

M.V.C.No.16-2014 &  
M.V.C.No.17-2014

KACD210000302014



Presented on : 08-01-2014  
Registered on : 08-01-2014  
Decided on : 15-04-2026  
Duration : 12 Years 03 Months 07 Days

**IN THE COURT OF THE SENIOR CIVIL JUDGE &  
AMACT, CHALLAKERE**

**PRESENT : SHAMEER P.NANDYAL,  
B.A., LL.B.(Hons.),LL.M.  
Senior Civil Judge & JMFC  
Challakere**

**DATED THIS 15<sup>th</sup> DAY OF APRIL 2026**

**M.V.C.Nos.16/2014 & 17/2014**

**BETWEEN:**

**PETITIONER IN MVC No.16/2014**

Hanumanthappa  
S/o Mookobaiah,  
Aged about 40 years,  
Occ: Agriculturist &  
Retail shop business,  
R/o Sannapapaiahnahatty village,  
Molakalmuru Taluk,  
Chitradurga District  
**(Rep by Sri GSO., Adv)**

**.....Petitioner**

**PETITIONERS IN MVC No.17/2014**

1. Sooramma  
W/o Late Boraiah,  
Aged about 30 years,  
Occ: Home Maker,
2. B.Sannapapaiah  
S/o Late Boraiah,  
Aged about 29 years,
3. B.Jayanna  
S/o Late Boraiah,  
Aged about 27 years,
4. B.Asha  
D/o Late Boraiah,  
W/o Siddesh.P,  
Aged about 25 years,
5. Daddemma  
W/o Sannaobaiah,  
Aged about 50 years,  
Occ: Agriculturist,

All are RR/o Sannapapaiahnahatty,  
Molakalmuru Taluk,  
Chitradurga District  
(Rep by Sri GSO, Adv)

.....Petitioners

**VERSUS**

**COMMON RESPONDENTS IN MVC Nos.16/2014 17/2014**

1. C.Muttuswamy  
S/o S.P.Chinnappa Gounder,  
Aged about 40 years,

R/o Adivala Farm,  
Hiriyuru Taluk,  
Chitradurga District

2. The Divisional Manager  
Divisional Office,  
Bajaj Allianz Insurance Co. Ltd.,  
First Floor, Maganoor Basappa  
Petrol Bunk, Near KSRTC Bus-stand,  
B.D.Road, Chitradurga  
(R-1 by Sri RPT, Adv.,  
R-2 by Smt. SAA, Adv.)

.....**Respondents**

<b>Date of petition</b>	<b>30-12-2013</b>
<b>Nature of petitions</b>	<b>Compensation for Injuries &amp; Death</b>
<b>Date of evidence</b>	<b>27-10-2014</b>
<b>Date of Judgment</b>	<b>15-04-2026</b>
<b>Total Duration</b>	<b><u>Years Months Days</u></b> <b>12 03 15</b>

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

The present petitions are filed under section 166 of Motor Vehicles Act seeking compensation on account of the grievous injuries sustained by the petitioner in MVC No.16/2014 and death of Boraiah S/o Sannaobaiah in MVC No.17/2014.

2. **Brief facts of the case of the petitioners:**

- a. That on 07-08-2013 at about 9.45 p.m, near the bus stand situated at Hiriehalli village of Challakere taluk, the deceased Boraiah and on Hanumanthappa S/o Mookaobaiah

[*petitioner in MVC No.16/2014*] sustained greivous injuries due to actionable negligence of driver of lorry bearing Regn.No.KA-16-B-6953 (hereinafter referred as '**offending vehicle**'), which collided with the motorcycle bearing Reg.No.KA-16-U-5437 driven by deceased Boraiah. The aforesaid Hanumanthappa S/o Mookaobaiah was a pillion rider in the motor cycle driven by the deceased. The injured Boraiah succumbed to the injuries at spot. Hanumanthappa was shifted to Government Hospital, Thalak.

b. The petitioner in MVC No.16/2014; Hanumanthappa was doing agricultural work and petty business. He was having annual income of three lakhs from agriculture and monthly income of Rs.6000/- from petty business. The said Hanumanthappa is unable to puruse his worl due to greivous injuries sustained by him.

c. So far as petition in MVC No.17/2014 is concerned, the petitioners Nos.1 and 5 are the wife and mother of the deceased Boraiah. The petitioners Nos.2 to 4 are the children of the deceased Boraiah. The deceased was the sole bread winner of their family.

d. The respondents Nos.1 and 2 are the owner and insurer

of the offending vehicle. The offending vehicle was duly insured with the respondent No.2. On these grounds and such others, it is prayed for allowing both these petitions.

