

**IN THE COURT OF XXV ADDITIONAL CHIEF JUDGE, CITY CIVIL
COURT AT HYDERABAD**

PRESENT: Sri D.V.Nageswar Rao
XXV Additional Chief Judge

Wednesday, this the 24th day of September, 2025

MVOP No.859 OF 2023

Between:

1. M.Venkatamma@Muthyalla Palli Venkatamma W/o Late Muthyalla Palli Venkatesh, aged 43 years, Occ: Housewife.
2. Muthyallapalli Chandrakala D/o Late Muthyalla Palli Venkatesh, aged 20 years, Occ: Degree 3rd year Student.
3. Muthyallapalli Bramarambika D/o Late Muthyalla Palli Venkatesh, aged 19 years, Occ: Degree 2nd year-Student, all are N/o: H.No.18-7-133, Gowlipura, Kumaari Vada, Charminar, Hyderabad, Telangana State.

....Petitioners

AND

1. Mohammed Abdul Malik S/o Mohammed Abdul Salam, Age: Major, Occ: Owner of Maruthi Boleno Car bearing No. TS-12-EW-9062, R/o H.No.22-3-736, Qadeer Heritage, Purani Haveli, Hyderabad, Telangana State - 500 023.
2. ICICI Lombard General Insurance Co., Ltd., Rep., by its Manager Legal, having its office At II Floor, Shop No.1 to 7 & 18 to 20, Lumbini Jewel-Mall, Road No.2, Banjara Hills, Hyderabad, Telangana State 500034. Certificate No.3001/MI-11610123/00/000 valid from 02-12-2022 to 01-12-2025).
3. Omer Bin Abdul Aziz Al Kaseri S/o Abdul Aziz Naser Bin Aziz Ali Kaseri, Age: Major, Occ: Driver of Maruthi Boleno Car bearing No. TS-12-EW-9052, R/o: 18-10-383/A/24, Barkas, Chandrayangutta, Bandlaguda, Hyderabad - 500 005.

....Respondents

This petition came before me for final hearing and disposal in the presence of Sri M.Vijay Reddy, Advocate for the Petitioners and Sri D.Rajasekhar, Advocate for Respondent No.2, Respondent No.1 and 3 having remained ex parte, upon hearing both the counsel and on perusing the material available on record and the matter having stood over for consideration till this day, the Court delivered the following:

:: ORDER ::

1. This petition is filed under Section 166 Motor Vehicle Act, 1988 (in short “MV Act”) and the rules framed thereunder by the petitioners/claimants wife and daughters of the deceased M.Venkatesh, seeking this Court to award compensation of Rs.25,00,000/- with interest and costs for the death of said M.Venkatesh in Motor Vehicle accident said to have occurred on 09-03-2023 at 08.30 PM.

Petition averments in brief are as follows:

2.1 On 09-03-2023 at about 8.30 PM, the deceased M.Venkatesh S/o Balaiah, along with one Parvatalu were proceeding from Masab Tank towards Panjagutta on bike bearing No.AP-29-BP-8020. The deceased reached opposite to Sarvy Hotel, Road No.1, Banjara Hills, Hyderabad. At that time one Maruthi Baleno car bearing No.TS-12-EW-9062 driven by its rider at high speed in rash and negligent manner dashed to the bike of deceased from backside. Due to the impact, deceased and Parvatalu fell down on the road and deceased received grievous injuries to his head and other parts of the body. He was immediately shifted to Care Hospital, Banjara Hills and admitted as inpatient for treatment but deceased died on 14-03-2023 at about 02:45 hours at Care Hospital, Banjara Hills, Hyderabad while undergoing treatment for the injuries received in said accident. After postmortem, the body was handed over to the petitioners to perform last rites.

2.2 Said accident occurred only due to reckless, rash and negligent driving of the driver of Maruthi Baleno car bearing No.TS-12-EW-9062. The Police of P.S. Banjara Hills, Hyderabad registered a case in Crime No.204/2023 U/s 337 of IPC and later altered to 304(A) of IPC against the driver of Maruthi Baleno car bearing No.TS-12-EW-9062.

