

KACD020032342024



**IN THE COURT OF I ADDL. SENIOR CIVIL JUDGE &
ADDL. M.A.C.T. No.IV, AT CHITRADURGA.**

**Presided Over by Smt. CHAITRA.A.M
B.Sc. LL.B
I Addl. Senior Civil Judge and JMFC.,
Chitradurga.**

Dated: 02nd Day of April, 2026

M.V.C No.794 /2024

Petitioners:

- 1. Smt. Varamahalakshmi
W/o Hanumanthappa E.K.
Aged about 72 years,**
- 2. Sri K.H. Venkatesha,
S/o Hanumanthappa E.K.
Aged about 45 years,**
- 3. Sri Aravinda E.H.,
S/o Hanumanthappa,
Aged about 42 years,
R/o 5th Cross,
JCR Extension,
Chitradurga.**
- 4. Smt E.H. Anupama,
W/o D. Raghavendra,
D/o Hanumanthappa E.K.
Aged about 41 years,**

**Petitioner No.1, 2 & 4 are
R/o Chikkabennur Village,
Chitradurga Taluk.**

(By Sri. R.N.P., Adv)

V/s

Respondents:-

- 1. M/s Adama India Pvt. Ltd.,
by its Proprietor,
Owner of Mahindra Bolero Neo
Vehicle bearing Reg.
No.KA-17/MB-0091,
R/o Door No.1214,
F-14, F Block, APMC Yard,
Davanagere – 583117.**
- 2. Divisional Manager,
TATA AIG General Insurance
Co., Ltd.,
Divisional Office,
2nd Floor, J.P. and Devi
Jambukeshwara Arcade
No.69, Millars Road,
Bangalore – 560052.**

(R.1 - By Sri. T.J., Adv)

(R.2 - By Sri. K.M.B., Adv)

Date of institution of petition	19.08.2024
Nature of claim petition	Compensation for Death
Date of recording evidence	06.03.2026
Date of pronouncement of Judgment	02.04.2026
Total duration	Year/s Month/s Day/s 01 07 13

**I Addl. Senior Civil Judge
& Addl. MACT-IV, Chitradurga.**

∴ J U D G M E N T ∴

This is a claim petition filed by the petitioner under Section 166 of Motor Vehicles Act seeking compensation of Rs.75,00,000/- for the death of husband of petitioner No. 1 and father of petitioner No. 2 to 4 in a motor vehicle accident dated 28.02.2024.

2. The brief facts of the petitioner's case is as under:-

It is specific case made out by the petitioners that on 28.02.2024 when the Hanumanthappa E.K. was proceeding in an Electric Bike bearing Chassis No. ADMS 2021/10000/F1074 slowly on the left side of road by following traffic rules and regulations, when he came on Old NH-48 Road, near Medehalli Under Bridge, Chitradurga at that time the driver Mahindra Bolero vehicle bearing No.KA-17/MB--0091 drove the same in a rash and negligent manner with high speed and dashed to the hind portion of said Electric E Bike, and caused the accident, due to which Hanumanthappa E.K. fell down and sustained head injury and died at the spot. Then immediately dead body was shifted to Government Hospital, Chitradurga, after postmortem of Hanumanthappa E.K dead body was handed over to the petitioners and they brought the same to their native place in a hired van and conducted the cremation and funeral ceremonies by spending Rs.2,00,000/- and Rs.25,000/- for hired charges. The Hanumanthappa E.K

was hale and healthy prior to the date of accident and he was an agriculturist and he used to earn Rs.30,000/- p.m, and he spent the same towards his family maintenance. The petitioner No. 1 is the wife, petitioner No. 2 to 4 are the children of Hanumanthappa and due to his death petitioners are suffering from mental agony and difficult to lead their life. As the accident was occurred due to sole rash and negligent driving of driver of Bolero Vehicle. The respondent No.1 and 2 being the owner and insurer of the said Bolero Vehicle and as the policy was in force as on the date of accident, they are jointly and severally liable to pay the compensation to the petitioners. On these allegations the petition is filed.

3. The respondent No.1 filed written statement denying the allegations made against him but contended that, the driver of his Bolero Vehicle was driving the vehicle in a slowly, cautiously and in a proper side of the road, but the deceased Hanumanthappa was going in an Electric E Bike with high speed in a rash and negligent manner and due to his negligence the accident was occurred. As the respondent No. 1 is the owner of the Bolero Vehicle and the driver is having valid driving licence as on the date of accident and the vehicle is also insured with respondent No. 2 and the policy was in force as on the date of accident, if the

court comes to conclusion that, the petitioners are entitle for compensation, the same may be awarded as against the respondent No. 2 company. Further contended that, compensation claimed by the petitioners is highly exorbitant and excessive. On these contentions, the respondent No. 1 has prayed to dismiss the petition against him.

