

KACD210007222022



Presented on : 15-06-2022
Registered on : 15-06-2022
Decided on : 22-04-2026
Duration : 03 Years 10 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 22nd DAY OF APRIL 2026

MVC.No.530/2022

PETITIONERS :

1. Koti @ Sanneerappa
S/o Late Erappa,
Aged about 41 years,
2. Sapota W/o Koti @ Sanneerappa,
Aged about 28 years,

Both are Labourers &
RR/o Maddanakunta Village,
Amarapuram Mandal,
Madaksira Taluk,
Andhra Pradesh State
(By Sri.JD, Adv.)

Versus

- RESPONDENTS** :
1. Panduranga.G.N. @ Pandappa.G.N.
S/o Late Sri Naganna,
Aged about 50 years,
R/o Reddyhalli
Gopanahalli Village,
Challakere Taluk,
Chitradurga District
 2. The Branch Manager,
Chola MS General Insurance Co. Ltd.,
No.116/17, Nirmal Building,
Opp to Cosmo Politan Club,
Double Road, Bellary
**[R-1 Rep by Sri.MSV, Adv,
R-2 Rep. by Sri.SV, Adv.]**

Date of petition	09-06-2022
Nature of claim petition	Compensation for Death
Date of commencement of recording evidence	22-02-2024
Date of Judgment	22-04-2026
Total duration	<u>Years Months Days</u> 03 10 07

JUDGMENT

The present petition is filed under Section 166 of Motor Vehicles Act seeking compensation on account of death of one Abhinanda S/o Koti @ Sanneerappa.

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

That on 05-10-2021 at about 1.30 p.m. near

Halagodanahalli gate of Challakere taluk, the son of the petitioners Nos.1 & 2; Abhinanda S/o Koti @ Sanneerappa succumbed to the injuries sustained by him due to the actionable negligence of driver of lorry bearing Reg.No.KA-16-D-5221 (*hereinafter referred as 'offending vehicle'*), which collided with TVS XL motor cycle, in which her was traveling. The petitioner No.2 was rider of the said vehicle. One G.Ramu was also a pillion rider in the said vehicle along with the deceased. The deceased was student. The respondents Nos.1 and 2 are the owner and insurer of the offending vehicle respectively. On these grounds and such others, it is prayed for allowing the petition.

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 denying the entire petition averments. It is specifically contended by the respondent No.2 that the accident had occurred due to negligence of drivers of both the vehicles.

4. On the basis of rival pleadings, this Tribunal has framed the following:-

ISSUES

- 1. Whether the petitioners prove that deceased Abhinanda S/o Koti Sanneerappa expired in the road accident that occurred on 05-10-2021 at about***

1.30 p.m. near Halagodanahalli gate, due to the rash and negligent driving of driver of lorry bearing Reg.No.KA-16-D-5221?

2. Whether the petitioners are entitled for compensation? If so, how much, from whom?

3. What order and award?

5. In order to substantiate their case, the petitioner No.1 has got him examined as PW-1 got marked 11 documents at Ex.P-1 to P-11. On the other hand, the Assistant Manager of the respondent No.2 company has got him examined as RW-1. RW-1 has also got marked two documents at Ex.R-1 & 2. Thereafter the matter was posted for arguments.

6. Heard arguments advanced by the learned counsel for the petitioners. No arguments were canvassed on behalf of the respondent No.1. The learned counsel for the respondent No.2 has submitted his written arguments. Perused records.

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

Issue No.1:- In the ***affirmative***

Issue No.2:- ***Partly In the affirmative***

Issue No.3:- As per final order

for the following:

REASONS

8. **ISSUE No.1:-** The petitioners have filed the present claim petition on account of death of one Abhinanda S/o Koti @ Sanneerappa. The petitioners Nos.1 and 2 are the parents of the deceased Abhinanda. The petitioners have specifically contended that the accident occurred due to rash and negligent act of the driver of the offending vehicle. To substantiate this fact, the petitioners have placed reliance on 11 documents marked at Ex.P-1 to P-11. Ex.P-1 is the FIR. Ex.P-2 is the FIS. Ex.P-3 is the Spot mahazar. Ex.P-4 is the MVA report. Ex.P-5 is the inquest report. Ex.P-6 is the PM report. Ex.P-7 is the charge sheet. On perusal of the contents of FIR, FIS and the charge sheet it appears that the alleged accident had occurred due to the actionable negligence of driver of the offending vehicle only. The spot mahazar is also in consonance with the contents of the FIR. That apart, the concerned police after a detailed investigation have submitted charge sheet against the driver of the lorry, Dileep Kumar.N for the offences punishable under sections 279, 337, 338 and 304-A of IPC. Thus considering these circumstances, it can be safely held that the driver of the offending vehicle was negligent in driving the lorry. Thus for these reasons, this Tribunal answers issue No.1 in the ***affirmative***.

9. **ISSUE No.2:** The petitioners Nos.1 and 2 are the father and mother of the deceased respectively. As such petitioners Nos.1 and 2 are to be construed as dependents of the deceased. Now coming to the age of the deceased, the petitioners claim that the age of the deceased was 10 years. During the course of cross-examination of PW-1 has admitted that at the time of accident, the age of the deceased was 11 years. However the birth certificate of the deceased is marked at Ex.P-10. As per Ex.P-10 the date of birth of the deceased Abhinandan is 06-09-2012. Thus as on the date of accident i.e. on 05-10-2021, his age would be 9 years. The said documents have also remained unrebutted. As such this Tribunal considers the age of the deceased to be 9 years. The deceased was a minor as on the date of the accident.

