

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JUNE 2018

PRESENT

THE HON'BLE MR. JUSTICE RAGHVENDRA S. CHAUHAN

AND

THE HON'BLE MR. JUSTICE H. T. NARENDRA PRASAD

M.F.A.No.1322/2017 (MV)

BETWEEN:

UNITED INDIA INSURANCE CO. LTD.
REGIONAL OFFICE,
KRISHI BHAVAN BUILDING,
NRUPATHUNGA ROAD,
BENGALURU - 560009
REP BY ITS DEPUTY MANAGER
MR AJAY KUMAR SINHA

... APPELLANT

(BY SRI.ANUP SEETHARAMA RAO B C, ADV.)

AND

1. SRI SIDDALINGAIAH @ SIDDALINGAPPA
AGED ABOUT 48 YEARS
S/O LATE GURUSIDDAPPA
2. SMT SHIVAMMA
AGED ABOUT 43 YEARS
W/O SIDDALINGAIAH @ SIDDALINGAPPA

BOTH ARE RESIDENTS OF KUNURU VILLAGE
HORALAGALLU POST
KANAKAPURA TALUK
RAMANAGARA DISTRICT

3. SRI GURUDEVARU
 MAJOR IN AGE,
 RESIDENT OF THIGALARA
 HOSAHALLI VILLAGE BEKUPPE POST,
 KANKAPURA TALUK
 RAMANAGARA DISTRICT

... RESPONDENTS

(BY SRI. PRAKASH M H, ADV. FOR R1 & R2)
 R3 - NOTICE DISPENSED WITH)

THIS MFA IS FILED U/S 173(1) OF MV ACT AGAINST THE JUDGMENT AND AWARD DATED:05.11.2016 PASSED IN MVC NO.421/2016 ON THE FILE OF THE X ADDITIONAL JUDGE, MACT, COURT OF SMALL CAUSES, BANGALORE (SCCH-16), AWARDED COMPENSATION OF Rs.15,71,000/- WITH INTEREST @ 9% P.A. FROM THE DATE OF PETITION TILL REALIZATION.

THIS MFA COMING ON FOR ORDERS THIS DAY, **RAGHVENDRA S. CHAUHAN J**, DELIVERED THE FOLLOWING:

J U D G M E N T

The United India Insurance Co. Ltd. has challenged the legality of the award, dated 5.11.2016, passed by the Small Causes and MACT, Bangalore (SCCH-16), whereby for the death of Mahalinga, son of the claimants-respondent Nos.1 and 2, the learned Tribunal has granted a compensation of Rs.15,71,000/-, along with an interest at the rate of 9% p.a. from the date of filing of the petition, till the date of realization.

2. Shortly put, the facts of the case are that on 19.8.2014, at about 9.30 p.m., Mr. Mahalinga was riding a motorcycle from Kalegowdanadoddi Village to Shivanahalli. When he reached near Shivanahalli Junction Road, Kanakapura-Sathnoor Main Road, suddenly, a motorcycle, bearing Registration No.KA-42-R-6415, came from the direction of Kalegowdanadoddi Village, in a rash and negligent manner, on the extreme left side of the road, and dashed against the motorcycle ridden by Mr.Mahalinga. Consequently, Mahalinga sustained grievous injuries; on the way to the hospital, he expired.

3. Since, the parents had lost their son in a vehicular accident, they along with others, who had also lost their relatives in the said accident, as three motorcycles were involved in the accident, different claimants filed three different claim petitions before the learned Tribunal. By a common award, dated 5.11.2016, all the three claim petitions were decided together as mentioned above. After appreciating the evidence, the learned Tribunal has granted

compensation of Rs.15,71,000/- to the claimants-respondent Nos.1 and 2. Hence, this appeal by the Insurance Company seeking reduction of the award amount.

4. Mr. Anup Seetharama Rao, the learned counsel for the appellant, has raised the following contentions before this Court:-

Firstly, since it is a case of death, the learned Tribunal was not justified in granting compensation for the category 'loss of expectancy of life' and 'loss of marriage prospects'. Infact, the learned Tribunal has treated this case as a case of injury, rather than a case of death. Therefore, the compensation awarded to the claimants under these two categories needs to be set aside.

Secondly, relying on the case of **National Insurance Co. Ltd vs. Pranay Sethi and others [(2017) 16 SCC 680]**, the learned counsel has pleaded that in the case of death of a bachelor, the parents are not entitled to receive any compensation under the category 'loss of love and

affection'. In order to buttress his plea, the learned counsel has drawn the attention of this Court to paragraph 61 (viii) of the said judgment. The learned counsel pleads that in the said paragraph, the Hon'ble Supreme Court has clearly observed that "*reasonable figures of conventional heads, namely, loss of estate and loss of consortium and funeral expenses should be Rs.15,000/-, 40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years*". According to the learned counsel, since under the conventional heads, the category of 'loss of love and affection' is not mentioned in the said paragraph by the Hon'ble Supreme Court, it should be inferred that the Hon'ble Supreme Court is of the opinion that not a single penny should be granted for the 'loss of love and affection' suffered by the claimants. Therefore, according to him, the Tribunal is unjustified in granting compensation of Rs.1,00,000/- to the claimants-respondents under the category of 'loss of love and affection'. Hence, according to the learned counsel, the

impugned award deserves to be interfered with by this court.

