KABC020172192020

BEFORE THE CHIEF JUDGE, COURT OF SMALL CAUSES, MEMBER PRL.MOTOR ACCIDENT CLAIMS TRIBUNAL AT BENGALURU

DATED THIS THE 14th DAY OF JULY, 2026

Present: Smt. Vineetha P. Shetty,
B.Sc., M.A (Sanskrit) (English), LL.M.,
Chief Judge
Member, Prl. M.A.C.T., Bengaluru.

M.V.C. No.3825/2020

PETITIONER/S:

1. Smt. Padmavathi.
   W/o. K. Narasimha,
   Aged about 55 years,

2. K. Narasimha,
   S/o. Late Munikadarappa.
   Aged about 69 years

   Both are R/at;
   No.164/A, B.K. Layout,
   II Main, Thindlu,
   Vidhyaranyapura
   Bangalore - 97

   (By Sri. M.V. Chandrashekara Reddy, Adv.,)

-Vs-

RESPONDENTS:

1. Lakshmi Reddy B.
S/o Yanadhi Reddy,
Aged about 56 years,
Proprietor, Pranay
Enterprises, R/at No.337/4,
Pranaya Nilaya, Hulimangala,
Thimmareddy Layout,
Jigani Hobli, Anekal Taluk,
Bangalore Rural
District- 560 105.

2. Aruna Kumara G.M.,
S/o. Manjegowda,
Aged about 27 years,
Residing near Nirmala Hospital,
Tarabana Halli,
Huruli Chikkanahalli Post,
Hesaraghatta Hobli
Bangalore – 560 089

3. HDFC Ergo General Insurance
Company Limited,
Represented by its Manager,
No.25/1, 2nd floor,
Shankaranarayana Buildings,
Building No.2, M.G. Road,
Bengauru- 560 001
Next to Raheja Towers,

*(Respondent No.1 & 2 – By Sri.
N. Manohar, Adv.,
Respondent No.3- By
Sri. K. Suresh Adv.,)*

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J U D G M E N T

This claim petition is filed by the Petitioners under Section 166 of the Motor Vehicles Act, 1989 seeking compensation for the death of one Kumari. N. Harshashree, who is the daughter of Petitioner Nos.1 & 2, in a road traffic accident.

2. The case of the Petitioners is as follows:

That on 22.06.2020 at about 04.00 p.m. the deceased Harshashree was riding the Dio Scooter No.KA-50-X-3503 near BEL Circle from Rajarathnam Circle to Kuvempu circle on the left side of the road, at that time the 2nd Respondent, being the driver of Tipper Lorry No. KA-51-C-0487 drove the same in a rash and negligent manner took the vehicle to the extreme left side of the road and dashed against the Dio vehicle from the back. Due to the impact, the deceased sustained multiple injuries and succumbed to the said injuries on the spot. At the time of accident, the deceased was aged about 23 years, studying VIII Semester BE Course in Civil Engineering at BMS Institute of Technology and Management, Yelahanka.

3. Respondent No.1, the owner of Tipper Lorry No.KA-50-X-3503 entered appearance through his counsel and filed a Written Statement denying the petition averments and contending that the accident took place exclusively because of the negligent act on the part of the deceased as she was not careful in crossing the road and the accident had taken place in the middle of the road and also stated that there is no negligence on the part of driver of Tipper Lorry.

4. Respondent No.2, the driver of Tipper Lorry No.KA-50-X-3503 entered appearance through his counsel and filed a Written Statement denying the petition averments and contended that there was no his fault in the accident and that he was driving the lorry with due care and caution. The deceased came without wearing a helmt.

5. Respondent No.3, the Insurance Company entered appearance through its counsel and filed a Written Statement stating that it has issued insurance policy to the Tipper Lorry bearing No. KA-51-C-0487 and the same was valid from 23.06.2020 to 22.06.2021, while the said accident had occurred on 22.06.2020, wherefore, the policy was not in force as on the date of the accident and also contended that the driver of the lorry had no valid and effective driving licence at the time of accident.

