deducted towards his personal expenses since he was a bachelor, his remaining income comes to Rs. 3,000/- per month. The proper multiplier applicable taking the age of the younger parent-mother of the deceased as 45 years, is "14", in view of the law laid down by the Apex Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, . Therefore, we re-determine the loss of dependency at Rs. 5,04,000/- ( Rs. 3,000/- x 12 x 14) instead of Rs. 4,08,000/- awarded by the Tribunal and accordingly, it is awarded.

11. Having regard to the facts and circumstances of the case, we award a sum of Rs. 20,000/- towards loss of love and affection, Rs. 20,000/- towards loss of estate and Rs. 10,000/- towards transportation and funeral expenses.

12. However, a sum of Rs. 2,58,431/- awarded by the Tribunal towards medical expense including conveyance and other incidental expenses since the accident has occurred on 29.7.2010 and deceased has succumbed to the injuries on 4.8.2010, as per the medical bills produced by the appellants, is just and proper and therefore, it does not call for interference. In all, the appellants are entitled to a total compensation of Rs. 8,12,431/- instead of Rs. 6,97,000/- awarded by the Tribunal. There would be an enhancement of Rs. 1,15,431/- with interest at 8% p.a., from the date of petition till its realization. For the foregoing reasons, the appeal filed by the appellants is allowed in part and the impugned judgment and award dated 05/10/2012 passed in MVC No. 6874/2010, by the XVI Additional Judge and Motor Accident Claims Tribunal, Bangalore (SCCH-14), is hereby modified, awarding the compensation of Rs. 1,15,431/- with interest at 8% p.a., on the enhanced compensation from the date of petition till its realization, in addition to the compensation awarded by the Tribunal.

The 2nd respondent-Insurer is directed to deposit the enhanced compensation of Rs. 1,15,431/- with interest at 6% p.a., from the date of petition till the date of realization, within a period of three weeks from the date of receipt of a copy of this judgment and award.

Immediately on such deposit by the 1st respondent-Insurer, out of the enhanced compensation of Rs. 1,15,431/-, a sum of Rs. 50,000/- with proportionate

interest shall be invested in Fixed Deposit, in the name of appellant No. 2, in any Nationalized or Scheduled Bank, for a period of ten years and renewable by another ten years, with liberty reserved to her to withdraw the interest accrued on it, periodically.

The remaining sum of Rs. 65,431/- with proportionate interest shall be released in favour of the appellant No. 1 and 2 in equal proportion, immediately.

Draw the award, accordingly.