

KABC020421112024



**BEFORE THE COURT OF I ADDL. SMALL CAUSES JUDGE & ACJM &
MOTOR VEHICLES ACCIDENT CLAIM TRIBUNAL, BENGALURU.
(SCCH-11)**

DATED THIS THE 23RD DAY OF APRIL - 2026

PRESENT: SRI.NARENDRA.B.R., B.Sc, L.L.B.
I ADDL.SMALL CAUSES JUDGE & ACJM
& MEMBER - MACT

MVC No.4947/2024

PETITIONERS:

1. Smt.Vinoda
W/o.Late Mahesh.M.Malageri
Aged about 36 years
 2. Kushi.M.M
S/o.Late Mahesh M Malageri
Aged about 10 years
 3. Kowshik.M.M.
S/o.Late Mahesh.M.Malageri
Aged about 13 years
- 2nd & 3rd Petitioner are R/a
Kasaba Hobali Uddur
Jodithatkere Hassan 573217
4. Sri.Moganna Gowda
S/o.Ninge Gowda

Aged about 58 years

5. Smt.Mariyamma
W/o.Moganna Gowda
Aged about 53 years

1th 4th & 5th petitioners are
R/at: Belur Taluk, Bikkod Hobali
Malagere, Hassan – 573215

2nd & 3rd petitioners are minors
hence their mother the 1st petitioner,
represents them as Natural Guardian.

(By Sri.R.Chandrashekhar, Adv.)

-Versus-

RESPONDENTS:

1. Smt.Thejaswini.H W/o Suresh S
R/at 53/7 2nd Cross Anjaneya
Temple Street, Near Yediyur Lake
Yadiyur Jayanagar, 6th Block BSK
2nd stage, Bengaluru – 560070
RC Owner of KIA Car bearing Regn
No.KA-02-MU-5464.
2. The Regional Manager
The TATA AIG General Insurance Co Ltd
3rd Floor JP and Devi Jambukeshwara
Arcade 69 Millers Road
Bengaluru – 560052
Policy No.62017768700000
date: from 27.07.2023 to 26.07.2026.

(Resp.No.1 – By Sri.B.Vijay Shetty, Adv.)

(Resp.No.2 – By Sri.V.R.Muralidhara, Adv.)

J U D G M E N T

This claim petition is filed by the petitioners claiming compensation of ₹.2,00,00,000/- with interest from the date of petition till its realization for the death of Sri.Mahesh M Malagiri S/o Moganna Gowda M N, in road traffic accident.

2. The petition averments in brief:-

On 08.04.2024 at about 00.15 hours a.m., deceased Mahesh was returning from Channapattana in his Bajaj Bike bearing Regn.No.KA-46-E-3658 and when he reached near Reliance Petrol Bunk on Bengaluru – Mangalore Road, NH-75, Bypass Road towards Bittagowdanahalli Circle, the driver of Kia Car bearing Regn.No.KA-02-MU-5464, came at high speed in a rash and negligent manner and dashed to the deceased's bike. Due to the accident, the deceased fell down and sustained grievous injuries

and thereafter he was shifted to Government Hospital, Hassan, wherein he succumbed to the injuries and postmortem was conducted and handed the body to the petitioners. Later the petitioners performed funeral and obsequies ceremonies for which they incurred expense of ₹.3,00,000/-.

Prior to the accident, the deceased was hale and healthy and was running business under the name of Bangalore Iyengar Bakery at Allapuram and earning a sum of ₹.1,50,000/- per month. Due to the death of deceased, the petitioners lost bread earning member of the family and put to lot of mental agony. The accident occurred due to rash and negligent driving of car by its driver. The respondents, being the owner and insurer of the offending vehicle, are jointly and severally liable to pay compensation to the petitioners.

3. In pursuance of notice, both the respondents have appeared before the tribunal through their respective counsel and filed their separate written statement.

4. In the Written Statement, the respondents have denied the contents of claim petition specifically and categorically. The respondents have also denied age, occupation and income of deceased as well as place, time and manner of accident. Further respondents have contended that the petition filed by the petitioners is not maintainable either in law or on facts and same is liable to be dismissed. Further the 1st respondent contended that she is the R C Owner of the car, but her vehicle has not at all involved in any accident and she has not driven her vehicle to the place of alleged accident at any point of time. Further contended that as on the date of accident, there was valid insurance for the said vehicle and same

was in force with 2nd respondent and she was holding valid and effective driving license at the time of accident. Further contended that respondent No.1 has insured her vehicle with the 2nd respondent under the valid Policy No.62017768700000 (TATA AIG General Insurance Company Ltd) which is valid from 27.07.2023 to 26.07.2026 and the liability, if any, is subject to the terms and conditions of policy. The amount claimed by petitioners is highly exorbitant. Hence, prays to dismiss the petition.

