

KACD210011322024



Presented on : 02-09-2024
Registered on : 02-09-2024
Decided on : 19-05-2026
Duration : 01 Year, 08 Months, 17 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 19TH DAY OF MAY 2026

M.V.C.No.814/2024

BETWEEN:

- 1 Kodipalli Mahalakshmi
W/o Late Mallikarjuna,
Aged about 29 years,
Occ: Home Maker,
R/o 2/19 O.C.Colony,
R.Kottapalli (R.Hosahalli),
Gummaghatta, Rangasamudram,
Ananthapura District,
Andhra Pradesh State

- 2 Kodipalli Ajithkumar
S/o Late Mallikarjuna,
Aged about 7 years

Since Minor, petitioner Nos.2 is
Rep. by his natural mother
i.e. petitioner No.1
(By Sri GS, Adv.)

....PETITIONERS

And

Latheef S/o Hussain Sab,
Aged about 35 years,
Occ: Driver
R/o Venkateshwara Nagar,
Nayakanahatti Road,
Challakere, Chitradurga Dist.
(By Sri GKR., Adv.)

.....RESPONDENTS

Date of petition	21-08-2024
Nature of claim petition	Compensation for Death
Date of commencement of recording evidence	14-08-2025
Date of Judgment	19-05-2026
Total duration	<u>Years Months Days</u> 01 08 28

J U D G M E N T

The present petition is filed under section 166 of Motor Vehicles Act seeking compensation on account of death of one Mallikarjuna S/o Kodipalli Thippeswamy.

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

That on 28-12-2023 at about 2.30 p.m., near the land of Thimmanna situated at Giriyanmanahalli gate of Challakere

taluk, one Mallikarjuna S/o Kodipalli Thippeswamy sustained grievous injuries due to actionable negligence of driver of Tata Ace goods bearing Reg.No.KA-16-B-3701 (*hereinafter referred as ‘offending vehicle’*). The offending vehicle collided with the motorcycle bearing Chassis No.98B19F04581 and Engine No.98B17E04047 driven by the aforesaid Mallikarjuna. The injured was taken to Government Hospital. Challakere and from there he was shifted District Hospital, Chitradurga and later to Ananthapura for higher treatment. The said Mallikarjuna succumbed to the injuries sustained by him. The deceased was preparing sweets and other bakery items in bakery. He was earning Rs.30,000/- per month. The deceased was the sole bread earner of his family. The accident had occurred due to actionable negligence of driver of the offending vehicle. The petitioners Nos.1 and 2 are the wife and son of the deceased. On these grounds and such others, it is prayed for allowing the petition.

3. In pursuance to the notice issued to him, the respondent has appeared through his counsel. However he has not contested the matter by filing his objection statement.

4. In order to substantiate their case, the petitioner No.1 has got her examined as PW-1 and got marked 9 documents at Ex.P-1 to P-9. Thereafter the petitioners have closed their

side. The respondents have neither got PW-1 cross examined nor has lead any evidence on his behalf.

5. Heard arguments. Perused records.

6. The points that arise for considerations this Tribunal are as hereunder:-

POINTS

1. ***Do the petitioners prove that on 28-12-2023 at about 2.30 p.m near Giriyammanahalli gate of Challakere taluk, one Mallikarjuna S/o Kodipalli Thippeswamy died due to the actionable negligence of driver of Tata Ace bearing Reg.No.KA-16-B-3701, which collided with the motor cycle driven by the deceased?***
2. ***Whether the petitioners are entitled to the compensation as sought for?***
3. ***What award or order?***

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

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

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

Point No.3:- ***As per final order***

for the following:

REASONS

8. **Point No.1:-** The petitioners have filed the present claim petition on account of death of one Mallikarjuna S/o Kodipalli Thippeswamy. The petitioners have contended that the accident had occurred due to rash and negligent act of driver cum owner of the offending vehicle i.e. the respondent. To substantiate this fact, the petitioner No.1 has got her examined as PW-1. In lieu of her examination-in-chief, she has filed her affidavit. The petitioners have placed reliance on nine documents marked at Ex.P-1 to P-9. Ex.P-1 is the FIR. Ex.P-2 and P-3 are the FIS and additional statement. Ex.P-4 is the charge sheet. Ex.P-5 is the vehicle inspection mahazar. Ex.P-6 is the spot mahazar. Ex.P-7 is the spot sketch. Ex.P-8 is the inquest mahazar. Ex.P-9 is the PM report. 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 by name Lathif, who is the respondent in this petition. FIR was registered against him only and after a detailed investigation the charge sheet has been submitted against him only for the offences punishable under sections 279 and 304-A of IPC and also for the offences under sections 3 R/W 181, 187 and 146 R/W 196 of Motor Vehicles Act. The spot mahazar is also in consonance with the contents of the FIR. The evidence lead by the

petitioner has remained unrebutted and unchallenged as the respondent has not contested the matter by filing his objection statement. Thus considering these circumstances, it can be safely held that the driver of the offending vehicle was negligent in driving the Tata Ace. As such, this Tribunal answers point No.1 in the ***affirmative***.