4. The respondent No. 2 has filed objections denying the allegations made against him, admitted that the respondent No. 2 company had issued Private Car Package policy to the Bolero Vehicle and hence the liability of the respondent No. 2 to the petition claim or any part thereof is restricted to the requirements of law, terms, conditions and exceptions in the said policy. The driver of the Bolero vehicle had no driving licence at the time of accident and the owner knowingly, intentionally and willfully entrusted the said vehicle to such a person and he violated the policy conditions hence the respondent No. 2 company is not liable to pay compensation. The accident was occurred due to negligence of deceased himself. Further contended that the petitioners are entitled not more than interest at the rate of 6% per annum and as the interest claimed will be subject to deduction as per section 194-A of Income Tax Act, it is mandatory to deduct the tax at source on the entire interest portion of the award amount, if it is exceeds Rs.50,000/-. The respondent No.2 is

not liable to pay any compensation. On these contentions the respondent No.2 has prayed to dismiss the claim petition.

5. On the basis of the above pleadings, the Tribunal has framed the following issues and additional issues :-

Issue No.1 : Whether the petitioners prove that, on 28.02.2024 at about 4.45 pm., when the Hanumanthappa E.K. was going in a Electric E Bike slowly on the left side of the road by observing all traffic rules and regulations when the vehicle came near old NH-48 Road, Medehally Under Bridge, Chitraudrga, at that time the driver of the Mahendra Bulero bearing No.KA-17/MB-0091 driven his vehicle in a rash and negligent manner with high speed and dashed to the hind portion of the Electric E Bike and as such the accident had taken place and due to accident the Hanumanthappa E.K. sustained severe injuries and died due to accidental injuries?

Issue No.2: Whether the petitioners are entitled for compensation? If so, how much and from whom?

Addl. Issue No.1 : Whether the respondent No.2 proves that the driver of the Car bearing No.KA-17/MB-0091 had no driving license at the time of alleged accident as contended in para No.9 of his objections?

Issue No.3 : What Order or Award?

6. The petitioners in order to prove their petition, examined the petitioner No.3 as PW-1 and got marked 11

documents at Ex.P-1 to 11 and closed their side evidence. The respondents have not adduced evidence, but the respondent No.2 has produced the policy copy and marked as Ex.R.1 with consent.

7.I have heard arguments for petitioners and respondents.

8. My findings to the above issues are as under:-

Issue No.1 : In the Affirmative

Issue No.2 : In the Partly Affirmative

Addl. Issue No.1: In the Negative

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

∴ REASONS ∴

9. **Issue No.1:-** The petitioners in order to prove their petition averments examined petitioner No.3 as PW-1 by filing evidence affidavit reiterating the entire petition averments and to prove the same by way of documentary evidence the PW-1 has produced Ex.P1 to 11. The Ex.P-1 is the FIR in Crime No.22/2024 lodged by the Traffic Police Chitradurga for the offences punishable under section 279 and 304(A) of IPC, Ex.P-2 is Complaint, Ex.P-3 is Spot Mahazar drawn by the police, Ex.P-4 is the IMV Report, Ex.P-5 is the Inquest Report, Ex.P-6 is the PM Report, Ex.P-7 is the Charge Sheet, Ex.P.8(a) is the Notarized Attested True copy of Aadhar Card of deceased Hanumanthappa, Ex.P.9(a)

is the Notarized Attested True copy of Aadhar Card of Petitioner No.1, Ex.P.10(a) is the Notarized Attested True copy of Aadhar Card of Petitioner No.4 and Ex.P.11(a) is the Notarized Attested True copy of Aadhar Card of PW-1.

10. The counsel for the petitioners has argued that the Hanumanthappa E.K. died in a road traffic accident occurred on 28.02.2024 due to rash and negligent driving of driver of the offending Bolero Vehicle. The petitioners in order to prove this aspect by way of documentary evidence produced Ex.P-1 to Ex.P-7 i.e FIR, Complaint, Spot Mahazar, IMV Report, Inquest Report, Postmortem report and Charge Sheet. On perusal of Ex.P-1 to 7, it clearly goes to show that the Hanumanthappa E.K died in a road accident. Further, the charge sheet is submitted against the driver of the offending Bolero Vehicle only. Thus, in view of police records produced by the PW-1, it clearly goes to show that the accident had taken place due to the rash and negligent driving of driver of the offending Bolero Vehicle. As the charge sheet is submitted against driver of the offending Bolero Vehicle for the offence under Section 279 and 304-A of IPC R/w section 187 of IMV Act, it clearly goes to show that the driver of the said Bolero Vehicle had made accident and the Hanumanthappa E.K died due to accidental injuries. As the allegation is made against the driver of the offending

