The Claim Manager vs Narasamma

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Court : Karnataka

Decided On : Jan-06-2026

Judge : C M Joshi

Appeal No. : MFA/6769/2016

Appellant : The Claim Manager

Respondent : Narasamma

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JANUARY, 2026 BEFORE THE HON'BLE MR. JUSTICE C M JOSHI MISCELLANEOUS FIRST APPEAL NO. 6769 OF 2016 (MV-D) C/W MFA CROSS OBJECTION NO. 29 OF 2025 (MV-D) IN MFA No. 6769/2016 BETWEEN: THE CLAIM MANAGER, H.D.F.C. ERGO GENERAL INSURANCE COMPANY LIMITED, RAMON HOUSE, H.T.PAREKH MARG, NO.169, BACKBAY RECLAMATION, MUMBAI-400 020. BY CLAIMS MANAGER, HDFC ERGO GENERAL INSURANCE CO.LTD., 2ND FLOOR, NO.25/1, BUILDING NO.2, SHANKAR NARAYANA BUILDING, Digitally signed

M.G.ROAD, BENGALURU-560 001. by NANDINI R BY ITS MAAGER CLAIMS SOUTH. Location: HIGH COURT OF APPELLANT KARNATAKA (BY SRI O MAHESH, ADVOCATE) AND:

1. NARASAMMA, AGED ABOUT 50 YEARS, W/O.LATE PUTTAMALLAIAH.

2. HALAMALLAIAH, AGED ABOUT 32 YEARS, S/O.LATE PUTTAMALLAIAH. -2-

3. CHANDRAIAH, AGED ABOUT 30 YEARS, S/O.LATE PUTTAMALLAIAH.

4. SIDDAMALLAIAH, AGED ABOUT 29 YEARS, S/O.LATE PUTTAMALLAIAH.

5. PANCHAKSHARAIAH, AGED ABOUT 28 YEARS, S/O.LATE PUTTAMALLAIAH. ALL ARE RESIDENT AT MALLASANDRAPALYA, KASABA HOBLI, TUMKUR TALUK-572 101.

6. CHIKKAHANUMAIAH, AGED ABOUT 52 YEARS, S/O.HANUMAIAH, R/O.MALLASANDRAPALYA, HALANUR POST, KASABA HOBLI, TUMKUR TALUK-572 101. RESPONDENTS (BY SRI N R HARISH FOR SRI PATEL D KAREGOWDA, ADVOCATE FOR R-1 TO R-5; SRI K N SUNIL FOR SRI K.R RAMESH, ADVOCATE FOR R-6) THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE

JUDGMENT AND AWARD DATED 01.03.2016 PASSED IN MVC

NO.1124/14 ON THE FILE OF THE 1ST ADDITIONAL DISTRICT & SESSIONS JUDGE & MACT, TUMKUR, AWARDING COMPENSATION OF RS.7,87,500/- WITH INTEREST AT 8% P.A. FROM THE DATE OF PETITION TILL REALISATION. IN MFA.CROB NO. 29/2025 BETWEEN:

1. SMT. NARASAMMA, W/O LATE PUTTAMALLAIAH, AGED ABOUT 58 YEARS. -3-

2. SRI HALAMALLAIAH, S/O LATE PUTTAMALLAIAH, AGED ABOUT 40 YEARS.

3. SRI CHANDRAIAH, S/O LATE PUTTAMALLAIAH, AGED ABOUT 38 YEARS.

4. SRI SIDDAMALLAIAH, S/O LATE PUTTAMALLAIAH, AGED ABOUT 37 YEARS.

5. SRI PANCHASHARAIAH, S/O LATE PUTTAMMALLAIAH, AGED ABOUT 36 YEARS. ALL ARE RESIDING AT MALASANDRAPALYA HALANUR POST, KASABA HOBLI, TUMAKURU TALUK - 572 101. ...CROSS OBJECTORS (BY SRI HARISH N.R, ADVOCATE) AND:

1. THE CLAIM MANAGER

HDFC ERGO GENERAL INSURANCE COMPANY LIMITED, RAMON HOUSE, H T PAREKH MARG, NO.169, BACKEBARY RECLAMATION, MUMBAI - 400 020. BY THE CLAIM MANAGER, H.D.F.C ERGO GENERAL INSURANCE COMPANY LIMITED, NO.25/1, BUILDING NO.2, SHANKAR NARAYANA BUILDING, M.G.ROAD, BENGALURU - 560 001.