5. 2nd respondent, in the written statement, has admitted the aspect of issue of Private Car Policy with Bundle Schedule Policy bearing Regn.No.6201776870 in favour of first respondent in respect of New Car having Engine and Chassis No.G4FLPV578781 & MZBGC814LPN1126946 which is valid from 27.07.2023 to 26.07.2026 (own damage for one year and third party liability for three years).

Further contended that the 1st respondent had been willfully entrusted her vehicle to a person who did not possess valid and effective driving license to drive the same as on the date of accident. Further contended that the alleged accident occurred due to rash and negligent riding by deceased and deceased attributed more negligence for the cause of alleged accident. Further the deceased was riding the motor cycle without wearing safety helmet. Further there was no rash and negligent driving on the part of driver of insured car. The amount claimed by petitioners is highly exorbitant. Hence, prays to dismiss the petition.

6. On the basis of above pleadings, this tribunal has framed the following:

ISSUES

1. Whether petitioners prove that deceased Sri.Mahesh Malagiri succumbed to the injuries sustained in the accident that took place on 08.04.2024 at about 00.15 hours (a.m.), near Reliance Petrol

Bunk, BM Road, Bypass NH-75, Near Channapattana, Hassan, when petitioner was riding his Bajaj Bike bearing Regn.No.KA-46-E-3658, due to the rash and negligent driving of KIA Car bearing Regn.No.KA-02-MU-5464 by its driver?

2. Whether the petitioners are entitled for compensation? If so, what amount and from whom?

3. What order or award?

7. In order to substantiate the contention of the petition, the Petitioner No.1/wife of deceased got examined herself as PW.1 and got marked documents at Ex.P.1 to Ex.P.14 and closed evidence of petitioners' side. The respondents did not adduce their evidence either oral or documentary.

8. Heard arguments on both side and perused the materials available on records.

9. This Tribunal answers the above issues as below:

Issue No.1 : In the Affirmative.

Issue No.2 : Partly in the Affirmative.

Issue No.3 : As per final order, for
the following:

//REASONS//

10. **Issue No.1:-** It is the case of the petitioners that deceased succumbed to the injuries sustained in the accident that took place on 08.04.2024 at about 00.15 hours a.m., near Reliance Petrol Bunk, BM Road, Bypass NH-75, Near Channapattana, Hassan, when petitioner was riding his Bajaj Bike bearing Regn.No.KA-46-E-3658, due to the rash and negligent driving of KIA Car bearing Regn.No.KA-02-MU-5464 by its driver.

11. The Petitioner No.1/wife of deceased Sri.Mahesh M Malagiri examined as PW.1. In the chief-examination, PW.1 deposed that while her husband was returning, accident occurred due to the rash and negligent driving of car by its driver. In order to prove the accident and negligence of the driver of car, the petitioners produced Ex.P.2

First Information lodged by wife of deceased by name Smt.Vinodha, W/o.Mahesha.M.M. with police on 08.04.2024. On the basis of first information lodged by wife of deceased, the police registered the FIR as per Ex.P.1 for the offence punishable U/s.279 & 304(A) of IPC. In first information statement as well as FIR, the accident is stated to have been caused due to rash and negligent driving of car by its driver. The respondents not furnished satisfactory materials in order to rebut or controvert the recitals of first information statement and FIR. The FIR has been registered against the driver of offending vehicle which does not appear to have been questioned or challenged either by driver or owner of offending vehicle.

12. The petitioners also furnished Spot Panchanama and spot sketch which is marked as Ex.P.3. The said documents disclose that the police

visited the place of incident after registration of FIR and the place of incident is described in the said documents. The mahazar and sketch indicates the aspect of negligence on the part of driver of offending vehicle in the cause of accident. The respondents not furnished satisfactory materials to show that the facts at the place of accident, as described in the mahazar and sketch, are contrary to actual facts.