10. For computation of compensation in cases of death of minor, the judgment of Hon'ble High Court of Karnataka in the case of ***Ningesh & Anor. Vs Nanjegowda & Anor.*** passed in **M.F.A.No.206/2018** clubbed with ***Lakshminarayanappa & 2 Ors. Vs M/S Royal Sundarama Allianz Ins. Co. Ltd. & Anor.*** passed in **M.F.A.No.11440/2011** dated **12-09-2024**. Its neutral citation is **NC 2024: KHC:38401**. The Hon'ble High Court has issued a chart for computation of compensation, in cases of death of minor, who is less than 15 years of age and when survived by both the parents. In the said judgment at Table-3.2 at page No.67

the compensation to be awarded in cases pertaining to the year 2021 is **Rs.16,26,645/-**. This calculation includes future prospectus, deductions towards personal expenses, loss of love and affection. Rounding off the same, the petitioners are entitled to total compensation amount of **Rs.16,26,645/-**. The same is rounded off to **Rs.16,27,000/-**.

11. **Interest:** So far as award of interest in concerned, the plaintiff has claimed an interest at the rate of **18%** p.a. from the date of accident. 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, it is held that ***“in the absence of any law relating to interest on judgment, the MACT has to follow the provision of Sec.34 of CPC”***. Thus this court deems it proper to award interest at the rate of **6%** p.a. on the aforesaid compensation amount from the date of institution of the present petition.

12. **Liability:** As stated supra the Tribunal has already held that the accident had occurred due to the actionable negligence of the driver of the offending vehicle. The respondent No.2 has got its Administrative officer as RW-1. In his evidence RW-1 has contended that the investigation officer has submitted charge sheet against the rider of motor cycle also for the offence punishable under section 3 R/W 181

of Motor Vehicles Act for having driven his motor cycle without possessing any driving license. The petitioner No.2 was herself the rider of the motor cycle.

13. The fact that the petitioner No.2 did not possess a valid driving license at the time of accident is not in dispute. Whether the same absolves the respondent No.2 from paying compensation in the matter? In this regard it is pertinent to refer to a decision 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”*. Similar view was also expressed by Hon'ble High Court of Karnataka in a decision reported in **2013 SCC Online Kar 3221** in the matter of ***G.T.Mahesha Vs. Karnataka State Road Transport Corporation.*** As stated *supra*, it is the driver of the offending vehicle, who is negligent. As such mere non-possessing of driving license by the driver of motor cycle, cannot be ground to attribute negligence against her. Even if claimant did not possess driving license, it had no nexus with the accident. Non possession of valid driving license by itself is no reason for non- granting of compensation, if accident is proved to be caused by rash and negligent driving of the driver of the offending vehicle. As such the contention raised

by the respondent No.2 cannot be accepted.

14. The respondent No.2 company has also contended that the driver of the offending vehicle did not possess valid and effective driving as on the alleged date of accident. The respondent No.2 company has failed to prove this aspect by summoning the concerned RTO officials. That apart the police after a detailed investigation have submitted the charge sheet against the driver of the offending vehicle. No offence is made out under section 181 of Motor vehicles Act against the driver of the offending vehicle. As such this Tribunal finds no substance in this contention of the respondent No.2 company.

15. Admittedly as on the alleged date of accident, the offending vehicle was insured with the respondent No.2 company. The respondent No.2 company has failed to prove that the driver of the offending vehicle did not possess valid and effective driving license as on the alleged date of accident. The respondent No.2 company being the insurer of the respondent No.1, has to indemnify him and pay the compensation amount. Accordingly issue No.2 is answered ***partly in the affirmative.***

16. **ISSUE No.3**:- In the light of foregoing discussions, this court proceeds to pass the following:

ORDER

The petition is hereby allowed in part with costs.

The petitioners are entitled for total compensation of Rs.16,27,000/- [Rupees sixteen lakhs and twenty seven thousand only] with interest at the rate of 6% p.a. from the date of petition till its entire realization.

The respondents Nos.1 and 2 are jointly liable to pay the compensation amount. The respondent No.2 shall indemnify the respondent No.1 and shall deposit the compensation amount awarded within a period of 30 days.

The compensation amount is apportioned between the petitioners Nos.1 and 2 in the ratio of 30:70.

Out of the compensation amount awarded in their favour, the petitioners Nos.1 and 2 are entitled for release of 50% amount in their favour. The remaining 50% amount shall be deposited in national bank, of their respective choices, for a period of 3 years.

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

Draw award accordingly.

(Dictated to the stenographer directly on computer, print out taken, corrected, signed and then pronounced by me in the open court this 22nd day of April 2026)

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

ANNEXURES**List of witnesses examined for petitioners:-**

PW-1 : Koti @ Sanneerappa

List of documents for the petitioners:-

Ex.P- 1 : T/C of First Information Report
Ex.P-2 : T/C of First Information Statement
Ex.P-3 : T/C of Spot mahazar
Ex.P-4 : T/C of MVA report
Ex.P-5 : T/C of Inquest mahazar
Ex.P-6 : T/C of PM report
Ex.P-7 : T/C of Charge sheet
Ex.P-8 : Genealogical tree
Ex.P-9 : Death certificate
Ex.P-10 : Birth certificate of deceased
Ex.P-11 : Study certificate of the deceased

List of witnesses examined for respondent:-

RW-1 : Pavan Kumar

List of documents marked for respondents:-

Ex.R-1 : Authorization letter
Ex.R-2 : Insurance policy

Senior Civil Judge &
AMACT Challakere