

KABG400006052025



**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE,**  
**AND ADDL. MACT, CHIKODI.**

**: PRESENT :**

**SHRI. ARUN KUMAR G.,**  
**BA. LL.B.,**  
**Prl. Senior Civil Judge & Member, Addl. MACT,**  
**Chikodi.**

**Dated this the 2<sup>nd</sup> day of July - 2026**

**MVC NO.1708/2025**

**Petitioner/s :**

1. Smt. Sujata W/o. Balagouda Patil  
Age: 25 years, Occ: H. H. Work,  
R/o: Arabyanwadi, Po: Kerur,  
Tq: Chikodi, Dist: Belagavi.
2. Kum. Bhoomi D/o. Balagouda Patil  
Age: 3 years, Occ: Nil,  
Since minor represented by her natural  
guardian mother petitioner No.1  
R/o: Arabyanwadi, Po: Kerur,  
Tq: Chikdi, Dist: Belagavi.

3. Sri. Ganapati S/o. Bhimagouda Patil  
Age: 65 years, Occ: H. H. Work,  
R/o: Arabyanwadi, Po: Kerur,  
Tq: Chikodi, Dist: Belagavi.
4. Smt. Taravva W/o. Ganapati Patil  
Age: 57 years, Occ: H. H. Work,  
R/o: Arabyanwadi, Po: Kerur,  
Tq: Chikodi, Dist: Belagavi.

(Sri. M. S. Iti, Adv.,)

**-V/s-**

**Respondent/s :**

1. Sri. Brahmashur Neminath Kottalagi  
Age: 40 years, Occ: Business,  
R/o: Harugeri, Yabaratti Road,  
Tq: Raibag, Dist: Belagavi.  
(Owner of Mahindra Thar car  
bearing Reg.No.KA-23/PS-5666)  
  
(Ex-parte)

|                                          |   |                                 |                |              |
|------------------------------------------|---|---------------------------------|----------------|--------------|
| <b>Date of institution of petition</b>   | : | <b>16.07.2025</b>               |                |              |
| <b>Nature of petition</b>                | : | <b>MV Compensation/ Damages</b> |                |              |
| <b>Date of recording evidence</b>        | : | <b>24.11.2025</b>               |                |              |
| <b>Date of closing evidence</b>          | : | <b>09.06.2026</b>               |                |              |
| <b>Date of pronouncement of Judgment</b> | : | <b>02.07.2026</b>               |                |              |
| <b>Duration of the suit</b>              | : | <b>Year/s</b>                   | <b>Month/s</b> | <b>Day/s</b> |
|                                          |   | <b>00</b>                       | <b>11</b>      | <b>16</b>    |

(Arun Kumar G.,)  
Prl. Senior Civil Judge  
& Member, Addl. MACT,  
Chikodi.

### **:: J U D G M E N T ::**

The petitioners have filed this petition u/Sec.166 of MV Act, 1988 seeking compensation of Rs.1,25,00,000/- with interest at 18% p.a., from the date of accident till realization on account of death of their family member by name Balagouda Ganapati Patil in the road accident occurred on 19.05.2025.

**2. The brief facts of the petitioners case is hereunder:**

It is pleaded by the petitioners that on 19.05.2025 at about 5.30 p.m., their family member by name Balagouda Ganapati Patil met with an accident on Seera – Hiriyur NH-48, within the limits of Ujjankunte Village. They further pleaded that the said Balagouda was proceeding from Tumkuru towards Chikodi on car bearing Reg.No.KA-23/P-5666. The said driver of car drove the vehicle in a rash and negligent manner and lost control over it and caused the accident. As a result of said accident, the said Balagouda sustained grievous injuries and taken first aid treatment at Government hospital, Seera and then shifted to Siddha Ganga hospital, Tumkuru for further treatment he died due to the accidental injuries. The said accident has occurred due to the rash and negligent driving of driver of said car. The respondent is the owner of car. Therefore they sought compensation from owner of said offending car.