Bolero Vehicle, wherein the respondent No.1 filed objections by denying the allegations of petitioners and contended that, the deceased himself came in a rash and negligent manner and caused the accident, but in order to prove the same, the respondent No. 1 did not contest the petition by adducing evidence and did not challenge the oral and documentary evidence produced by the petitioners, it is nothing but admitting the accident. Thus, mere filing objections by the respondent No. 1 is not sufficient the same must be proved through cogent evidence, but the same is not proved by the respondent No. 1. Further the respondent No.2 being the insurance company no doubt filed objections and taken a contention that the accident was not due to rash and negligent driving by the offending Bolero Vehicle but it was due to rash and negligent riding of the Electric E Motorcycle by the deceased Hanumanthappa E.K. Even though a specific contention is taken but as the charge sheet is against the driver of offending Bolero Vehicle and as the respondent No.2 did not challenge the charge sheet, it is not possible to accept the contention of respondent No.2. Further the respondent No.2 company had not seen the accident under these circumstances as the respondent No.2 company is not an eye witness to the accident it is not possible to accept the contention of the respondent No.2 that the deceased is responsible for the accident. Thus in view of oral and

documentary evidence produced by PW-1 it goes to show that the accident had taken place because without accident no person will go unnecessary to the police station and hospital. Thus in view of documents produced by the PW- 1 and also in view of oral evidence of PW-1, it clearly goes to show the accident had taken place and the Hanumanthappa sustained grievous injuries and died, as such the petitioners have proved their case and as such in view of above discussion I answer this issue No.1 in the **Affirmative**.

11. **Addl. Issue No. 1 :-** The counsel for respondent No.2 has argued that, driver of the offending Bolero Vehicle do not have valid and effective driving license to drive the said vehicle. No doubt, the respondent No. 2 has taken the said contention, but in order to accept his contention he did not produce any cogent documents to show that, driver of the offending Bolero Vehicle was not having driving licence to drive the said vehicle. Further, I have gone through Ex.P-7 charge sheet. On going through the Ex.P-7 charge sheet, the offence alleged is under section 279, 304-A of IPC R/w section 187 of M.V. Act only. It means, the offence under section 3 R/w 181 of IMV Act is not mentioned. Under these circumstances, in view of not mentioning the offence under section 3 R/w 181 of IMV Act the contention of respondent No. 2 is not possible to accept. Thus in view of the oral and

documentary evidence produced by the petitioners the respondent No. 2 has not proved this issue and as such in view of above discussion, I answer this additional issue No.1 in the **Negative**.

12. **Issue No.2** :- The counsel for the petitioners has argued that the Hanumanthappa E.K sustained fatal injuries and died due to accidental injuries, as such the petitioners are entitled for compensation of Rs.75,00,000/- from the respondents under various heads. As per the police records the death of Hanumanthappa E.K is not in dispute. As per Inquest and P.M. Report, the age of Hanumanthappa E.K is mentioned as 62 years. But apart from these two documents, the petitioners have also produced notarized attested true copy of aadhar card of deceased Hanumanthappa as per Ex.P-8(a) wherein the date of birth of deceased is mentioned as 06.04.1953. Further, the PW-1 in his cross examination has stated that his father was aged about 72 years. Therefore, the Ex.P-8(a) and the answer given by the PW-1 regarding the age of deceased is taken into consideration. The petitioners have stated that the deceased Hanumanthappa E.K was an agriculturist and getting income of Rs.30,000/- per month. In order to prove this aspect the petitioners have not produced any documents to prove the occupation and income of the deceased Hanumanthappa. Thus, the income of

the deceased Hanumanthappa as stated in the petition is not possible to accept. The age of the deceased is considered as 72 years at the time of accident, keeping in view of the age and avocation of the deceased, his notional income is taken into consideration at Rs.15,500/- per month. It is pertinent to note that in **Saralaverma's** case the Hon'ble Apex Court given the table of multipliers. According to the said table multiplier 5 is applicable to the person of the age group above 66 years. Thus the proper multiplier 5 is applicable in the facts and circumstances of this case.

13. The next question would be what is the amount that needs to be deducted for personal and living expenses of the said deceased Hanumanthappa E.K . It must be noted that at para No.30 of the **Sarala Verma case** wherein the Hon'ble Apex Court held that:

“having considered several subsequent decisions of this court, we are of the view 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 member is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th), where the number of family members exceeds six”.

