

KABC020164052023



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

DATED THIS THE 07TH DAY OF APRIL - 2026

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

MVC No.3661/2023

PETITIONERS:

1. Smt.Thirthakumari
W/o.Gurumurthy
Aged about 34 years
2. Sri.Gurumurthy
S/o.D.Yallaiah
Aged about 41 years
3. Kum.Kirthana
D/o Gurumurthy
Aged about 6 years
4. Kum.Akshitha
D/o.Gurumurthy
Aged about 02 years

All are R/at G Mangalapura
Nagarahalli Post, Gandsi Hobli
Arasikere Taluk, Hassan District

573164. Since petitioner being minor
Hence, represented by father and
natural guardian, Gurumurthy S/o
D.Yallayya, Aged about 41 years.

5. Smt.Gowramma B.K
W/o Gurumurthy
Aged about 34 years
R/at No.815, Housing Board
Holenarasipura
Hassan District – 573211.

(By Sri.B.H.Chikkanna, Adv.)

-Versus-

RESPONDENTS:

1. Mr.Swamy.S.M.,
S/o.Mahesha.S.B.,
Sanenahalli Koppalu,
Kuppalu, Kumbenahalli,
Hassan District – 573135.
(RC Owner of the Lorry bearing
Regn.No.KA-42-9639).
2. The Manager,
The Shriram General Insurance Co.,
Ltd., No.48, 3rd Floor, SS Corner
Building, Hospital Road,
Next to Kamath Hotel,
Shivajinagar, Bengaluru – 560001.
Policy No.10003/31/23/197301
Valid from 30.10.2022 to 29.10.2023.

(R.No.1 – By Sri.Basavaraj.B.Advani,Adv)
(R.No.2 – By Sri.Gururaj Salur, Adv.)

J U D G M E N T

This claim petition is filed by the petitioners claiming compensation of ₹.25,00,000/- with interest from the date of petition till its realization for the death of Master Sagar S/o Gurumurthy in road traffic accident.

2. The case of the petitioner in brief:-

On 13.05.2023 at about 02.30 p.m., when deceased was standing near TVS Excel bearing Regn.No.KA-13-EN-6642 on left side of road, near Danvika Daba, Honnakumaranahalli, Gandasi Hobali, Arasikere Taluk, Hassan, driver of Lorry bearing Regn.No.KA-42-9639, came at high speed in a rash and negligent manner and dashed to the deceased. Due to the accident, deceased fell down and sustained grievous injuries and succumbed to the injuries on the spot and thereafter post mortem was conducted at Jayachamarajendra Hospital, Arasikere

and body was handed over to petitioners and they performed funeral and obsequies ceremonies for which they have spent heavy amount.

Prior to the accident, the deceased was hale and healthy and was a Student, studying at 8th Standard in Govt. School, Gandasi. Due to untimely death of deceased, petitioners have undergone mental agony. The accident occurred due to rash and negligent driving of lorry 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 1st respondent contended that he is the owner of tipper lorry and same has been insured with 2nd respondent under Policy No.10003-31-23-197301, valid from 30.10.2022 to 29.10.2023 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, further contended that on the date of alleged accident, the driver of lorry was not holding valid and effective driving license. Further contended

that as on the date of alleged accident the lorry was not having valid permit and fitness certificate to ply in the place of accident. Further there is no relationship between the deceased and petitioners. The amount claimed by petitioners is highly exorbitant. Hence, prays to dismiss the petition.

6. On the basis of above pleadings, the learned predecessor in office has framed the following:

ISSUES

1. Whether petitioners prove that the son of petitioner No.1 & 2 and brother of petitioner No.3 & 4 namely Master Sagar M.G succumbed to the injuries sustained in the accident that took place on 13.05.2023 at about 02.30 p.m., near Daba, Honnakumaranahalli, Gandasi Hobli, Arasikere Taluk, Hassan District, while he was standing near TVS Excel bearing registration No.KA-13-EN-6642 on left side of the road, due to the rash and negligent driving of Lorry bearing Regn.No.KA-42-9639 by its driver?

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

3. What order or award?

7. In order to substantiate the contention of the petition, the Petitioner No.5/mother of deceased got examined herself as PW.1 and father of deceased got examined himself as PW.2 and got marked documents at Ex.P.1 to Ex.P.11 and closed their side of evidence. On the other hand, the Office Superintendent of Regional Transport Office, Hassan got examined as RW.1 and respondent insurance company examined its Legal Officer as RW.2 and got marked documents at Ex.R.1 to 4 and closed their side of evidence.