3. On service of notice the respondent remain absent and placed exparte.
4. Based on rival contentions of parties, this tribunal has framed following points which are extracted here under:

**P O I N T S**

1. Whether the petitioners prove that the deceased Balagouda Ganapati Patil was the victim of the motor vehicle accident caused on account of the rash and negligent driving of driver of car bearing Reg.No.KA-23/P-5666 on 19.05.2025 at about 5.30 p.m., on Seera – Hiriur NH-48, within the limits of Ujjankunte. As a result of said accident, the victim died in the hospital due to the accidental injuries ?
2. Whether the petitioners are entitled for compensation ? If so, to what amount ? From whom ?
3. What order or award ?

5. The petitioner led evidence as PW-1 and tendered in all twenty documents at Ex.P1 to P20. The respondent did not choose to lead evidence. Heard arguments.

6. Having heard arguments and having perused the material on record, my findings to above points is as under:

**Point No.1 : In the Affirmative**

**Point No.2 : In the Affirmative**

**Point No.3 : As per the final order,  
for the following:**

**:: REASONS ::**

7. **Point Nos.1 and 2** :- These points are inter linked with each other, in order to avoid repetition of facts, I consider both points together.

**8.** In order to prove the petition, the petitioner No.1 examined herself as PW-1 by filing affidavit in lieu of examination-in-chief. The petitioner has relied upon Ex.P1 to P20 documents to prove the rash and negligent driving of driver of car. Ex.P1 is the copy of FIR filed in CR No.58/2025, Ex.P2 is the copy of FIS, Ex.P3 and P4 are the copies of spot mahazars, Ex.P5 is the IMV report, Ex.P6 is the inquest report, Ex.P7 is the post mortem report, Ex.P8 and P9 are the further statements, Ex.P10 is the copy of charge sheet, Ex.P11 is the copy of death certificate, Ex.P12 to 15, P17 to P20 are the pay slips and Ex.P16 is the copy of statement of accounts. Further the petitioners examined a witness by name B. N. Nagaraj who deposed by filing examination-in-chief about the employment of the deceased and also marked the pay slips of deceased person as per Ex.P17 to 20.

**9.** Though the notice was served on the respondent he remain absent and placed ex-parte.

**10.** The above petition is filed by the petitioners on the negligence on the part of driver of offending car bearing No. KA-23/P-5666 in cause of accident in question. It is well settled law that in case, relating to Motor Accident claim, the claimants are not required to prove the case as it is required to be done in a criminal trial. The said preposition of law is supported by the decision of **Hon'ble Supreme Court in 2022 SCC on-line SC 1699 between Rajwati @ Rajjo and others V/s. United Indian Insurance Company and others**, wherein at paragraph 19 it is held under:

*"It is well settled that, Motor vehicles Act 1988 is a beneficial piece of legislation and as such, while dealing with compensation cases, once the actual occurrence of the accident has been established, the tribunals role would be to award just and fair compensation. As held by this court in Sunita (supra) and Kusuma Lata (supra), strict rules of evidence as*

*applicable in a criminal trial, are not applicable in motor accident compensation case, i.e., to say "the standard of proof to be borne in mind must be of behalf preponderance of probabilities and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases".*

**11.** The said principle of law has been re-iterated by the Hon'ble Supreme Court in another decision in **(2011) 3 SCC 646, between Kusum Lata and Others Vs Satbir and others,** wherein at paragraph 9 it is held that:

*"There is no reason why the tribunal and the High court would ignore the Otherwise reliable evidence of Dheeraj Kumar. In fact, no cogent reason has been assigned either by the tribunal or by the High Court for discarding the evidence of Dheeraj*

*Kumar. The so called reason that as the name of Dheeraj Kumar was not mentioned in the First Information Report. So, it was not possible for Dheeraj Kumar to see the incident, is not proper assessment of the fact situation in this case. It is well known that in a case relating motor accident claims, the claimants are not required prove the case as it is required to be done in a criminal trial. The Court must keep the distinction in mind".*

