KABC020282602023

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

DATED: THIS 9th DAY OF JUNE 2026.

PRESENT: Smt.Shyla S.M., B.B.M. LL.B.,
II Addl. Judge, ACJM &
Member, MACT,
Court of Small Causes,
Bengaluru.

M.V.C.No.6110 OF 2023

Petitioners:

1. Sannamma
   W/o T.B.Krishnappa
   Aged about 60 years

2. T.B.Krishnappa
   S/o Boraiah
   Aged about 61 years,

3. K.Lakshmi Devi
   D/o T.B. Krishnappa
   Aged about 28 years

   All are R/At No.65/2, 3rd Main Road,

15th Cross, Kaveripura,
Kamakshipalya, Basaveshwaranagar,
Bengaluru South, Bengaluru-560079.

(By Sri.K.Mallikarjuna, Adv.)

Vs.

Respondents:

1. Universal Sompo Gen Ins Co Ltd
No. 217/A, Kvv Samrat, 3rd Floor,
3rd Main, Outer Ring Road,
Kasthuri Nagara, Bengaluru-560043.

(Insurer of Maruthi Swift D'Zire car
bearing No.KA-02-ML-1701)
Policy No.2311/69075921/00/000
Validity:15-12-2022 to 14-12-2023.

(By Sri.H.K.Ramamurthy, Adv.)

2. B.R. Venkatesha, Major
S/o B.B.Rame Gowda
No.113, 'Q' Lane Police Quarters
Sirsi Circle, Mysore Road
Bengaluru-560018

(RC owner of Maruthi Swift D'Zire car
bearing No.KA-02-ML-1701)

(Exparte)

<u>J U D G M E N T</u>

This petition under Section 166 Motor Vehicles Act, 1989 is filed seeking compensation of ₹.1,00,00,000/- for the death of Shankar S/o T.B. Krishnappa in a road traffic accident.

2. It is the case of the petitioners that on 05.06.2023 at about 7:00 p.m., the deceased, Shankar, was travelling in a car bearing Registration No. KA-05-MB-7888, which was being driven by his friend, Tejas, on the left side of the Bengaluru–Mysuru Road from Bengaluru towards Ramanagara in a careful and cautious manner. When the said vehicle reached near the Fire Office, Basavanapura, Ramanagara, the driver of the car bearing Registration No. KA-02-ML-1701 (hereinafter referred to as the "offending car") drove the vehicle at a high speed and in a rash and negligent manner from Ramanagara towards Bengaluru. It is alleged that the driver of the offending car lost control over the vehicle, crashed into the road divider, jumped across to the opposite carriageway and dashed against the car in which the deceased was travelling.

3. As a result of the impact, the deceased and the driver of the car sustained grievous injuries. The injured were immediately shifted to Rotary Hospital, Ramanagara, where first aid was administered. Thereafter, the deceased was shifted to Sparsh Hospital, Bengaluru, for further treatment. However, despite medical treatment and intervention, the deceased succumbed to the injuries sustained in the accident on 09.06.2023 at about 1:30 a.m. Thereafter, post-mortem examination was conducted at Bowring and Lady Curzon Hospital, Bengaluru. The petitioners subsequently received the dead body and performed the funeral and obsequies ceremonies.

4. It is further pleaded that petitioner No.1 is the mother, petitioner No.2 is the father and petitioner No.3 is the younger sister of the deceased. According to the petitioners, the deceased was aged about 30 years at the time of the accident, was hale and healthy and was working as a car dealer, earning a sum of

Rs.60,000/- per month. The petitioners contend that they were financially and emotionally dependent upon the deceased and that his untimely demise has caused them immense mental agony, irreparable loss and deprivation of future support and companionship.

5. The petitioners have further contended that they incurred medical expenses, conveyance and incidental charges amounting to Rs.6,25,000/- and also spent a sum of Rs.2,00,000/- towards transportation of the dead body, funeral expenses and obsequies ceremonies. It is specifically alleged that the accident occurred solely due to the rash and negligent driving of the offending car. On these grounds, the petitioners have sought an award of just compensation with interest against respondent No.1 and respondent No.2, being the insurer and owner of the offending car respectively.

6. In response to the petition notice, respondent No.1 appeared through counsel and filed its written statement. Despite service of notice, respondent No.2

failed to appear before the Tribunal and was therefore placed ex parte.

