

KABC020314282023



**IN THE COURT OF III ADDL.JUDGE AND MOTOR
ACCIDENT CLAIMS TRIBUNAL, COURT OF SMALL
CAUSES
BENGALURU (SCCH-18)**

Dated: This the 11th day of May 2026

Present: DHANESH MUGALI
B.Com., LL.B.,(Spl.)
III ADDL. JUDGE &
MEMBER, MACT
COURT OF SMALL CAUSES,
BENGALURU.

MVC No.6645/2023

Petitioners

1. Smt. Vasanthi,
Wife of Late Palani,
Aged about 46 years,

2. Shri Murali P.,
Son of Late Palani,
Aged about 28 years,

3. Shri Mithun,
Son of Late Palani,
Aged about 26 years,

4. Kum. Pavithra,
Daughter of Late Palani,
Aged about 22 years,

5. Smt.Sharadamma,
Wife of Narayana,
Aged about 65 years,

All are residing at No.16,
2nd Cross, Sanjay Gandhi
Nagar,
Seshadripuram,
Bengaluru-560 020.
(By Pleader Shri M.Laxmana)
V/s
Respondent 1. Shri Srikanth,
Son of Gangadharappa,
Residing at No.57, Ashrama
Road, 6th cross, Pipeline,
Malleshwaram,
Bengaluru-560 003.
(Exparte)

J U D G M E N T

The petitioners have filed this petition under Section 166 of Motor Vehicles Act, 1988, claiming compensation of Rs.75,00,000/- for the death of Palani N. in a road traffic accident.

The brief facts of the petitioners' case are as under:

2. Facts leading to the case of the petitioners forthcoming in the petition that, on 20.11.2017 at about 9.00 p.m. Palani N. was crossing the road on K.M.F. junction towards Krishna Floor mill, within the limits of High Grounds police station, Bengaluru carefully and cautiously, at that time, rider of the

motor cycle bearing No.KA-04-EZ-9955 came with high speed in a rash and negligent manner and dashed against Palani. Consequent to which, Palani N. had sustained grievous injuries .

3. It is stated in the petition that, immediately Palani N. was shifted to K.C. General Hospital, Bengaluru, later he was shifted to NIMHANS, again he was shifted to Victoria Hospital, Bengaluru, later he was shifted back to K.C. General Hospital, Bengaluru, wherein he was admitted as an inpatient. In spite of best efforts made by the doctors, Palani N. succumbed to the injuries on 21.11.2017 at about 6.20 p.m. Thereafter, post mortem was conducted and dead body was handed over to the petitioners. Subsequently, the petitioners have spent Rs.1,50,000/- towards funeral and obsequies ceremonies and other incidental expenses.

4. It is further stated in the petition that, prior to the accident, the deceased was hale and healthy, and was aged about 52 years, doing painter and earning Rs.35,000/- per month. Due to the untimely death of the deceased, life of the petitioners became

dark, miserable and depressed and put to great financial hardship.

5. It is alleged in the petition that, the alleged accident was occurred due to the negligent act of the rider of the motor cycle bearing No.KA-04-EZ-9955. As such, the High Grounds Traffic Police have registered the case against the rider of the offending vehicle, in Crime No.224/2017. Accordingly, the respondent is liable to pay compensation to the petitioner. Hence, this petition.

6. After registration of the case, notice was issued to the respondent. In response to the notice, the respondent has not appeared before the court, remained absent, placed exparte.

7. In order to substantiate the case of the petitioners, petitioner No.1 placed her affidavit evidence, in lieu of examination-in-chief and examined as PW1 and got marked the documents at Ex.P1 to Ex.P15. Since the respondent has not appeared before the court to contest the case of the petitioner, the matter was set down for arguments.

8. Heard the argument of learned counsel for the petitioners. And perused the materials available on record.

9. On appreciation of the evidence available on record, this court has framed the following points;

POINTS

1) Whether the petitioners prove that, Palani N. had died due to injuries sustained by her in a motor vehicle accident that was taken place on 20.11.2017 at about 9.00 p.m., on K.M.F. junction towards Krishna Floor mill, within the limits of High Grounds police station, Bengaluru, due to the rash and negligent riding of the rider of the motor cycle bearing No.KA-04-EZ-9955 in an actionable negligence?

