

KABG300003012022



**IN THE COURT OF SENIOR CIVIL JUDGE & ADDL.
MACT, BAILHONGAL**

Dated this the 30th Day of June 2026

PRESENT

Shri. Ravi Babu Chawan,
B.A. LL.B.,
Senior Civil Judge and Addl. MACT.,
Bailhongal.

M.V.C. No.624/ 2022

Smt. Kashawwa W/o Kubendra Tuggannavar,
Age: 60 years, Occ: Household,
R/o: Devalapur, Tq: Bailhongal,
Now residing at Auto Nagar, Belagavi.

..... Petitioner

(By Shri. M.M.A., Advocate)

-Vs-

1) Shri. Vitthal Kubendra Tuggannavar,
Age: 40 years, Occ: Agriculture,
R/o: Devalapur, Tq: Bailhongal,
Now residing at Auto Nagar, Belagavi.

(Owner of HF Deluxe motorcycle bearing No.KA.24/W-9092)

2) Shri. Mahadev Tammanna Balagannavar,
Age: 40 years, Occ: Business,

R/o: Deshanur, Tq: Bailhongal.

(Insured person of HF Deluxe motorcycle bearing No.KA.24/W-9092)

3) The Divisional Manager,
National Insurance Company Limited,
1732 Ramadev Galli, Kelkar Bag, Raviwar Peth,
Belagavi-590002.

(Insurer of HD Deluxe motorcycle bearing No.KA.24/W-9092 and Policy No.39010231206201021968, valid from 03-12-2020 to 02-12-2011)

.....Respondents

(By Shri. S.B.B., Advocate for R1 and R2)
(By Shri. U.C.H., Advocate for R3)

JUDGMENT

This claim petition is filed under Section 163-A of the Motor Vehicles Act, seeking compensation amount of Rs.10,00,000/- along with interest at the rate of 18% p.a., from the date of accident till the date of payment, for the death of her son namely, Yallappa Kubendra Tuggannavar caused in a road traffic accident that occurred on 18-03-2021.

2. The brief facts of the petition averments are as under:

On 18.03.2023 at about 00-30 hours the deceased Yallappa and his family members went to

Mekalamaradi village for visit the fair of Basaveshwar of Mekalamaradi village, on that day the deceased Yallappa was returning from Nesaragi on HF Deluxe motorcycle bearing No.KA.24/W-9092 with moderate speed by observing all the traffic rules and regulations. When he came near the spot of accident i.e., on Nesargi-Mekalamaradi road, near hand bore well within the limits of Mekalamaradi village, at that time another unknown vehicle came from opposite direction and when he blown high beam of the vehicle head light, the motorcycle rider suddenly tried to take his vehicle on left side of the road, at that time the front wheel of the motorcycle was slipped to the edge of the road due to head light high beam of another vehicle, as a result of it the deceased Yallappa Kubendra Tuggannavar suddenly lost control over the motorcycle and dashed to the pool stone and fell on the side of the road and caused the accident. Due to the said impact, Yallappa thrown out from the vehicle and sustained severe and fatal injuries to his head and other vital parts of the body. It is further averred that, immediately after the accident the said Yallappa was shifted to Bailhongal Civil Hospital, but during the treatment he succumbed to the injuries in the hospital.

3. It is further averred that, the Doctors of Civil

Hospital, Bailhongal was conducted the postmortem of the dead body. After the postmortem the dead body was handed over to the petitioner and thereafter she brought the same to her native place and performed the funeral ceremony as per the rites and customs. She has spent an amount of Rs.50,000/- towards funeral and other ritual rights.

4. It is further averred that, prior to the accident the deceased was hale, health, young and energetic and was aged about 24 years. He was earning Rs.3,300/- per month by doing coolie work and maintaining her family members. Due to his untimely demise, the petitioner who is claiming to be his mother has lost her only bread earning member in the family and his love and affection. She has also incurred huge expenses for transportation of dead body and performing his last rites. The respondent No.1 being the owner and respondent No.2 is the insured and respondent No.3 is the insurer of said motorcycle are jointly and severally liable to pay the compensation. Hence this petition.

5. After service of notice, the respondent No.1 to 3 have appeared through their counsel. The

respondent Nos.1 and 3 have filed their separate written objections to the claim petition. The respondent No.2 has filed memo adopting the written objections filed by the respondent No.1.