13. Ex.P.4 is the Seizure Mahazar. The said document discloses the aspect of seizure of vehicle involved in the accident. The offending vehicle has been seized on the ground of its involvement in the accident. The driver or owner of offending vehicle does not appear to have questioned or challenged the seizure procedure conducted by the police.

14. Ex.P.5 is the IMV Report, wherein the damages caused to both the vehicles are mentioned.

Ex.P.8 is the PM report, wherein deceased Sri.Mahesh M M is stated to have died due to head injury sustained. The I.O., after detailed investigation filed the charge sheet against the driver of the offending vehicle for the offence punishable U/s.279 & 304(A) of IPC as per Ex.P.8. In the final report also, the accident is stated to have been caused due to rash and negligent driving of car by its driver. The documents furnished by petitioners disclose the aspect of negligence on the part of driver of car in the cause of accident. The respondents not placed any materials in order to rebut or disprove the documents furnished by the petitioners related to the aspect of negligence. The owner or driver of the car does not appear to have challenged the FIR as well as final report filed by the police against the driver of offending vehicle. The correctness of investigation does not appear to have been challenged by respondents in

any manner. In the cross examination of PW.1 also, nothing to disprove or disbelieve the contention of petitioners could be elicited from the witness.

15. The respondents not placed satisfactory materials before the tribunal to disprove case of petitioners. In the absence of satisfactory materials, the documents furnished by the petitioners are to be looked into in order to ascertain the aspect of negligence. The materials placed before the Tribunal points towards the negligence on the part of driver of offending car in the cause of accident. So, the oral and documentary evidence placed by the petitioners discloses that the accident was caused due to rash and negligence on the part of driver of offending vehicle. Under these circumstances, relying upon the oral evidence of petitioners coupled with the documents produced before this tribunal, this

tribunal is of the opinion that the accident occurred due to rash and negligent driving of KIA Car bearing Regn.No.KA-02-MU-5464 by its driver and deceased succumbed to injuries. **Accordingly, Issue No.1 is answered in the Affirmative.**

16. **Issue No.2:** In view of answering issue No.1 in the affirmative, the petitioners are entitled for compensation. In order to assess the compensation, the Tribunal has to look into several factors like age, avocation, income of deceased, conveyance charges, funeral and obsequies, towards of loss of love and affection, etc.

(A) **Towards dependency and loss of future earnings:** (i) In the petition, the age of the deceased Sri.Mahesh M Malagiri is shown as 36 years. In order to prove age of deceased, the petitioners have produced Ex.P.9, 10 & 14 – Notarized copy of Aadhaar & Pan Card and DL,

wherein his date of year of birth is mentioned as 03.06.1988. The accident occurred on 08.04.2024. As per the document furnished by petitioners, the age of the deceased appears to be 36 years at the time of accident. The respondents not furnished any satisfactory materials in order to dispute or rebut the document furnished by petitioners related to the age of deceased. In the absence of materials to the contrary, the documents furnished by petitioners are to be considered for ascertaining the age of deceased. As per the materials furnished before the Tribunal, the age of deceased was 36 years as on the date of accident and same is taken into consideration. As per dictum of Hon'ble Supreme court of India in **Smt.Sarla Verma case '15'** multiplier is applicable in the present case.

(ii) The petitioners contended that deceased Sri.Mahesh M Malagiri running business under the name of Bangalore Iyengar Bakery at Allapuram and

earning a sum of ₹.1,50,000/- per month. In order to prove the occupation and income of deceased, the petitioners have produced Ex.P.12 & 13 i.e., IT Returns and Account Statement.

As per Ex.P.12 - IT returns of deceased for the assessment year 2020-21, wherein his Gross Total Income is shown as ₹.4,98,970/- and paying income tax of ₹.1,000/-. IT returns of deceased for the assessment year 2021-2022, discloses the Gross Total Income of deceased as ₹.4,99,400/- and paying income tax of ₹.1,000/-. IT returns of deceased for the assessment year 2022-2023, discloses the Gross Total Income of deceased as ₹.4,99,500/- and paying income tax of ₹.1,000/-. IT returns of deceased for the assessment year 2023-2024, discloses his Gross Total Income as ₹.4,99,600/- and paying income tax of ₹.1,000/-. IT returns of deceased for the assessment year 2024-2025, discloses the Gross Total Income of deceased as ₹.4,99,950/- and paying

