

KABC020162762024



**IN THE COURT OF II ADDL. SMALL CAUSES
JUDGE, ACJM AND MEMBER-MOTOR ACCIDENT
CLAIMS TRIBUNAL, BENGALURU. (SCCH-13)**

DATED THIS THE 10th DAY OF JULY 2026

PRESENT

SMT. SHYLA S.M., B.B.M. LL.B.,
II Addl. Judge & ACJM,
Court of Small Causes,
Bengaluru.

M.V.C.No.2590 OF 2024

Petitioners:

- 1 Veena N
W/o Late Yogesha
Aged about 34 years
- 2 Amulya Y.
D/o Late Yogesha
Aged about 16 years
- 3 Ayusha Y
S/o Late Yogesha
Aged about 14 years

Since Petitioner No.2 And 3 Minors,
Rep. By Their Mother And Natural
Guardian Smt. Veena N,Petr No.1.

- 4 Sharadamma
W/o Late Venkateshaiah K.V.
D/o Late Mottaiah
Aged about 59 years
All are R/At Kodavathi Post
Huliyurdurga Hobli,
Kunigal Taluk,
Tumkur Dist-572123.

(By Sri.Harisha S.K.,Adv.)

/Vs./

Respondents:

1. Manju M, Major
S/o Ningappa
R/At 3rd Cross, Leelavathi Layout
Maddur Town And Taluk,
Mandya Dist.

(RC Owner of Eicher Canter lorry
bearing No.KA-16-D-2561)
(By Sri.Srinivasa, Adv.)

2. HDFC Ergo General Ins Co Ltd.
Ground Floor, ACR Tower
No. 32, Residency Road
Opp SBI Bank Ashok Nagar
Bengaluru-560025.

(Insurer of Eicher Canter lorry
bearing No.KA-16-D-2561)

Policy No.2315 2058 5015 2600 001
Validity:9-11-2023 to 8-11-2024)
(By Sri.Madhu Kiran, Advocate)

J U D G M E N T

This petition is filed under Section 166 Motor Vehicles Act 1989 seeking compensation of ₹.80,00,000/- for the death of Sri.Yogesha S/o.Late Venkateshaiah K.V. in a road traffic accident.

2. It is stated in the petition that on 24-02-2024 at about 18.05 hours, the deceased, Yogesha, was driving the car bearing registration No. KA-03-AL-7542, on the left side of Chamarajanagara-Jevargi NH-150A Road, towards Nagamangala, carefully and cautiously along with one Abhishek. At that time, the driver of the Eicher Canter Lorry bearing registration No. KA-16-D-2561 (hereinafter referred to as the offending lorry) drove the same in a rash and negligent manner, at a high speed, and came from the opposite direction and dashed against the car in which the deceased was travelling.

3. Due to the forceful impact, the deceased sustained grievous injuries and was immediately shifted to Adichunchanagiri hospital, B.G.Nagara, where, attending doctors examined him and declared dead. Thereafter, a post-mortem examination was

conducted at the same Hospital, and the dead body was handed over to the petitioners. The petitioners performed the last rites in accordance with family customs by incurring an expenditure of about Rs.1,00,000/-.

4. It is specifically pleaded that the accident occurred solely and entirely due to the rash and negligent driving of the driver of the offending lorry, resulting in the death of Yogesh . At the time of the accident, the deceased was working as a Cab Driver of his own car, earning a monthly income of about Rs.30,000/-. On these grounds, the petitioner has prayed that this Tribunal be pleased to award compensation of Rs.80,00,000/- with interest, holding the respondents, being the owner and insurer of the offending lorry are liable to pay the same.

5. In response to the petition notice, both the Respondents appeared before the court through their respective counsel. Respondent No.1 did not file any written statement. Respondent No.2 has filed its objection statement.

6. Respondent No.2, in its objection statement, denied all the material averments made in the claim petition. However, it admitted the issuance of a valid and effective insurance policy in respect of the offending lorry. It is further contended that any liability on the part of respondent No.2 is subject to the terms and conditions of the policy, if any.

