

KABI010012582025



**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL-II
AT BALLARI**

DATED THIS THE 18TH DAY OF JUNE, 2026

: PRESENT :

SRI. H.A. MOHAN., B.A.L., LL.B.

1st Addl. District & Sessions Judge
and

Member, M.A.C.T-II, Ballari.

M.V.C. No.247/2025

CLAIMANTS :-

1. Smt. Rajamma O
W/o Late K. Kariyappa,
Aged 22 Years, Housewife.
2. Minor-Janardhan
S/o K. Kariyappa,
Aged 02 Years.
Since minor represented by his
mother Rajamma O.
3. Kumaraswamy
S/o Late Benchi
Hanumanthappa,
Aged 54 Years, Coolie.
4. Smt. Parvathamma
W/o Kumaraswamy,
Aged 50 Years, Housewife.

All are R/o D. Anthapura Village.

Now at Bandihatti, Ballari.

(Sri Mallikarjun V., Advocate)

V/s

RESPONDENTS :-

1. Ulthi Honnurswamy
S/o Late Ulteppa,
Aged 46 Years,
Occ: Driver cum owner of the
Lorry bearing Regn. No.KA-
35/TC-1161,
R/o H.No.81, 1st Ward,
Vittalapura Village, Sandur Taluk
– 581 115.
2. M/s Oriental Insurance
Company Limited., by its
Divisional Manager, Buda
Complex, Mothi Circle, Ballari.

(R-1 by Sri M.A., Advocate)
(R-2 by Sri N. Jathappa., Advocate)

J U D G M E N T

This is a petition filed by the petitioners under **Section 166 of M.V. Act, 1989**, seeking grant of compensation, on account of death of one K. Kariyappa S/o Kumaraswamy, in a road traffic accident.

2. The case of the petitioners in brief is that, first petitioner is the wife, the petitioner No.2 is the minor son and the petitioner Nos.3 and 4 are the parents of the deceased K. Kariyappa. It is stated that, on 3.3.2025 at about 10:15 P.M., the said K. Kariyappa was riding his motor cycle bearing Regn. No.KA-35/EL-7366 by following traffic rules, slowly and on the left side of the road, at that point of time, first respondent had parked the Tractor bearing Regn. No.KA-35/TC-1161 in a dangerous position on the middle of the road and without following parking guidelines and as a result of which, deceased K. Kariyappa hit the motor cycle to the Tractor and due to that, he had sustained head injury and he succumbed to injuries while taking to hospital. The alleged accident was occurred due to sole negligence on the part of first respondent by parking the Tractor without showing any parking lights and sign boards.

3. It is further stated that, deceased K. Kariyappa was hale and healthy and was working in Vali Constructions, Jindal and getting salary of Rs.30,000/-

P.M. and contributing the entire amount for the maintenance of the family. But, on account of his sudden death, the first petitioner has lost her companion at young age, the petitioner No.2 lost his father and other petitioners have lost their earning son.

4. It is further stated that, first respondent being driver cum owner of the Tractor is liable to pay compensation and second respondent No.2 being insured is liable to indemnify the insured. Accordingly, prayed to allow the petition.

5. In-response to notice issued, the Respondent No.1 appeared through his Advocate and filed his objection/written statement. The Respondent No.2 has also appeared and filed his objection through its Advocate.

6. It is stated that, the respondent No.1 is not at all responsible for the incident. He had parked the Tractor because there was problem. The deceased himself had driven the motor cycle in a rash & negligent manner, without wearing helmet and without observing traffic rules and regulations and as a result of which, he came to center

of the road and fell down and sustained injuries. The respondent No.1 is not at all in any way responsible for that incident. It is further stated that, the vehicle was insured with 2nd respondent and hence, the liability if any, is to be fixed on the 2nd respondent.

7. The 2nd respondent has stated that, while the Tractor was parked by taking all precautionary measures, the deceased himself hit the same without wearing helmet and without following traffic rules. Therefore, he himself was responsible. The liability if any, is subject to terms and conditions of the policy. Accordingly, prayed to reject the petition.