**12.** It appears from the sacred ratio laid down in above extracted decisions that, in a case related to motor accident claim, claimants are not required to prove the case as required in criminal trial, but standard of proof is preponderance of probabilities. It is also well settled law that, in a claim petition filed seeking compensation by victims of road traffic accident, mere filing of final report against any one of the parties to the

petition or acquittal in criminal case does not lead the tribunal to infer factum of negligence on the part of such driver. The negligence will have to be assessed based on pleadings and evidence brought on record. The said preposition of law is supported by decision of Hon'ble Supreme Court reported in **2023 SCC online 632 (Mathew Alexander Vs. Mohammed Shafi and another)**, wherein, at paragraph No.14 it is held that:

*“The factum of negligence to be proved based on the material on record and opinion in the final report would have a bearing on the claim petition. Thus, it appears from sacred ratio laid down in above mentioned decision that, in a petition filed under Section 166 of the Motor vehicles Act, the strict proof of negligence is not applicable as required in criminal*

*cases and opinion of investigation in final report is of no relevance".*

**13.** In view of above, this tribunal carefully perused Ex.P1 to 10 the FIR, the FIS and spot mahazars wherein it appears that soon after the accident case came to be registered against driver of offending car for the offenses punishable u/Sec.281, 125(a), 106(1) of BNS. This tribunal also perused the Ex.P10 the charge sheet / final report which shows that at the time of accident, the offending vehicle driver is not having valid license therefore, they have filed charge sheet for the offense punishable u/Sec.281, 125(a), 106(1) of BNS by stating that the driver of offending vehicle is not having valid license. Thus, the petitioners being the wife, son and parents are entitled for compensation under the following heads.

**14. Age:** The petitioners have contended that the deceased was aged about 28 years at the time of death. The copy of post mortem report of deceased is produced at Ex.P7 which indicate that the

age of deceased as 31 years. Therefore, the age shown in the post mortem report has to be believed and age of deceased indicate as 31 years on the date of death.

**15. Avocation and Income:** The petitioners have contended that the deceased was working as Civil Engineer and having a salary of Rs.42,000/- per month. In this regard they have examined a witness by name B. N. Nagaraj as PW-2 a private Civil Engineer and produced the salary slips of deceased for the month of February - 2025 to May - 2025 which indicate that the salary of the deceased is a sum of Rs.33,210/- per month. Therefore, the income of the deceased is considered as Rs.33,210/- per month.

**16.** The accident in question occurred on 19.05.2025 and income for the year 2025 is fixed at Rs.33,210/- per month as per Ex.P17 to P20. Thus, income of deceased is to be considered as Rs.33,210/- per month and yearly income is Rs.3,98,520/-. Furthermore, **Hon'ble Apex Court in a Constitution Bench decision reported**

**in (2017) 16 SCC 680 National Insurance Company Limited vs. Pranay Sethi and others.** Wherein held that, when victim is proved to be employed but claimants are unable to prove the income before the Court. It is to be held that, victim was earning income and future prospects to be awarded. No distinction can be made in awarding the future prospects, merely on the basis that, there income was not proved, when the Court determined their notional income. It is also held that, same principle is also applicable to non-earning victim. It is held in paragraph No.59.4 that, when deceased was below the age of 40 years 50% of the established income should be awarded. If deceased is between the age of 40-50 years, then 30% to be awarded and if between 50-60 years 15% of the established income is to be awarded. If deceased is above 60 years no amount towards future prospects be awarded.