7. Respondent No.1, in its written statement, admitted the issuance of a valid insurance policy in respect of the offending car. However, it contended that its liability, if any, is strictly subject to the terms and conditions of the policy. Respondent No.1 denied the allegations regarding rash and negligent driving on the part of the driver of the offending car and contended that the driver was driving the vehicle under the influence of alcohol and thereby contributed to the occurrence of the accident. On that ground, it contended that it is not liable to indemnify the insured or pay compensation.

8. Respondent No.1 has also disputed the age, avocation and income of the deceased, the relationship of the petitioners with the deceased, and their alleged dependency upon him. It has further contended that the compensation claimed by the petitioners is highly excessive, exorbitant and without any basis. On these

grounds, respondent No.1 has sought dismissal of the claim petition.

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

1. Whether the petitioners prove that on 05-06-2023 at about 07-00 pm, on Bengaluru Mysore Road, between Bengaluru Ramanagara Road, near opposite to the fire office basavanapura Ramanagara Taluk and district, Shankar the son of the petition number 1 & 2 and brother of petitioner number 3, sustained injuries in a road traffic accident, while he was travelling in the car bearing number KA 50 MB 7888,due to the rash and negligent driving of the driver of Maruti Swift Dzire car bearing number KA 02 ML 1701 and succumbed to the injuries in the hospita on 09-06-2023 at about 1:30 a.m.?
2. Whether the Respondent No.1 proves that, the policy conditions are violated by Respondent 2 and the Respondent No.1 is not liable to pay any compensation?
3. Whether the petitioner is entitled to compensation if any, how much, from whom?
4. What order or award ?

10. In support of their claim, 3rd Petitioner was examined as PW.1 and got marked the documents as per Ex.P.1 to P.22. On the other hand, the Respondent No.1 has examined its official as RW-1 and got marked the documents as Ex.R.1 and 2.

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: In the Affirmative
Issue No.2: In the Affirmative
Issue No.3: Partly in the Affirmative
Issue No.4: As per the final order,
for the following:

REASONS

13. ISSUE NO.1:- PW-1 has stated that on 05.06.2023 at about 7:00 p.m., the deceased, Shankar, was travelling in a car bearing Registration No. KA-05-MB-7888, which was being driven by his friend, Tejas, on the left side of the Bengaluru–Mysuru Road from Bengaluru towards Ramanagara in a careful and cautious manner. When the said vehicle reached near the Fire Office, Basavanapura, Ramanagara, the driver of the offending car drove the vehicle at a high speed and in a rash and negligent manner from Ramanagara towards Bengaluru. It is alleged that the driver of the offending car lost control over the vehicle, crashed into the road divider, jumped across to the opposite carriageway and dashed against the car in which the deceased was travelling.

14. As a result of the impact, the deceased and the driver of the car sustained grievous injuries. The injured were immediately shifted to Rotary Hospital, Ramanagara, where first aid was administered. Thereafter, the deceased was shifted to Sparsh Hospital, Bengaluru, for further treatment. However, despite medical treatment and intervention, the deceased succumbed to the injuries sustained in the accident on 09.06.2023 at about 1:30 a.m.

15. In order to establish their case, petitioner No.3 was examined as PW.1. She filed her affidavit evidence under Order XVIII Rule 4 of the Code of Civil

Procedure and reiterated the averments made in the claim petition. In support of the case, the petitioners produced the FIR, complaint, further statement, spot mahazar, IMV report, police intimation, inquest report, post-mortem report, charge sheet and other connected documents, which were marked as Exhibits P1 to P16.

16. On the other hand, respondent No.1–Insurance Company contended that the accident occurred due to the rash and negligent driving of the deceased himself. It was specifically contended that the deceased was allegedly driving the car bearing Registration No. KA-50-MB-7888 without possessing a valid driving licence and without wearing a seat belt and that he himself caused the accident due to his own negligence. It was further contended that a false complaint was lodged before the jurisdictional police for the purpose of claiming compensation and that the police, without conducting a proper investigation, registered a false case and filed a charge sheet against the driver of the offending car bearing Registration No. KA-02-ML-1701.

17. During the course of cross-examination, suggestions to the aforesaid effect were put to PW.1. However, PW.1 categorically denied all such suggestions.

18. In support of its defence, respondent No.1 examined one of its officials as RW.1, who reiterated the contents of the written statement. However, during the course of cross-examination, RW.1 admitted that as per the police records, the deceased was travelling in the car bearing Registration No. KA-50-MB-7888 as an occupant and not as its driver. He further admitted that, according to the police records, the driver of the insured vehicle drove the car at a high speed and in a rash and negligent manner, lost control over the vehicle, hit the road divider, crossed over to the opposite carriageway and dashed against the car in which the deceased was travelling, thereby causing the accident.