8. Upon considering the materials proposition of law and the facts pleaded, my predecessor has framed the following Issues :-

: <u>ISSUES</u> :	
1.	Whether the petitioners prove that, the deceased K. Kariyappa S/o Kumaraswamy was died in road traffic accident that was occurred on

	3.3.2025 at about 10:15 P.M., near Ekambrappa Land, Anthapura Road, Dodda Anthapura village, Sandur Taluk due to rash and negligent parking of Tractor bearing Regn. No.KA-35/TC-1161 by the first Respondent?
2.	Whether the petitioners are entitle for compensation as prayed for? If so, from whom?
3.	What order or an Award?

9. In order to prove the Issues, the petitioner No.1 filed her affidavit in lieu of evidence as P.W.1 and got marked documents as Exs.P.1 to P.15. She has examined one witness as P.W.2 and closed her side evidence.

10. On behalf of 2nd respondent, Sri C. Ramesh, Assistant Manager has filed his affidavit in lieu of evidence as R.W.1 and got marked Ex.R.2 and R.3. During the course of evidence of P.W.2, Ex.R.1 was got marked and closed their side evidence.

11. Heard the learned counsel for petitioners and respondents.

12. My answer to the above Issues are as under :-

Issue No.1	:	Partly in the Affirmative.
Issue No.2	:	Partly in the Affirmative.
Issue No.3	:	As per final order, for the following :

REASONS

13. **Issue No.1** :- The learned counsel for the petitioners, has argued that, as per the documents produced, the Tractor was parked in the middle of the road. Therefore, the accident was occurred. On the other hand, the learned counsel for 2nd respondent has argued that, even as per the police records, deceased K. Kariyappa was not wearing helmet and not having driving license and therefore, there was negligence on his part. Hence, there is contributory negligence on the part of deceased. Hence, the contributory negligence is also required to be fixed on the deceased.

14. In support of his arguments, the learned counsel for the petitioners has also cited Judgment in **Sushma V/s Nitin Ganapati Rangole & Ors (Civil Appeal No.10648 of 2024 C/w 10649 to 10653/2024)**. In this Judgment, the Hon'ble Supreme Court has discussed with regard to aspect of contributory negligence. In Para No.40 of the Judgment, it is observed, which reads as under :

40. *“On a holistic analysis of the material available on record, it is established beyond the pale of doubt that the offending truck was parked in the middle of the road without any parking lights being switched on and without any markers or indicators being placed around the stationary vehicle so as to warn the incoming vehicular traffic. This omission by the person in control of the said truck was in clear violation of law. The accident took place on a highway where the permissible speed limits are fairly high. In such a situation, it would be imprudent to hold that the driver of a vehicle, travelling through the highway in the dead of the night in pitch dark conditions, would be able to make out a stationary vehicle lying in the middle of the road within a reasonable distance so as to apply the brakes and void the collision. The situation*

would be compounded by the headlights of the vehicles coming from the opposite direction and make the viewing of the stationary vehicle even more difficult. Thus, the conclusion drawn by the Courts below that the driver of the car could have averted the accident by applying the brakes and hence, he was equally negligent and contributed to the accident on the application of principle of last opportunity is ex-facie perverse and cannot be sustained. Hence, it is a fit case warranting exercise of this Court's powers under Article 136 of the Constitution of India to interfere with the concurrent finding of facts."

15. On the other hand, the learned counsel for 2nd Respondent has cited the Judgment rendered by the **Division Bench of Hon'ble High Court of Karnataka, Dharwad in MFA No.103088/2024 (MV-D) (The Managing Director v/s 1. Smt. Renuka & Ors)** dated 25.2.2026

In this Judgment, the Hon'ble High Court of Karnataka has fixed contributory negligence at **15%** on the ground that the deceased was not wearing helmet and hence, there was contributory negligence.

16. The decision of the Hon'ble Supreme Court is with regard to negligence on the part of driver of Car who hit the parked vehicle.

