



**IN THE COURT OF PRL. SENIOR CIVIL JUDGE AND
CJM., AND M.A.C.T. GADAG**

PRESENT

**SHRI.G.R.SHETTAR. B.com.LLB (Spl)
PRL. SENIOR CIVIL JUDGE AND CJM, GADAG**

DATED THIS 01ST DAY OF JULY, 2026

M.V.C. No.61/2024

PETITIONERS:

1. Sangeeta W/o Danayya Mathapathi,
Age : 28 years, Occ : Household,
R/o Kohalli, Tq : Dist : Belagavi.
2. Nagayya S/o Mallayya Mathapati,
Age : 60 years, Occ : Nil,
R/o Kohalli, Tq : Dist : Belagavi.
3. Rudravva W/o Nagayya Mathapati,
Age : 58 years, Occ : Household,
R/o Kohalli, Tq : Dist : Belagavi.
4. Vedant S/o Danayya Mathapati,
Age : 04 years, Occ : Student,
R/o Kohalli, Tq : Dist : Belagavi.
5. Divya D/o Danayya Mathapati,
Age : 01 years, Occ : Nil,
R/o Kohalli, Tq : Dist : Belagavi.

(Petitioner No.4 and 5 are minors they
are represented by petitioner)

(R/by Sri. C.R.Vadakannavar., Advocate)

Vs

RESPONDENTS:

1. Anand Nadagoudra,
Age : Major, Occ : Agriculture,
R/o Baradur, Tq : Mundargi, Dist: Gadag.
(Owner of Tractor bearing No.KA-26/TC-3531)

2. The Divisional Manger,
HDFC ERGO General Insurance Co. Ltd.,
2nd Floor, Opposite KIMS hospital,
Vidya Nagar, Hubballi.
(Policy No.231620566050.0000.000,
Valid from : 21.08.2023 to 30.08.2024).
3. Basappa S/o Fmalleshappa Janti,
Age : Major, Occ : Agriculture,
R/o Vakkalageri Oni, Gadag,
Tq : Dist : Gadag.
(Owner of the Trailer No.CTW/9724).
4. The Branch Manager,
United India Insurance Company Limited,
Rotary Circle, Gadag,
(Policy No.0725813123P101106636,
Valid from:03.05.2023 to 02.05.2024)
5. Mr. Madhu M. S/o Mallikarju,
Age:Major, Occ; Business,
R/o Kannur, Bidaralli Hobli,
Opposite H.P.Petrol Bunk,
Bangalore -560036.
(Owner of Vehicle No.KA-03/JJ-5708)
6. The Divisional Manger,
HDFC ERGO General Insurance Co. Ltd.,
2nd Floor, Opposite KIMS hospital,
Vidya Nagar, Hubballi.

(Resp.No.1, 3, 5 & 6-Ex-parte)
(Resp.No.2-R/by Smt.S.B.Hiremath., Advocate)
(Resp.No.4-R/by Smt.K.M.Manvi., Advocate)

J U D G M E N T

Petitioners have filed this petition for compensation for the death of Danayya S/o Nagayya Mathapati who died due to the injuries sustained in a road accident

dated 17.11.2023. The petitioners have claimed compensation of Rs.1,50,00,000/- from the respondents.

2. Case of the petitioners in brief is as under:

On 17.11.2023 at 06.30 hrs., on Mundaragi-Gadag near Baradur village, Gadag, husband of the petitioner No.1 by name Danayya was proceedings on a motorcycle bearing its Reg.No.KA-03/JJ-5708 slowly and cautiously with observation of traffic rules and regulations on the left side of the road, at that time one Tractor bearing its Reg.No.KA-26/TC-3531 with Trailer No.CTW 9724 being driven by its driver in high speed and in rash and negligent manner, driver of the said vehicle lost control over the vehicle, without any signal or indicator he took the Tractor on wrong side, suddenly turned right side, due to this act the accident was took place. In the result Danayya sustained grievous injuries, head injuries and died on the spot. Case was registered in Mundargi P.S.Cr.No.192/2023. It is further contended that prior to the accident deceased was hale, healthy, aged about 30 years and working as a Engineer at Birabbi-Hoovinahadagli and getting Rs.75,000/- salary per

month. Due to his death the petitioners have lost their beloved family member who was the earning member of the family. Hence, prayed to allow the petition.