**17.** In this case, while discussing above, this tribunal has concluded that deceased was aged about 31 years as such 50% of the future prospects is to be added to annual income which comes to at Rs.16,605/-. Thus, total income comes to Rs.49,815/- per month. It appears from material on record that, petitioner Nos.1 to 4 are dependents on the income of deceased as such 1/4th amount is to be deducted towards personal and living expenses i.e., Rs.12,453/-. Thus, effective income comes to at Rs.37,369/-. As per law, laid down by Hon'ble Apex Court in a decision reported in **(2009) 6 SCC 121 between Sarala Verma SMT and others vs Delhi Transport Corporation and another**. Which is approved by another decision of Constitution Bench reported in **(2017)16 SCC 680 National Insurance Co., Ltd., vs Pranay Sethi and others**. The multiplier applicable to age of deceased is 16. Thus total loss of income from deceased comes to **Rs.37,369 X 12 X 16 = Rs.71,73,504/-** and this tribunal awards the same.

**18. Towards funeral expenses and transportation charges:**

In view of sacred ratio laid down in decision of **Hon'ble Apex Court reported in (2017)16 SCC 680 National Insurance Co., Ltd., Vs. Pranay Sethi and others.** Petitioners are entitled for an amount of Rs.15,000/- towards funeral expenses. Therefore, under the said head the petitioners are entitled for **Rs.15,000/-**. They are further entitled for **Rs.15,000/-** towards transportation of dead body.

**19. Consortium:**

It is pertinent to state that **Hon'ble Supreme Court in a decision reported in (2018)18 SCC 130 Magna General Insurance Company Limited Vs. Nanu Ram Alias Chuhru Ram and others as held as under:**

**20.** A Constitution Bench of this Court in **Pranay Sethi** deals with the various heads under which compensation is to be awarded in death case. One of these heads is loss of consortium.

In legal parlance, “consortium” is a compendious term which encompasses “spousal consortium”, “parental consortium”, and “filial consortium”. The right to consortium would include the company, care help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse:

*21.1. Spousal consortium is generally defined as rights pertaining to the relationship of a husband – wife which allows compensation to the surviving spouse for loss of “company, society, cooperation, affection, and aid of the other in every conjugal relation”.*

*21.2. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world – over have*

*recognized that the value of a child's consortium for exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdiction therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.*

**21.** Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world – over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation

for loss of the love, affection, care and companionship of the deceased child.

**22.** It appears from above extracted ratio that, the term consortium encompasses spousal, parental and filial consortium. The said preposition of law has been affirmed by Hon'ble Supreme Court in a subsequent Full Bench decision reported in **2020 SCC on line 410** between **United India Insurance Company Limited V/s Satinder Kaur @ Satwinder Kaur and others**. Wherein also it is held that:

*"The term consortium is a compendious, which encompasses, spousal, parental and filial consortium as such, directed to award amount in all three heads relating to consortium".*

In view of sacred ratio laid down in the above extracted decisions, this tribunal awards amounts under the head of consortium as follows:

**23. Towards spousal consortium:**

It appears from petition averments that petitioner Nos.1 and 2 being wife and son of deceased suffered great mental agony due to untimely death of their family member. As such, they are entitled for an amount of **Rs.44,000/-** each under this head.

**24. Towards parental consortium:**

It appears from petition averments that, petitioner Nos.3 and 4 have lost love and affection of their son as such, they are entitled to an amount of **Rs.44,000/-** each under this head.

**25. Loss to estate:**

In view of sacred ratio laid down by **Hon'ble Supreme Court in decision reported in (2017)16 SCC 680 National Insurance Co., Ltd., Vs. Pranay Sethi and others.** Petitioners are entitled for an amount of **Rs.15,000/-** under this head. Further the petitioners have also produced medical bills for **Rs.67,269/-**. Therefore they are also entitled to the said amount.