9. **Point No.2** : The petitioners contended that they are the legal heirs of the deceased. The petitioners Nos.1 and 2 are the wife and son of the deceased respectively. The charge sheet materials and the documents marked at Ex.P-4 substantiate the said fact. Thus this Tribunal construes petitioners to be dependants of the deceased Mallikarjuna.

10. Now coming to the age of the deceased, the petitioners claim that the age of the deceased was 34 years. The petitioners have produced inquest mahazar and postmortem report. The same are marked at Ex.P-8 and Ex. P-9 respectively. As per these documents, the age of the deceased was 40 years as on the date of the accident. These documents have remained unrebutted. 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.

11. 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.

12. **Loss of Dependency:** The petitioners have claimed that the deceased was a worked in bakery and was earning Rs.30,000/- per month. To substantiate these aspects, the petitioners have not produced any documents pertaining to the occupation 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 2023 is Rs.16,000/-. Thus this Tribunal considers notional income of the deceased to be Rs.16,000/- per month.

13. 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 40% of the income should be awarded where the deceased was in the age group of below 40 years. For the monthly income of the deceased i.e. for Rs.16,000/- an additional 40% is to be added. 40% of Rs.16,000/- is Rs.6,400/-. Thus the monthly income of the deceased would be Rs.22,400/-.

14. As discussed *supra*, the deceased had two dependents. As such $\frac{1}{3}^{\text{rd}}$ of his income is to be deducted towards the personal and living expenses of the deceased. $\frac{1}{3}^{\text{rd}}$ of Rs.22,400/- is Rs.7,467/-. Thus the monthly contribution of the deceased towards his family would be Rs.122,400/- minus Rs.7467/- i.e. 14933/- p.m.

15. As discussed *supra*, the age of the deceased was between 40 years. Hence the multiplier of 15 is to be applied. The loss of dependency would be Rs.14,933 X 12 X 15 = Rs.26,87,940/-. The same is rounded off to Rs.26,88,000/-.

16. **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 and the petitioner Nos.2 is entitled for parental consortium of Rs.40,000/-. Further they are entitled to Rs.15,000/- each under the head of loss of estate and funeral expenses.

17. Thus considering the all these aspects, the petitioners are entitled for compensation under the following heads

Sl.No	Head	Amount in Rs.
1	Loss of Dependency	26,88,000
2	Loss of Estate	15,000
3	Loss of consortium (Rs.40,000/- each)	80,000
4	Funeral Expenses	15,000
	Total	27,98,000

The petitioners are thus entitled for total compensation amount of **Rs.27,98,000/-**

18. **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.

19. **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 i.e. the respondent. He is also the owner of the offending vehicle. The fact that the respondent is the owner of the offending vehicle as on the alleged date of accident has not been disputed by him. The same is evident from the charge sheet materials placed on record. The offending vehicle was uninsured at the time of the accident. As such it is the respondent, who is liable to pay the compensation amount. Accordingly point No.2 is answered ***partly in the affirmative.***

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

ORDER

The petition filed under section 166 of Motor Vehicles Act is hereby allowed in part with costs.

The petitioners are entitled for total compensation of Rs.27,98,000/- [Rupees Twenty seven lakhs, ninety eight thousand only] with interest at the rate of 6% p.a. from the date of petition till its entire realization.

The respondent is liable to pay the compensation amount.

The compensation amount awarded is to be apportioned between the petitioners Nos.1 and 2 in the ratio of 50:50.

The entire amount awarded in favour of the

petitioner No.2 is ordered to be deposited in any nationalized bank of petitioner No.1's choice till attainment of majority, by him.

Out of the compensation amount awarded in favour of the petitioner No.1, she is entitled for release of 50% of the same. The remaining 50% of their compensation amount shall be deposited in any nationalized bank of their choice 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 19th day of May 2026)

[SHAMEER P.NANDYAL]

Senior Civil Judge & AMACT
Challakere

ANNEXURES

List of witnesses examined for petitioners:-

PW-1 : Kodipalli Mahalakshmi

List of documents for the petitioners:-

Ex.P-1 : C/C of First Information Report
Ex.P-2 : C/C of First Information Statement
Ex.P-3 : C/C of Further information statement
Ex.P-4 : C/C of Charge sheet
Ex.P-5 : C/C Vehicle Inspection Mahazar
Ex.P-6 : C/C of Spot Mahazar
Ex.P-7 : C/C Rough sketch

Ex.P-8 : C/C of Inquest Mahazar
Ex.P-9 : C/C of PM report

List of witnesses examined for respondents:-

- NIL -

List of documents marked for respondents:-

- NIL -

Senior Civil Judge &
AMACT Challakere