3. After service of notice the respondent No.1, 3, 5 & 6 have not appeared and remained absent/Ex-parte. Respondent No.2 and 4 have appeared through their respective counsels and filed written statement/ objection separately.

4. The respondent No.2 has filed objection denying the petition averments as false and denied the age and income of the deceased. It is contended that alleged accident took place due to own negligent by the deceased himself, the rider of motorcycle 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. Hence, prayed for dismissal of the petition with cost.

5. The respondent No.4 has filed objection denying the petition averments as false and denied the age and income of the deceased. It is contended that alleged accident took place due to rash and negligent driving by

the driver of offending vehicle. Further the drivers of the vehicles were 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. Hence, prayed for dismissal of the petition with cost.

6. On the basis of the pleading following issues have been framed:

ISSUES

1. Whether the petitioners prove that on 17.11.2023 at about 06.30 hrs., on Mundaragi-Gadag road, near Baradur village, Gadag, the husband of petitioner No.1 by name Danayya S/o Nagayya Mathapati sustained injuries and succumbed due to accident caused due to rash and negligent driven by the driver of Tractor and Trailer bearing Reg.No.KA-26/TC-3531?
2. Whether the respondent No.2 proves that the rider of motorcycle bearing No.KA-03/JJ-5708 did not possess valid and effective driving licence at the time of accident?
3. Whether the petitioners are entitled for the compensation? If so, to what extent and from whom?
4. What order or Award?

7. Petitioner No.1 has deposed as P.W.1, examined P.W.2 and marked the documents at Ex.P.1 to Ex.P.12.

8. The Manager of the respondent No.4 has deposed as R.W.1 and marked the documents as Ex.R.1 and Ex.R.2.

9. The Deputy Manager of respondent No.2 has deposed as R.W.2 and got marked a document as Ex.R.3.

10. Heard the arguments.

11. My findings on the above points are as under:

ISSUE No.1 : In the Affirmative

ISSUE No.2 : In the Affirmative

ISSUE No.3 : Partly in the Affirmative

ISSUE No.4 : As per the final order,
for the following:

REASONS

12. **ISSUES No.1 & 2** : It is the case of the petitioners that husband of the petitioner No.1 by name Danayya succumbed due to injuries in the accident occurred due to rash and negligent driving by the driver of the offending vehicle.

13. Petitioner No.1 has deposed as P.W-1 by reiterating the petition averments. The petitioner No.1 has produced the documents at Ex.P.1 to 12. Ex.P.1 is the Copy of FIR and Ex.P.2 is the copy of Complaint filed

in Mundargi P.S.Cr.No.192/2023. Ex.P.3 is the copy of Charge sheet. Ex.P.4 is the spot Mahazar. Ex.P.5 is the P.M. report. Ex.P.6 is the MVI report. Ex.P.7 is the Salary certificate. Ex.P.8 is the Certificate given by J.V. Mandal's Polytechnic Terdal. Ex.P.9 and 10 are applications to obtain the Licence. Ex.P.11 is the Authorization letter. Ex.P.12 is the Ledger account.

14. On going through the material it could be seen that on 17.11.2023 at 06.30 hrs., on Mundaragi-Gadag near Baradur village, Gadag, husband of the petitioner No.1 by name Danayya was proceedings on a motorcycle bearing its Reg.No.KA-03/JJ-5708, at that time one Tractor bearing its Reg.No.KA-26/TC-3531 with Trailer No.CTW-9724 being driven by its driver in high speed and in rash and negligent manner, the driver of the said vehicle lost control over the vehicle, without any signal and without any indicator he took the Tractor on wrong side and suddenly turned to right side, during the said process the right wheel tire button of the tractor touched to Danayya who was proceeding on the motorcycle, due to this act the accident was took place. In the result

Danayya sustained grievous injuries, head injuries and died on the spot. Accordingly FIR was registered. After completion of the investigation the investigation officer has filed charge sheet against the accused No.1 i.e., driver of the offending vehicle/Tractor for the offences punishable U/s 279, 304(A) of IPC and Sec.177 of M.V. Act. Deceased Danayya has been arrayed the rider of motorcycle bearing No.KA-03/JJ-5708 as accused No.2 for not having valid and effective Driving Licence at the time of accident for the offences punishable U/sec.3 R/w Sec.181 of M.V. Act. and arrayed the owner of motorcycle bearing No.KA-03/JJ-5708 as accused No.3 for the offences punishable U/sec.5 R/w Sec.181 of M.V. Act for handing over his vehicle to the person who did not possess valid and effective Driving Licence.