7. Respondent No 2 further contended that there was non-compliance with the provisions of Section 134(c) and 158(6) of the Motor Vehicles Act. It denied the allegation of rash and negligent driving on the part of the driver of the offending lorry and asserted that the accident occurred solely due to the negligence of the deceased himself. According to respondent No.2, the deceased had consumed alcohol beyond the permissible limit and was driving the car in a rash and negligent manner, without possessing a valid DL and without wearing seat belt, thereby contributing to the occurrence of the accident.

8. Respondent No.2 further contended offending lorry was not involved in the accident and that it has been falsely implicated. The respondent no 2 has also

contended that the driver of the offending vehicle was not holding a valid and effective driving licence at the time of the accident. Further this respondent has denied the age, occupation and income of the deceased, the relationship of the petitioners with the deceased and their alleged dependency. It has further contended that the compensation claimed by the petitioners is highly excessive, exorbitant and without any basis. On all these grounds, respondent No.2 has prayed for dismissal of the claim petition.

9. On the basis of above pleadings, the following issues have been framed :-

1. Whether the Petitioners prove that Yogesha S/o.Late Venkateshaiah K.V., died in a Road Traffic Accident occurred on 24-02-2024 about 18.05hrs, NH-150-A Road, near Cholasandra Village, Ksaba Hobli, Nagamangala Taluk, Mandya District, due to rash and negligent driving by the driver of Eicher Canter lorry bearing No.KA-16-D-2561?

2. Whether the petitioners are entitled for compensation? if so, what amount ?

3. What order or award ?

10. In support of the claim, Petitioner No.1 is examined as PW.1 and got marked the documents as per Ex.P.1 to P.27 On the other hand, official of respondent No.2 was examined as RW-1 and got marked the documents at Ex.R.1 to 3.

11. I heard the counsel on both sides and have perused the material on record .

12. By considering the evidence and materials available on record and after hearing the arguments my findings to the above issues are as under:

Issue No.1: Partly in the Affirmative.

Issue No.2: Partly in the Affirmative.

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

REASONS

13. ISSUE NO.1:- Petitioner says that on 24-02-2024 at about 18.05 hours, the deceased, Yogesha, was driving the car bearing registration No. KA-03-AL-7542, on the left side of Chamarajanagara-Jevargi NH-150A Road, towards Nagamangala, carefully and cautiously along with one Abhishek. At that time, the driver of the offending lorry drove the same in a rash and negligent manner, at a high speed, and came from

the opposite direction and dashed against the car in which the deceased was travelling. Due to the forceful impact, the deceased sustained grievous injuries and was immediately shifted to Adichunchanagiri hospital, B.G.Nagara, where, attending doctors examined him and declared dead.

14. In order to substantiate the claim, the petitioner No.1 examined herself as PW.1 and filed her evidence by way of affidavit under Order XVIII Rule 4 of the Code of Civil Procedure, reiterating all the averments made in the claim petition. She also produced and got marked Ex.P1 to Ex.P16. Ex.P1 to Ex.P16 comprise the police records, namely, the FIR, complaint, spot mahazar, rough sketch, vehicle seizure mahazar, inquest report, post-mortem report, notice issued under Section 133 of the Motor Vehicles Act, reply notice, IMV report, charge sheet, accident register extract and police intimation.

15. On the other hand, Respondent No.2 contested the claim by specifically contending that the deceased himself was responsible for the accident. It was pleaded that, at the time of the accident, the

deceased was driving the car under the influence of alcohol and in an intoxicated condition and that the accident occurred solely due to his rash and negligent driving. It was further contended that there was absolutely no negligence on the part of the driver of the offending lorry. In support of the said defence, Respondent No.2 examined its official as RW.1, who filed his affidavit evidence reiterating the contents of the written statement.

