KABG010092072024

IN THE COURT OF THE VI ADDL. DISTRICT & SESSIONS JUDGE AND ADDL. MACT, BELAGAVI

Dated this the 07th day of July, 2026

Present

Sri. H.S.MANJUNATHA, B.A.L., LL.B.
VI Addl. District & Sessions Judge,
Belagavi.

MVC No. 2686/2024

Petitioners :

1. Smt.Rekha W/o. Shivagouda Ghodageri,
Age:48 years, Occ: Household work,
R/o. Yadagud, Tal Hukkeri, Belagavi
Now at Kakati, Belagavi.
Aadhar No.5301 8989 2412

2. Shubham S/o.Shivagouda Ghodageri,
Age:22 years, Occ:Student,
R/o. Yadagud, Tal Hukkeri, Belagavi
Now at Kakati, Belagavi
Aadhar No.7813 5731 8590

3. Supreet S/o.Shivagouda Ghodageri,
Age:20 years, Occ:Student,
R/o.Yadagud, Tal Hukkeri, Belagavi
Now at Kakati, Belagavi
Aadhar No.8515 5540 9624

(By Shri S.R.Kamate, Advocate)

Vs.

Respondents:-

1. M/s. Ashoka Buildcon Ltd.,
NH-4, Hirebagewadi Toll Plaza,
Hirebagewadi, Belagavi
[As Per R.C. Card]

M/s. Ashoka Buildcon Ltd.,
Ashoka House, Ashoka Marg
Wadala Road, Dwarka Corner,
Dwarka Corner Nasik, Maharashtra 422011

[Owner of Mahindra Torro Tipper No.MH-16/AY-6730)

2. Reliance General Insurance Co Ltd.,
Represented by
The Branch Manager,
Kolhapur Circle,
Mahadev Arcade, Belagavi.

[Insurer of Mahindra Torro Tipper No.MH-16/ AY-6730)

(R1-Exparte)
(R2 by Shri V.B.Malannavar Advocate)

JUDGMENT

Husband and children of one Shivagouda S/o. Kempanna Ghodageri filed this petition U/Sec.166 of IMV Act seeking compensation for his death in a road traffic accident.

2. **Case of the petitioners in brief is that,**

On 07.102024, deceased was proceeding on Hattarki Belagavi road in his motor cycle bearing No. KA-23/CP-9442.

At about 8.00 pm when he came near Fire station, one Mahindra Torro Tipper vehicle bearing No.MH-16/ AY-6730 came from behind in high speed, rash and negligent manner, dashed to said motor cycle, due to which, deceased fell on the road and died on the spot.

3. It is further contended that the deceased was aged 54 years,, doing agriculture earning Rs.3 lakh per annum, Rs.20,000/- pm from paltry business, Rs. 15,000/- pm from diary farming and the petitioners were depending upon the said income and had he been alive, earned Rs. 5 lakh from farming, within next 2-3 years.

4. Alleging loss of income, dependency, love and affection, petitioners seek compensation of Rs.51,00,000/-.

5. Respondent No.1 is exparte.

6. Respondent No.2 in its objections denied the petition averments in toto. It resisted the petition on various grounds.

7. It is contended that driver of Torro Tipper vehicle was not having valid and effective driving licence, petitioners

have not produced surviving family members certificate, the deceased was not wearing helmet; since deceased was not residing with petitioners, from the last 13 years, petitioners cannot be said to be dependents as they were earning their livelihood independently and petitioners No. 2 & 3 are major sons.

8. Further it is alleged that Mahindra Torro Tipper vehicle is falsely implicated as deceased had no driving license.

9. Further it is contended that owner and insurer of motor cycle are also necessary parties.

10. Respondent No.2 also contended that there has been violation of section 134(c) and 159 of IMV Act as neither Investigating Officer nor insured informed the Insurance company about the accident. Further it is contended that the compensation sought is exorbitant and arbitrary and interest cannot exceed 6% p.a. With these allegations, respondent No.2 prayed to dismiss the petition.