6. On the basis of the above pleadings, my learned Predecessor-in-office has framed the following Issues:

1. *Whether the Petitioners prove that due to rash and negligent driving of tipper lorry bearing Reg. No. KA-51-C-0487 by its driver dashed to the deceased Kumari. N. Harshashree who was riding Dio Scooter bearing Reg. No. KA-50-X-3503 and she succumbed to the injuries sustained in the accident that occurred on 22.06.2020?*

2. *Whether the Respondent No.1 prove that the accident has occurred due to the negligent act on the part of deceased herself?*

3. *Whether the Petitioners are entitled for compensation? If so, what is the quantum of compensation and from whom?*

4. *What order?*

7. Petitioner No.1 examined himself as PW.1 and one witness as PW.2 and Exs.P.1 to P.20 were tendered during evidence on Petitioners side. The Respondent No.1 examined himself as RW.1 and two witnesses as RW.2 and RW.3 and Ex.R1 to Ex.R.14 were tendered during evidence on Respondents side.

8. Heard the arguments of learned counsel for Petitioners and the learned counsel for Respondents. The learned counsel for Respondent No.3 also filed Written Arguments.

9. The learned counsel for the Petitioners relied on the citations reported in (2022) 15 Supreme Court Cases 316 between S.Vasanthi and Another V/s. Adhiparasakthi Engineering College and Another.

10. The learned counsel for Respondent No.1 & 2 relied on the citations reported in i) 1998 SC 154, Life Insurance Corporation of India V/s. Shri Dharam Vir Anand, ii) AIR 2005 SC 3349, Life Insurance Corporation of India V/s. Mani Ram and iii) AIR 2024

SC 234 between Reliance Life Insurance Company Ltd., and Another V/s. Jaya Wadhwani.

11. My findings on the above issues are as follows:

Issue No.1:	In the Affirmative;
Issue No.2:	In the Negative;
Issue No.3:	Partly in the Affirmative holding that the petitioners are entitled for compensation amount of Rs.39,13,000/- from Respondent No.1.
Issue No.4:	As per final order, for the following:-

R E A S O N S

12. **Issue No.1 & 2:** As these two issues are inter related, they are taken up together for common discussion.

Petitioner No.1 K.Narasimha, the father of the deceased, PW.1 filed affidavit in lieu of examination-in-chief wherein he has sworn in consonance with the petition averments that on 22.06.2020 at about 04.00 p.m. the deceased Harshashree was riding the Dio Scooter No.KA-50-X-3503 near BEL Circle from Rajarathnam circle to Kuvempu circle on the left side of the road and at that time 2nd Respondent, being the driver of Tipper Lorry No. KA-51-C-0487 drove the same in a rash and negligent manner took the vehicle to the extreme left side of the road and dashed against the Dio vehicle from. Due to the impact, the deceased sustained multiple injuries and succumbed to the said injuries on the spot.

13. PW.1 has relied upon the documents 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 sketch, Ex.P.5 - Copy of Spot Panchanama, Ex.P.6 - Copy of IMV report, Ex.P7- Copy of PM report, Ex.P.8 – Copy of inquest panchanama with statements, Ex.P.9- Copy of two notices issued under Sec.133 of Motor Vehicles Act, Ex.P.10 - Copy of reply to the notice and Ex.P11 – Copy of police notice to tipper lorry owner. Ex.P.1 - Copy of FIR shows that a case has been registered by Jalahalli Traffic police against the driver of the tipper lorry No. KA-51-C-0487, for the offences punishable under Sections 279 & 304(A) of IPC. After completion of investigation, the concerned jurisdictional police filed Charge Sheet against the driver of Tipper Lorry No.KA-51-C-0487 for the offences punishable under Sections 279, 304(A) of IPC, and under Sections 3(1), 181, 5, 180, 146, 196, 56, 192 of IMV Act.

