IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 29TH DAY OF NOVEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

MISCL. FIRST APPEAL NO. 203238 OF 2023 (MV-I)

BETWEEN:

1. GANAPATI S/O. DHAREPPA PUJARI,
   AGE: 49 YEARS, OCC: COOLIE,

2. SHANTAPPA S/O. DHAREPPA PUJARI,
   AGE: 47 YEARS, OCC: COOLIE,

3. YALLAPPA S/O. DHAREPPA PUJARI,
   AGE: 44 YEARS, OCC: COOLIE,
   ALL ARE R/O. TELAGAON,
   TQ. SOUTH SOLAPUR,
   NOW RESIDING AT SOLAPUR ROAD,
   VIJAYPURA-586101.

...APPELLANTS

(BY SRI. BASAVARAJ R MATH, ADVOCATE)

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Location: HIGH COURT OF KARNATAKA

AND:

1. VINOD S/O. RAJRATNA AATHAWALE,
   AGE: ABOUT 44 YEARS, OCC: BUSINESS,
   R/O. PLOT NO.224,
   REVANASIDDESHWAR NAGAR,
   SHIVAHAI, SOLAPUR, MAHARASHTRA.
   PIN – 413001.
   (OWNER OF MOTOR CYCLE NO. MH.13/BF.6191)

2. THE BRANCH MANAGER,
   THE NEW INDIA ASSURANCE CO. LTD;

GURUKUL ROAD,
VIJAYAPURA-586101.

…RESPONDENTS

(BY SMT. SHASHIKALA JAHAGIRDAR, ADVOCATE FOR R2;
V/O. DTD: 05.09.2023 NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT, PRAYING TO CALL FOR RECORDS AND ENHANCED THE AWARD AMOUNT BY MODIFYING THE IMPUGNED JUDGMENT AND AWARD DATED 8.11.2022 PASSED BY THE MEMBER, MOTOR VEHICLE ACCIDENT CLAIMS TRIBUNAL NO.XIII, VIJAYAPURA, IN MVC NO. 428/2019.

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

CORAM: HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM)

Captioned appeal is by claimants questioning the quantum determined by the Tribunal in MVC No.428/2019. Respondent No.2-Insruance Company admits its liability and hence, appeal is purely on quantum.

2. Claimants are sons of one Smt.Ratnabai Pujari, who have filed a claim petition, for having lost their mother in a road traffic accident dated 28.10.2016. Tribunal after assessing oral and documentary evidence, having answered issue No.1 is affirmative, however, has declined to pay compensation to appellants, under the head of loss of dependency, on the premises that claimants are major sons of deceased and therefore, they are not entitled for compensation under the head of loss of dependency.

3. Findings recorded by Tribunal, while denying compensation under the head of loss of dependency clearly contravenes the law declared by Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Birender and Others1***. The deceased, was an agricultural coolie residing in a rural village, contributing substantially to the family's livelihood through daily-wage labor. The claimants, who are also agricultural

[1] (2020) 11 SCC 356

coolies, earn a meager income dependent on seasonal agricultural work. The untimely death of the deceased(mother) has left the family in a state of severe financial and emotional distress, as their earnings, individually and collectively, are insufficient to meet the household's needs.

4. In rural India, families of agricultural coolies are not independent economic units but operate on principles of interdependency. The deceased, despite being a daily-wage laborer, contributed to the family's sustenance by pooling earnings to meet daily expenses, and other essential requirements.

5. It is a fallacy to assume that major children, merely because they earn independently, are no longer dependent on their parents. In cases of agricultural coolie families, where earnings are irregular, paltry, and barely sufficient, the financial support of all members, especially the deceased parent, is critical for survival. The absence of

the deceased has disrupted this fragile economic balance, plunging the family into deeper poverty.

6. The Hon'ble Supreme Court, in the judgment cited supra, has unequivocally held that major children of a deceased individual, irrespective of their marital or employment status, are entitled to seek compensation as legal representatives under Section 166(1)(c) of the Motor Vehicles Act, 1988. The Hon'ble Court observed that dependency must be evaluated not merely on financial grounds but also by considering the socio-economic fabric of the family.

7. In this case, the claimants' earnings as agricultural coolies do not render them independent. Rather, they remain dependent on the deceased's contributions, which formed a crucial part of the household's collective income. Denying compensation under the head of loss of dependency would undermine the principles of justice and equity, especially given the impoverished circumstances of the family. The deceased's

earnings, though modest, were indispensable in meeting the family's daily needs. The loss of this income has left the family unable to cope with essential expenses, such as: Daily sustenance (food and shelter), Healthcare needs and unexpected contingencies like seasonal unemployment, during non-peak agricultural periods.

8. Dependency in cases of families engaged as agricultural coolies must be understood holistically. It is not limited to financial transactions but extends to the deceased's role as a stabilizing force in the family's economic, emotional, and social framework. Despite being adults and earning meager wages, the claimants were dependent on their mother's contributions due to the precarious nature of their income as agricultural coolies. The meager individual incomes of the claimants do not negate their dependency on the deceased's contributions. Placing reliance on this judgment, this Court is of the view that finding of Tribunal in declining compensation under the head of loss of dependency is erroneous.

Regarding Quantum:

9. Though, claimants have asserted that their mother was doing agriculture work and earning Rs.7,500/- per month, the same is not substantiated. However, having regard to the fact that accident is of the year 2016, this Court is inclined to place reliance on the income chart prepared by Karnataka State Legal Services Authority. As per the income chart, income has to be notionally assessed. As per the income chart, the income would be Rs.8,750/-. However, claimants themselves have specifically pleaded that their mother was earning Rs.7,500/-. Therefore, the income as pleaded in the claim petition is accepted.

10. After deducting 1/3rd, income is assessed at Rs.5,000/- and by applying a multiplier of 7, compensation payable under the head of loss of dependency works to out to Rs.4,20,000/-.

11. Under conventional heads, claimants are entitled for a sum of Rs.1,50,000/-. An additional sum of

Rs.30,000 is awarded by granting 10% escalation for every three years, as per law laid down by Hon'ble Apex Court in the case of ***National Insurance Co. Ltd., Vs. Pranay Sethi***[2]. Medical expenses of Rs.1,01,550/-, awarded by Tribunal is retained. Total compensation re-determined by this Court works out to Rs.7,01,550/- as against Rs.3,94,100/-.

Heads of Compensation	**Amount**
Loss of dependency	Rs.4,20,000/-
Conventional heads	Rs.1,50,000/-
Medical expenses	Rs.1,01,550/-
Escalation	Rs.30,000/-
Total	**Rs.7,01,550/-**

[2] ***(2017) 16 SCC 680***

ORDER

i. Appeal is ***allowed in part***.

ii. Appellants are entitled for enhanced compensation Rs.3,07,450/- with interest at the rate of 6%, from the date of petition, till realization of entire compensation.

iii. Apportionment of award shall be in terms of order of Tribunal.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

NJ
List No.: 1 Sl No.: 15, CT-SW