14. Thus keeping in view of the above said principles in the instant case on hand the deceased Hanumanthappa E.K died leaving behind the petitioners. As the petitioners being the wife and children of deceased Hanumanthappa

E.K, then 1/4th must take and in that view 1/4th of income of the said deceased Hanumanthappa E.K should be deducted towards his personal expenses. Therefore it appears that since the deceased left behind the petitioners as dependents therefore 1/4th of total income of the said deceased then the balance comes **Rs.11,625/- (Rs.15,500 /- - Rs.3,875/- = Rs.11,625/-)**. Further, to compute the total loss of dependency by the appropriate multiplier, if we do so, then the total loss of dependency comes **Rs.6,97,500/- (Rs.11,625/- X 12 X 5)**.

15. The counsel for the petitioners has also argued that the petitioners are entitled for compensation towards the loss of estate and funeral expenses and even furnished a decision reported in **(Civil Appeal No.2705/2020)**. As held in **Pranay Sethi** (supra) the petitioners are also entitled for Rs.15,000/- towards loss to estate, Rs.15,000/- towards funeral expenses. As held in **United India Insurance Co Ltd., V/s. Satindar Kaur (Civil Appeal No.2705/2020)**, the petitioner No.1 being the wife is entitled for Rs.40,000/- towards spousal consortium and the petitioner No. 2 to 4 being the children of Hanumanthappa are entitled Rs.40,000/- each towards parental consortium. Thus, the petitioners are entitled for a total compensation of **Rs.8,87,500/-**.

16. The above compensation is summarized as follows;

Loss of dependents	Rs. 6,97,500/-
Loss of estate	Rs. 15,000/-
Funeral expenses	Rs. 15,000/-
Loss of spousal consortium	Rs. 40,000/-
Loss of Parental consortium	<u>Rs. 1,20,000/-</u>
Total -	Rs. 8,87,500/-

17. Thus in view of above calculation the petitioners are entitled for **Rs.8,87,500/-**. The counsel for respondent No.2 has argued that the accident was caused due to the rash and negligent driving by the driver of Bolero Vehicle . As it is not in dispute that, the respondent No.1 and 2 are the owner and insurer of the offending Bolero Vehicle . Since there is no violation of policy conditions the respondent No.2 is liable to indemnify the award passed against respondent No.1 because the respondent No.2 has produced the policy copy as per Ex.R-1 to show that the policy was in force as on the date of accident. As the policy to the vehicle was in force as on the date of accident, the respondent No.2 is liable to pay the compensation. Thus in view of above discussion I answer this issue No.2 in the **Partly Affirmative**.

18. **Issue No.3.** In view of above discussion, I proceed to pass the following:-

ORDER

The petition is hereby allowed in part with costs.

The petitioners are awarded with a compensation of Rs.8,87,500/- (Rupees Eight Lakhs Eighty Seven Thousand Five Hundred only) with interest at the rate of 6% p.a., from the date of petition till its deposit.

The Respondent No.2 is liable to pay the compensation. The respondent No.2 is hereby directed to deposit the same within 60 days from the date of award.

Out of the total compensation the petitioners are entitled for compensation at 40 : 20 : 20 : 20 ratio.

Soon after the deposit is made, it is ordered to release the 80% of the share of petitioner No. 1 and remaining 20% shall be deposited in her name for a period of 03 years in any nationalized bank or scheduled bank of their choice.

Further the entire share amount of petitioner No. 2 to 4 shall be released in their favour soon after the deposit amount is made.

Advocate fee is fixed at Rs.1,000/- .

Draw award within 15 days.

(Dictated to the Stenographer directly on computer, typed by her, script corrected, signed and then pronounced by me in the Open Court on this the 02nd day of April 2026).

(Chaitra A.M)

**I Addl. Senior Civil Judge,
& Addl. MACT-IV, Chitradurga.**

ANNEXURES**List of the witnesses examined on behalf of the petitioners:-**

PW-1 :- Sri Aravinda E.H.

List of documents marked on behalf of the Petitioners:-

Ex.P-1 :- F.I.R.,
Ex.P-2 :- Complaint,
Ex.P-3 :- Spot Mahazar,
Ex.P-4 :- I.M.V. Report,
Ex.P-5 :- Inquest Report,
Ex.P-6 :- Postmortem Report,
Ex.P-7 :- Charge Sheet,
Ex.P-8(a) :- Notarized Attested copy of Aadhar Card of
deceased Hanumanthappa,
Ex.P-9(a) :- Notarized Attested copy of Aadhar Card of
petitioner No.1,
Ex.P-10(a) :- Notarized Attested copy of Aadhar Card of
petitioner No.4,
Ex.P-11(a) :- Notarized Attested copy of Aadhar Card of
PW-1.

List of witnesses examined on behalf of the respondents:-

NIL

List of documents marked on behalf of the respondents:-

Ex.R-1 :- Policy Copy.

**I Addl. Senior Civil Judge,
& Addl.MACT-IV, Chitradurga.**