14. During the cross-examination, P.W.1 has denied the suggestion that the deceased did not have a driving licence and that the deceased was using the said vehicle without holding an Insurance for her Scooter. The relevant portion in the evidence of P.W.1 reads as – “It is false to suggest that the deceased was

using the vehicle without having any insurance policy and also driving licence”. It is also suggested to P.W.1 that the deceased herself drove her Scooter negligently and the said suggestion is also denied by P.W.1. The relevant portion reads as – “It is false to suggest that my daughter was riding the Dio Scooter in a rash and negligent manner and dashed the said vehicle against the Lorry and thereby the accident took place due to my negligence on the part of my daughter in riding the above vehicle”. It is further suggested that as per the Sketch at Ex.P.4 there was negligence on the part of the deceased in riding her vehicle and the said suggestion is also specifically denied by P.W.1.

15. P.W.2-Prakash is the eyewitness to the accident. He has sworn that he was proceeding in his TATA ACE KA-04-AC-0088 from his office in Jalahalli Cross II another office situated behind Hebbala, Kempapura Esteem Mall and at that time Tipper Lorry No.KA-51-C-0487 came in a rash and negligent manner and dashed against Scooter No.KA-50-X-3502 from behind. During the cross-examination, it was suggested that P.W.2 did not see the accident and his vehicle TATA ACE No.KA-04-AC-0088 was not there at the accident spot. The said suggestion is specifically denied by P.W.2. In the Charge Sheet at Ex.P.3 Prakash S/o.Marimuthu is shown as witness at Sl.No.3.

16. Respondent No.2 has contended that the accident took place due to negligent act of the deceased herself. During the cross-examination it was suggested to PW.1 that as per Ex.P.4 Sketch, the accident took place in the middle of the National Highway and that the accident occurred as the deceased was standing in the middle of the road. The said suggestion was denied by PW.1.

17. Respondent No.1, the owner examined himself as RW.1 and produced Ex.R.1, R.2 and Ex.R.4 to Ex.R8 are tendered during the evidence. In his affidavit filed in lieu of examination-in-chief it has been deposed that the accident had occurred due to the negligence on the part of the deceased and not due to the negligence of the driver of the Tipper Lorry. R.W.1 has further sworn that the driver of the Lorry was driving the vehicle slowly. However, during the cross-examination, R.W.1 admitted that he was not present at the time of the accident.

18. Respondent No.2, the driver of the Lorry was examined as RW.2. He has sworn that he was driving the vehicle with utmost care and that there was no fault on his part. By producing the Judgment in C.C. No.4752/2020 at Ex.R.3 he has sworn that there is a finding in the case that the prosecution has failed to prove the guilt of the accused. He has also referred to Ex.R.2, Driving Licence, dt.20.01.2012 and stated that

he is eligible to drive the transport vehicle. During the cross-examination R.W.2 admitted that he has not filed any complaint alleging that the rider of the Dio Scooter was riding the same in a rash and negligent manner and fell down from the rear side resulting in an accident.

19. Ex.R.3 is the copy of Judgment in C.C.No.4752/2020. It is seen that the Respondent No.1, driver of Lorry No.KA-51-C-0487 was acquitted in the said case for the reason that the prosecution has failed to prove his guilt beyond all reasonable doubt and also by giving the benefit of doubt to the said Respondent No.1. There is no finding that the said driver has not committed any such offence. It is worthy to mention that in compensation cases the strict rules of evidence used in criminal trials do not apply and instead the standard of proof is based on the preponderance of probability. Therefore, it is sufficient if the claimants establish their case merely on touchstone of preponderance of probability.

20. Oral evidence of PW.1 & 2 coupled with the documentary evidence at Ex.P.1 to P.11 establish the accident and the rash and negligent driving on the part of the driver of the Tipper Lorry No.KA-51-C-0487. Ex.P.7 - Copy of PM report, Ex.P.8 – Copy of Inquest panchanama with statements establish that the deceased had succumbed to injuries sustained in the

accident. On the other hand, there is no concrete evidence on respondents side to disbelieve the accident. Hence, I hold that the petitioners have established that there was rash and negligent driving on the part of the driver of Tipper Lorry No.KA-51-C-0487 and deceased-Kumari N.Harshashree who was riding the Dio Scooter No.KA-50-X-3503 had succumbed to injuries on account of the said accident. There is no convincing evidence to hold that the accident had occurred due to the negligent act on the part of the deceased herself. Accordingly, I answer **Issue No.1** in the **Affirmative** and **Issue No.2** in the **Negative.**