2. SRI CHIKKAHANUMAIAH, S/O HANUMAIAH, -4- AGED ABOUT 60 YEARS, R/O MALLASANDRAPALYA, HALANUR POST, KASABA HOBLI, TUMAKURU DISTRICT - 571 101. ...RESPONDENTS (BY SRI O MAHESH, ADVOCATE FOR R-1; SRI K N SUNIL FOR SRI K.R RAMESH, ADVOCATE FOR R-2) THIS MFA CROB IS FILED UNDER ORDER 41 RULE 22 R/W

SECTION 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED 01.03.2016 PASSED IN MVC. NO. 1124/2014 ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, MACT, TUMAKURU, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION. THE APPEAL AND CROSS OBJECTION, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER: CORAM: HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

Heard the learned counsel appearing for the cross- objector and respondent No.6. None appear for the appellant in MFA.No.6769/2016. It is noticed by this Court that on the last occasion also none had appeared on behalf of the appellant.

2. Being aggrieved by the judgment and award in MVC.No.1124/2014 by the learned I Additional District and -5- Sessions Judge and MACT, Tumkur, the petitioners are before this Court in MFA Crob.No.29/2025 and the Insurance Company is before this Court in MFA.No.6769/2016.

3. The factual matrix that is relevant for the

purpose of this appeal is that on 16.04.2014 at about 11.15 p.m., a tractor trailer bearing No.KA-06-TB-2692-93 driven by its driver ran over the legs of the deceased Puttamallaiah, who was sleeping by the side of the road in his Village. He was shifted to T.H.S. Hospital, Tumkur and underwent surgeries and later, he was shifted to Jayadeva

Hospital, Bengaluru but he couldn't survive and succumbed to the injuries on 08.05.2014. The complaint was lodged by one of the son of the deceased to the Police on 19.04.2014 and in the said complaint, the name of the driver of the tractor was stated. The Police investigated the matter and ultimately, filed a charge sheet against the driver of the vehicle Gangadharaiah. The petitioners filed a claim petition contending that Puttamallaiah was aged

-6- about 55 years at the time of the accident and he was earning Rs.15,000/- per month by doing agriculture and trading in sheep and due to his death, the petitioners have lost a bread earner and as such, they are entitled for an adequate compensation.

4. Pursuant to the notice issued, the owner of the

tractor-respondent No.1 appeared before the Tribunal and filed a written statement denying the petition averments. However, he contented that the vehicle was insured with the respondent No.2 and therefore, if any liability is there, the same has to be fastened upon the respondent No.2. He also contented that the driver of the tractor trailer was one Gangadharaiah and he had valid and effective driving licence as on date of the accident.

5. The respondent No.2-Insurance Company filed written statement denying the petition averments and it alleged that the driver who was on the vehicle at the time of the accident is one Shashikumar but not Gangadharaiah. It contented that the said Shashikumara -7-

had no valid driving licence and the said Gangadharaiah has been falsely implicated in the case, so that the liability may be fastened upon the respondent No.2. It was contented that the delay in filing the complaint speaks about the false implication of the driver in the accident and therefore, the petition is liable to be dismissed.

6. On the basis of the above contentions,

appropriate issues were framed by the Tribunal. The petitioner No.2 was examined as PW.1 and Ex.P1 to 10 were marked. On behalf of the respondents, 05 witnesses were examined as R.Ws.1 to 5 and Exs.R1 to 8 were marked.

7. After hearing the arguments, the Tribunal held

that the accident had occurred due to the negligent driving of the said Gangadharaiah and therefore, it fastened liability upon the respondent No.2-Insurance Company. A sum of Rs.7,87,500/- was awarded as compensation under following heads: -8- SL. AMOUNT PARTICULARS NO. (IN RS.) 1 Loss of dependency 4,45,500/- 2 Conveyance 10,000/- 3 Funeral expenses 25,000/- 4 Loss of consortium 25,000/- 5 Loss of estate 10,000/- 6 Loss of love and affection 80,000/- 7 Medical expenses 1,92,000/- TOTAL 7,87,500/-

8. Being aggrieved, the Insurance Company is in appeal before this Court in MFA.No.6769/2016 and the petitioners are before this Court in MFA Crob.No.29/2025.

9. As noted supra there was no submission on behalf of the appellant-Insurance Company on the last occasion as well as on today also despite the matter was slated for final hearing.

10. The arguments by learned counsel appearing for the respondent Nos.1 to 6 in MFA.No.6769/2016 and for cross-objectors were heard.

11. Learned counsel appearing for the cross- objectors/petitioners contends that the Tribunal has erred in assessing the notional income of the deceased at -9-

Rs.4,500/- and considering his age and standing, it should have been taken at a higher value. It is also contented that the quantum of the compensation needs to be reassessed with reference to his avocation and the notional income should have been taken at Rs.8,000/-.

12. The learned counsel appearing for the cross- objectors also submit that the appeal filed by the Insurance Company is unfounded and the Tribunal had considered all the relevant aspects and has come to a

proper conclusion that the vehicle was driven by Gangadharaiah. It is contented that simply because there is a delay of 03 days in filing the complaint, it cannot be inferred that the driver has been falsely implicated. Therefore, he submits that the appeal filed by the Insurance Company is liable to be dismissed.