income tax of ₹.1,000/-. On perusal of the income tax returns filed by the petitioners, the income of the deceased gradually increased. The accident occurred on 08.04.2024. The deceased submitted tax returns on 28.01.2021, so it shows that he has submitted his returns earlier to the accident. The accident occurred in the year 2024 and as such, the income tax returns form for the assessment year for 2023-24 is taken for consideration for ascertaining the income of deceased. So, as per assessment year 2023-24, total gross income of deceased was ₹.4,99,600/- and less income tax paid ₹.1,000/-, total income of the deceased was ₹.4,98,600/- per annum. On consideration of materials on record, the monthly income of petitioner is considered to be ₹.41,550/-. The income tax returns furnished by petitioners disclose the annual income of deceased to be ₹.4,99,600/- for the assessment year 2023-24 and the income of deceased is considered to be

₹.41,550/- per month on the basis of tax returns for the assessment year 2023-2024.

In Hem Raj V/s the Oriental Insurance Company Ltd and others the Hon'ble Supreme Court held that there cannot be distinction where there is positive evidence of income and where minimum income is determined on guess work in the facts and circumstances of a case. Both the situations stand at the same footing. In view of ratio laid down by the Hon'ble Supreme Court of India, the petitioners are entitled for future prospects. In National Insurance Company Ltd V/s Pranaya Sethi and others case the Hon'ble Supreme Court held that, in case the deceased was (permanent employee) self-employed or on a fixed salary an addition of 40% of the established income should be warranted where the deceased was aged below 40 years. In the case on hand, deceased was aged about 36 years. Hence, in view of ratio laid down by the Hon'ble Supreme

Court, petitioners are entitled for additional 40% to the established income. The established income of the deceased is ₹.41,550/- and 40% of ₹.41,550/- is ₹.16,620/-. So, the total gross income of deceased was ₹.41,550/- + ₹.16,620/- = ₹.58,170/- per month. As per the materials on record, the deceased Sri.Mahesh M Malagiri is married, having wife, children, mother and father. In order to prove the same, the petitioners have produced notarized copies of PAN cards, Election identity cards and Aadhaar cards which are marked as Ex.P.9 to P.11. On perusal of said documents, it reveals that petitioners No.1 to 5 are wife, children and parents of deceased. The said documents disclose the relationship of petitioners with that of the deceased. The materials on record disclose that petitioners are dependent on the income of deceased. Hence, petitioner No.1 to 5 are considered as dependents of deceased. As per dictum

of Hon'ble Supreme Court of India in **Smt.Sarla Verma case** where number of dependent family members is 4 to 6, 1/4th has to be deducted from the gross income of deceased towards his personal expenses and remaining is to be taken as income towards dependency. Thus, petitioners are entitled to compensation of **₹.78,52,860/-** towards loss of dependency which is calculated as follows:

Calculation	Total (In ₹.)
1/4 th of ₹.58,170/- (deduction of ₹.14,543/-)	₹.43,627/-
₹.43,627/- multiply by 12	₹.5,23,524/-
₹.5,23,524/- multiply by 15 Multiplier	₹.78,52,860/-

(B) Towards Consortium, loss of estate and funeral expenses; In the case on hand, the date of accident was on 08.04.2024. So, in view of ratio laid down by Hon'ble Supreme Court of India in Pranay Sethi case, the petitioners are entitled for additional **10% on conventional heads** which is to be

enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. So the petitioner No.1 to 5 being the wife, children and parents of deceased are entitled for **₹.48,400/- (each) towards loss of Spousal Consortium, Parental Consortium and Filial Consortium** and also entitled for **₹.18,150/-** towards loss of estate and **₹.18,150/-** towards funeral expenses.

17. Thus, the petitioners are entitled for total compensation as follows:

Sl.No.	Particulars	Amount
a.	Towards dependency and loss of future income	₹.78,52,860/-
b.	Towards Consortium. 1. Spousal Consortium 2. Parental Consortium(2) 3. Filial Consortium(2)	₹.48,400/- ₹.96,800/- ₹.96,800/-
c.	Towards Loss of estate & Funeral Expenses	₹.36,300/-
	Total Compensation	₹.81,31,160/-

The petitioners are entitled for total

compensation of ₹.81,31,160/-.

18. In view of ratio and dictum laid down by the Hon'ble High Court of Karnataka in MFA.No.100090 of 2014 C/w. MFA.No.25107 of 2013 between Vijay Ishwar Jadhav and others Vs. Ulrich Belchior Fernandes and another, the petitioners are entitled for interest @ 6% per annum from the date of petition till its realization.