6. Respondent No.1 in his objections contended that the claim petition filed by the petitioner is false, frivolous and baseless and is not maintainable against this respondent. He denied the age, income and occupation of the deceased and died during the treatment and the petitioner has spent an amount of Rs.50,000/- towards funeral and other rituals rights. He further submits that this respondent is the owner of motorcycle bearing No.KA-24/W-9092 and on the date of accident the said motorcycle was insured in the name of respondent No.2 and respondent No.3 is the insurer of said motorcycle. He further submits that the rider of said motorcycle was having effective driving license as on the date of the accident. If this tribunal comes to the conclusion that the petitioner is entitled for compensation, the same may be saddled on respondent No.3/Insurance company. Hence, he prayed for dismissal of the claim petition against him.

7. The respondent No.3/Insurance company in its

objections has contended that the averments made in the petition are all false, frivolous and concocted. He denied that the motorcycle bearing No.KA.24/W-9092 was involved in the alleged accident. He further contended that the deceased Yallappa himself was a tortfeasor and due to his rash and negligent the said accident occurred. The rider of motorcycle bearing No.KA-24/W-9092 was not wearing helmet on the date of accident. The police have filed the charge sheet against the said deceased for the offences punishable under Section 279, 304(A) of IPC and Section 3 r/w. Sec.181 and section 129 R/w. Sec. 177 of M.V. Act. Further, section 5 R/w.sec. 180 of M.V. Act was charged on the owner of the motorcycle.

8. Respondent No.3 has further submits that the deceased had borrowed the said motorcycle and he is stepping into the shoes of owner and he is not a third party to the insurer (NICL). He denied the age, income and occupation of the deceased and the manner of accident. The compensation amount claimed by the petitioner is highly exorbitant and without any basis. He further denied that the driver of unknown another vehicle was coming from opposite direction who applied high beam light on the deceased and on that reason the motorcycle involved in the accident was

fallen on the road side. The liability of this respondent is subject to the limitations and provisions of Motor Vehicles Act and Rules, valid and effective DL, R.C., F.C., and terms and conditions of the insurance policy. Hence prayed for dismissal of the claim petition.

9. On the basis of the rival pleadings of the parties, this tribunal framed the following issues:

ISSUES

1) Whether the petitioner prove that her son Yallappa Kubendra Tuggannavar sustained fatal injuries in the road accident, that occurred on 18-03-2021 at about 00.30 hours, when he was proceeding on the HF Deluxe motorcycle bearing No.KA.24/W-9092 on the Nesargi Mekalmaradi, near hand bore well within the limits of Mekalmaradi village, due to the involvement of Motorcycle bearing No.KA.24/W-9092?

2) Whether the petitioner is entitled for compensation? If so, how much? From whom?

3) What order?

Additional Issue dated 04-10-2024:

1) Whether the respondents proves that they

are not liable to pay the compensation as contended in their respective written statement?

10. In order to prove the case, the petitioner herself examined as PW.1 and got marked 08 documents at Ex.P1 to P8. Per contra, the respondent No.3 has examined its Senior Business Manager, Satishkumar Yadagiri Ambaty as RW.1 and got marked Ex.R1 and R2.

11. Heard the arguments canvassed on both sides and perused the documents on record. Perused the written arguments of respondent No.2.

12. My findings on the above issues is as under:

Issue No.1 : In the Negative

Addl.Issue No.1: In the Affirmative

Issue No.2 : In the Negative

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

REASONS

13. **Issue No.1, 2 and Addl.Issue No.1:-**

These issues are interconnected with each other, they are taken together for common discussion to avoid repetition of facts.

14. In order to prove the factum of accident the petitioner-Smt. Kashawwa W/o Kubendra Tuggannavar, who is the mother of the deceased entered the witness box and got examined herself as PW.1 and she has reiterated about the occurrence of the accident and consequential death of her son due to the impact of the accident.

15. She has got marked the police documents at Ex.P-1 to P-7 in order to prove about the occurrence of the accident. Ex.P-1 is the certified copy of FIR filed in Crime No17/2021 by the Nesaragi PS. Ex.P2 is the certified copy of complaint. Ex.P3 is the certified copy of spot panchanama. Ex.P4 is the certified copy of MVI report shows the damages caused to Hero HF Deluxe motorcycle bearing No.KA-24/W-9092 and the motor vehicle inspector has opined that the accident was not due to any mechanical defects of the motor vehicle. Ex.P5 is the certified copy of inquest panchanama of the deceased Yallappa. Ex.P6 is the certified copy of postmortem report. Ex.P7 is the certified copy of charge sheet filed in Crime No.17/2021 by Nesargi Police Station.