11. On the basis of these pleadings, following issues are framed.

1. Whether the petitioners prove that on 07.10.2024 at 20.00 hours husband of the petitioner No.1 and father of petitioner No.2 and 3 by name Sri.Shivagouda S/o Kempanna Ghodageri was proceeding on his motorcycle bearing No.KA-23/EP-9442 on Hattaragi Belagavi NH4 road. When they came near Fire Station Hattaragi village a driver Mahindra Torro Tipper bearing No.MH-16/AY-6730 came with high speed in rash and negligent manner from rear side and dashed to the motorcycle of the deceased. As a result the deceased fell down and sustained injuries and died on the spot?

2. Whether the petitioners are entitle for compensation? If so, to what extent and from whom?

3. What order or award?

12. Petitioner No. 1 examined as PW-1 and Ex.P.1 to Ex.P22 are marked for the petitioners. One witness is examined PW 2 .

13. Manager legal of respondent No.2 is examined as RW 1 and copy of the policy is marked as Ex.R1.

14. Heard Shri S,R.Kamate, learned counsel for

petitioners and Shri V.B.Malannavar, learned counsel for respondent No.2.

15. My findings to the above issues are as ;-

Issue No.1 : Affirmative,

Issue No.2: Petitioner No. 1 is entitled for 75% of compensation of Rs.**12,49,750**/- from respondents No.1 and 2 jointly and severally.

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

REASONS

16. **Issue No.1**:- PW 1 reiterated the petition averments in her chief-examination. It is pertinent to note that none of the petitioners saw the accident. It is on the basis of the complaint lodged by petitioner No.2, FIR was registered. Respondent No.2 is heavily relying upon the recitals of Ex.P2 i.e. complaint to contend that the petitioners are not the dependents of deceased.

17. So, it would be appropriate to directly refer to documentary evidence. Ex.P2 complaint shows that this deceased had abandoned the petitioners 13 years back and

was residing with one Sandhya Katti in Bellad Bagewadi. However even that Sandhya Katti left the deceased.

18. The deceased was not coming to the house and he was a water diviner and was almost a wagabond and used to stay in Temples or Maths.

19. On 07.10.2024 at about 4.30 pm one Mahadev Shankar Magdum called this petitioner No.2 over phone, informed about the accident. So, this petitioner No.2 went there, found that his father dead, then dead body was taken to BIMS. This is the complaint.

20. On the basis of this FIR was registered against an unknown person. Then during the course of Investigation police seized the Mahindra Torro Tipper vehicle by preparing panchanama and ultimately filed Charge sheet against driver of the said vehicle and so also the deceased as per Ex.P8.

21. The allegation against driver of the tipper is that he drove the vehicle in rash and negligent manner and dashed to motor cycle from behind, resulting in death of its rider.

22. So far as the deceased is concerned, the allegation is that the motor cycle was not insured and he had no driving license.

23. It is pertinent to note that petitioner No.2 as already observed, is not the person who had seen the accident.

24. So, petitioners examined one Vishnu @ Vitthal Narayan Jinarali as PW 2, who claimed to have seen the accident. He, in his chief examination stated that he was proceeding behind the motor cycle of deceased and he saw the accident.

25. During his cross examination, no helpful answers were elicited. It has come in his evidence that, he was returning to garage after having his lunch, he has a garage near Laxmi Dhaba in Managutti. But however he has no licence.

26. His cross examination further shows that, he had seen the accident from a distance of 50 meters; Yamakanmaradi police station is at a distance of 3 kilo meters

from the place of accident and he informed the police over phone. This is what PW 2 stated in his evidence.

27. Now the question is whether there is any reason to disbelieve what this PW 2 states. For this it is appropriate to refer to the Charge sheet marked as Ex.P8. This PW 2 is shown as CW 7 and he is described as an eye witness.