21. **<u>Issue No.3</u>:** PW.1 has stated that the deceased Harshashree was studying VIII Semester BE Course in Civil Engineering at BMS Institute of Technology and Management, Yelahanka. PW.1 has produced Certificate issued by BMS Institute of Technology and Management certifying that 'Ms.N.Harshshree bearing USN 1BY14CV070 was a bonafide student of this institution during the year 2019-2020. She had attended online classes of VIII Semester B.E. Course in Civil Engineering branch up to 3^{rd} week of June 2020' as per Ex.P.15. This document disclose that the deceased was studying VIII Semester BE Course in Civil Engineering at BMS

Institute of Technology and Management, Yelahanka, prior to the accident.

22. Learned Counsel for Petitioners relied on (2022) 15 Supreme Court Cases 316 between S.Vasanthi and Another V/s. Adhiparasakthi Engineering College and Another and submitted that Notional monthly income of the deceased was enhanced to Rs.30,000/- p.m. from Rs.10,000/-. In the said relied decision, it is seen that the claimants have filed affidavits indicating that the classmates of the deceased were already drawing monthly income of Rs.39,869/- and Rs.44,588/- respectively. However, in this case, there is no such material evidence placed to calculate the monthly income of the deceased.

23. In Ex.P.18-Copy of Aadhaar card of deceased Harshashree N., the date of birth of the deceased is shown as 18.07.1996. The accident took place on 22.06.2020. Therefore, as on the date of accident, the deceased was aged 23 years, 11 months. Considering the educational qualification of the deceased, I am of the considered view that if Rs.25,000/- p.m. is fixed, the same would meet the ends of justice. As per the decision reported in 2017 ACJ 2700 (SC) National Insurance Company Limited Vs Pranay Sethi and others the Hon'ble Apex Court held that 40% of the income of the deceased has to be taken towards the future prospects, as the deceased was below 40 years.

40% of Rs.25,000/- is Rs.10,000/-. If the same is added to Rs.25,000/-, it comes to Rs.35,000/-p.m.

24. It is not in dispute that the deceased was a spinster at the time of accident. Therefore, 50% of the income of the deceased has to be deducted towards her personal expenses. Therefore, 50% of Rs.35,000/- would be Rs.17,500/-. After deducting the same, the balance comes to Rs.17,500/-p.m. which means annually, the income works out to be Rs.2,10,000/-. As already discussed above, as on the date of accident, the deceased was aged 23 years, 11 months. As per the decision reported in 2009 ACJ 1298 Sarala Verma Vs. Delhi Transport Corporation, the multiplier applicable to the present case is ‘18’. If we multiply the annual income of the deceased by the multiplier, the same works out to be Rs.37,80,000/-. Hence, the petitioners are entitled to Rs.37,80,000/- under the head loss of dependency.

25. The case records reveal that the deceased succumbed to the injuries and hence, the petitioners have claimed Rs.2,00,000/- towards transportation, funeral, obsequies and other incidental expenses. However, no supporting documents are placed in support of such expenditure. Hence, I am of the considered view that a sum of Rs.18,500/- needs to be awarded towards conveyance and funeral expenses. The petitioners being the parents of the deceased are

entitled for compensation of Rs.48,000/- each towards the loss of love and affection and Rs.18,500/- towards the loss of estate. Hence, in all the petitioners are entitled for the compensation under the following heads:

Compensation Head	**Compensation amount**
Loss of dependency	Rs. 37,80,000/-
Loss of love and affection (Rs.48,000/- x 2)	Rs. 96,000/-
Loss of estate	Rs. 18,500/-
Conveyance and funeral expenses	Rs. 18,500/-
Total	**Rs.39,13,000/-**