5. On the other hand, Mr. M. H. Prakash, the learned counsel for the claimants-respondents, submits that although the learned counsel for the appellant is justified in claiming that no compensation can be paid under the categories of 'loss of expectancy' and 'loss of marriage prospects', but the learned counsel is unjustified in arguing that no compensation needs to be paid under the category of 'loss of love and affection'. According to the learned counsel, since no bar has been prescribed by the Hon'ble Supreme Court in the case of **Pranay Sethi** (supra), the interpretation given by the learned counsel for the appellant is highly misplaced.

6. Heard the learned counsel for the parties, and perused the impugned award.

7. While granting compensation under the category 'loss of expectancy of life' to the tune of Rs.1,00,000/-, and

under the category 'loss of marriage prospects' to the tune of Rs.50,000/-, it seems the learned Tribunal has treated the claim petition as a case of injury, rather than as a case of death. Since, Mahalinga has expired in the accident, obviously no compensation could be paid under these two categories. For, these two categories would be relevant in the case of injury, but not in the case of death. Therefore, the compensation granted to the claimants-respondents under the category of 'loss of expectancy of life' to the tune of Rs.1,00,000/-, and under the category of 'loss of marriage prospects' to the tune of Rs.50,000/-, are legally unsustainable.

8. As far as the issue whether the claimants-respondents are entitled to receive any compensation for 'loss of love and affection' suffered by them due to the sudden demise of their son is concerned, the interpretation placed by the learned counsel for the appellant, is clearly untenable for the following reasons:

Firstly, in the case of **Pranay Sethi** (supra), while the Hon'ble Supreme Court has dealt with the other conventional heads, the Hon'ble Supreme Court has mentioned only three conventional heads, namely "loss of estate", "loss of consortium", and "funeral expenses". The Hon'ble Supreme Court has not expressed any opinion, and has not fixed any maximum limit for the category of "loss of love and affection". Since the Apex Court is silent about the said category, it cannot be inferred that the Apex Court is negating the very existence of the said conventional head. Further, since no bar has been fixed with regard to the compensation payable under the category of "loss of love and affection", a prohibition cannot be inferred by this Court.

In catena of cases, the Hon'ble Supreme Court has held that a decision should not be read 'by inference'. What is not clearly stated as a ratio of a case, cannot be read as the ratio by implication. Thus, the silence about an upper limit to be prescribed for the conventional head of "loss of

love and affection” speaks volumes that there is no maximum limit for the said category. But nonetheless, the compensation payable under the said category should be just and reasonable, and not a bonanza.

Secondly, the sudden loss of a son, or a daughter, that, too, a death caused in the prime of youth, is a terrible blow to the parents. According to folk wisdom, one of the most painful moments of one’s life is to be the pall bearer of a deceased son, or a daughter. Even, Medical Science finds that a large number of parents tend to go into deep depression due to the sudden loss of their children. Thus, the emotional vacuum left by the sudden departure of the child, cannot be filled by monetary compensation. But still, in order to ameliorate the emotional vacuum left by the child, a monetary compensation is paid to the parents. Therefore, the contention raised by the learned counsel for the appellant that not a single penny needs to be paid to the bereaved parents, such an argument is clearly unacceptable.

Thirdly, the Motor Vehicle Act is a social beneficial piece of legislation; it is enacted in favour of the claimants. One merely needs to place oneself in the shoes of the bereaved parents in order to imagine their emotional and psychological plight. Considering the fact that the parents are left emotionally starved, as they cannot possibly find even psychological substitute for their children, for this reason, no upper limit of compensation can possibly be prescribed by a court of law. Hence, this court rejects the contention raised by the learned counsel for the appellant.

9. For the reasons stated above, the appeal is allowed and the impugned award dated 5.11.2016, is modified as under:

Compensation under different heads	As awarded by the Tribunal (in Rs.)	As awarded by this Court in (in Rs.)
Loss of dependency	12,96,000	12,96,000
Loss of love and affection	1,00,000	1,00,000
Loss of expectancy of life	1,00,000	-
Loss of marriage prospects	50,000	-
Funeral expenses	25,000	25,000
TOTAL	15,71,000	14,21,000

10. The Insurance Company is directed to deposit the entire compensation amount, along with an interest @ 9% per annum, from the date of filing of the claim petition till the date of realization, within a period of two weeks from the date of receipt of the certified copy of this judgment, with the learned Tribunal. The learned Tribunal, is directed to disburse the amount, so deposited by the Insurance Company, in favour of the claimants-respondents Nos.1 and 2, after verifying their identity.

Registry is directed to transmit the amount deposited by the Insurance Company to the learned Tribunal.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

DM