

The Divisional Manager vs Smt. Kenchamma W/O Basappa Nekar

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Court : Karnataka Dharwad

Decided On : Aug-21-2025

Judge : S.R. Krishna Kumar,G Basavaraja

Appeal No. : RP/100115/2024

Appellant : The Divisional Manager

Respondent : Smt. Kenchamma W/O Basappa Nekar

Judgement :

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IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 21ST DAY OF AUGUST, 2025 PRESENT THE HON'BLE MR. JUSTICE S.R. KRISHNA KUMAR AND THE HON'BLE MR. JUSTICE G BASAVARAJA REVIEW PETITION NO.100115 OF 2024 in MFA NO.101825 OF 2022 C/W MFA 101742 OF 2022 BETWEEN: THE DIVISIONAL MANAGER, NATIONAL INSURANCE COMPANY LIMITED, REGIONAL OFFICE, 2ND FLOOR, ARIHANTA PLAZA, KUSUGAL ROAD, HUBBALLI-580023. PETITIONER (BY SRI. RAJESH B. RAJANAL, ADVOCATE) AND:

1. SMT. KENCHAMMA W/O. BASAPPA NEKAR

MALLIKARJUN AGE. 42 YEARS, OCC. NIL, RUDRAYYA KALMATH
R/O. MAKANUR VILLAGE, TQ. RANEBENNUR, DIST. HAVERI-581111.
Digitally signed by MALLIKARJUN RUDRAYYA KALMATH Date:
2025.09.11

2. SRI. BASAPPA S/O. LAKSHMAPPA NEKAR 10:35:52 +0530 AGE. 52
YEARS, OCC. NIL, R/O. MAKANUR VILLAGE, TQ. RANEBENNUR,
DIST. HAVERI-581112.

3. SMT. PRATHIBA ASHOK HAVANUR W/O. ASHOK F. HAVANUR
AGE. MAJOR, OCC. BUSINESS R/O.NO.96/A, 3RD CROSS,
NARAIMHA BADAVANE, LEGGERE BRIDGE, BENGALURU-580001. -
2- RESPONDENTS THIS REVIEW PETITION IS FILED UNDER
ORDER 47 RULE 1 OF CPC, PRAYING TO REVIEW THE JUDGMENT
DATED

04.09.2023 IN MFA NO.101825/2022 C/W. MFA NO.101742/2022, ON
THE FILE OF HONBLE HIGH COURT OF KARNATAKA, DHARWAD
BENCH, DHARWD, IN THE INTEREST OF JUSTICE AND EQUITY.
THIS PETITION, COMING ON FOR ORDERS, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE S.R. KRISHNA KUMAR AND THE
HON'BLE MR. JUSTICE G BASAVARAJA

ORAL ORDER

(PER: HON'BLE MR. JUSTICE G. BASAVARAJA) This review petition is filed
under Order XLVII Rule 1 of Code of Civil Procedure praying to review the
judgment dated 4TH September, 2023 passed in MFA No.101825 of 2022
connected with MFA No.101742 of 2022. Along with the petition, application IA.I of
2024 under section 5 of Limitation Act is also filed praying to convene the delay of
296 days in filing. Review petition.

2. Sri Rajesh B. Rajanal, learned Counsel appearing for

their Review Petitioner-Insurance Company submits that, in spite of claimants producing the salary certificate of the deceased at Exhibit-P27 which clearly shows that the deceased was getting -3- salary of Rs.10,000/- per month and was having a fixed salary, but the Court has overlooked this aspect of the matter and assessed the income of the deceased at Rs.13,250/- per month, which is on the higher side and hence the same requires to be

reviewed. He would further submit that this Court had added 40% towards future prospects and deducted one-third out of the income and awarded an amount of Rs.26,71,056/- towards loss of dependence. The learned Counsel would further submit that the deceased was a bachelor as on the date of accident, and as such the deduction towards personal expenses of the deceased is to be modified at 50% instead giving deduction at one-third.