26. In para No.2 of the Written Statement of Respondent No.3, the Insurance Company has admitted that the Tipper Lorry No.KA-51-C-0487 was insured with it, but contended that the same was valid only from 23.06.2020 and as the accident had occurred on 22.6.2020 the policy was not in force as on the date of the accident. On the other hand, Respondent No.1, the owner has contended that he had a valid Insurance policy as on the date of the accident. During the cross-examination R.W.1 has admitted to the contents of Ex.P.10. Ex.P.10 is the reply given by said Respondent No.1, owner, in response to the notice issued to him by the concerned police under Section 133 of IMV Act. In Ex.P.10, R.W.1

has clearly stated that the insurance was not in force at the time of the accident. The relevant mention in Ex.P.10 reads as- 'ಇನ್ಸೂರನ್ಸ್ಃ- ಅಪಘಾತ ಸಮಯದಲ್ಲಿ ಇನ್ಸುರನ್ಸ್ ಚಾಲ್ತಿಯಲ್ಲಿರುವುದಿಲ್ಲ'.

27. During the evidence, however, R.W.1 attempted to claim that he had made a payment to an agent prior to the accident. However, no receipt has been placed before the court in this regard. During the cross-examination on behalf of Respondent No.3, the Insurance Company, R.W.1 denied the suggestion that there was no policy as on the date of accident. To a pointed question that he had made the payment through electronic mode at 08.02.47 p.m. on 22.06.2020, R.W.1 answered that he had taken the policy on the said date before 08.00 p.m. It is worthy to note that the accident had occurred at 04.00 p.m. on 22.06.2020.

28. Though R.W.1 attempted to claim that he had paid in cash to obtain the policy, he has not produced any receipt for having made such payment by cash. It has also been deposed by him that he was not given any receipt. The suggestion that he had obtained the insurance policy immediately after the accident was denied by R.W.1.

29. It is worthy to mention that in the Charge Sheet at Ex.P.3, the police have clearly mentioned that there was no insurance at the time of accident. The

offences alleged against Respondent No.1, the owner as per Ex.P.3 are under Sections 279, 304(A) of IPC, and under Sections 3(1), 181, 5, 180, 146, 196, 56, 192 of IMV Act. On perusal of the said Judgment, it is seen that Respondent No.1, the owner has pleaded guilty and paid the fine amount for the alleged offences including the offences for not having the insurance policy at the time of accident.

30. As already stated above, the Insurance Company was neither made a party by the petitioner nor was it made a party by Respondent No.1, the owner at the initial stage though the petition is filed long back as on 05.11.2020 and the case continued without arraying the Insurance Company till 22.10.2024 on which date the application for impleading the Insurance Company was filed on behalf of Respondent No.1 and 2. This delay in arraying the Insurance Company as a party remained unexplained. In the circumstances, therefore, the contention that the insurance policy was in existence as on the date of accident cannot be accepted.

31. Learned counsel for Respondent No.1 and 2 has relied on the citation reported in 1998 SC 154, Life Insurance Corporation of India V/s. Shri Dharam Vir Anand, another citation reported in AIR 2005 SC 3349, Life Insurance Corporation of India V/s. Mani Ram and citation reported in AIR 2024 SC 234 between

Reliance Life Insurance Company Ltd., and Another V/s. Jaya Wadhwani and submitted that, the date of policy has to be interpreted to mean the date on which the policy was issued and not the date on which the risk under the policy has commenced. The facts and circumstances of the said relied cases and the facts and circumstances of this case are not identical and therefore, cannot be made applicable to this case.

32. The material evidence on record in this case clearly indicate that the Insurance Policy was obtained by the owner of the Lorry immediately after the accident, but on the same day and such practice of obtaining the Insurance Policy immediately after the accident on the same day and claiming the existence of the policy as on the date of the accident cannot be allowed to be entertained at any circumstance. In the circumstances, therefore, Respondent No.1 being the owner of the Lorry is solely liable to pay the compensation to the petitioners. Hence, **Issue No.3** is answered **partly in the Affirmative** holding that the petitioner is entitled for a compensation of Rs.39,13,000/- with interest at the rate of 6% p.a. from the date of petition till the date of realization, from Respondent No.1.

33. **Issue No.4:-** In view of my findings on the above issues, I proceed to pass the following:

ORDER

Petition filed by the Petitioners is partly allowed with costs.

The Petitioners are entitled for a compensation of Rs.39,13,000/- (Rupees Thirty Nine Lakhs Thirteen Thousand only) with interest at the rate of 6% p.a., from the date of the petition till the date of realization from Respondent No.1.