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

9. This Tribunal answers the above issues are as under:

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 13.05.2023 at about 02.30 p.m., near Daba, Honnakumaranahalli, Gandasi Hobli, Arasikere Taluk, Hassan District, when he was standing near TVS Excel bearing Regn.No.KA-13-EN-6642 on left side of road, due to the rash and negligent driving of Lorry bearing Regn.No.KA-42-9639 by its driver.

11. The Petitioner No.5/mother of deceased Master Sagar examined as PW.1. In the chief-examination, PW.1 deposed that her son was standing near TVS Excel, due to the rash and negligent driving of lorry by its driver, the accident occurred. In order to prove the accident and

negligence of the driver of lorry, the petitioners produced Ex.P.2, First Information statement, lodged by father of deceased by name Sri.Gurumurthi S/o D.Yallaiah with police on 13.05.2023. On the basis of first information lodged by father of deceased, the police registered the FIR as per Ex.P.1 for the offence punishable U/s.279 & 304(A) of IPC and U/s.187 of M.V.Act. In first information statement as well as FIR, the accident is stated to have been caused due to rash and negligent driving of lorry by its driver. The FIR is registered against the driver of the offending vehicle which does not appear to have been questioned or challenged in any manner.

12. The petitioners also furnished Spot panchanama which is marked as Ex.P.3. The said document discloses that the police visited the place of incident after registration of FIR and the

place of incident is described in the said documents. In the mahazar also the accident is stated to have been caused due to negligence on the part of driver of the offending vehicle. The respondents not furnished any satisfactory materials in order to show that the facts at the place of accident, as described in the mahazar, are contrary to actual facts.

13. Ex.P.4 is the IMV Report, wherein the damages caused to vehicle are mentioned. The vehicle will be inspected after seizure of the same by the police. The IMV report indicates the aspect of seizure of offending vehicle by the police on the ground of its involvement in the cause of accident. The driver or owner of the vehicle does not appear to have questioned the seizure procedure conducted by the police. The said document

discloses involvement of offending vehicle in the cause of accident.

14. Ex.P.5 is the Inquest Report. Ex.P.6 is the PM report, wherein deceased Master Sagar is stated to have died due to shock and haemorrhage, as a result of multiple injuries sustained in road traffic accident. 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 and U/s.187 of M.V.Act as per Ex.P.7. In the final report also, the accident is stated to have been caused due to rash and negligent driving of lorry by its driver. The documents furnished by petitioners disclose the aspect of negligence on the part of driver of lorry 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 lorry 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. On the other hand, the Superintendent, Regional Transport Office got examined as RW.1 and the respondent insurance company examined its Deputy Manager as RW.2 and got marked documents at Ex.R.1 to Ex.R.5. RW.1 and RW.2 are not the witnesses to the accident and their evidence disclose that they are deposing before the Tribunal based on the documents. Further, RW.1 is an official witness from the Transport department and

he has not deposed anything pertaining to the aspect of cause of accident as well as negligence. The evidence of RW.1 and RW.2 is not of much assistance to the respondents to disprove or rebut the contentions of petitioner related to the aspect of negligence of driver of offending vehicle. Respondent No.2, owner of the offending vehicle, neither appeared before the Tribunal nor placed any satisfactory materials in order to disprove or rebut the contentions of petitioner. The respondent No.2 could have appeared before the Tribunal and denied the involvement of the vehicle or negligence of the driver in the cause of accident. But, owner of the offending vehicle not opted to resist the claim of petitioner in any manner. The owner of the offending vehicle is the proper and better person to state about involvement of the vehicle as well as negligence of the driver in the cause of accident. But, the owner of the offending vehicle

failed to appear before the Tribunal in spite of service of notice and not resisted the claim in any manner.

16. The respondents not placed satisfactory materials before the tribunal to disprove the contention 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 lorry 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 Lorry bearing Regn.No.KA-42-9639 by its driver and deceased succumbed to injuries. **Accordingly, Issue No.1 is answered in the Affirmative.**

17. **Issue No.2:-** While discussing the issue No.1 this tribunal has observed that the petitioners have proved that Master Sagar.M.G. S/o Gurumurthy died in a road accident caused by the rash and negligent driving of the lorry by its driver. Thus, the records and the oral evidence produced by the petitioners are sufficient to prove that petitioners are the parents and sisters of deceased Master Sagar. They are entitled for compensation for the death of Master Sagar in a road accident.

18. The petitioner No.5 is the mother and petitioner No.2 is the father of deceased Master

Sagar and contended that the deceased was aged about 14 years at the time of accident. In order to prove the age of deceased, the petitioners have produced Ex.P.10 Notarized Copy of Aadhaar Card, wherein the date of birth of deceased is mentioned as 03.10.2009. The accident occurred on 13.05.2023. As per the document furnished before the Tribunal, the age of the deceased was 14 years as on the date of accident. According to the petition and the evidence of PW.1 deceased was 14 years and was a student. The petitioners have claimed ₹.25,00,000/- as compensation towards loss of future earnings, love and affection and loss of estate, funeral expenses.