2) Whether the petitioners prove that they are the legal heirs and

were depending upon the income of the deceased ?

3) Whether the petitioners are entitled for compensation as prayed for? If so, at what rate? From whom?

4) What order or award?

10. My answers to the above points are as under:

Point No.1: In the Affirmative.

Point No.2: In the Affirmative

Point No.3: Partly in the Affirmative.

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

R E A S O N S

POINT NO.1:-

11. It is the specific case of the petitioners that, due to the actionable negligence on the part of the rider of the offending vehicle motor cycle bearing No.KA-04-EZ-9955, the alleged accident had taken place. Consequently, Palani N. had died in the said accident. As such, the petitioners have filed this claim petition against the respondent.

12. On the other hand, the respondent being the owner of the offending vehicle placed exparte. In such a situation, it is necessary to go through the evidence available on record, in order to come to the proper conclusion with respect to the above point. On going through the above point, burden is on the petitioners to prove the same on the touch stone of preponderance of probabilities.

13. The petitioners in order to prove their case, petitioner No.1 examined as PW1. In her examination-in-chief by way of affidavit has reiterated the averments made in the petition. PW1 in support of her oral evidence has relied upon Ex.P1 to Ex.P10. Ex.P1-true copy of the F.I.R. in Crime No.224/2017 of High Grounds Police Station. Ex.P2-true copy of the FIS. Ex.P3- true copy of spot mahazar, Ex.P4-true copy of spot sketch, Ex.P5-true copy of IMV report, Ex.P6-true copy of inquest mahazar, Ex.P7-true copy of P.M. report. Ex.P8-notice u/s 133 of MV Act, Ex.P9-reply to the notice u/s 133 of MV Act, Ex.P10-true copy of the charge sheet in Crime No.224/2017 of High Grounds Traffic Police.

14. On perusal of the police documents, it could be seen that, based upon the first information statement given by one Murali P., the S.H.O. of High Grounds police has registered the case against the rider of the offending vehicle for the offences punishable under Sections 279 & 338 of I.P.C. Upon investigation, the I.O. has filed charge sheet against the rider of the offending vehicle alleging that he has committed the offences punishable under section 279 and 304(A) of IPC and Section 146, 196, 119 & 177 of IMV Act.

15. This material document remained unquestioned and unchallenged by the respondent. The silence of the respondent in connection with the case of the petitioners make this court to draw adverse inference against him holding that, he deemed to have admitted all the allegations made against him. The respondent neither has not made an effort to come forward to file written statement in answer to the case of the petitioners nor made an effort to adduce rebuttal evidence to shaken the case of the petitioners.

16. In the light of the evidence placed by petitioners, I am of the view that, the petitioners have placed satisfactory and acceptable evidence to prove the above point. Hence, I hold that, the accident was occurred purely on the part of the negligence of the rider of the offending vehicle motor cycle bearing No.KA-04-EZ-9955. In the said accident, ***Palani N.*** had died. Accordingly, I am answering the **Point No.1 is in the Affirmative.**

POINT No.2 & 3;

17. These two points are taken together for common discussion, in order to avoid the repetition of facts.

18. Now coming to the point of quantum of compensation for which, the petitioners are entitled is concerned, ***every legal representative who suffers on account of the death of a person, due to a motor vehicle accident, should have remedy for realization of compensation. Since in the death case, the legal heirs are the claimants.*** In the case on hand, the relationship of deceased with the petitioners is not in dispute. At the same time, the documents produced by the petitioners, to prove their relationship with the

deceased marked at Ex.P11 to Ex.P15, Aadhar cards of the petitioners, have not been disputed by the other side. The recitals of the above documents clearly speak about the relationship between the petitioners and the deceased.

19. Another aspect to be considered herein that, on going through the particulars of the petitioners mentioned in the cause title of the petition reflected that, the petitioner No.1 in being the wife has lost her husband and the petitioner No.2 to 4 are the children of the deceased have lost their love and affection of their father, petitioner No.5 being the mother of the deceased, has lost her son, who was the backbone of the family. The respondent herein, remained ex parte. Hence, it is crystal clear that, the petitioners were dependents on the deceased during her lifetime.