16. PW.1 was subjected to a detailed cross-examination by the learned counsel for Respondent No.2. During the course of her cross-examination, it was suggested that her husband had consumed alcohol, was driving the car at a high speed in a rash and negligent manner, and that he himself caused the accident by colliding with the Eicher Canter lorry. PW.1 categorically denied all such suggestions. Except making these suggestions, nothing substantial was elicited in her cross-examination so as to discredit her testimony regarding the occurrence of the accident.

17. RW.1 was also cross-examined at length. During his cross-examination, RW.1 admitted that he

had no personal knowledge regarding the accident and that his evidence was entirely based on the police records. He further admitted that the investigating agency had filed the charge sheet against the driver of the offending insured lorry. He affirmed that the charge sheet filed allegations against the deceased to the effect that he had consumed alcohol at the time of the accident.

18. Keeping in view the rival contentions urged by both the parties, this Tribunal has carefully scrutinized the oral as well as documentary evidence available on record.

19. Ex.P1 to Ex.P16 are official records prepared in the discharge of official duties by the investigating agency. The FIR, complaint, spot mahazar, rough sketch, vehicle seizure mahazar, IMV report, inquest report and the charge sheet consistently disclose the involvement of the offending lorry in the accident. The notice issued under Section 133 of the Motor Vehicles Act and the reply furnished thereto also establish the involvement of the offending lorry. There is absolutely no material placed by Respondent No.2 to probabilise

its contention that the offending lorry has been falsely implicated.

20. A careful perusal of the charge sheet further reveals that, after completion of the investigation, the jurisdictional police have arraigned the driver of the offending lorry as an accused for having driven the vehicle in a rash and negligent manner and thereby causing the accident. Though a charge sheet is not conclusive proof of negligence, it is nevertheless a relevant piece of evidence and carries considerable evidentiary value in proceedings under Section 166 of the Motor Vehicles Act unless rebutted by convincing evidence. In the present case, Respondent No.2 has not produced any independent eyewitness or any other cogent material to rebut the findings of the investigating agency.

21. However, the records also disclose that the deceased had consumed alcohol prior to the accident. The charge sheet indicates that the alcohol content in the blood of the deceased was above the permissible limit. Though mere consumption of alcohol by itself cannot automatically lead to the conclusion that the

deceased was solely responsible for the accident, it is a relevant circumstance to be considered while appreciating the conduct of the deceased immediately prior to the accident.

22. Driving a motor vehicle after consuming alcohol beyond the permissible limit impairs judgment, reaction time and driving ability. Therefore, the conduct of the deceased in driving the vehicle under the influence of alcohol cannot be ignored. Had the deceased not consumed alcohol, he might have been in a better position to react to the situation and avoid or minimise the impact of the accident. Thus, his conduct has materially contributed to the occurrence of the accident.

23. At the same time, the documentary evidence on record, particularly the charge sheet, spot mahazar, rough sketch and other police records, clearly establishes that the primary cause of the accident was the rash and negligent driving of the offending lorry. There is no acceptable evidence to hold that the accident was exclusively a self-accident or that the deceased alone was responsible for the occurrence.

24. Therefore, considering the entire evidence on record, this Tribunal is of the considered opinion that the accident occurred primarily due to the rash and negligent driving of the driver of the offending lorry. Nevertheless, the deceased also contributed to the occurrence of the accident by driving the vehicle after consuming alcohol beyond the permissible limit.

25. Having regard to the nature of the evidence and the attendant circumstances, this Tribunal is of the opinion that it would be just and proper to attribute 70% negligence to the driver of the offending lorry and 30% contributory negligence to the deceased.

26. Accordingly, the petitioners have successfully established that the deceased sustained fatal injuries in the road traffic accident involving the offending lorry and that the accident occurred substantially due to the rash and negligent driving of its driver. However, the deceased also contributed to the occurrence of the accident to the extent of 30% by driving the vehicle under the influence of alcohol. **Hence, Issue No.1 is answered Partly in the Affirmative, holding that the accident occurred due to the rash and**

negligent driving of the driver of the offending lorry, with 30% contributory negligence on the part of the deceased.