16. Ex.P1 FIR reveals that, the Nesaragi Police Station has registered a case in Crime No.17/2021 for

the offenses punishable under Sections 279, 304(A) of IPC, against deceased Mr. Yallappa Kubendra Tuggannavar (deceased). Ex.P2 shows that on the basis of the complaint filed by the complainant Sri. Vittal Kubendra Tuggannavar, the brother of deceased about the accident, the Nesaragi Police Station have registered the case. Complaint is lodged on 18-03-2021 reporting about the accident and the case was registered in Crime No.17/2021 by the Nesaragi Police Station on the very same day of the accident. Hence there is no delay in lodging the complaint.

17. Ex.P7 is the certified copy of charge sheet reveals that, after the investigation Nesaragi Police station have filed the charge sheet against the deceased - Yallappa Kubendra Tuggannavar, the rider of motorcycle bearing No.KA-24/W-9092 for the offences punishable under Section 279 and 304(A) of IPC and Section 3 R/w. Sec. 181 and 129 R/w. Sec. 177 of M.V. Act and against Mr. Vittal Kubendra Tuggannavar, the owner of motorcycle bearing No.KA-24/W-9092 for the offence punishable under Section 5 r/w. Sec. 180 of M.V. Act.

18. It is not dispute that the FIR was registered in respect of the accident dated 18-03-2021. On perusal

of Ex.P1/FIR and Ex.P7/Charge sheet, it is seen that after investigation, the police have filed charge sheet against the deceased Yallappa Kubendra Tuggannavar, the rider of motorcycle bearing No.KA.24/W-9092 and its owner Vittal Kumbendra Tuggannavar (who none other than the brother of deceased). Thus, the prima facie material discloses the involvement of motorcycle in the accident. However, it is well settled that, filing of charge sheet is not conclusive proof of negligence. The tribunal is required to independently assess negligence on the basis of evidence on record. Strict rules of evidence are not applicable in claim proceedings under the Motor Vehicles Act. The evidence on record disclose that, there was an accident took place by the rash and negligent riding of the rider of offending motorcycle by its rider deceased Yallappa Kubendra Tuggannavar. The petitioner has produced Ex.P4 depict the sketch which shows that the exact point of impact. The allegations against the rider of motorcycle bearing No.KA.24/W-9092 drove his vehicle in rash and negligent manner and lost control over his vehicle and dashed to the road side pool stone and caused the accident. It is true that the FIR and charge sheet have been filed against the deceased Yallappa who is the rider of offending motorcycle. However, it is well settled that mere filing of charge sheet is not

conclusive proof of negligence. The tribunal is required to independently appreciate the documentary and oral evidence evidence.

19. The police records reveal that, there was an accident took place by the rash and negligent riding of the rider of offending motorcycle. The allegations against the rider of offending motorcycle is that, he came in rash and negligent manner and lost control over his vehicle and dashed to the road side pool stone and caused the accident. Therefore there is absolutely negligence of the rider of offending motorcycle.

20. From the material available on record it is clear that in order to establish actionable negligence, the petitioner has relied on both oral and documentary evidence. The petitioner has been examined as PW.1, has categorically deposed that, on 18.03.2023 at about 00-30 hours the deceased Yallappa and his family members went to Mekalamaradi village for visit the fair of Basaveshwar of Mekalamaradi village, on that day the deceased Yallappa was returning from Nesaragi on HF Deluxe motorcycle bearing No.KA.24/W-9092 with moderate speed by observing all the traffic rules and regulations. When he came near the spot of accident i.e., on Nesargi-Mekalamaradi road, near hand bore well within the

limits of Mekalamaradi village, at that time another unknown vehicle came from opposite direction and when he blown high beam of the vehicle head light, the motorcycle rider suddenly tried to take his vehicle on left side of the road, at that time the front wheel of the motorcycle was slipped to the edge of the road due to head light high beam of another vehicle, as a result of it the deceased Yallappa Kubendra Tuggannavar suddenly lost control over the motorcycle and dashed to the pool stone and fell on the side of the road and caused the accident. Due to the said impact, Yallappa thrown out from the vehicle and sustained severe and fatal injuries to his head and other vital parts of the body. It is further averred that, immediately after the accident the said Yallappa was shifted to Bailhongal Civil Hospital, but during the treatment he succumbed to the injuries in the hospital at about 1.00 am.