3. In pursuance to the notices issued to them, the respondents Nos.1 and 2 have appeared through their counsel and filed their objection statements separately denying the petition averments. The respondent No.2 has specifically contended that the driver of the offending vehicle did not possess a valid and effective driving license as on the alleged date of accident.

4. Based on these rival contentions this Tribunal has framed the following:

**ISSUES IN MVC No.16/2014**

- 1. Whether the petitioner proves that he has sustained injuries in the road accident that occurred on 07-08-2013 at about 9.45 p.m. in front of bus stand of Hirehalli due to rash and negligent driving of driver of lorry bearing Reg.No.KA-16-B-6953?***
- 2. Whether respondent No.2 proves that the petition is bad for non-joinder of the necessary parties?***
- 3. Whether the respondent No.2 further proves that at the time of accident the driver of offending***

**vehicle was not holding valid and effective driving license to drive the said vehicle?**

- 4. Whether the petitioner is entitled for compensation? If so, how much? From whom?**
- 5. What order or award?**

**ISSUES IN MVC No.17/2014**

**1. Whether the petitioner proves that Boraiah S/o Sanna Obaiah expired in the road accident that occurred on 07-08-2013 at about 9.45 p.m. in front of bus stand of Hirehalli due to rash and negligent driving of driver of lorry bearing Reg.No.KA-16-B-6953?**

**2. Whether respondent No.2 proves that the petition is bad for non-joinder of the necessary parties?**

**3. Whether the respondent No.2 further proves that at the time of accident the driver of offending vehicle was not holding valid and effective driving license to drive the said vehicle?**

**4. Whether the petitioner is entitled for compensation? If so, how much? From whom?**

**5. What order or award?**

5. As both these petitions were clubbed, common evidence was recorded. In order to substantiate their case, the petitioner No.1 in MVC No.17/2014 and the petitioner in MVC No.16/2014 have got them examined as PW-1 and PW-2

respectively. They have also got marked 18 documents at Ex.P-1 to P-18. Thereafter the petitioners have closed his side. On the other hand, the Assistant Manager of the respondent No.2 company and owner of the offending vehicle have got them examined as RW-1 and has also got marked seven documents at Ex.R-1 to Ex.R-7.

6. This Tribunal after hearing both the parties had answered issue Nos.1 and 3 in both the petitions as *affirmative* and issue No.2 in both the petitions as *negative*. Thereby this Tribunal had allowed both the petitions by judgment dated 11-06-2015. In MVC No.16/2014, this Tribunal had awarded an amount of Rs.5000/- in favour of petitioner. In MVC No.17/2014, this Tribunal had awarded an amount of Rs.7,15,000/- in favour of petitioners. In both these petitions the respondent No.1 was directed to pay the compensation amount.

7. Against the judgment and award passed by this court, the petitioners in both these petitions have preferred an appeal before the Hon'ble High Court of Karnataka, Bengaluru in MFA Nos.6617/2016 (MV-D) and MFA No.2668/2017 (MV-D) respectively. The said appeals came to be allowed by an order dated 11-02-2026. As per the orders of the Hon'ble High Court,

the matter was remitted back to this Tribunal with a specific direction to permit both sides to adduce evidence and to advance arguments and to decide the matter on merits within a period of 3 months.

8. After the remand of the matter, the parties have put in their appearances before the Tribunal. The petitioners in both these petitions have not lead any further evidence on their behalf. The respondent No.1 had got him examined as RW-1 and got marked one document at Ex.R-8. No further evidence was lead on behalf of the respondent No.2. Thereafter the additional evidence was closed.

9. It is pertinent to note here that as the petitioners Nos.2 to 4 have attained majority, their natural guardian i.e. the petitioner No.1 was discharged and they were permitted to pursue the matter in their own names. Suitable amendment of the petition was carried out and the amended petition is also submitted.

10. Heard arguments. Perused records.

11. On consideration of the oral and documentary evidences placed on record, this court answers the aforesaid issues as hereunder:

**ISSUES IN MVC No.16/2014& MVC No.17/2014**

- Issue No.1** : In the ***affirmative***  
**Issue No.2** : In the ***negative***  
**Issue No.3** : In the ***negative***  
**Issue No.4** : ***Partly in the affirmative***  
**Issue No.5** : As per final order

for the following;