2.3 Petitioner No.1 is the wife and petitioner Nos.2 and 3 are the daughters of deceased. The deceased was aged 49 years at the time of the accident, he was a labour and earning Rs.10,000/- per month and he was the only earning member. The

petitioners spent Rs.7,00,000/- towards medical treatment for the deceased for the injuries sustained in said accident. The deceased underwent treatment in Care Hospital, Banjara Hills, Hyderabad as inpatient, but he could not survive even though the petitioners spent more than Rs.7,00,000/- towards treatment expenses and also spent about Rs.1,00,000/- towards transportation and other charges. The petitioners had to raise loans to meet the treatment expenses of deceased. Due to sudden death of the deceased, petitioner No.1 being the wife of the deceased has lost conjugal happiness and petitioners No.2 and 3 are the daughters of deceased, lost love and affection and future guidance from their deceased father and all the petitioners are undergoing great pain, mental agony and sufferings. The Petitioners are the only legal heirs and dependents of deceased. Respondent No.1 is the owner, respondent No.2 is the insurer and respondent No.3 is the driver of offending Maruthi Baleno vehicle, as such they are jointly and severally liable to pay compensation to the petitioners. Hence, this petition.

3. Respondent No.1 and 3 remained absent and were set ex parte.

Counter averments of Respondent No.2:

4.1 This respondent does not admit the allegations in the petition. This respondent denies issuance of policy and validity as on the date of alleged accident in favour of 1st respondent for the alleged insured vehicle. This respondent denies the involvement of alleged insured car and the alleged rash and negligent driving of driver of the car and the manner of accident. It is contended that the driver/R3 of offending car bearing No.TS-12-EW-9062 was not holding valid and effective driving license at the time of accident, as such this respondent is not liable to pay compensation to the petitioners.

4.2 Respondent No.2 seeks protection under Section 147 and 149 of MV Act. Involvement of offending car in the accident is denied, so also rash and negligent driving on the part of its driver. Manner of happening of accident as narrated in the

petition is denied. The age, avocation and earnings of deceased are denied. There was no negligence on the part of driver of offending car bearing No.TS-12-EW-9062 and there is sole negligence on the part of deceased who was riding his bike without valid and effective driving license and without wearing helmet. The amount of compensation claimed by petitioners along with interest is highly excessive and exaggerated and they are not entitled for the same. Respondent No.2 accordingly prays to dismiss the petition against it with costs.

5. Basing on the above pleadings, the following issues were framed for trial:

1. **Whether the deceased Muthyalla Palli Venkatesh S/o late Balaiah, was died in an accident occurred on 09-03-2023 due to the rash and negligent driving of the driver of Maruthi Baleno car bearing No.TS-12-EW-9062?**
2. **Whether the petitioners are entitled to compensation, if so how much and from whom?**
3. **To what relief?**

6. During the course of enquiry, 1st petitioner examined herself as PW1 and also examined PW2 and PW3 and got marked Ex.A1 to A8. On behalf of respondent No.2, RW1 was examined, but no documents are marked.

7. Heard both sides and perused the material on record.

Issue No.1:

8. This issue concerns the vehicles involved in the accident and the cause of accident. According to the petitioners, on 09-03-2023 at about 8.30 PM, when the deceased M.Venkatesh S/o Balaiah, along with one Parvatalu were proceeding from Masab Tank towards Panjagutta on bike bearing No.AP-29-BP-8020, when they reached opposite to Sarvy Hotel, Road No.1, Banjara Hills, Hyderabad, at that time

one Maruthi Baleno car bearing No.TS-12-EW-9062 driven by its driver at high speed in rash and negligent manner dashed to the bike of deceased from backside, due to said impact, deceased and Parvatalu fell down on the road and deceased received grievous injuries to his head and other parts of the body and he was immediately shifted to Care Hospital, Banjara Hills and admitted as inpatient for treatment but he died on 14-03-2023 at about 02:45 hours at Care Hospital, Banjara Hills, Hyderabad while undergoing treatment for the injuries received in said accident. Respondent No.2 insurer denied the involvement of the offending vehicle and the manner in which the accident occurred.