17. Here in this case also, deceased hit the parked Tractor. Of-course, there is evidence from the police records to show that without following parking regulations and without showing any signals the tractor was parked in the middle of the road, but there was sufficient space for the rider to ride his motor cycle by switching on headlight. It appears, without carefully observing the parked vehicle on the road, he must have been ridden the motor cycle. Admittedly, he was not wearing helmet. D.L. is not produced to show that he was having D.L., to ride the motor cycle. The Charge sheet discloses that, deceased was not having D.L. and the vehicle was not having insurance. Therefore, serious negligence was there on the part of deceased who was riding the motor cycle without having insurance, D.L., and without wearing helmet. If he had worn helmet, he could have avoided the head injury. Just because, the vehicle was parked on the road, having

regard to the aforesaid facts and circumstances, it is not possible to come to a conclusion that the accident was occurred only due to negligence on the part of respondent No.1.

As per the Judgment of the Hon'ble High Court, there was contributory negligence on the part of deceased by not following traffic rules. Further, as per Ex.R.1, P.W.2 himself gave a statement to the effect that, the rider was coming in high speed without wearing helmet and hit the parked tractor. Therefore, the said evidence substantiate the case of respondents to some extent. Therefore, at least 15% contributory negligence is required to be fixed on the deceased.

18. In view of the above discussion, I hold that, the petitioners have able to prove that, the accident was occurred on account of parking of tractor by the first respondent in the middle of the road, but at the same time, there was contributory negligence on the part of deceased. Hence, 15% negligence is fixed on the deceased. Accordingly, the arguments of learned counsel for 2nd

respondent is accepted to that effect. Hence, I answer Issue No.1 Partly in the Affirmative.

19. **ISSUE No.2** :- Here, a person/deceased aged about 28 years has died in the road traffic accident. The petitioners have claimed that deceased was working in Company and earning Rs.30,000/- P.M., but no documents are produced to substantiate the said contention. Therefore, in the absence of any material in that regard, the claim of the petitioners cannot be believed and accepted. Therefore, as per the guidelines issued by KSLSA/D.L.S.A., notional income is to be taken. As per the guidelines, Rs.16,250/- P.M., for the year 2025 is required to be taken.

20. Further, as per the Judgment in **National Insurance Company Limited V/s Pranay Sethi and Others**, additional 40% future prospects is required to be taken pertaining to self-employed person, since the deceased was below 40 years. It is necessary to take additional 40% to that notional income. If that is taken, the total income comes to Rs.22,750/- P.M. Here, there

are four dependents to the deceased. Therefore, 1/4th is required to be deducted towards the personal expenses of the deceased as per Sarla Verma case. After that is deducted, remaining dependency comes to Rs.17,063/- P.M. The annual dependency comes to Rs.2,04,756/- (Rs.17,063X12). The multiplier 17 is applicable to the age between 26 and 30 Years. If that multiplier is applied, the total dependency comes to Rs.34,80,852/- (Rs.2,04,756X17) and the same is awarded for loss of dependency.

21. In view of my findings on Issue No.1, 15% is required to be deducted towards contributory negligence on the part of deceased. If that is deducted, it comes to Rs.5,22,127. If that amount is deducted, remaining amount comes to Rs.29,58,724/-. This amount is to be awarded in favour of the petitioners under the head of loss of dependency, on account of death of K. Kariyappa in a road traffic accident.

22. Now law is settled with regard to awarding compensation on conventional heads. In a decision

reported in **2017 ACJ 2700**, Constitution Bench of the Hon'ble Supreme Court, in the case of **National Insurance Company Limited V/s Pranay Sethi and Others**, discussed about the said aspects and held that loss to estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. It is also observed that 10% shall be enhanced once in every three years. The said Judgment was passed in the year 2017. Therefore, already nine years have lapsed. Hence, it is necessary to take 30% additional benefits and it come to Rs.19,500, Rs.52,000 and Rs.19,500 for the loss to estate, loss of consortium and funeral expenses respectively. In view of the same, the petitioners are entitled to get compensation of Rs.30,49,724/- with future interest @ 6% P.A., from the date of petition till the payment of said amount.

23. The petitioner No.1 is the wife, the petitioner Nos.3 and 4 are the parents of the deceased. The petitioner No.2 is minor child. Therefore, 40% is required to be awarded in favour of petitioner No.1, 30% is required

to be awarded in favour of minor petitioner No.2 and 15% each is required to be awarded in favour of petitioner Nos.3 and 4 respectively. Out of the awarded amount in favour of petitioner No.1, 50% shall be released in her favour and 50% shall be kept in F.D. in her name, for a period of three years. The entire amount awarded in favour of petitioner No.2 shall be kept in F.D., in his name under the guardianship of first petitioner No.1, till he attains the age of majority. However, the petitioner No.1 is permitted to withdraw periodical interest from the Bank. The amount awarded in favour of petitioner Nos.3 and 4 shall be released in their favour, having regard to their age.