27. ISSUE NO.2:- The petitioners contend that they are the legal heirs of the deceased Yogesha. Petitioner No.1 is the wife of the deceased, Petitioner Nos.2 and 3 are the children, and Petitioner No.4 is the mother of the deceased. In order to establish their relationship with the deceased, Petitioner No.1 has produced the inquest report at Exhibit P6, along with the Aadhaar cards, which are marked as Exhibits P18 to P21. The said documents clearly establish that Petitioner No.1 is the wife, Petitioner Nos.2 and 3 are the children, and Petitioner No.4 is the mother of the deceased.

28. It is further pertinent to note that the respondent No.2 has not adduced any evidence to dispute or disprove the relationship of the petitioners with the deceased. In the absence of any rebuttal evidence from the respondent, the documentary evidence produced by the petitioners remains unchallenged. Accordingly, this Tribunal holds that all

the petitioners are the legal heirs and dependents of the deceased, and as such, they are entitled to seek compensation under the provisions of the Motor Vehicles Act.

29. It is stated that the deceased was working as an Cab driver of his own car and was getting monthly income of ₹30,000. The Petitioner No.1 to 4 were financial and emotionally dependents on the deceased. Due to his untimely death, they have suffered immense mental shock, agony and loss of the sole breadwinner of the family. To substantiate the income and avocation of the deceased, the Petitioners have not produced any documents. In the absence of proof of income, this tribunal is of the opinion that the notional income to be assessed as per the guidelines of the Karnataka State Legal Service Authority. Since the accident has been occurred in the year 2024, notional income Rs.17,000/- per month is taken for the assessment of compensation.

30. The Petitioners have produced the SSLC marks card at Ex.P.27, which shows the date of birth of deceased as 04-06-1984. Based on this, age of the

deceased at time of the death is taken 40. Accordingly, the proper multiplier applicable to the case on hand is **15**.

31. As the deceased age was 40 years, 40% future prospects is to be added as per **Pranay Sethi case**. Then the monthly income would be ₹.17,000+40%=₹.23,800/-. As there are 4 dependents, as per the decision of **Hon'ble Supreme Court in Sarla Verma Vs. Delhi Transport Corporation reported in 2009 ACJ 1298** $\frac{1}{4}^{\text{th}}$ of the income to be deducted towards his personal and living expenses and then the annual income would come around Rs.23,800 - 5,950 = Rs.17,850 X 12 Rs.2,14,200/- and applying 15 multiplier, Petitioners are awarded **Rs.32,13,000/- towards loss of dependency**.

32. CONSORTIUM: By following the guidelines of the Hon'ble Apex Court in **Magma General Insurance Co. Ltd. Vs- Nanu Ram Alias Chuhru Ram & Others¹**, this Tribunal deems it proper to hold that the Petitioners are entitled Rs.44,000/- each under the head of consortium as Petitioner No.1 has lost her husband, Petitioner No.2 and 3 have lost their

father, Petitioner No.4 has lost her son. **Total Rs.1,76,000/- is awarded towards loss of consortium.**

33. Loss to estate: The loss to the estate is the loss of savings by the deceased. It appears that the Petitioner No.1 has lost her husband, Petitioner No.2 and 3 have lost their father, Petitioner No.4 has lost her son. Hence, **Rs.20,000/-** is awarded towards **loss to estate.**

34. Transportation of dead body, funeral and obsequies expenses: Petitioners have claimed that they have spent Rs.1,00,000/- towards transportation of dead body, funeral & obsequies and other incidental expenses. PW-1 has produced Ex.P.17- medical bill for Rs.2,500/-, towards postmortem charges. By considering the facts and circumstances it would be proper to award **Rs.16,500/- for the transportation of dead body, funeral and obsequies expenses and Rs.2,500/- towards medical expenses.**