**REASONS**

12. **Issue No.1 in MVC Nos.16/2014 & 17/2014:** It is the case of the petitioners that on 07-08-2013 at about 9.45 p.m. near the bus stand situated at Hirehalli village of Challakere taluk, he sustained grievous injuries due to actionable negligence of the driver of the offending vehicle. As aforesaid the petitioner No.1 in MVC No.17/2014 and the petitioner in MVC No.16/2014 are examined as PW-1 and PW-2 respectively. In lieu of their examination-in-chief, they have filed their affidavits reiterating the averments of their respective petitions. The petitioners have also got marked 18 documents at Ex.p-1 to P-18 to substantiate their case. Among the documents marked, Ex.P-2 is the FIR. FIR was registered against the driver of the lorry bearing KA-16-B-6953. Ex.P-1 is the FIS. Ex.P-6 is the spot

mahazar. Ex.P-7 is the MVA report. Ex.P-9 is the wound certificate of petitioner in MVC No.16/2014; Hanumanthappa, which indicates that he had sustained injuries in road traffic accident. Ex.P-8 is the charge sheet submitted against the driver of the offending vehicle i.e. K.Murugan. After a detailed investigation, the charge sheet has been placed by the investigating officer against the accused for the offences punishable under sections 279, 337, 304-A of IPC and also under section 187 of Motor Vehicles Act. The charge sheet is also filed against the driver of the motor cycle i.e. the deceased Boraiah for the offence punishable under sections 3 R/w 181 and 146 R/W 177 of Motor Vehicles Act. Thus the materials on record suggest that the accident had occurred on account of actionable negligence of the driver of the offending vehicle only. Though PW-1 and PW-2 were cross-examined at length nothing worth is elicited from them so as discredit the factum of occurrence of accident due to actionable negligence of the aforesaid driver of the offending vehicle by name K.Murugan. Thus for these reasons this Tribunal answers issue No.1 in both these petitions, in the ***affirmative.***

12. **Issue No.2 in MVC Nos.16/2014 & 17/2014:** It pertinent to note here that the respondent No.2 has contended that the

driver and insurer of motor cycle bearing Regn.No.KA-16-U-5437 have not been arrayed as party to the proceedings and as such the petition is bad for non-joinder of necessary parties. From the charge sheet materials it prima facie appears that the deceased himself was the owner of the motor cycle. That apart as noted in the charge sheet, the motor cycle was uninsured as on the alleged date of accident. Such being the case, the contention of the respondent No.2 company that the owner and insurer of the motor cycle has not been arrayed as parties to the proceedings is unacceptable. Thus without any further discussions, this Tribunal answers issue No.2 in both these petitions in the **negative**.

13. **Issue No.3 in MVC Nos.16/2014 & 17/2014:** It is the contention of the respondent No.2 company that the driver of the offending vehicle did not possess a valid and effective driving license as on the alleged date of accident. In fact this Tribunal has answered this issue in the affirmative and has previously fixed the liability to pay compensation amount on the respondent No.1. However after the remand of the matter, the respondent No.1 has got him examined as RW-2 and placed on record one document, which is marked at Ex.R-8. Ex.R-8 the driving license of the driver of offending vehicle K.Murugan. The same goes to show that the driver of the

offending vehicle has possessed a valid and effective driving license as on the alleged date of accident. It is also pertinent to note here that In the charge sheet also it is mentioned the driver was not holding effective and valid driving license. However in the charge sheet such allegation is made against the deceased, who was the rider of the motor cycle and not against the driver of the offending vehicle. Thus for these reasons, this Tribunal is constrained to answer issue No.3 in both these petitions in the **negative**.

**DISCUSSION IN MVC No.16/2014**

14. **Issue No.4:** The petitioner Hanumanthappa claims that he has sustained grievous injuries. The wound certificate of the petitioner Hanumanthappa is got marked at Ex.P-9. The same goes to show that he has sustained lacerated wound over head, tenderness over right shoulder, tenderness over right chest and abrasion over foot. In the opinion of the doctor the said injuries are all simple in nature. The charge sheet is submitted against the driver of the offending vehicle for the offence under section 337 of IPC and not for the offence under section 338 of IPC. Thus the contention of the petition that he has sustained grievous injuries cannot be accepted.

15. Further though the petitioner contends that he has incurred medical expenses of Rs.50,000/-, absolutely no documents are placed on record by the petitioner to substantiate the same. Thus under these circumstances if this Tribunal proceeds to award global compensation of Rs.5000/- to each of the injuries suffered by the petitioner the same will suffice the cause of justice. 4 injuries X Rs.5000/- i.e. Rs.20,000/-. Thus this court proceeds to award Rs.20,000/- to the petitioner. Accordingly this Tribunal answers issue No.4 ***partly in the affirmative.***

#### **DISCUSSION IN MVC No.17/2014**

16. **Issue No.4:** The petitioner No.1 is the wife of the deceased. The petitioners Nos.2 to 4 are the children of the deceased, who were minors at the time of accident. The petitioner No.5 is the mother of the deceased. As such all the petitioners are to be construed as dependents of the deceased.