19. RW.1 further admitted that the charge sheet had been filed against the driver of the insured vehicle and that no material had been produced by the

Insurance Company to establish that the charge sheet was falsely filed. He also admitted that he had no personal knowledge regarding the quantity of alcohol allegedly consumed by the driver of the insured vehicle.

20. A careful perusal of the police records discloses that, after conducting a thorough investigation, the jurisdictional police filed a charge sheet against the driver of the offending car, attributing negligence to him. The investigation records further indicate that the driver of the offending car had consumed alcohol prior to the accident. The materials on record disclose that after consuming alcohol, the driver lost control over the vehicle, crashed into the road divider, crossed over to the opposite carriageway and violently collided with the car in which the deceased was travelling. The very manner in which the accident occurred clearly demonstrates rashness and negligence on the part of the driver of the offending car.

21. Significantly, no material has been placed before the Tribunal to discredit the findings recorded in the charge sheet or to rebut the negligence attributed to the driver of the offending car. Further, the driver of the offending car has not entered the witness box to explain the circumstances under which the accident occurred. An adverse inference is therefore liable to be drawn against the respondents.

22. In the absence of any cogent rebuttal evidence and in view of the police records and charge sheet, the version put forth by the petitioners stands duly corroborated. The evidence on record clearly establishes that the driver of the offending car, after consuming alcohol, drove the vehicle at a high speed and in a rash and negligent manner, lost control, hit the road divider, crossed into the opposite carriageway and dashed against the vehicle in which the deceased was travelling. As a result of the said impact, the deceased sustained fatal injuries and subsequently succumbed to the same.

23. It is well settled that proceedings under the Motor Vehicles Act are governed by the principle of preponderance of probabilities and not by the strict standards of proof required in criminal trials. The Motor Vehicles Act being a beneficial legislation, the Tribunal is required to adopt a pragmatic approach while appreciating the evidence. Accordingly, this Tribunal holds that the accident occurred solely due to the rash and negligent driving of the offending car by its driver and that, as a consequence of the said accident, deceased Shankar sustained fatal injuries and succumbed thereto. **Accordingly, Issue No.1 is answered in the Affirmative.**

24. ISSUE NO.2:- Respondent No.1 has contended that the driver of the offending car was under the influence of alcohol at the time of the accident and, therefore, the owner of the vehicle had violated the terms and conditions of the insurance policy by entrusting the vehicle to a person who was not legally competent to drive. On that ground, respondent No.1 has sought exoneration from its liability to pay compensation to the petitioners.

25. In order to substantiate the said contention, respondent No.1 examined its official as RW.1. In his evidence, RW.1 deposed that there was a violation of the policy conditions inasmuch as the insured had knowingly permitted a person under the influence of alcohol to drive the vehicle. He further deposed that the jurisdictional police, after investigation, had filed a charge sheet against the driver of the offending car and had also invoked the provisions of Section 185 of the Motor Vehicles Act for driving under the influence of alcohol.

26. During the course of cross-examination, RW.1 admitted that his contention regarding drunken driving was based upon the police records and charge sheet. A careful perusal of the charge sheet and other police records reveals that the investigating agency has specifically alleged that the driver of the offending car had consumed alcohol and was driving the vehicle under its influence at the time of the accident. Accordingly, offences under Section 185 of the Motor Vehicles Act have also been invoked against him.

27. It is pertinent to note that neither the driver nor the owner of the offending car has entered appearance before the Tribunal to contest the proceedings or to deny the allegations made in the charge sheet. They have also not stepped into the witness box to explain the circumstances under which the accident occurred or to rebut the allegation that the driver was under the influence of alcohol. In the absence of any rebuttal evidence, an adverse inference is liable to be drawn against them.

28. The materials available on record, particularly the charge sheet and the evidence of RW.1, probabilise the contention of respondent No.1 that the driver of the offending vehicle was driving the car after consuming alcohol. Consequently, it can be held that respondent No.2, being the owner of the vehicle, committed a breach of the policy conditions by entrusting the vehicle to a person who was under the influence of alcohol. Accordingly, this Tribunal holds that respondent No.1 has established breach of the policy conditions on the part of respondent No.2. **Hence, this Issue is answered in the Affirmative.**

29. <u>ISSUE NO.3</u>:- Petitioner No.1 is the mother, Petitioner No.2 is the father, and Petitioner No.3 is the younger sister of the deceased. In order to establish their relationship with the deceased, PW-1 has produced the inquest report and identity documents pertaining to the petitioners and the deceased, which are marked as Exhibits P-17 to P-20. A perusal of the said documents clearly establishes that the deceased Shankar was the son of Petitioner Nos.1 and 2 and the brother of Petitioner No.3.