13. Learned counsel appearing for respondent No.6-the owner of the vehicle submits that he has filed the written statement stating that the vehicle was driven by - 10 - Gangadharaiah, but he disputed the negligence on the part of the said driver.

14. So far as the appeal filed by the Insurance

Company is concerned, the records reveal that the FIR at Ex.P1 shows that when the case was registered on 19.04.2014, the name of Gangadharaiah was mentioned. Though the complaint dated 19.04.2014 is not produced, a further complaint which informed about the death of Puttamallaiah on 08.05.2014 is produced. Therefore, when the Insurance Company alleges that the name of Gangadharaiah was inserted at a later stage in the complaint, as may be found in the appeal memo, it was incumbent upon the Insurance Company to produce the said complaint dated 19.04.2014. Either in the testimony of the officer of the Insurance Company or otherwise, such complaint is not produced before the Tribunal. Therefore, when the Ex.P1 is not rebutted in any way, the contention of the Insurance Company taken up in its appeal memo

- 11 - that the name of Gangadharaiah was inserted later, cannot be accepted.

15. So far as the delay in filing the complaint is concerned, the Tribunal has rightly relied upon the

judgment in the case of Ravi Vs. Badhrinarayana1 and

has come to the conclusion that the delay alone cannot be a ground to infer that the name of a person who had valid driving licence had been inserted in order to fasten the liability upon the Insurance Company. Therefore, this Court finds that there is no merit in the appeal filed by the Insurance Company and as such, the same is liable to be dismissed.

16. So far as the cross-objections are concerned, it

is pertinent to note that the petitioners had not produced any documentary evidence to show that the deceased Puttamallaiah was earning a sum of Rs.25,000/- per month. There is no material on record to show that he had possessed any land or had engaged himself in trading 2011 ACJ 911 - 12 - sheep. Therefore, the Tribunal was justified in holding that notional income has to be considered.

17. The Tribunal considers the notional income at

Rs.4,500/- per month. The guidelines issued by the KSLSA for the purpose of settlement of the disputes before the Lok-Adalath prescribed, a notional income of Rs.8,500/- for the year 2014. In umpteen number of judgments, it has been held by this Court that the guidelines issued by the KSLSA are in general conformity with the wages fixed under the Minimum Wages Act and therefore, they are acceptable. Therefore, by adding 10% to the notional

income of Rs.8,500/-, the multiplicand comes to Rs.9,350/-. The Tribunal has held that the age of the deceased was 55 years and therefore, the applicable multiplier is '11'. As held by the Tribunal, 1/4th has to be deducted towards the 'personal expenses' of the deceased considering the number of the family members he was

supporting. Therefore, the 'loss of dependency' is calculated as Rs.9,350 x 12 x 3/4 x 11 = Rs.9,25,650/-. In - 13 - addition to it, the petitioners are also entitled for Rs.44,000/- each towards 'loss of love and affection and consortium', which comes to Rs.2,20,000/-. The petitioners are also entitled for Rs.16,500/- under the head 'loss of estate' and Rs.16,500/- towards 'funeral expenses'. Further, the petitioners are also entitled for 'Medical Expenses' of Rs.1,92,000/- as calculated by the Tribunal.

18. Thus, the petitioners are entitled for the modified compensation under different heads as below:

AMOUNT PARTICULARS (IN RS.) Loss of dependency 9,25,650/- Loss of love and affection and 2,20,000/- consortium Loss of estate 16,500/- Funeral expenses 16,500/- Medical expenses 1,92,000/- TOTAL 13,70,650/- Less awarded by Tribunal 7,87,500/- Enhancement 5,83,150/- - 14 -

19. Thus, the petitioners are entitled for enhanced compensation of Rs.5,83,150/- with interest and therefore, the cross-objection deserves to be allowed in part. Hence, the following:

ORDER

(i) The appeal in MFA.No.6769/2016 is dismissed.

(ii) MFA Crob.No.29/2025 is allowed in part.

(iii) The impugned judgment and award passed by the Tribunal is modified by awarding a sum of Rs.5,83,150/- in addition to what has been awarded by the Tribunal together with interest at 6% p.a. from the date of petition till its deposit excluding interest for the delayed period of 2,241 days in filing the cross-objection.

(iv) The Insurance company is directed to deposit the same as provided under Section 168(3) the Motor Vehicles Act, 1988.

(v) The amount which is in deposit before this Court is transmitted to the Tribunal. - 15 -

(iv) Rest of the order of the Tribunal stands unaltered. Sd/- (C M JOSHI) JUDGE NR/- List No.: 1 Sl No.: 25