24. Admittedly, the respondent No.1 was the driver cum owner of the Tractor and the vehicle was insured with 2nd respondent. There are no violations of the policy conditions. Therefore, the respondent No.1 is liable to pay the compensation to the petitioners. The respondent No.2 being the insurer is liable to indemnify insured. Accordingly, I answer **Issue No.2 Partly in the Affirmative.**

25. **ISSUE No.3** :- In the result, I proceed to pass the following :-

ORDER

The claim petition filed by the petitioners **U/Section 166 of the Motor Vehicles Act, 1989** is hereby partly allowed with costs.

The petitioner Nos.1 to 4 are entitled to get total compensation amount of **Rs.30,49,734/- (Rupees Thirty Lakhs, Forty-nine thousand and seven hundred thirty-four Only)** with interest @ **6% P.A.**, from the date of petition till its realization from the respondents.

The Respondent Nos.1 and 2 are liable to pay the compensation to the petitioners.

The respondent No.2 being the insurer is directed to deposit the entire compensation amount along with interest @ 6% P.A., before the Tribunal from the date of petition till the date of payment, **within 2 months** from the date of award, failing which the petitioners are at liberty to recover the same in accordance with law.

After deposit, the petitioner Nos.1 to 4 are entitled to apportion the compensation amount at the ratio of 40:30:15:15 respectively. Out of the amount awarded in favour of petitioner No.1, 50% of the deposited amount shall be released in

her favour on proper identification and remaining 50% shall be kept in Fixed Deposit in the name of petitioner No.1 in any Nationalized bank, for a period of three years.

The entire amount awarded in favour of petitioner No.2 shall be kept in F.D., in his name under the guardianship of first petitioner No.1, till he attains the age of majority. However, the petitioner No.1 is permitted to withdraw periodical interest from the Bank.

The amount awarded in favour of petitioner Nos.3 and 4 shall be released in their favour, having regard to their age on proper identification.

Advocate fee is fixed at Rs.2,000/-.

Draw award accordingly.

(Dictated to the Stenographer Grade-I, transcribed and computerized by him, corrected and then pronounced by me in the open Court on this **18th day of June, 2026**)

(H.A. MOHAN)

1st Addl. District & Sessions Judge &
Member, M.A.C.T-II, Ballari.

ANNEXURE**LIST OF WITNESSES EXAMINED ON BEHALF OF CLAIMANTS :-**

- P.W.1. Smt. Rajamma O.
P.W.2. Unthakallu Gangadhara.

LIST OF EXHIBITS MARKED ON BEHALF OF CLAIMANTS :-

- Ex.P.1. Certified copy of F.I.R.
Ex.P.2. Certified copy of Complaint.
Ex.P.3. Certified copy of spot & vehicle seizure panchanama.
Ex.P.4. Certified copy of spot sketch.
Ex.P.5. Certified copy of I.M.V/M.V.A. Report.
Ex.P.6. Certified copy of Inquest panchanama of deceased.
Ex.P.7. Certified copy of P.M. Report.
Ex.P.8. Certified copy of Charge sheet.
Ex.P.9. Certified copy of order sheet in C.C. No.1587/2025 of the learned Civil Judge & JMFC Court, Sandur.
Ex.P.10. Notarized copy of R.C.
Exs.P.11 Notarized copy of Aadhaar card of the to P.14. petitioners
Ex.P.15. Notarized copy of Aadhaar card of deceased K. Kariyappa.

LIST OF WITNESSES EXAMINED ON BEHALF OF RESPONDENTS :-

R.W.1. C. Ramesh, Assistant Manager, Hubli.

LIST OF EXHIBITS MARKED ON BEHALF OF RESPONDENTS :-

Ex.R.1. Statement of P.W.2.

Ex.R.2. Authorization letter.

Ex.R.3. Copy of policy.

1st Addl. District & Sessions Judge &
Member, M.A.C.T-II, Ballari.