

KACN310015732024



Presented on : 28-11-2024
Registered on : 28-11-2024
Decided on : 09-07-2026
Duration : Years Months Days
01 01 11

**IN THE COURT OF SENIOR CIVIL JUDGE & ADDL.
MACT., KOLLEGALA.**

Dated this the 09th day of July, 2026

PRESENT:

Smt. Sunitha B.Com. LL.M., PGDFCS
Senior Civil Judge & Addl. MACT, Kollegal.

M.V.C. No: 462/2024

Petitioners :

1. Smt. Kamali Bai
W/o Late Siddunayaka,
Aged about 50 years,
2. Vimala. S.
D/o Late Siddunayaka,
Aged about 23 years,
3. Bharath Naika
S/o Late Siddunayaka,
Aged about 21 years,

4. Smt. Munibai
W/o Ramjinayaka,
Aged about 86 years,
5. Ramjinayak
S/o Late Rajunayak,
Aged about 94 years,

All are residing at
Dommanagadde village,
Hanur Taluk,
Chamarajanagar District.

[By Sri. V.B. Girish, Advocate]

V/s.

- Respondents :**
1. Kariyanaika
S/o Nagunaika,
Aged about 54 years,
R/o Dommanagadde village,
Hanur Taluk,
Chamarajanagar District.

[Owner of bike bg. No. KA-10-EG-2586]

2. Divisional Branch Manager
United India Vima Company,
Ballal Circle, Mysuru.

[R1 – Exparte]

[R2 By Sri. J. Subramanyam, Advocate]

J U D G M E N T

The petitioner No: 1 being the wife and petitioner No: 2 & 3 are the children and petitioner No. 4 & 5 are

the parents of the deceased have filed the present petition under Section 166 of the Motor Vehicles Act seeking compensation of ₹. 65,00,000/- with interest at 18% per annum.

2. The case of the petitioners are as under:

That on 04-11-2024 when Siddunayak was proceeding along with his younger brother Jadeyanayaka at 09.30 AM to go to Hanur Hospital in the motor cycle bearing reg No: KA-10-EJ-2586 driven by Jadeyanayaka from Ajjipura, near Dommanagade main road kacha road he drove the same in rash and negligent manner due to which pillion rider fell down and died at the spot. After post mortem conducted the petitioners took the body to their village and spent ₹. 1,00,000/-to perform final rites.

3. They stated prior to the accident the deceased was hale and healthy and doing agriculture, and coolie and earning ₹. 40,000/- per month and due to the sudden death of Siddunayaka they lost love and affection and put to hardship. Hence prays for compensation from the respondents.

4. Despite service of summons the respondent No: 1 has not appeared before this tribunal. Hence he has been placed exparte.

5. The 2nd respondent appeared and filed his written statement, wherein denied entire case of the petitioner. It is contended that rider of motor bike bg. Reg No: KA-10-EG-2586 was not holding valid driving licence at the time of accident. It is stated on 28-07-2025 the 2nd respondent received one letter from Rajunayaka who is the resident of Dommanagadde village, Hanur Taluk, Chamarajanagar District that petitioners have filed the false claim petition based on the crime No: 185/2025. As such by virtue of the letter received it is denied that rider of the motor bike has caused the alleged accident on 04-11-2024 due to rash and negligent driving as mentioned in the claim petition. It is stated rider was riding his vehicle slowly with all the precautions and care and was observing all the rules and regulations prescribed by law and there is no fault on the part of the rider as such respondent is not liable to pay the compensation. Further denied, age, occupation and income of the deceased. Accordingly prays for dismissal of the petition.

6. Based on the above pleadings, this Court has framed the following:

ISSUES

1. *Whether the petitioners prove that, on 04.11.2024 at about 09.30 A.M. when the husband of 1st petitioner was proceeding as a pillion rider in a Bike bg. No. KA-10-EG-2586 towards Ajjipura village, he met with an accident near Rough road on Ajjipura - Dommanagadde main road, due to the rash and negligent riding of the said bike by its rider and her husband died at the spot?*
2. *Whether the respondent No. 2 has made out any ground to discharge from the liability?*
3. *Whether the petitioners are entitled for compensation as claimed by them, if so, what is the quantum and from whom?*
4. *To what order or award?*

7. The 1st petitioner examined herself as PW1 and got exhibited Ex.P1 to 15 documents. The petitioners also examined 1 witness as PW2 to support their claim. The respondent No. 2 examined its Administrative Officer as RW1 and got marked 1 document as Ex.R1.

8. After conclusion of the trial, I have heard the arguments addressed by the Learned Advocates on both sides.

9. My findings to the issues are as follows:

Issue No: 1: In the affirmative

Issue No: 2: In the negative

Issue No: 3: Partly in the affirmative

Issue No: 4: As per final order for the following:

REASONS:

10. Issue No: 1: This petition is filed for seeking compensation. In order to establish the occurrence of the accident and the negligence of the rider of the motorcycle the petitioners have examined PW1 the wife of the deceased and PW2 who claims to be an eye witness to the accident. They have also relied upon Ex.P1 to Ex.P15.