9. To prove the accident and the cause of accident, petitioners examined the first petitioner wife of deceased as PW1. The chief affidavit of PW1 is reiteration of the facts pleaded in the petition. Evidently, PW1 is not an eyewitness to the accident. PW1 affirmed that her husband was going on bike, the crime vehicle car bearing No.TS-12-EW-9062 came in a rash and negligent manner and dashed her husband's bike resulting in grievous injuries and death of her husband. PW1 was cross examined by learned counsel for respondent No.2. It was suggested to PW1 that there was no involvement of offending vehicle in the accident and it is some other vehicle which caused the accident. PW1 denied said suggestion. It was also suggested to PW1 that the driver of offending car was not having driving license and PW1 denied the same.

10. PW2 is examined as eye witness to the accident. He deposed that on 09-03-2023 at about 8.30 AM, he along with deceased Venkatesh were going on bike and the car bearing No.TS-12-EW-9062, was proceeding in the same direction, came in a high speed, driven by its driver in a rash and negligent manner and dashed their bike, as such he and deceased fell down, that he received minor injuries, while deceased received bleeding injuries, that himself and others shifted deceased to Care Hospital, for treatment.

11. PW2 further deposed that accident occurred only due to the rash and negligent driving of the driver of offending car bearing No.TS-12-EW-9062, that he was also examined by the police and his statement was recorded. In his cross examination, PW2 deposed that he came to the Court at the request of petitioners. He affirmed that he witnessed the accident and denied that he is deposing false to help the petitioners. He also deposed that at the time of accident deceased was wearing helmet. This evidence of PW2 remained credible and nothing contrary was elicited in his cross examination to disbelieve his evidence.

12. Coming to the crime record, Ex.A1 is the certified copy of FIR in crime No.204/2023 under Section 337 IPC of PS Banjara Hills along with complaint. As per this complaint, it was given by wife of deceased and the complainant alleged that on the given date and time, when her husband was going on bike from Masab Tank towards Punjagutta, the offending car came in the same direction, dashed her husband due to which her husband fell down and sustained injuries and that one other person by name Parvatalu also received injuries, they were admitted in hospital and her husband died while undergoing treatment.

13. Ex.A2 is the certified copy of charge-sheet filed by the police into the case. As per this investigation report, the accident occurred only due to the rash and negligent driving of driver of offending car. Thus, the above evidence of PW1 and PW2 coupled with crime record Ex.A1 and A2 sufficiently establishes that the accident occurred only due to the rash and negligent driving of the offending vehicle i.e. car bearing No.TS-12-EW-9062, resulting in death of deceased. I hold that accident occurred only due to the rash and negligent driving by driver of offending car bearing No.TS-12-EW-9062, resulting in death of deceased M.Venkatesh. This issue is decided in favour of petitioners.

Issue No.2:

14. Petitioners joined the first respondent as owner of the offending vehicle car bearing No.TS-12-EW-9062 and respondent No.2 as insurer with whom valid insurance policy was said to be in force as on the date of accident, respondent No.3 as its driver. Though respondent No.2 disputed issuance of any policy for the offending vehicle as on the date of accident on 09.03.2023, during the course of trial respondent No.2 exhibited Ex.B1 as the valid insurance policy issued by respondent No.2 in favour of respondent No.1's offending vehicle car and it is also not disputed that it was in force as on the date of accident. Of course, the liability of respondent No.2 insurer will be subject to proof that insured respondent No.1 did not violate any of the terms and conditions of Ex.B1 policy.

15. According to respondent No.2, the driver of the offending vehicle car bearing No.TS-12-EW-9062 was not having valid driving license and that car was not having valid permit and fitness certificate as required under the provisions of MV Act, as such the owner of the offending vehicle having entrusted the vehicle to the driver who was not having valid driving license had violated the terms and conditions of Ex.B1 policy and as such, respondent No.2 is not liable to cover the risk under the accident. Burden is only on respondent No.2 to prove that the owner violated any terms and conditions of Ex.B1 policy.