21. On the other hand RW.1, the Senior Business Manager of respondent No.2/Insurance company deposed that the deceased Yallappa Kubendra Tuggannavar himself tort feasor and due to his rash and negligent the said incident was happened. He further deposed that on the said date of accident the deceased was not wore the helmet and the police have charge sheeted the deceased Yallappa for the offences

punishable under Section 279, 304(A) of IPC and Section 3 R/w. Sec. 181, sec. 129 R/w. Sec. 177 of M.V. Act and further the owner of vehicle Vittal Kubendra Tuggannavar charge sheeted for the offences punishable under Section 5 R/w.sec. 180 of M.V. Act. Hence the deceased had borrowed the said motorcycle and he is not a third party (NICL). So, the petitioner cannot compensation for the death of the deceased for his default. Hence, the respondent No.3 is not liable to pay compensation and the claim petition is be dismissed as against the respondent No.3.

22. It is well settled that in a claim petition under Section 163-A of M.V Act proof of negligence is irrelevant and only involvement of vehicle in the accident is to be considered and thereby insurer or insured cannot raise any defense of negligence at all. However, the evidence on record clearly establishes that the respondent No.1 is the registered owner of the motorcycle bearing Reg.No.KA-24/W-9092 involved in the accident and is none other than the own brother of the deceased Yallappa Kubendra Tuggannavar. It is also not in dispute that on the date of the accident, the deceased himself was riding the said motorcycle with the permission of respondent No.1. Thus, the deceased had borrowed the said motorcycle from its owner and

has stepped into shoes of the owner while using the vehicle.

23. The charge sheet produced by the petitioner reveals that the investigating officer after completion of the investigation has arraigned the deceased as the accused and concluded that the accident occurred solely due to his rash and negligent riding. The charge sheet further discloses that the deceased was not holding a valid and effective driving license at the relevant point of time. Though the present petition is filed under Section 163(A) of the M.V. Act, the legal representative of deceased borrower of the vehicle who himself was the tortfeasor cannot maintain a claim against the owner and insurer of the same vehicle. Since the deceased has stepped into the shoes of respondent No.1, he cannot be regarded as a third party for the purpose of fastening the liability on the respondent. Therefore, the petitioner is not entitled to the compensation under Section 163(A) of M.V. Act. Hence, the Issue No.1 and 2 in the **Negative** and Addl.Issue No.1 is answered in the **Affirmative**.

24. **Issue No.3:-** In view of my findings on issue No.1 and 2 and Addl.Issue No.1, I proceed to pass the following:

ORDER

The petition filed by the petitioner under Section 163-A of the Motor Vehicles Act is hereby dismissed.

In the circumstances of the case, there shall be no order as to costs.

Draw the award accordingly.

(Dictated to the Stenographer directly on computer system, computerized by him, revised and corrected by me and then pronounced in the open Court on this the 30th Day of June 2026)

(Ravi Babu Chawan)
Senior Civil Judge and Addl. MACT,
Bailhongal.

ANNEXURE

I) LIST OF WITNESS EXAMINED BY THE PETITIONER

PW.1: Smt. Kashawwa Kubendra Tuggannavar

II) LIST OF DOCUMENTS MARKED BY THE PETITIONER:

Ex.P1: C.C. of F.I.R.
Ex.P2: C.C. of complaint
Ex.P3: C.C. of spot panchanama
Ex.P4: C.C. of MVI report

- Ex.P5: C.C. of inquest panchanama
Ex.P6: C.C. of Postmortem report
Ex.P7: C.C. of charge sheet
Ex.P8: C.C. of spot sketch

**III LIST OF WITNESS EXAMINED BY THE
RESPONDENTS:-**

RW.1: Sri. Satishkumar S/o Yadagiri Ambaty

**IV) LIST OF DOCUMENTS MARKED BY THE
RESPONDENTS:-**

- Ex.R1: Authorization letter
Ex.R2: Copy of insurance policy.

**(Ravi Babu Chawan)
Senior Civil Judge and Addl. MACT,
Bailhongal.**