Respondent No.1, Lakshmi Reddy B. is liable to pay the compensation to the Petitioners and the said Respondent No.1 is directed to deposit the compensation amount with interest in this Tribunal within sixty days from the date of this order.

The petition against Respondent No.3-Insurance Company is dismissed.

The compensation amount is apportioned between the petitioners equally. Out of the compensation amount awarded to Petitioners, 50% share of the petitioners No.1 and 2 is ordered to be deposited in their respective names in any nationalized bank of their choice for a period of three years with liberty to draw the accrued interest once in three months and the remaining amount shall be released to them separately through E-payment after due identification.

Advocate fee is fixed at Rs.1,500/-.

Draw award accordingly.

(Dictated to the Stenographer, directly on computer, corrected and then pronounced by me in open court, on this the 14th day of July, 2026)

(Vineetha P.Shetty),
Chief Judge,
Court of Small Causes &
Member, Prl. M.A.C.T.,
Bengaluru.

ANNEXURES

Witnesses examined on behalf of the Petitioners:

P.W.1 :	Sri. K. Narasimha
P.W.2 :	Sri. Prakash M.

Documents marked on behalf of the Petitioners:

Ex.P-1 :	True copy of FIR
Ex.P-2 :	True copy of Complaint
Ex.P.3 :	True copy of Charge sheet
Ex.P-4:	True copy of Spot sketch
Ex.P-5 :	True copy of Spot panchanama
Ex.P.6 :	True copy of IMV report
Ex.P-7 :	True copy of PM report
Ex.P.8 :	True copy of Inquest panchanama along with statements
Ex.P.9 :	True copy of two notices under Sec. 133 of IMV Act
Ex.P.10:	True copy of reply to notice
Ex.P.11:	True copy of police notice to tipper lorry owner
Ex.P.12:	True copy of affidavit
Ex.P.13:	True copy of indemnity bond executed by Lakshmi Reddy
Ex.P.14	Death certificate
Ex.P.15	Certificate issued by BMS Institute

	of Technology and Management.
Ex.P.16	Copy of passport of deceased.
Ex.P.17	True copy of birth certificate
Ex.P.18	Notarised copy of Aadhaar card of deceased
Ex.P.19	Notarised copy of Aadhaar card of petitioner No.1.
Ex.P.20	Notarised copy of Aadhaar card of petitioner No.2.

Witnesses examined on behalf of the Respondents :

RW.1: Lakshmireddy B.
RW.2: Aruna Kumara G.M.
RW.3: Deepthishree K.J.

Documents marked on behalf of the Respondents:

Ex.R1	Copy of registered vehicle details
Ex.R2	Copy of DL of the driver of Tipper lorry
Ex.R3	Certified copy of Judgment in CC. No. 4752/2000 by MMTC- III, Bengaluru
Ex.R.4	Form No.4 with respect to Pranay Enterprises dated 14.01.2025
Ex.R.5	Form VAT- 7 dated 14.01.2025 with respect to Pranay Enterprises
Ex.R.6	Form No.6 Registration certificate dated 08.07.2018 with respect to Pranay Enterprises
Ex.R.7	Motor insurance proposal Form No. 202006220089589 dated 22.06.2020
Ex.R.8	Copy of the policy No. 2317203428149200000 for the period 23.06.2020 00.01 hours to 22.06.2021 midnight issuance date: 22.06.2020
Ex.R.9	Copy of policy issued to Tipper lorry bearing No.KA-51-C-0487
Ex.R.10	Goods carrying liability policy- 3 sheets

Ex.R.11	Goods carrying liability policy- 2 sheets
Ex.R.12	Certificate under Section 65B of the Indian Evidence Act.
Ex.R.13	Certificate under Section 63 of Bharatiya Sakshya Adhiniyam, 2023.
Ex.R.14	C.D.

(Vineetha P.Shetty)
Chief Judge,
Court of Small Causes &
Member, Prl. M.A.C.T.,
Bengaluru.

VINEETHA PREMANATH SHETTY

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