35. In all, the amount of compensation awarded by this Tribunal to the Petitioners under various headings is as follows :

Sl.No	Nature of Compensation	Amount
1.	Loss of dependency	Rs. 32,13,000/-
2.	Loss of consortium to Petitioners	Rs. 1,76,000/-
3.	Loss to estate	Rs. 20,000/-
4.	Transportation of dead body, Funeral & obsequies Expenses	Rs. 16,500/-
5.	Medical expenses	Rs. 2,500/-
	Total	Rs. 34,28,000/-
	Less: 30% contributory negligence of deceased	Rs. 10,28,400/-

		Rs. 23,99,600/-

36. Liability: In view of findings on Issue No.1, the driver of the offending lorry has contributed 70% of negligence in cause of accident and the deceased has contributed 30% for cause of the accident. The petitioners are entitled for 50% compensation from the respondent. So, 70% of Rs.34,28,000/ would be Rs.23,99,600/-. Therefore, the Respondent No.2 is liable to pay the compensation of Rs.23,99,600/- to the Petitioners with interest at 6% per annum. With

these observations, I have answered Issue No.2 ***partly in the Affirmative.***

37. ISSUE NO.3 : In view of the above discussion, reasons stated and findings given to Issue Nos.1 and 2, I proceed to pass the following:

ORDER

Petition filed under Sec.166 of M.V. Act is allowed in part with cost.

Petitioner is awarded compensation of **Rs.23,99,600/-** together with interest @ 6% p.a. from the date of petition till the realization.

Respondent No.2 shall deposit the compensation amount within two months from the date of this order.

After deposit of amount, 40% of the amount is apportioned to 1st Petitioner and 25% each is apportioned to the Petitioner No.2 and 3 and 10% is apportioned to the petitioner No.4.

Out of the said apportioned amount in respect of Petitioner No.1 , 25% of the amount shall be kept in FD in her name in any nationalized or scheduled bank for a period of 2 years and balance 75% amount shall be disbursed to her through E-payment on proper identification.

The entire apportioned amount in respect of Petitioner No.2 and 3 shall be kept in FD in any nationalized bank of Petitioner No.1's choice till they attain the age of majority or for a period of 2 years, whichever is later.

The entire apportioned amount in respect of Petitioner No.4 shall be disbursed to her through E-payment on proper identification.

Advocate's fee is fixed at ₹.1,000/-.

Draw award accordingly.

(Dictated to the Stenographer directly over computer, corrected, signed and pronounced by me in open court dated this the 10th day of July 2026).

**(SHYLA S.M.)
II Addl. Judge & ACJM,
Member, MACT
Court of Small Causes,
Bengaluru.**

ANNEXURE

List of witnesses examined for Petitioners :

PW.1 Veena N

List of documents marked for Petitioners :

Ex.P.1 & 2 : True copy of FIR & FIS

Ex.P.3 & 4 : True copies of spot mahazar and rough sketch

- Ex.P.5 : True copy of vehicle seizure mahazar
Ex.P.6 & 7 : True copy of Inquest and PM report
Ex.P.8 to : True copies of notice and reply
11
Ex.P.12 : True copy of IMV report
Ex.P.13 : True copy of charge sheet
Ex.P.14 to : True copies of accident register, police
16 intimations
Ex.P.17 : Medical bill
Ex.P.18 to : True copies of Aadhar cards of petitioners
21
Ex.P.22 to : True copies of deceased, Petitioner No.1
25 and 4 PAN cards and ration card
Ex.P.26 & : True copies of Aadhaar card and SSLC
27 marks card of deceased

List of witnesses examined for Respondents:

RW.1 : Suresh G.S.

List of documents marked for Respondents:-

- Ex.R1 : Copy of policy
Ex.R2 : True copy of FSL report
Ex.R3 : True copy of final opinion as to the cause of death.

(SHYLA S.M.)
II Addl. Judge & ACJM
Member, MACT
Court of Small Causes,
Bengaluru.