17. Now coming to the age of the deceased, the petitioners claim that the age of the deceased was 35 years. No documents are placed on record by the petitioners to show the age of the deceased. As per the inquest report and post-mortem report marked at Ex.P-4 and Ex.P-5 respectively, the

age of the deceased is mentioned as 40 years. As such this Tribunal considers the age of the deceased to be 40 years. The multiplier applicable is 15 for the age group of 36-40 years.

18. Now in view of the dictum of Hon'ble Supreme court reported in **Smt. Sarala Verma & Ors. V/s Delhi Transport Corp. & Anor.** reported in **(2009) 6 SCC 121** and in **National Insurance Company Ltd., V/s Pranay Sethi & Ors.** reported in **(2017) 16 SCC 680**, just compensation is to be awarded by applying appropriate multiplier i.e. 15. Now this Tribunal has to assess the compensation to be awarded on the basis of the yardstick given in the aforesaid decisions.

19. **Loss of Dependency:** The petitioners claim that the deceased was an agriculturist and was also doing brick work. From agriculture, he had annual income of Rs.3,00,000/- per year and Rs.15,000/- per month from brick work. To substantiate these aspects, the petitioners have produced only RTC extracts marked as Ex.P-10 to 18. Except these no other documents are produced by the petitioners. No materials are placed on record, to show the exact earnings of the deceased. In the absence of any materials produced, this Tribunal places reliance on the chart prepared by the Hon'ble Karnataka State Legal Services Authority, Bengaluru. As per the chart for all the districts coming under the Hon'ble High

Court of Karnataka, Principal Bench, Bengaluru the notional income suggested for the year 2013 is Rs.8,000/-. Thus this Tribunal considers notional income of the deceased to be Rs.8,000/- per month.

20. It is well settled principle of law that the future prospectus could be granted even in cases pertaining to notional income. In this regard it is pertinent to recent judgment of Hon'ble Apex Court in the case of **Kirti Vs. Oriental Insurance Co. Ltd.** reported in **(2021) 2 SCC 166**. Thus as per the judgment of Hon'ble Apex court in *Pranay Sethi's* case, an additional 25% of the income should be awarded where the deceased was in the age group of 40-50 years, for self employed person. For the monthly income of the deceased i.e. for Rs.8,000/- an additional 25% is to be added. 25% of Rs.8,000/- is Rs.2,000/-. Thus the monthly income of the deceased would be Rs.10,000/-.

21. As discussed *supra*, the deceased had five dependents. As such  $\frac{1}{4}$ <sup>th</sup> of his income is to be deducted towards the personal and living expenses of the deceased.  $\frac{1}{4}$ <sup>th</sup> of Rs.10,000/- is Rs.2,500/-. Thus the monthly contribution of the deceased towards his family would be Rs.7,500/- p.m. The age of the deceased was 40 years. Hence the multiplier of 15 is to

be applied. The loss of dependency would be Rs.7,500 X 12 X 15  
= Rs.13,50,000/-.

22. **Loss of consortium, Loss of Estate and funeral expenses:**

In so far as loss of consortium, loss of estate and funeral expenses are concerned, as per the dictum of Hon'ble Supreme court in *Pranay Sethi's* case, the petitioner No.1 is entitled to spousal consortium, the petitioners Nos.2 to 4 are entitled for parental consortium and the petitioner No.5 is entitled for filial consortium. The petitioners are entitled for consortium of Rs.40,000/- each. Further they are entitled to Rs.15,000/- each towards the loss of estate and funeral expenses.

23. Thus considering the all these aspects, the petitioners are entitled for compensation under the following head:

<b>Sl.No</b>	<b>Head</b>	<b>Amount in Rs.</b>
1	Loss of Dependency	13,50,000
2	Loss of Estate	15,000
3	Loss of consortium (Rs.40,000/- x 5)	2,00,000
4	Funeral Expenses	15,000
	<b>Total</b>	<b>15,80,000</b>

The petitioners Nos.1 to 5 are thus entitled for total compensation amount of **Rs.15,80,000/-**. Accordingly issue No.4 is answered ***partly in the affirmative***.

24. **INTEREST**: In view of decision of Hon'ble High Court of Karnataka, in *Vijay Ishwar Jadhav & Ors. V/s Ulrich Belchior Fernandes & Anor.* i.e. in **M.F.A.No.100090/2014 [MV]** dated 07.03.2018, interest is awarded at the rate of 6% p.a. on the aforesaid compensation amount.