20. The petitioners herein, have placed not placed any document to prove the actual age of the deceased as on the date of the accident. On going through the P.M. report at Ex.P17, the age of the deceased has been mentioned as 43 years. Therefore, as on the date of accident, the deceased

was aged about 43 years. For her age, multiplier '14' is applicable as per the ratio in "**Sarala Verma**" Case.

21. In connection with the work of the deceased, in the main petition and also in the evidence of PW1 stated that, deceased was working as a painter and was earning Rs.35,000/- per month. The petitioners have not placed any documents to show the income of the deceased. Hence, in the absence of the definite income of the deceased, it is opt to consider the notional income as per law. It is pertinent to note that, the alleged accident had taken place in the year 2017. By keeping in mind about the year of the accident and also notional income chart, I am of the view that, it is apt to take the notional income of the deceased as Rs.11,000/- for the year 2017.

22. Apart from this, it is also relevant to discuss, that the Honourable Supreme Court in the decision reported in,

2018 SAR (Civil) 81. National Insurance Company Limited V/s Pranay Sethi and others,

“ It was observed that, “While determining the income, an addition of 50 per cent of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30 per cent, if the age of the deceased was between 40 and 50 years. In case the deceased was between the age of 50 and 60 years, the addition should be 15 per cent. Actual salary should be read as actual salary less tax. In case the deceased was self-employed or on a fixed salary, an addition of 40 per cent of the established income should be the warrant where the deceased was below the age of 40 year. An addition of 25 per cent where the deceased was between the age of 40 to 50 years. An addition of 25 per cent where the deceased was between the age of 40 and 50 years and 10 per cent where the deceased was between the age of 50-60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component. “

23. Having considered the above, as per law laid down in the above case, in connection with the deduction of personal and living expenses is concerned, it is settled that, ***“where the deceased was married, the deduction towards personal and living expenses of the deceased should be one third (1/3rd) where the number of***

dependent family members is 2 to 3, 1/4th where the number of dependent family member is 4 to 6 and one fifth (1/5th) where the number of the dependent family members exceeds six.”

24. In the light of the above proposition, in the case on hand, there are five persons were depending upon the income of the deceased. Hence, as per the principle laid down by the Hon’ble Supreme Court in **Sarala Verma Case** at para No.14, 1/4th has to be deducted towards personal and living expenses out of the total compensation.

25. In the present case, deceased was aged about **43 years** as on the date of the accident. For this age multiplier **“14”** is applicable. And by relying on the aforesaid principle laid down in the **Pranay Sethi’s** case with respect to the age of the deceased and also on going through the nature of the occupation forthcoming in the petition averments, it is evident that, the deceased herein is not having permanent job and accurate income for consideration. As such, deceased was between the age of 40 and 50 years, **25%** income of the deceased has to be taken into account towards future prospects. Therefore, by considering the earning of

the deceased as **Rs.11,000/- per month**. And **Rs.1,32,000/-** per year. Along with this, the future prospects of **25%** is to be taken in to consideration, then the annual income of the deceased comes to **(Rs.1,32,000+33,000) = Rs.1,65,000/-**. And **1/4th** has to be deducted towards personal and living expenses in the income of the deceased. Thus, net loss of income comes to **Rs.1,23,750/- (Rs.1,65,000-Rs.41,250)**. This income has to be multiplied by multiplier **“14”** which comes to **Rs.17,32,500/-**.

26. Apart from this aspect, in connection with the loss of estate, consortium and with respect to the funeral expenses to calculate the quantum of the compensation under the aforesaid heads, it is relevant to note herein the following authority,

2018 SAR (Civil) 81. National Insurance Company Limited. V/s Pranay Sethi and others,

The Hon'ble Apex Court discussed various aspects in connection with the claim petition filed by the claimants for compensation. And also observed that while determining the claim petition, the reasonable figures on conventional heads, viz., loss of estate, loss of consortium and

*funeral expenses should be Rs.15,000/-,
Rs.40,000/- and Rs.15,000/- respectively.
The aforesaid amount should be enhanced
at the rate of 10% in every three years.*