15. The respondents No.2 and 4 have contended that the accident took place due rash and negligent riding of the motorcycle by the rider of the motorcycle. It is could be seen from the material and charge sheet that alleged accident took place due rash and negligent driving by the driver of the tractor only, the rider of

motorcycle is charge sheeted for not having valid Driving licence, there is no allegation in the charge sheet against him about rash and negligent riding of the motorcycle. From the material it could be seen that the accident was occurred due to rash and negligent driving by the driver of the offending vehicle/tractor and Danayya sustained grievous injury and died on spot. Hence, Issues No.1 and 2 are answered in the Affirmative.

16. **ISSUE No.3:** Petitioners have claimed compensation of Rs.1,50,00,000/-. It is contended that deceased was getting Rs.75,000/- per month and working as a Engineer and he was the only earning member of the family.

17. **LOSS OF CONSORTIUM:** It is not seriously disputed that the petitioner No.1 is the wife, petitioner No.2 and 3 are the parents and petitioner No.4 and 5 are the children of the deceased Danayya. Hon'ble Supreme Court in case of **MAGMA GENERAL INSURANCE COMPANY Vs NANU RAM** case, reported in **2018 SCC Online SC 1546** was pleased to observe that, a Constitution Bench of this court in **PRANAY SETHI** case

dealt with various heads under which compensation is to be awarded in death case. One of these heads is Loss of Consortium. In legal parlance, consortium is a compendious term which encompasses 'spousal consortium', 'parental consortium' and 'filial consortium'. The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would be include sexual relations with deceased spouse. Spousal consortium is generally defined as rights pertaining to relationship of a husband-wife which allows compensation to surviving spouse for loss of company, society, cooperation, affection and aid of other in every conjugal relation. Parental consortium is granted to child upon the pre-mature death of parent for loss of parental aid, protection, affection, society, discipline, guidance and training. Filial consortium is right of the parents to compensation in case of an accidental death of a child. An accident leading to death of child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is

to lose their child during their lifetime. Hence, the petitioner No.1 being the wife of the deceased is entitled to Rs.40,000/- as Spousal consortium, the petitioners No.2 and 3 being the parents of the deceased are entitled for Rs.40,000/- each for loss of 'Filial consortium', petitioner No.4 and 5 being the children of the deceased are entitled for Rs.40,000/- each as 'parental consortium'. So, petitioners are entitled for total compensation of Rs.2,00,000/- under this head.

18. **FUNERAL EXPENSES, TRANSPORTATION**

CHARGES & LOSS OF ESTATE : After accident body was taken for post mortem, then taken to native place for funeral. As per the Judgment passed by the **Hon'ble Supreme Court in Spl. Leave Petition (Civil) No.25590 /2014** between **National Insurance Company Limited Vs Pranay Sethi and others** case was pleased to fix the compensation under the head of funeral expenditure at Rs.15,000/- and loss of estate at Rs.15,000/-. So petitioners are entitled for Rs.15,000/- for funeral expenditure and Rs.15,000/- for loss of estate.

19. **LOSS OF DEPENDENCY:** To ascertain compensation payable under dependency head, age of the deceased, number of dependents and income of the deceased are to be considered. It is contended in the petition that the deceased was aged about 30 years but no age proof is produced. In the PM report age of the deceased is mentioned as 32 years. Hence, age of the deceased is considered as 32 years. The petitioners have contended that deceased Danayya was working as Engineer under the construction company and appointed as a site supervisor and getting Rs.75,000/-. The petitioners have produced the certificate issued by the employer at Ex.P.7 which speaks that deceased was getting gross salary of Rs.40,000/- per month and also produced that Account Ledger pertaining to the deceased as Ex.P-12. The petitioners have claimed that deceased was working as an engineer and in Ex.P7 also it is mentioned that deceased Danayya was working as site engineer. It could be seen from the Ex.P7, 12 and evidence of PW-2 that the deceased was working in R.G.Ninganur Constructions Pvt Ltd. In the Ex.P7, it is

mentioned that deceased was getting salary of Rs.40,000/- but not clarified out the gross salary what was the deduction and what was his net salary. So far as Ledger Account i.e., Ex.P12 is concerned, there is no mention about credit of exact Rs.40,000/- per month as salary. There are entries for various amounts i.e.,30,000, 40,000, 8,000, 15,000, 50,000, 35,000, 30,000, 27,000, 25,000, 5,000 and it is not clarified by the petitioners, which figure is the salary amount credited to the account of the deceased.