30. Petitioners have deposed that the deceased was hale and healthy, was doing Cars dealing work, earning more than Rs.60,000/-p.m.. They have further stated that they were financially and emotionally dependent on the deceased. The untimely death of the deceased has caused them immense mental shock, agony, and loss of future support. Hence, Petitioners are entitled to compensation under the head of loss of dependency.

31. On perusal of Exhibit P-20, the Aadhaar card of the deceased, it is seen that the birth year of the

deceased was 1993. Accordingly, the age of the deceased at the time of the accident is taken as 30 years, and the applicable multiplier is 17.

32. To prove the income and avocation of the deceased, the Petitioners have not produced any documents. In the absence of material with regard to source of income, the tribunal has to be considered the notional income chart of the Lok Adalath. The alleged accident has taken place in the year 2023, the notional income of the deceased could be assessed at Rs.16,000/- Per Month.

33. Petitioner No.3, being the younger sister of the deceased, was also emotionally dependent on him, and the family as a whole has suffered irreparable loss due to the premature death of the deceased, who was the prospective breadwinner of the family.

34. As the deceased was aged about 30 years, future prospects of 40% is added on the income of the deceased **as per Pranay Sethi case**. Then the income would be ₹.22,400/-. Since, deceased was bachelor, 50% of his income shall be deducted towards his personal and living expenses. Then the income is ₹.11,200/- **The loss of dependency would be ₹.11,200 x 12 x 17 =₹.22,84,800/-.**

35. CONSORTIUM: By following the guidelines of the Hon'ble Apex Court in ***Magma General Insurance Co. Ltd. Vs- Nanu Ram Alias Chuhru Ram & Others***[1], this Tribunal deems it proper to hold that the Petitioners No.1 and 2 are entitled ₹.44,000/- each under the head of filial consortium as the Petitioner No.1 and 2 have lost their son, who was support for them in their old age. Therefore, petitioners No.1 and 2 are entitled **Rs.88,000/- towards loss of consortium.**

36. **Loss of love and affection:** The petitioner No.3 has lost her elder brother. Hence, **₹.10,000/-** is awarded towards loss of love and affection.

37. Loss to estate: The loss to the estate is the loss of savings by the deceased. It appears that the Petitioner No.1 and 2 have lost their son, who was

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support for them, Petitioner No 3 has lost her brother. Hence, **₹.20,000/-** towards loss to estate.

38. **Transportation of dead body, funeral and obsequies Expenses:** Petitioners have claimed that they have spent Rs.2,00,000/- towards transportation of dead body, funeral & obsequies ceremony expenses. By considering the facts and circumstances, it would be proper to award **₹.16,500**/- for the transportation of dead body, funeral & other incidental expenses.

39. **Medical expenses:** The petitioners have contended that they incurred substantial expenditure towards the treatment, hospitalization, medicines and other incidental expenses of the deceased prior to his death. In support of the said contention, they have produced a medical bill for a sum of Rs.1,00,000/- marked as Exhibit P22.

40. During the course of cross-examination, the learned counsel for respondent No.1 suggested to PW.1 that Exhibit P22 is only an interim bill and that the same does not bear the seal or signature of the concerned hospital authority. It was further suggested

that the said document is not supported by any documents. PW.1 admitted that Exhibit P22 is an interim bill.

41. On careful perusal of Exhibit P22, it is evident that the document is only an interim bill and does not bear the seal or signature of the issuing hospital. Further, the petitioners have not produced any supporting records such as admission extracts, discharge summary, final hospital bill, payment receipts or examined any official from the concerned hospital to establish the authenticity of the said document and the actual expenditure incurred.

42. In the absence of supporting documentary evidence and satisfactory proof regarding payment of the amount mentioned in Exhibit P22, this Tribunal is unable to place reliance upon the said document. The genuineness and evidentiary value of Exhibit P22 therefore remain unsubstantiated.