25. **LIABILITY**: The fact that the offending vehicle was insured with the respondent No.2 company is not in dispute. Though the respondent No.2 has contended that the driver of the offending vehicle did not possess a valid and effective driving license, it has failed to prove the same. As such, it is the respondent No.2, which is liable to indemnify the respondent No.2 and to deposit the compensation amount.

26. It is also pertinent to note here that the respondent No.2 has contended that the driver of the motor cycle i.e. the deceased did not possess a valid and effective driving license as on the alleged date of accident. However the same is ground to reject the claim petition filed by his legal heirs. In this regard it is pertinent to refer to a decision of Hon'ble Apex Court reported in **2008 ACJ 1834 (SC)**; *Sudhir Kumar Rana V/s Surinder*

Singh & Ors. In the said case, the Hon'ble Supreme court has held that “If a person drives a vehicle without a license, he commits an offence. The same by itself may not lead to a finding of negligence as regards the accident”. Thus the contention of the respondent No.2 cannot be accepted. Being the insurer of the offending vehicle, it is the respondent No.2 company, which is liable to pay the compensation amount.

27. **ISSUE No.5 in MVC Nos.16/2014 & 17/2014:** In the light of foregoing discussions, this Tribunal proceeds to pass the following:

### **ORDER**

***The petition filed under section 166 of the Motor Vehicles Act in MVC No.16/2014 and MVC No.17/2014 are hereby allowed in part.***

***Petitioner in MVC No.16/2014 is entitled for total compensation of Rs.20,000/- [Twenty thousand rupees] along with interest at the rate of 6% p.a. from the date of the petition till realization entire amount.***

***Petitioners Nos.1 to 5 in MVC No.17/2014 are entitled for total compensation of Rs.15,80,000/- [Fifteen lakhs and eighty thousand rupees] along with interest at the rate of 6% p.a. from the date of the petition till realization entire amount.***

**The respondents Nos.1 and 2 are jointly liable to pay the compensation amount. The respondent No.2 being the insurer is liable to indemnify the respondent No.1 and is directed to deposit the aforesaid compensation amounts in both the petitions, within a period of 30 days.**

**On deposit of the compensation amount, the petitioner in MVC No.16/2014 is entitled for release of entire amount.**

**The compensation amount awarded in MVC No.17/2014 is apportioned between the petitioners Nos.1 to 5, in the ratio of 40:15:15:15:15.**

**On deposit of compensation amount awarded in favour of the petitioners Nos.1 to 5 in MVC No.17/2014, they are all entitled for release of 50% amount each in their favour. The remaining amount of 50% each shall be deposited in their favour, in any nationalized banks of their respective choices, in fixed deposit, for a period of 3 years each.**

**The respondent No.1 shall be entitled for refund of amount, if deposited or paid by him.**

**The respondent No.2 company shall be entitled for set-off of any amount, if deposited by it.**

**Advocate fee is fixed at Rs.1,000/- each in MVC Nos.16/2014 and 17/2014.**

**Draw award accordingly.**

**Office shall keep the original judgment in MVC No.17/2014 and copy of this judgment in MVC No.16/2014.**

*(Dictated to the Stenographer directly on the computer, printouts taken, corrected by me and then pronounced, in presence of both the learned counsel, on this the 15<sup>th</sup> day of April 2026)*

**[SHAMEER.P.NANDYAL]**  
Senior Civil Judge & AMACT  
Challakere

### **ANNEXURES**

#### **Witnesses examined for petitioners:**

PW-1 : Sooramma  
PW-2 : Hanumanthappa

#### **Documents marked for petitioners:**

Ex.P-1 : C/C of FIS  
Ex.P-2 : C/C of FIR  
Ex.P-3 : Further statement of complainant  
Ex.P-4 : C/C Inquest mahazar  
Ex.P-5 : C/C PM report  
Ex.P-6 : C/C of Spot mahazar  
Ex.P-7 : C/C MVA report  
Ex.P-8 : C/C Charge sheet  
Ex.P-9 : C/C Wound certificate  
Ex.P-10-18 : RTC extracts

**Witness examined for respondents:**

RW-1 : Manoj.V.G  
RW-2 : C.Muttuswamy

**Documents got marked for respondents:**

Ex.R-1 : T/C of Spot mahazar  
Ex.R-2 : T/C of Rough sketch  
Ex.R-3 : Copy of notice  
Ex.R-4 : Postal acknowledgment  
Ex.R-5 : Postal receipt  
Ex.R-6 : Insurance copy  
Ex.R-7 : Authorization letter  
Ex.R-8 : Driving license of driver of  
offending vehicle

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