20. Petitioners have adduced evidence of P.W.2 who is the Chief Engineer and he deposed that deceased was getting monthly salary of Rs.40,000/-. In his cross examination he has stated that he is not the drawing officer in the said company, they used to pay the salary in parts to the employees whenever they want, they used to credit the amounts to the engineers with labor charges. There is no satisfactory proof about exact salary of the deceased. However it could be seen that deceased was working in that company as a site engineer. Accident occurred in 2023. Hon'ble Karnataka State Legal Services

Authority, by notification No.KSLSA-01/NLA/2022/550/2022 dated: 26.02.2022 has given guidelines for calculation of the notional income year wise, in different areas of Karnataka state coming under Principal Bench and to other Benches of Hon'ble High Court. According to said notification, notional income for the year 2022 is fixed at Rs.14,750/- for an un skilled person in the absence of income proof. No notional income is prescribed for the year 2023. In this case deceased was a skilled person working as site Engineer in R.G. Ninganur Construction company. So, it is just and proper to consider the income of the deceased as Rs.25,000/- per month. Hence, income of the deceased considered as Rs.25,000/- per month. Annual income will be Rs.3,00,000/-.

21. Deceased has left the petitioners as wife and children. As per the ruling reported in **2009 ACJ 1298 (SC) = AIR 2009 SCW 3014** between **SARLA VERMA AND OTHERS Vs DELHI TRANSPORT CORPORATION AND ANOTHER** case, if there are 4 to 6 dependants $1/4^{\text{th}}$ of the income is to be deducted for personnel

expenditure. $1/4^{\text{th}}$ of Rs.3,00,000/- i.e., Rs.75,000/- is to be deducted towards personal expenses of the deceased. So net annual income of the deceased will be (3,00,000-75,000) = Rs.2,25,000/-. Age of the deceased is considered as 32 years. As per the **Sarla Verma's** case the multiplier applicable is '16'. Hence, loss of dependency will be Rs. 2,25,000 X 16 = 36,00,000/-. So the petitioners are entitled for the compensation of Rs.36,00,000/- under dependency head.

22. **FUTURE PROSPECTUS**: The petitioners have contended that deceased was the Engineer so the petitioners are entitled for future prospectus. Learned counsel for the petitioners relied upon the Judgment passed by the **Hon'ble Supreme Court in Spl. Leave Petition (Civil) No.25590/2014 between National Insurance Company Limited Vs Pranay Sethi and others** case wherein it is held that *while determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospectus, where the deceased had a permanent job and was bellow the age of 40 years, should be made. The addition of 30%, if the*

deceased was between the age of 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax. In this case admittedly deceased was working as a site engineer having permanent job and he was also having better opportunities. His age was 32 years as on the date of accident. He comes below the age of 40 years as per the above said judgment. So 50% future prospectus shall be added to the compensation. As discussed above loss of income of the deceased (loss of dependency) is considered as Rs.36,00,000/-. 50% of the same shall be added as future prospectus. So, 50% of Rs.36,00,000/- will be Rs.18,00,000/-. So petitioners are entitled for Rs.18,00,000/- as future prospectus.

23. The compensation to be awarded is as under:

1	LOSS OF CONSORTIUM	Rs. 2,00,000=00
2	FUNERAL EXPENSES & TRANSPORTATION CHARGES	Rs. 15,000=00
3	LOSS OF DEPENDENCY	Rs.36,00,000=00
4	FUTURE PROSPECTS (50%)	Rs.18,00,000=00
5	LOSS OF ESTATE	Rs. 15,000=00
	TOTAL COMPENSATION	Rs.56,30,000=00

Petitioner No.1 is the wife, petitioners No.2 and 3 are the parents and petitioner No.4 and 5 are minor

children of deceased Danayya. Petitioner No.1 is having responsibility to take care of the minor petitioners. So, it is just and proper to award 40% to the petitioner No.1 and 15% each to petitioners No.2 to 5 out of the total compensation.