27. By relying upon the above said decision of the **Hon'ble Supreme Court**, the amount of Rs.15,000/- is awarded under the head loss of estate and Rs.15,000/- is awarded towards funeral expenses and also by placing reliance upon the decision of **Hon'ble Supreme Court reported in (2018) 18 SCC 130 between Magma General Insurance Company Limited v/s Nanu Ram alias Chuhru Ram & Others**, the amount of Rs.40,000/- each is awarded to the petitioner No.1 to 5 **under the head loss of consortium.**

28. Considering the above facts and circumstances of the case and for the above reason, I am of the opinion that, the petitioners are entitled for total compensation under the following heads.

Compensation heads	Compensation Amount
Towards loss of dependency	Rs.17,32,500-00
Towards loss of consortium	Rs. 2,00,000-00
Towards loss of estate	Rs. 15,000-00
Towards funeral & obsequies ceremony expenses	Rs. 15,000-00
Total	Rs.19,62,500-00

29. Accordingly, the petitioners herein are entitled to get total compensation of **Rs.19,62,500/- (Rupees nineteen lakhs sixty two thousand and five hundred only)**, along with the interest at the rate of 6% per annum, as per the proposition laid down by the Hon'ble High court of Karnataka in **MFA No. 103557/2016, Between Sri Ram General Insurance Company Limited V/S. Lakshmi And Others dated. 20.03.2018. And MFA No.30131/2019 dated.12.5.2020 from the date of petition till its realisation.**

LIABILITY:

30. In so far as, liability is concerned, it is the assertion of the petitioners that, due to the actionable negligence on the part of rider of the offending vehicle accident in question had taken place. The evidence given by the petitioners in this regard remained unshaken. As the respondent remained absent and placed exparte. On going through the documentary evidence, there is no insurance policy to the offending vehicle as on the date of the accident. As such, the respondent being the owner of the offending vehicle is liable to pay compensation determined by this court to the petitioner along with interest @ 6% per annum. Accordingly, I am answering the **point No.2 in the affirmative and the point No.3 is partly in the Affirmative.**

Point No.4:

31. In view of my due discussions on point Nos.1 to 3, I proceed to pass the following;

O R D E R

The claim petition filed by the petitioners U/S 166 of MV Act is hereby partly allowed with costs.

The petitioners are entitled for compensation of **Rs.19,62,500/- (Rupees nineteen lakhs sixty two thousand and five hundred only)**, along with the interest at the rate of **6%** per annum, from the date of petition till the date of deposit.

The respondent is liable to pay the compensation with interest @ **6% p.a.** from the date of petition till its realization within **two months** from the date of this order.

After deposit of the compensation amount together with interest, the petitioner No.1 is entitled the share of **60%, the petitioner No. 2 to 5 are entitled the share of 10 each.**

After deposit of the compensation amount together with interest of petitioner No.1, shall deposit 40% of her share in any

Nationalized/Scheduled bank of her choice for a period of 3 years and remaining 60% shall be released to her through due process of law.

After deposit of the compensation amount together with interest of petitioner No. 2 to 5, entire amount shall be released to them through due process of law.

Advocate fee is fixed at Rs.1000/-.

Draw award accordingly.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this the **11th day of May 2026**).

(DHANESH MUGALI)
III ADDL.SMALL CAUSES JUDGE,
MEMBER MACT & ACJM,
BENGALURU.

ANNEXURE

List of witnesses examined on petitioners' side:

PW1 Smt. Vasanthi

List of documents exhibited on petitioners' side:

Ex.P1 FIR

Ex.P2	FIS
Ex.P3	Spot Mahazar
Ex.P4	Spot Sketch
Ex.P5	IMV report
Ex.P6	Inquest report
Ex.P7	P.M.report
Ex.P8	Notice u/s 133 of MV Act
Ex.P9	Reply to the notice u/s 133 of MV Act
Ex.P10	Charge sheet
Ex.P11	to Notarised copies of Aadhar cards
Ex.P15	

List of witnesses examined on respondent' side:

Nil

List of documents exhibited on respondent' side:

Nil

**III ADDL.SMALL CAUSES JUDGE
MEMBER MACT & ACJM,
BENGALURU.**