



CNR: KAHC020072292015

NC: 2026:KHC-D:10066  
MFA No. 101808 of 2015



**IN THE HIGH COURT OF KARNATAKA AT DHARWAD**

**DATED THIS THE 20<sup>TH</sup> DAY OF JULY 2026**

**BEFORE**

**THE HON'BLE MRS JUSTICE GEETHA K.B.**

**MISCELLANEOUS FIRST APPEAL NO.101808 OF 2015 (MV-D)**

**BETWEEN:**

GURUPEER HARINATHJI  
AGE: 58 YEARS, OCC: SWAMIJI,  
R/O. JATTIMATH, RAMLINGKHIND GALLI BELAGAVI,  
NOW KIRAWALA MATH, TAL: KHANAPUR,  
DIST: BELAGAVI.

...APPELLANT

(BY SRI.BAHUBALI N.KANABARGI, ADVOCATE)

**AND:**

1. RAFIQ M. PAVEGAR  
AGE: MAJOR, OCC: BUSINESS,  
R/O: H.NO.201, LONDA VILLAGE,  
TQ: KHANAPUR, DIST: BELAGAVI.
2. ROYAL SUNDARAM ALLIANCE  
INSURANCE CO. LTD.,  
RAGHAVENDRA COMPLEX (GROUND FLOOR),  
NO.186/7, 1<sup>ST</sup> CROSS, HOSUR MAIN ROAD,  
WILSON GARDEN RAYAL SUNDARAM,  
FINANCE LTD., BANGALURU-560027.
3. GURU P  
AGE: MAJOR, OCC: NIL,  
R/O. SNEHA COMPOUND,  
GAMANAGATTI BUILDING,  
LAXMI NAGAR, HUBLI,  
TAL AND DIST: DHARWAD.

...RESPONDENTS

(BY SRI.S.K.KAYAKAMATH, ADVOCATE FOR R2;  
NOTICE TO R1 IS SERVED;  
NOTICE TO R3 IS DISPENSED WITH)





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THIS MFA IS FILED UNDER SECTION 173(1) OF MV ACT, 1988, AGAINST THE JUDGMENT AND AWARD DATED 28.03.2015, PASSED IN MVC NO.1804/2011, ON THE FILE OF THE II ADDITIONAL SESSIONS JUDGE, BELGAUM, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION AND ETC.

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

CORAM: HON'BLE MRS JUSTICE GEETHA K.B.

### **ORAL JUDGMENT**

This is the appeal filed under Section 173(1) of the Motor Vehicles Act, 1988(for short 'M.V. Act') by the claimant challenging the judgment and award dated 28.03.2015 passed in MVC No.1804/2011 on the file of II Addl. Sessions Judge, Belagavi (for short 'the Tribunal').

2. Parties would be referred with their ranks as they were before the Tribunal for the sake of convenience and clarity.



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3. The facts established by claimant before the Tribunal is that on 12.12.2009 at about 03.30 p.m. Pirayogi Gulshannath Gurupeer Harinthaji Maharaj was proceeding on Bajaj M-80 motor cycle bearing No.KA-25/J-2068 from Khanapur towards Madigunji on left side of the road; at third turn on NH-4 near Gangavali village, a truck bearing registration No.KA-22/B-2350 came in opposite direction from Londa towards Khanapur, drove it rashly and negligently, endangering human life, and dashed against the motorcycle of Harinathaji Maharaj and caused the accident. Due to the accident, he sustained grievous injuries and died at the spot. Claimant is the biological father of the deceased has filed claim petition under Section 166 of the M.V Act before the Tribunal.

4. Respondent No.1/owner of the truck remained absent. Respondent No.2/insurer of the truck has filed its objections taking all the available defence to the insurer and prayed for dismissal of the petition.



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5. The insurer has further taken contention that the claimant was not depending on the deceased, as deceased devoted his life and surrendered his life to the God. He renounced the worldly life and leading life of Yogi and sadhu by detaching himself from his parents; preaching and propagating at Gopinatha Math and thus, claimant being the father of deceased cannot file the claim compensation. Hence, prayed for dismissal of the claim petition.

6. After framing issues, recording evidence and hearing arguments of both sides, the Tribunal came to the conclusion that claimant is entitled for global compensation of ₹50,000/- towards 'loss of estate' and declined to grant compensation under the head 'loss of dependency' and other conventional heads.

7. Aggrieved by the said judgment and award of the Tribunal, claimant/appellant is before this Court.



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8. Learned counsel for appellant Sri Bahubali N. Kanabaragi would submit that the claimant is the biological father of the deceased. Hence, he comes under the definition of legal representative. In this regard, he places reliance on the judgment of Hon'ble Apex Court in the case of **Montford Brothers of St.Gabriel and Ors Vs. United India Insurance and Ors.**<sup>1</sup> and also the recent judgment of Division Bench of this Court in the case of **S.B.Shivamurthy Shivachary Hiremutt Vs. Shabir Ahamed and others**<sup>2</sup>. Hence, claimant is entitled for compensation under all conventional heads and also under the head loss of dependency and hence prayed for allowing the appeal.

9. Learned counsel for respondent No.2 Sri S.K.Kayakmath would submit that claimant is only the biological father of the deceased. However, much prior to the death of deceased- Harinathaji Maharaj, he renounced

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<sup>1</sup> C.A.NOs.3269-3270/2007

<sup>2</sup> MFA No.200322/2024



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the world and became monk (sanyasi) and became the Matadeesh of the Kirawala Math, Khanapur. Thus, claimant is not entitled for any compensation towards death of his biological son. Hence, prayed for dismissal of the appeal.