Thus, petitioners in total are entitled for a compensation under following heads.

|                                           |                       |
|-------------------------------------------|-----------------------|
| <b>Loss of dependency</b>                 | <b>Rs.71,73,405/-</b> |
| <b>Loss of consortium (Rs.44,000 X 4)</b> | <b>Rs.1,76,000/-</b>  |
| <b>Loss of estate</b>                     | <b>Rs.15,000/-</b>    |
| <b>Funeral and obsequies</b>              | <b>Rs.15,000/-</b>    |
| <b>Transportation</b>                     | <b>Rs.15,000/-</b>    |
| <b>Medical expenses</b>                   | <b>Rs.67,269/-</b>    |
| <b>Total</b>                              | <b>Rs.74,61,674/-</b> |

**26.** In view of above, this tribunal is of view that, petitioners are entitled for an amount of Rs.74,61,674/- The said amount carries interest at 6% per annum from the date of petition till the date of actual realization.

**27. Liability:-** Admittedly, as on the date of accident in question the offending car was not insured. In such eventuality,

respondent being owner of the vehicle is liable to pay the compensation to the petitioners along with interest at the rate of 6% per annum. Hence, the petitioners are entitled for compensation accordingly. In view of above, this tribunal is of the view that respondent is liable to pay the compensation awarded to petitioners. Accordingly, the petitioners are entitled for the compensation as discussed above and said compensation is to be paid by respondent. Hence, point Nos.1 and 2 are answered in **"Affirmative"**.

**28. Point No.3:-** In the light of aforesaid finding on the above said points, I proceed to pass the following:

**ORDER**

**The petition is allowed in part with cost.**

**The petitioners are entitled for  
compensation of Rs.74,61,674/- (Seventy Four  
Lakh Sixty One Thousand Six Hundred and**

**Seventy Four Rupees only) with simple interest at 6% per annum from the date of petition till its realization.**

**Out of the said amount the respondent is liable to pay an amount of Rs.74,61,674/- with simple rate of interest at 6% per annum from the date of petition till the date of payment.**

**After deposit of compensation the petitioner No.1 is entitled for 40% of compensation payable by respondent. The petitioner Nos.2 to 4 are entitled to 20% each compensation payable by respondent. After deposit of compensation by the respondent, the petitioner Nos.1, 3 and 4 are entitled for release of 50% each of their share through E-payment with due identification and**

**remaining 50% shall be invested in fixed deposit for a period of two years. Further the 20% of share of petitioner No.2 shall be invested in fixed deposit till he attaining majority with permission to draw periodical interest.**

**Draw decree accordingly.**

(Dictated to the stenographer directly on computer, typed by her and then corrected by me and pronounced in the open court on 2<sup>nd</sup> day of July, 2026).

**(Arun Kumar G.,)  
Prl. Senior Civil Judge  
& Member, Addl. MACT,  
Chikodi.**

## **ANNEXURE**

### **I. LIST OF WITNESSES EXAMINED ON BEHALF OF THE PETITIONERS :**

PW-1 : Smt. Sujata W/o. Balagouda Patil  
PW-2 : Sri. B. N. Nagaraj

### **II. LIST OF DOCUMENTS MARKED ON BEHALF OF THE PETITIONERS:**

Ex.P1 : Copy of FIR  
Ex.P2 : Copy of FIS  
Ex.P3 : Copy of spot mahazar  
Ex.P4 : Copy of spot mahazar  
Ex.P5 : Copy of IMV report  
Ex.P6 : Copy of inquest mahazar  
Ex.P7 : Copy of post mortem report  
Ex.P8 : Copy of further statement  
Ex.P9 : Copy of further statement  
Ex.P10 : Copy of charge sheet  
Ex.P11 : Copy of death certificate

Ex.P12 to 15 : Salary slips  
Ex.P16 : Bank statement  
Ex.P17 to 20 : Salary slips

**III. LIST OF WITNESSES EXAMINED ON BEHALF OF THE  
RESPONDENTS:**

**-NIL-**

**IV. LIST OF DOCUMENTS MARKED ON BEHALF OF THE  
RESPONDENTS:**

**-NIL-**

**(Arun Kumar G.,)  
Prl. Senior Civil Judge  
& Member, Addl. MACT,  
Chikodi.**

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