3. We have heard the arguments on IA.I of 2024 for

condonation of delay, as also, on merits of the case. A perusal of the observation made at paragraph 15 of the judgment would make it clear that this Court has observed that the Tribunal has taken the income of the deceased at Rs.10,000/- per month and the same is not proper in view of the guidelines issued by the Karnataka State Legal Services Authority. According to the

guidelines issued, where the claim of the claimants are not

supported with any documentary proof, notional income is to be -4-

taken. Accordingly, for the accidents of the year 2019, the notional income is to be taken at Rs.13,250/- and accordingly it is taken. In addition to it, it is also relevant to mention here that the petitioners have stated in the claim petition that the deceased was a brilliant and meritorious student and petitioners, being the parents of the deceased, were having hope that after completion of diploma, their son would secure a good job. It is also contended in the claim petition that the deceased was earning Rs.20,000/- per month from part-time job. In absence of any documentary proof produced by the petitioners, this court has assessed the

notional income as per the guidelines of Karnataka State Legal Services Authority. Hence, there are no grounds to review the same. As regards deduction is concerned, considering the dependents of the deceased this Court has deducted one-third of the income towards personal expenses of the deceased. Hence there is no error apparent on the face of the record to review the judgment.

4. With regard to condonation of delay of 296 days in filing the review petition is concerned, the application is supported by the affidavit of Sri Rajesh Singh, Deputy Manager -5- of the review petitioner-Insurance Company. He has stated in

his affidavit that the judgment was pronounced on 04th September, 2023. Immediately, after the judgment, the counsel for the review petitioner has applied for the certified copy in the month of January 2024 it was informed to the Insurance Company as to the passing of the judgment. It is stated that the counsel appearing for review petitioner has forwarded his opinion to the Insurance Company. It is also stated that after obtaining the certified copy of the judgment and the opinion of the Advocate, the papers were forwarded to High Court Advocate for giving legal opinion with regard to quantum of compensation in the month of January 2024. It is submitted that the papers sent through courier has not reached its Panel Advocate representing at High Court. It is further stated that when Insurance Company has received the notice in the Execution Petition in the month of May 24, they came to know about the legal opinion with regard

of quantum of compensation has not been received. Immediately, it was intimated to the counsel to get one more certified copy of the judgment and suggested to give opinion with regard to quantum of compensation. Accordingly, counsel has applied for the certified copy of the judgment and gave his -6- detailed opinion with regard to quantum of compensation that the compensation enhanced by the this Court is on the higher

side and the same is to be reconsidered. Immediately, after receiving the opinion, the Insurance Company has sent all the papers to the High Court in the second week of July, 2024, with a request to file the review petition. On all these grounds, it is sought to condone the delay of 296 days in filing the review petition. Except filing the Affidavit, the Insurance Company has not produced the legal opinion

issued by the concerned legal

advisor. The exact date of receiving the intimation from the Advocate is also not disclosed. Upon filing the Execution Petition, after lapse of 296 days, the Insurance Company has preferred this frivolous petition along with IA.I of 2024 seeking

condonation of delay. The petitioner has not shown any sufficient cause to condone the delay in filing the review petition. The reason assigned by the deponent is created for his convenience without producing any supporting document. Hence, the Application is liable to be rejected and is accordingly rejected. In the result, we proceed to pass the following:

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ORDER

i) IA.I of 2024 filed under Section 5 of Limitation Act to condone the delay of 296 days caused in filing this review petition is dismissed; ii) Review petition filed under Order XLVII Rule 1 of Code of Civil Procedure, being devoid of merits, is dismissed with costs; iii) In view of the dismissal of the review petition, pending IAs, if any, shall stand disposed of.

Sd/- (S.R. KRISHNA KUMAR) JUDGE Sd/- (G BASAVARAJA) JUDGE Inn CT-CMU LIST NO.: 1 SL NO.: 37

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