16. In support of their case, respondent No.2 examined their Manager Legal as RW1 and got marked Ex.B1. RW1 affirmed that their company issued Ex.B1 policy in respect of the offending car under Ex.B1, which is valid for the period from 02-12-2022 to 01-12-2025, that the driver of the offending car Omer Bin Abdul Aziz Al Kaseri was not holding driving license at the time of accident as per charge sheet filed by the police and that he was charged under Section 130(1) and 177 of M.V. Act. In his cross examination, RW1 admitted that he has not filed any document to show that respondent No.3 was not having valid driving license.

17. The above evidence of RW1 shows that respondent No.2 insurer has not taken any steps to ascertain about the driving license particulars of respondent No.3 who was accused as driver of the offending car at the time of accident. Ex.A4 is the charge sheet discussed above and as per this charge-sheet, respondent No.3 the driver of the offending car was charge-sheeted for causing not only death of a person, but also was charge-sheeted under Sections 130(1) and 177 of the MV Act. This charge-sheet was filed by the petitioners themselves. As per Section 130(1) of MV Act, the driver of a motor vehicle in any public place shall, on demand by any police officer in uniform, produce his license for examination and Section 177 of the Act says that whoever contravenes any provision of this Act or of any rule, regulation or notification made thereunder shall, if no penalty is provided for the offence, be punishable for the first offence, with fine which may extend to [five hundred rupees], and for any second or subsequent offence with fine which may extend to [one thousand and five hundred rupees]. These Sections does not mean that respondent No.3 do not possess driving license, but on demand at spot he has not produced driving license. If really, respondent No.3 had no license to drive the vehicle at the time of accident, respondent No.2 might have taken appropriate steps to prove the same by adducing either oral or documentary evidence of concerned relating to RTA department, but respondent No.2 has not taken any such steps and furthermore, the Sections referred in Ex.A2 charge-sheet are 130(1) and 177, but it is not 181 of MV Act. Hence, this Court holds that respondent No.1 has not violated any of the terms and conditions of Ex.B1 policy, as such respondents No.1 to 3 are jointly and severally liable to pay compensation to the petitioners.

18. Coming to the Just compensation to which the petitioners are entitled to, adhering to the guidelines given in the case of **Sarla Verma Vs. Delhi Transport Corporation reported in AIR 2009 SC 3104**, three aspects to be decided are 1) Age of the deceased at the time of accident, 2) Income of the deceased and 3) Multiplier applicable. To assess the loss of earnings and future earnings and the loss of

dependency, the guidelines given in **National Insurance Company Vs Pranay Sethi (2017) 16 SCC 680** shall be followed.

19. According to the petitioners, at the time of accident, deceased M.Venkatesh was aged 49 years and that he was working as labour and earning more than Rs.10,000/- per month. Ex.A1 complaint and Ex.A2 charge sheet gives the age of deceased M.Venkatesh as 48 years. Ex.A3 inquest report and Ex.A4 postmortem examination report gives the age of deceased as 49 years. There is no other evidence adduced by the petitioners showing the age of deceased M.Venkatesh. Therefore, I hold that the age of M.Venkatesh as mentioned in the public documents Ex.A1 to A4 has to be considered and by considering the same, age of deceased M.Venkatesh as on the date of accident on 09.03.2023 is fixed as 49 years.

20. Coming to the income of deceased, according to the petitioners, deceased was working Mason (Tapi Mestry) and he was earning more than Rs.10,000/- per month. From the avocation of deceased itself, it is clear that the Petitioners cannot be expected to file any documentary proof of the same. In the absence of any such evidence by the petitioners to prove the income of deceased, as even a daily wage labour is earning income of Rs.10,000/- per month, the monthly income of deceased is fixed at Rs.10,000/- at the time of accident, which occurred in the year 2023.

21. Coming to the number of dependents, the petition is filed by wife and to daughters of deceased M.Venkatesh. As the deceased was married with three dependents by the date of accident, personal expenses of deceased will be 1/3rd and contribution to the family will be 2/3rd as laid down in Sarla Verma case.

22. As per the schedule given in Sarla Verma's case, the multiplier applicable to persons aged between 46 to 50 years is '13' and in the instant case the age of the deceased at the time of accident is arrived at 49 and thus, the relevant multiplier to be applied is '13'.