10. Having heard arguments of both sides, verifying the appeal papers and Trial Court records, the point that arise for consideration is

*"Whether claimant being the biological father of deceased can be called as legal representative of deceased who renounced the world as per Section 165 of the Motor Vehicles Act?"*

11. Finding of this Court on the above point is in **Negative** for the following:

### **REASONS**

According to Section 165 of the M.V Act, the claim petition can be filed for adjudication upon claims for compensation in respect of accidents involving death of, or



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bodily injury to a persons arising out of the use of motor vehicles or damages to any property of the third party before the Court having territorial jurisdiction.

12. Under Section 166 of M.V Act, an application for compensation arising out of an accident mentioned in Section 165(1) of the M.V Act can be filed

- a) by the person who has sustained the injury; or
- b) by the owner of the property; or
- c) where death has resulted from the accident by all or any of the legal representatives of the deceased.
- d) by any agent duly authorized by the person injured or all or any of the legal representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the



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benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.

13. The word 'legal representative' is not defined in Motor Vehicles Act. In this regard, in the citation relied by learned counsel for appellant of Hon'ble Apex Court, in the case of **Montford Brothers of St.Gabriel's Case** cited supra, at Paragraph Nos. 9 and 10, it is held as follows.

*"9. The Act does not define the term "legal representative" but the Tribunal has noted in its judgment and order that Clause (C) of Rule 2 of the Mizoram Motor Accident Claims Tribunal Rules, 1988, defines the term 'legal representative' as having the same meaning as assigned to it in Clause (11) of Section 2 of the Code of Civil Procedure, 1908, which is as follows:*

*Section 2(11) 'Legal representative' means a person who in law represents the estate of a deceased person and includes any person who intermeddles with the estate of the*



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*deceased and where a party sues or is sued in a representative character the person on whom the estate devolves On the death of the party so suing or sued.*

*10. From the aforesaid provisions it is clear that in case of death of a person in a motor vehicle accident, right is available to a legal representative of the deceased or the agent of the legal representative to lodge a claim for compensation under the provisions of the Act. The issue as to who is a legal representative or its agent is basically an issue of fact and may be decided one way or the other dependent upon the facts of a particular case. But as a legal proposition it is undeniable that a person claiming to be a legal representative has the locus to maintain an application for compensation under Section 166 of the Act, either directly or through any agent, subject to result of a dispute raised by the other side on this issue."*

14. The Division Bench of this Court in the case of **S.B.Shivamurthy Shivachary Hiremutt's case** cited supra in Paragraphs Nos. 20 and 21 held as follows:



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*"20. The Tribunal, in denying compensation on the ground that there were no dependants, has adopted an unduly restrictive and formalistic interpretation of the concept of dependency. Such an approach fails to take into account the broader jurisprudential evolution in motor accident compensation law, where dependency is not confined to blood relations but extends to all those who are economically or functionally reliant on the deceased.*

*21. The error of the Tribunal lies in equating dependency exclusively with familial dependency and overlooking institutional dependency. This is contrary to the law laid down by the Hon'ble Supreme Court, which clearly recognises that the expression "legal representative" must be interpreted in a manner that advances the object of compensation law, namely, to provide restitution for loss caused by death."*

15. In the aforesaid case the deceased renounced the world and became Matadeesha and died in the road traffic accident. In this case, the Division Bench has relied



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upon Section 2(11) CPC to decide who is legal representative, which reads as follows:

"2. **Definitions.** - xxxx

(11) "**Legal representative**" means a person who in law represents the estate of a deceased person and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character, the person on whom the estate devolves on the death of the party so suing or sued;"

16. Thus, any person who in law represents the estate of the deceased person would be a legal representative and includes any person who intermeddles with the estate of the deceased and will be called as legal representative.

17. Once the person renounces the world and became Swamiji of the Math, then he severed his ties with his biological family. The Swamiji by severing all his connection with his biological family became Mathdeesha



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and accepted ascetic life. Thus, there is complete disassociation with his biological family in all respects. But, he continued to serve the needs of Math and discharged managerial duties of Math. In such circumstances, the religious institution, being the recipient of the fruits of his labour and service, would stand in the position of legal representative and would be entitled to claim compensation. Where a deceased had severed ties with his biological family upon entering religious circles, it can be presumed that the religious institution shall be the legal representative of the deceased.

18. In the instant case, the claimant is not representing the Math of which deceased Harinathaji Maharaj was the Matadeesha. But, he has filed the claim petition only on the ground that he is the biological father of the deceased. If the claim petition had been filed on behalf of the Math by its Administrative officer or any other responsible officer of the Math, definitely the claim petition would have been maintainable. However, in the



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present case as discussed above, it is filed by the biological father and not by the Math to whom the deceased represented. Hence, claimant is not at all entitled for compensation. However, the Tribunal has awarded compensation of ₹50,000/- which is not being challenged by the respondents. Hence, this Court confirms the said compensation and held that claimant is not entitled for any additional compensation from the respondents.

19. Hence, this Court passes the following:

**ORDER**

- a) Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988 is ***dismissed*** by confirming the judgment and award dated 28.03.2015 passed in MVC No.1804/2011 on the file of II Addl. Sessions Judge, Belagavi.



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- b) No order as to costs.
- c) Registry to transmit the TCR to the Tribunal  
forthwith.

**Sd/-**  
**(GEETHA K.B.)**  
**JUDGE**

HMB  
CT:VH  
List No.: 1 Sl No.: 13