28. It is pertinent to note that PW 2 claims that he informed Yamakanmaradi police over phone. No doubt, FIR was registered on the basis of complaint lodged by petitioner No.2. But the fact that this PW 2 informed the police is not seriously disputed. Whether he informed the police or not, is immaterial. But his claim of having seen the accident is supported by Charge sheet.

29. So there is no reason to discard or ignore the evidence of PW 2. His evidence clearly shows the manner in which the accident took place. He was just 50 meters away from the place of incident. So, his evidence has to be taken into consideration.

30. Now it is also appropriate to find out whether the

evidence is corroborated in any way. For this Ex.P3(a) can be seen which is a sketch prepared by the Investigating Officer. This shows that Belagavi Hattarki road runs South to North. The deceased was coming from Hattaraki i.e. from North and he was proceeding towards Belagavi i.e. towards South. The accident had occurred in the place where there is an entry from service road to the Highway. The service road is on the eastern side. The deceased was coming on National Highway and the tipper came from behind.

31. If the evidence of PW 2 and Ex.P3(a) are looked into together, they would clearly show the manner in which the accident took place.

32. In a petition seeking compensation for the accidental death or injuries, the evidence required to determine the elements of rash and negligence is not as rigid as in a criminal case. It is on the basis of preponderance of probabilities. In this view of the matter, evidence now available on record would clearly show that the accident in question was a result of wrongful use of Mahindra Torro Tipper vehicle belonging to respondent No.1.

33. At this stage, it is also relevant to consider another aspect raised by respondent No.2. It was vehemently contended that the petitioners were not dependents upon the deceased. For this, as already observed recitals in Ex.P2 are referred.

34. Of course PW 1 gave some evasive answers during her cross examination. According to her petitioner No.2 has given wrong information. She even denied the suggestion that on the basis of complaint lodged by petitioner No.2 only, charge sheet is filed.

35. She also expressed ignorance as to whether the deceased was residing with one Sandya Katti. The contention of respondent No.2 is that petitioners are residents of Yadagud village, whereas, the deceased was residing at Kochari and the distance between these two villages is 7 to 8 kms and the deceased was never taking care of these petitioners.

36. It is also elicited that the deceased was an officer of KSRP. PW 1 states that within one week of her marriage with deceased, he left the duty. She denied the suggestion that he took voluntary retirement at the age of 55 years.

37. Now one thing is certain, the deceased was serving in KSRP, but when did he retire is not forthcoming. When respondent No.2 is very much particular in saying that the deceased took voluntary retirement at the age of 55 years, it should have taken pains in establishing the said fact. So, whether or not the deceased was employee in KSRP is immaterial for the present purpose.

38. Now what respondent No.2 tries to contend is that since the deceased was residing with another woman from last 13 years, and was vagabond in his lifestyle, the petitioners cannot be said to be dependents as he was not taking care of the petitioners.

39. But however it is pertinent to note that in a proceedings seeking compensation, under the provisions of IMV Act, the dependency cannot be determined in this rigid manner. The Aadhaar card of petitioner No.2 and 3 marked as Ex.P11 & 12 show that both of them born in the year 2002 and 2004 respectively. No doubt at the time of death of their father, they were majors. There is no evidence to show that petitioners are not earning, and even earning it is not

sufficient for a comfortable living and in other words they were largely dependent upon the earnings of their father. Under such circumstances, it cannot be said that sons are dependents on the deceased.

40. But what happens to petitioner No.1 must also be seen. Admittedly she is the wife of deceased. Even if it is accepted that the deceased was not residing with the petitioners from the last 13 years, and the petitioners were able to somehow eke out their livelihood, can they be termed as not dependents is a moot question.

41. Petitioner No.1 being wife is having a statutory right to claim maintenance, unless she is remarried. In this case, petitioner No.1 is not a divorcee nor has she remarried. So, her right to claim maintenance subsisted. On the other hand, the deceased was legally and morally bound to maintain his wife i.e. petitioner No.1. This right and obligation, though not enforced, will not dis entitle the petitioner No.1 being dependent upon her husband. Just because she was able to pull on the life despite her husband abandoning her, she cannot be said to be an independent on

her own earnings. Narrow interpretation now sought to be made by respondent No.2 if accepted would virtually deprive the petitioner No.1 from all relieves. So, that cannot be the correct interpretation.