19. In the decision of **Hon'ble Supreme Court of India in Civil Appeal No 10278/2025 between Hitesh Nagjibhai Patel Vs Bababhai Nagjibhai Rabari and another**, the Hon'ble Apex Court held that for

calculating the income of deceased, the income has to be calculated based on the provisions of Minimum Wages Act. On applying the ratio laid down by **Hon'ble Supreme Court of India in Hitesh Nagjibhai Patel Vs Bababhai Nagjibhai Rabari and another** and as per the decision of Hon'ble High Court of Karnataka in MFA No.4242/2022, notional income is taken into consideration. On consideration of materials on record and the ratio laid down by Hon'ble Apex court in above mentioned decision, the income of deceased minor is considered as ₹.15,000/- per month and 40% is added towards future prospects. Thus, the income of deceased is considered as ₹.21,000/- (₹.15,000/- + ₹.6,000/-). Further, as the income of deceased minor has been considered on par with the income of a major, 50% of the income is deducted towards his personal expenses. Hence, the income of deceased is considered as ₹.10,500/-. As per the materials on

record, the age of deceased minor is 14 years at the time of accident. The age of the youngest parent of deceased i.e, mother is 34 years. As per the materials on record, petitioner No.2 is having two wives who are arrayed as petitioner No.1 and 5 in the present petition. Petitioner No.1 is stated to be second wife of petitioner No.2 and petitioner No.3 and 4 are the children of petitioner No.2 from petitioner No.1. The deceased Sagar is the son of petitioner No.2 through petitioner No.5. On consideration of materials on record, the petitioner No.1 cannot be considered to be the mother of deceased as the mother of deceased is alive. The petitioner No.2 and 5 is considered to be the legal representative of deceased. As father and mother of deceased is alive, petitioner No.1, 3 and 4 are not considered to be the legal representatives of deceased. Further, petitioner No.1, 3 and 4 are not entitled to compensation as

the mother and father of deceased is alive and petitioner No.2 and 5, being the father and mother of deceased, are entitled for compensation. In view of ratio laid down by the **Hon'ble Apex Court in Hitesh Nagjibhai Patel Vs Bababhai Nagjibhai Rabari and another**, the petitioners are entitled for the compensation calculated as below:

The age of mother of deceased is 34 years and the multiplier applicable is 16.

$$\text{₹.10,500/-} \times 12 \times 16 = \text{₹.20,16,000/-}$$

$$\text{Conventional head} = \text{₹.50,000/-}$$

$$\text{Total} \qquad \qquad \qquad \text{₹.20,66,000/-}$$

20. 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.

21. The petitioner has filed petition against the respondents No.1 & 2. It is already held that the accident occurred due to rash and negligent driving of Lorry bearing Regn.No.KA-42-9639 by its driver. So, the respondent No.1 & 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 is answered Partly in the Affirmative.**

22. **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 ₹.20,66,000/- (Rupees Twenty Lakhs Sixty Six Thousand 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.2 being the father is entitled for 40% and petitioner No.5 being the mother of deceased is entitled for 60% of the compensation amount. In total amount apportioned to the share of petitioner No.2 & 5, 60% of the amount shall be released in favour of petitioner No.2 & 5, and 40% of the amount shall be kept in FD for a period of three years.

The claim petition pertaining to petitioner 1, 3 and 4 is hereby dismissed.

*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 07th 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.Gowramma.B.K
PW.2 : Sri.Gurumurthy

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 : IMV Report
Ex.P.5 : Inquest Report
Ex.P.6 : PM Report
Ex.P.7 : Charge Sheet
Ex.P.8 : Birth Certificate
Ex.P.9 : Notarized copy of Aadhaar card
Ex.P.10 : Notarized copy of Aadhaar cards
Ex.P.11 : College Admission Abstract

LIST OF WITNESSES ON BEHALF OF RESPONDENTS:

RW.1 Sri.Kumar.M
RW.2 Kum.Yogashree

LIST OF DOCUMENTS ON BEHALF OF RESPONDENTS:

Ex.R1 Authorization letter
Ex.R2 Notarized copy of DL
Ex.R3 Authorization letter
Ex.R4 Copy of Insurance policy

(NARENDRA.B.R)

I ADDL. SMALL CAUSES JUDGE & ACJM
& MEMBER - MACT, BENGALURU