43. Accordingly, this Tribunal is of the considered opinion that the petitioners have failed to establish that they incurred medical expenses of Rs.1,00,000/-

as claimed. **Hence, no amount can be awarded under the head of medical expenses.**

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

Nature of Compensation		Amount
1. Loss of dependency	₹.	22,84,800/-
2. Loss of Consortium	₹.	88,000/-
3. Loss of love and affection	₹.	10,000/-
4. Loss to estate	₹.	20,000/-
5. Transportation of dead body, Funeral & obsequies Expenses	₹.	16,500/-
Total	**₹.**	**24,19,300/-**

45. **<u>Liability</u>**: I have already held while answering Issue No.1 that the accident occurred due to the rash and negligent driving of the offending car. Further, while answering Issue No.2, this Tribunal has held that respondent No.1 has successfully established that the driver of the offending car was under the influence of alcohol at the time of the accident and that respondent No.2, being the owner of the vehicle, committed a breach of the terms and conditions of the policy by entrusting the vehicle to a person who had consumed alcohol. Thus, there was a breach of the policy conditions.

46. The learned counsel for respondent No.1 contended that in view of the amendment, even the principle of "pay and recover" is not applicable and, therefore, the insurer cannot be directed to satisfy the award amount. However, this contention cannot be accepted in its entirety.

47. It is pertinent to note that the ***Hon'ble High Court of Karnataka, Kalaburagi Bench, in MFA No.202104/2024, Branch Manager, ICICI Lombard General Insurance Company Limited vs. Pooja and others(DB) DOD:(19/9/2024),*** has observed that the Motor Vehicles Act is a beneficial legislation intended to protect the interests of victims of motor vehicle accidents. The Hon'ble High Court further held that merely because the driver was not holding a valid and effective driving licence, the claimants cannot be

deprived of the compensation awarded and that the insurer can be directed to satisfy the award in the first instance with liberty to recover the same from the owner of the offending vehicle.

48. Though the accident in the present case occurred after the amendment to the Motor Vehicles Act came into force, this Tribunal is of the considered view that the principles governing “pay and recover”, as laid down in the aforesaid judgment, would still apply in order to advance the beneficial object of the legislation and to protect the interest of the injured claimant.

49. Accordingly, respondent No.1–Insurance Company shall, in the first instance, deposit the compensation amount together with interest at the rate of 6% per annum from the date of petition till realization and thereafter recover the same from respondent No.2, the owner of the offending vehicle, by initiating appropriate proceedings in accordance with law. With these observations, **Issue No.3 is answered Partly in the Affirmative.**

50. **<u>ISSUE NO.4</u>** : In view of the above discussion, reasons stated and findings given to Issue Nos. 1 to 3 , I proceed to pass the following:

<u>O R D E R</u>

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

Petitioners are awarded compensation of ₹.**24,19,300/**- together with interest @ 6% p.a. from the date of petition till the realization.

Respondent No.2 is liable to pay the compensation as awarded by this Tribunal.

Respondent No.1 - Insurance company shall deposit aforesaid amount within two months from the date of this order and recover the entire compensation amount along with interest from the Respondent No.2 in view of violation of terms of insurance policy.

After deposit of amount, 45% each is apportioned to petitioner No.1 and 2 and 10% is apportioned to the petitioner No.3.

Out of the said apportioned amount in respect of petitioner No.1 and 2, 25% each of the amount shall be kept in FD in their names in any Nationalised or Scheduled Bank for a period of 2 years and balance

75% each shall be disbursed to them through E-payment on proper identification.

After deposit of compensation amount, in respect of petitioner No.3, the entire amount 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 the computer, typed by her, signed and pronounced by me in open court dated this the 9th day of June 2026).

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

ANNEXURE

List of witnesses examined for Petitioners:

PW.1 K.Lakshmi Devi

List of documents marked for Petitioners :

Ex.P.1	:	True copy of FIR
Ex.P.2	:	True copy of complaint
Ex.P.3	:	True copy of further statement
Ex.P.4	:	True copy of spot mahazar
Ex.P.5	:	True copy of spot sketch

Ex.P.6&7	:	True copy of Inquest Report and PM report
Ex.P.8	:	True copy of IMV Report
Ex.P.9 & 10	:	True copy of charge sheet and police intimation
Ex.P.11	:	True copy of notice
Ex.P.12	:	True copy of Victim statement
Ex.P.13	:	True copy of notice U/Sec.91 Cr.PC
Ex.P.14& 15	:	True copy of statements
Ex.P.16	:	True copy of notice U/Sec.133MV Act
Ex.P.17 to 20	:	True copies of Aadhaar cards of petitioners and deceased
Ex.P.21	:	Death certificate
Ex.P.22	:	Medical bills

List of witnesses examined for Respondents:

RW.1 Akshaya K.

List of documents marked for Respondents:

Ex.R.1	:	Authorization letter
Ex.R.2	:	Copy of policy

(SHYLA S.M)
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