24. The respondents No.1 and 2 are the owner and Insurer of the offending vehicle/Tractor bearing No.KA-26/TC-3531 and the Insurance policy was in force as on the date of accident. The respondent No.3 is the owner and respondent No.4 is the insurer of Trailer bearing No. CTW-3531 and Insurance Policy was in force. Respondent No.5 and 6 are is the owner and Insurer of motorcycle bearing No.KA-03/JJ-5708. The respondent No.2 has contended that deceased was also negligent and there was contributory negligence and the trailer was also involved in the accident as such respondent No.3 and 4 are also liable to pay compensation. The respondent No.4 as well as petitioners have contended that alleged accident took place only due rash and negligent driving by the driver of the driver of the tractor as such owner and insurer of the tractor are liable to pay compensation.

25. On the going through charge sheet and other material on record it is clear that though the trailer was attached to the tractor but accident took place due to rash and negligent driving by the driver of the tractor. Moreover the trailer will not move independently without attaching it to an engine. Though the deceased is arrayed as accused in the charge sheet, it is only for not having the driving license but no allegation is made against him for rash and negligent riding of the motorcycle and accident was not occurred due his fault. Therefore, it is clear that alleged accident took place solely due to rash and negligent driving by the driver of the tractor bearing No.KA-26/TC-3531. So, respondents No.1 and 2 being the owner and insurer of the offending vehicle / tractor are jointly and severally liable to pay compensation. The respondent No.2 being the Insurer is liable to pay the compensation to the petitioners with interest at 6% p.a. Petitioners are not entitled for interest on future prospectus. Hence, this Issue is answered partly in the Affirmative.

26. **ISSUE No.4** : As discussed above I proceed to pass the following :

ORDER

Petition filed by the petitioners is hereby partly allowed with cost.

Petitioners are entitled for compensation of Rs.56,30,000/- (Rupees Fifty Six Lakhs Thirty Thousand only) with interest @ 6% p.a., from the date of petition till realization.

Respondents No.1 and 2 are jointly and severally liable to pay the compensation.

Respondent No.2 is hereby directed to deposit the compensation amount with interest within 60 days from the date of Award.

Out of the total compensation petitioner No.1 is entitled for 40% and the petitioners No.2 to 5 are entitled for 15% each.

Out of the compensation awarded to petitioner No.1 to 3, 50% shall be deposited in FD in any Nationalized or Scheduled bank for a period of 03 years and remaining 50% of the amount shall be released in favour of the petitioner

No.1 to 3 through K-II as per law and procedure.

Entire amounts awarded to the minor petitioners No.4 and 5 shall be deposited in FD in any Nationalized or Scheduled bank for a period of 05 years or till the minor petitioners attain the age of majority whichever is later.

After maturity of the F.D., pertaining to petitioner No.1 to 3, concerned Bank shall release the amount with interest to the respective petitioners without waiting for any order from the Court.

Petition against the respondents No.3 to 6 is dismissed.

Advocate fees is fixed at Rs.1,000/-.

Costs of the petition is fixed at Rs.1,000/-.

Draw award accordingly.

(Dictated to steno directly on computer, typed by her, corrected and then pronounced by me in the Open Court on this **01st day of July, 2026**)

Sd/- 01/07/2026

(G.R.SHETTAR)

**Prl. Sr.Civil Judge & CJM, &
M.A.C.T. GADAG**

ANNEXURE

WITNESSES EXAMINED FOR PETITIONERS:

P.W.1 : Sangeeta W/o Danayya Mathapati
P.W.2 : Sidramaraddi S/o Tammannagouda

DOCUMENTS EXHIBITED FOR PETITIONERS:

- Ex.P.1 : Copy of FIR
Ex.P.2 : Copy of Complaint
Ex.P.3 : Copy of Charge sheet
Ex.P.4 : Copy of Spot Mahazar
Ex.P.5 : Copy of PM report
Ex.P.6 : Copy of MVI report
Ex.P.7 : Copy of Salary certificate
Ex.P.8 : Sports Certificate
Ex.P.9 : Application form to obtain the
Surveyor License
Ex.P.10 : Application form for recruitment of
Junior Engineer in PWD
Ex.P.11 : Authorization letter
Ex.P.12 : Copy of Ledger account

WITNESSES EXAMINED FOR RESPONDENTS:

- R.W.1 : Ramachandrani Jashvanta S. Vishwaksen
R.W.2 : Manjunath S. Hegade

DOCUMENTS EXHIBITED FOR RESPONDENTS:

- Ex.R.1 : Authorization letter
Ex.R.2 : Insurance policy
Ex.R.3 : Authorization letter

Sd/- 01/07/2026

(G.R.SHETTAR)

**Prl. Sr. Civil Judge & CJM, &
M.A.C.T. GADAG**