19. The petitioner has filed petition against the respondent No.1 & 2. It is already held that the accident occurred due to rash and negligent driving of KIA Car bearing Regn.No.KA-02-MU-5464 by its driver. So, the respondents No.1 and 2 being the owner and insurer of the offending vehicle are jointly and severally liable to pay compensation to the petitioner. Hence, Issue No.2 answered Partly in the Affirmative.

20. **Issue No.3:** In view of the findings given on the above said issues, this Tribunal proceeds to pass the following:

O R D E R

The claim petition filed by the petitioners Under Section 166 of Motor Vehicles Act is hereby partly allowed with cost.

The petitioners are entitled for total compensation amount of ₹.81,31,160/- (Rupees Eighty One Lakhs Thirty One Thousand One Hundred and Sixty only) with interest at 6% p.a., from the date of petition till realization.

Respondent No.1 & 2 are jointly and severally liable to pay the compensation to the petitioners. Respondent No.2 being the insurer is primarily liable to deposit the said compensation amount within a period of two months from the date of award.

Out of the total compensation amount, the petitioner No.1 being the wife of deceased is entitled for 40%, petitioner No.2 & 3 being the children of deceased are entitled for 20% each and petitioner No.4 & 5 being the parents of deceased are entitled for 10% each of the compensation amount. In total amount apportioned to the share of petitioner No.1, 60% of the amount shall be released in favour of petitioner No.1, and 40% of the amount shall be kept in FD for a period of three years.

20% each of compensation amount allotted to the share of minor petitioners No.2 & 3 shall be kept in FD in their names of minor petitioners in any of the Nationalized Bank or Scheduled Bank of the choice of minor guardian for a period of 3 years or till they attains the age of majority whichever is later. The guardian of petitioner is entitled for interest that accrues on FD periodically.

The entire award amount allotted to the share of petitioner No.4 & 5 shall be released to petitioner No.4 & 5 as amount is meager one.

*After deposit of compensation amount with interest thereon disburse amount as mentioned above as per guidelines laid down by Hon'ble High Court in **MFA No.2509/2019 (ECA)** and as per General Circular No.2/2019 dated 19.8.2019.*

The petitioners hereby directed to produce particulars of Bank Account of petitioners, with name of Bank, IFSC Code, Account Number with copy of First Page of Bank Pass Book which contained compulsorily photographs of petitioners, which is duly attested by concerned Bank. Further petitioners shall produce PAN Card/Aadhaar Card.

In case of deposit of awarded amount with interest thereon by respondent, the petitioners are entitled to receive

amount as mentioned above after expiry of period provided for filing an appeal.

Bank shall not advance loan on such FD, and shall not cause premature release of FD without permission from the Tribunal.

Bank shall release amount along with interest thereon in favour of petitioners on proper verification and identification or credit said amount to their account after expiry of three years period of deposit, without waiting for further order of court.

The advocate fee is fixed at ₹.1,000/-.

Office to draw Award accordingly.

(Dictated to the stenographer directly on computer, typed by her, corrected and then pronounced by me, in the open Court on this the 23rd day of April 2026.)

(NARENDRA.B.R)
I ADDL.SMALL CAUSES JUDGE & ACJM
& MEMBER - MACT, BENGALURU

A N N E X U R E

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PETITIONERS:-

PW.1 : Smt.Vinodha

LIST OF DOCUMENTS MARKED ON BEHALF OF THE PETITIONERS:-

Ex.P.1 : FIR

Ex.P.2 : Complaint

Ex.P.3 : Spot Panchanama

Ex.P.4 : Seizure Panchanama

Ex.P.5 : IMV Report

Ex.P.6 : Inquest Report

Ex.P.7 : PM Report

Ex.P.8 : Charge Sheet

Ex.P.9-11: Notarized copies of Aadhaar cards, pan cards and ID Cards

Ex.P.12 : IT Returns

Ex.P.13 : Account Statement

Ex.P.14 : Notarized copy of DL

LIST OF WITNESSES EXAMINED ON BEHALF OF THE RESPONDENTS:-

-NIL-

**LIST OF DOCUMENTS MARKED ON BEHALF OF THE
RESPONDENTS:-**

-NIL-

(NARENDRA.B.R)
I ADDL.SMALL CAUSES JUDGE & ACJM
& MEMBER - MACT, BENGALURU