23. In view of the Judgment of the Apex Court in **National Insurance Corporation vs. Pranay Sethi 2017 ACJ 2700 (SC)**, petitioners 1 to 3 would be entitled to Rs.15,000/- towards loss of estate, Rs.40,000/- each towards consortium and Rs.15,000/- towards funeral expenses. If the deceased had been alive he would have a prospective future and the earnings would have increased and the increase in future prospects will be by 25% as the deceased was in the age group of 40-50 years. The compensation to which the petitioners are entitled to is calculated as under:

Description	Calculation	Amount in Rs.
Income per month and annum	10,000 x 12	1,20,000/-
Future prospects per month @25%	10,000 @ 25%	2,500/-
Income per annum	(10,000 +2,500) x 12	1,50,000/-
Personal expenses (3 dependents)	1/3rd	50,000/-
Contribution to family	1,50,000 – 50,000	1,00,000/-
Multiplier	13	
Compensation on applying multiplier	1,00,000 x 13	13,00,000/-
Consortium to petitioners 1 to 3	40,000/- each	1,20,000
Funeral Expenses		15,000/-
Loss of estate		15,000/-
Total compensation		14,50,000/-

24. Thus, the just compensation to which claimants No.1 and 3 are entitled to from respondent No.1 to 3 is Rs.14,50,000/- (Rs. Fourteen Lakhs Fifty Thousand only). This issue is decided accordingly in favour of the claimants.

Issue No.3:

25. In view of the findings given on Issues No.1 and 2, I hold that Respondent No.1 to 3 are jointly and severally liable to pay a compensation of Rs.14,50,000/- (Rs. Fourteen Lakhs Fifty Thousand only) and with costs and interest @ 8% per annum from the date of petition till the date of deposit.

IN THE RESULT, the claim is Partly Allowed against Respondent No.1 for Rs.14,50,000/- (Rs. Fourteen Lakhs Fifty Thousand only) with costs and interest in favour of the claimants No.1 to 3 and Award is passed in the following terms:

1. Respondents No.1 to 3 are jointly and severally liable to pay a compensation of Rs.14,50,000/- (Rs. Fourteen Lakhs Fifty Thousand only) and with costs and interest @ 8% per annum from the date of petition till the date of deposit.
2. Respondents No.2 being the insurer shall deposit the compensation amount so awarded within one month from the date of Award.
3. On such deposit of the compensation amount, claimant No.1 is entitled to a compensation of Rs.5,50,000/- along with accrued interest on entire compensation amount and entire costs awarded and she is permitted to withdraw the same.
4. Claimants No.2 and 3 are entitled to a compensation of Rs.4,50,000/- each and they are permitted to withdraw the same.
5. Advocate's fee is fixed at Rs.2,000/-.

Typed to my dictation by the Stenographer Grade-I, Corrected and Pronounced by Me in the Open Court on this the 24th day of September, 2025.

Sd/-

**XXV Additional Chief Judge,
City Civil Court, Hyderabad.**

APPENDIX OF EVIDENCE:

WITNESSES EXAMINED ON BEHALF OF

Petitioners:

PW1: M.Venkatamma @ Muthyalla Palli Venkatamma

PW2: J.Parvathalu

PW3: Md.Abdul Mazeed

Respondent No.2:

RW1: B.Uday Kumar Reddy

Documents marked on behalf of petitioners:

Ex.A1: Certified copy of FIR with complaint

Ex.A2: Certified copy of charge-sheet

Ex.A3: Certified copy of inquest report

Ex.A4: Certified copy of PME report

Ex.A5: Certified copy of MVI report

Ex.A6: Certified copy of crime details form with sketch plan

Ex.A7: Certified copy of summary of deceased

Ex.A8: Original inpatient bills issued by Care Hospital, Banjara Hills, Hyderabad for Rs.5,49,999/-

Documents marked on behalf of respondent No.2:

Ex.B1: Office copy of certificate cum policy schedule dated 02-12-2022

Sd/-
**XXV Additional Chief Judge,
City Civil Court, Hyderabad.**