42. Hence, for the reasons above stated, petitioner No.1 is still a dependent upon the earnings of deceased.

43. But the same thing cannot be said about petitioner No.2 and 3 as they have become majors. So, I am of the opinion that petitioner No.1 for all practical purpose would continue to be dependent upon her husband i.e. deceased in this case. Hence, I answer issue accordingly.

44. **Issue No.2:**- In a case of death while awarding just compensation, the Tribunal has to consider age, occupation, income of the deceased, the effect of his/her death on dependents, number of dependents, loss of love and affection, consortium, funeral expenses.

45. So far as age of the deceased is concerned, Ex.9 Aadhaar card shows that his date of birth was 20.07.1969. So as on the date of accident, he was 50 years old and for this

age group, appropriate multiplier is 11.

46. Now coming to the income much was said by the petitioners. According to them, deceased was earning ₹ 3,00,000 per annum from agriculture. For this, RTC extract is produced at Ex.P22. It shows Survey No. 18/1 stands in the name of deceased. The said land is situated in Mangutti. However, except producing this RTC extract, no other document is produced. The land is having an extent of 23 guntas. What was grown, how much income was earned are all not stated. So it is not possible to accept the contention of the petitioners about the agricultural income.

47. Then so far as income derived from dairy, Ex.P14 to Ex.P17 are produced, they are stated to be the particulars issued by Shri Balumama Krushi Abhivrudhi Sangha Yadagud. It shows that in the month of September 2024, the deceased had supplied milk and was paid money. This statement pertains to the week beginning from 09.09.2024 to 06.10.2024. The total bill amount was ₹ 5,426 from 09.09.2024 to 15.09.2024 and in the next week an amount of ₹ 5,201 was paid and in the remaining last 2 weeks an

amount of ₹ 4,600 and ₹ 4,474 was paid.

48. But it is pertinent to note that this is the money received by the deceased for having supplied milk. What was the cost of producing milk and what was the profit is not stated. Further, there is nothing to show that this deceased was a member of said Sangha. Under such circumstances, these bills cannot be relied upon to know the income of the deceased.

49. Another document produced is said to be a rent agreement executed by deceased in favour of one Satappa Nagappa Kumbar, it is marked as Ex.P18. In this agreement, the deceased rented out his lands to the tenants for running poultry form. Interestingly in this Ex.P18, the deceased has only signed, it is dated 01.02.2009. This Ex.P18 is not supported by any other document. First of all, how the agricultural land was given on rent is not stated. Whether poultry form, was having the licence also is not stated. So, it is also difficult to place reliance upon this Ex.P18. So for all these reasons, the documents produced by the petitioners do not depict the earnings of the deceased.

50. So it is for the Tribunal to assess notional income of the deceased, since it has to determine the just compensation. For this it is necessary to refer to the chart prepared by the Karnataka State Legal Services Authority. According to this chart, the notional income during the year **2024 was ₹.16,250,** then the annual income would be Rs.1,95,000/-.

51. Out of this some portion has to be deducted towards personal expenses. As per the contents of Ex.P2, the deceased was residing along with another woman and he was moving from place to place. So, he must have spent ½ of his income for his personal expenses. Then remaining amount would have been Rs.97,500/-which would have enured to the benefit of petitioner no. 1. So, the loss of dependency would be Rs.97,500 x 11 = Rs.10,72,500/-. Hence the petitioner no. 1 is entitled for an amount of Rs.10,72,500/- towards loss of dependency.

52. The petitioners being wife and children are together entitled for an amount of ₹ 40,000 towards loss of consortium.

53. The petitioners are also entitled for an amount of ₹15,000/- towards funeral expenses and ₹ 15,000/- towards loss of estate.

54. Since the deceased was 55 years old, in view of the decision of Hon'ble Supreme Court, in a case of ***Pranay Sheti V/s. National Insurance Company,*** reported in ***2017(16) SCC 680,*** the loss of future prospects also to be considered.

55. In this case, deceased was not having a permanent job and he was aged 55 years. So, future prospects would have to be considered at the rate of 10%. Then said future prospectus would be ₹ 97,500 x 10/100, which comes to ₹.9,750. If this is multiplied by 11, the loss of future prospects would be ₹ 1,07,250/-, to which the petitioner no. 1 is entitled.

56. In total the petitioner no. 1 is entitled for as follows;-

Sl.No.	Heads	Compensation amount in Rs.
1	Loss of dependency	10,72,500
2	Loss future prospects	1,07,250

3	Loss of consortium	40,000
4	Funeral expenses	15,000
5	Loss of estate	15,000
	Total	**12,49,750**

57. Now coming to the liability it is pertinent to note that in this case though respondent no. 2 took up a contention regarding violation of terms of policy, it is not established. What is established is that, deceased also contributed for the accident in question, as he was not having driving licence and vehicle had no insurance. Under such circumstances, contributory negligence of the deceased will have to be taken at 25%.

58. Under such circumstances, respondent no. 1 being the insured is liable to pay the compensation and respondent no. 2 being the insurer is liable to indemnify respondent no. 1 to the extend of 75%. Thus both respondents No.1 and 2 are jointly and severally liable to pay the 75% of the total compensation along with proportionate interest at the rate of 6% p.a. from the date of petition till realization. Hence, I answer the issue accordingly.

Issue No.3:-

59. In the result, I pass the following:

ORDER

Petition filed by the petitioners U/Sec. 166 of IMV Act is hereby allowed.

Petitioner No. 1 alone is entitled for compensation of Rs. **12,49,750**/- (Rupees twelve lakh forty nine thousand seven hundred fifty only) along with interest at the rate of 6% p.a. from the date of petition till realisation.

Respondent No.1 and 2 are jointly and severally liable to pay 75% of compensation along with proportionate interest within three months from the date of award.

However, amount awarded under the head future prospects shall not carry any interest.

Upon such deposit, release 50% in favour of petitioner No.1 and remaining 50% be kept in F.D. in her name in any Nationalised or Scheduled bank for a period of three years with a right to draw periodical interests.

Petition so far as petitioner No.2 and 3 are concerned, is hereby dismissed.

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

Draw award accordingly.

(Dictated to the Stenographer, transcribed and computerized by him. Script thereof is corrected and then pronounced by me in the open court on this the 07th day of July, 2026).

sd/-
(H.S.MANJUNATHA)
VI Addl. District & Sessions Judge and
Addl. MACT, Belagavi.

ANNEXURE

Witnesses for the petitioners:

PW1 Smt.Rekha W/o. Shivagouda Ghodageri,

PW 2 Vishnu @ Vitthal Narayan Jinarali

Documents for the petitioners:

Ex.P1	FIR
Ex.P2	Complaint
Ex.P3	Spot panchanama
Ex.P3(a)	Hand sketch map
Ex.P4	Vehicle seizure panchanama
Ex.P5	M.V.A.report
Ex.P6	Inquest panchanama
Ex.P7	Postmortem report
Ex.P8	Charge sheet
Ex.P9	Aadhaar card of deceased
Ex.P10	Aadhaar card PW 1
Ex.P11	Aadhaar card of petitioner No.2
Ex.P12	Aadhaar card of petitioner No.3
Ex.P13	Certificate issued by Shri Balumama Krushi Abhivrudhi Sangha
Ex.P14to17	Bills from 9.9.2024 to 30.10.2024
Ex.P18	Rent agreement
Ex.P19to22	Record of Right extracts

Witnesses for the Respondents:

RW 1 Amarnath D.V.

Documents for the respondents:

Ex.R1 Copy of Insurance policy

sd/-
(H.S.MANJUNATHA)
VI Addl. District & Sessions Judge and
Addl. MACT, Belagavi.