11. PW1 being the wife of the deceased has deposed that on 04-11-2024 at about 9.30 A.M. her husband was proceeding as a pillion rider on the motorcycle ridden by his younger brother Jadeyanayaka. Due to the rash and negligent riding of the motorcycle her husband fell down and sustained grievous head injuries and died at the spot. She has further stated that after the post-mortem the body was taken to the native village and performed his last rites.

12. During her cross-examination PW1 has admitted that she was not an eye witness to the accident and that she reached the spot only after receiving

information by which time her husband had already died. She has admitted that there were several persons gathered at the place of occurrence. Though she did not know the ownership particulars of the motorcycle she consistently maintained that her husband was proceeding with his younger brother on the motorcycle. The insurance company suggested that no accident had taken place and that a false complaint was lodged to claim compensation which suggestion has been categorically denied by PW1. It is also elicited that in Ex.P8 the post-mortem report the expression "UDR" has been struck off and the crime number has been mentioned. PW1 denied that the said document was fabricated or manipulated. Nothing substantial has been elicited in her cross-examination to disbelieve her version regarding the occurrence of the accident.

13. PW2 who claims to be an independent eye witness has deposed that while he was standing near his agricultural land he saw the deceased travelling as a pillion rider on the motorcycle ridden by his younger brother Jadiyanayaka. According to him the rider drove the motorcycle in a rash and negligent manner as a result of which the pillion rider fell down on the road.

PW2 immediately shouted that the deceased Siddunayaka had fallen, whereupon the rider Jadenayaka stopped the motorcycle and returned to the spot. PW2 has further deposed that he noted the registration number of the motorcycle as KA-10-EJ-2586 informed the wife of the deceased and by the time she reached the place the deceased had succumbed to the injuries.

14. During cross-examination PW2 has stated that he is not related to the deceased though both belong to the same village. He has stated that he witnessed the accident from a distance of about 50 feet. He has further stated that no other vehicle was coming from either direction at the time of the accident, there was a curve on the road but no potholes and that he could not assess the exact speed of the motorcycle. He has further stated that when he first approached the injured the deceased was alive but later died before medical assistance could be secured. It is true that he admitted having given his statement to the police after about two months of the accident. However merely because there was delay in recording his statement by the IO his testimony cannot be discarded when he has consistently narrated the

manner of the accident and has withstood lengthy cross-examination. Except the delay in recording his statement and his inability to remember the registration number during cross-examination, no material contradiction has been elicited to disbelieve his testimony.

15. The petitioners have produced Ex.P1/FIR, Ex.P2/complaint lodged by PW1 on the very same day at 11.45 a.m. Ex.P3/spot mahazar Ex.P4/seizure mahazar Ex.P5/sketch Ex.P6/IMV report Ex.P7/inquest report Ex.P8/post-mortem report Ex.P9/charge sheet and other supporting documents. The complaint was lodged within a short time of the accident thereby excluding the possibility of deliberation or false implication. Ex.P8/post-mortem report clearly opines that the deceased died due to head injury sustained in the accident. Though it is noticed that the word "UDR" has been struck off and a crime number has been mentioned in Ex.P8 no evidence has been produced by the respondent to establish that the document is fabricated or that the post-mortem findings are false. Mere alteration in the crime particulars without any evidence regarding manipulation of the medical findings, does not render the medical evidence unreliable.

16. The charge sheet filed by the concerned police Ex.P9 specifically attributes negligence to the rider of the motorcycle. Though the filing of a charge sheet is not conclusive proof of negligence it is a relevant piece of evidence. The respondent has not examined either the IO or any other competent witness to establish that the police investigation was not fair or that the Post mortem report was fabricated, charge sheet was falsely filed.

17. The insurance company has examined RW1 who has produced Ex.R1 a complaint allegedly submitted by one Rajunayaka S/o Rama Nayak on 28-07-2025 alleging that the claim is false and that no accident had taken place. However the author of Ex.R1 namely Rajunayak has not been examined before the Tribunal. Consequently the allegations contained in Ex.R1 remain unsubstantiated and constitute mere hearsay. RW1 himself has admitted during cross-examination that the insurance policy was in force on the date of the accident and that though according to him the charge sheet was falsely filed neither he nor the insurer challenged the same before any competent authority. Therefore Ex.R1 by itself is insufficient to rebut the consistent oral and documentary evidence produced by the petitioners.

18. The respondent has also contended that the rider did not possess a valid driving licence. Even assuming such contention to be true the same has no bearing upon the question as to whether the accident occurred due to rash and negligent riding. The issue under consideration is confined to the occurrence of the accident and negligence, and not the liability arising out of any policy violation.

19. It is forthcoming from the order sheet that this claim petition was initially settled for a sum of ₹. 24,20,000/- and petition was close, subsequently restored on the allegation of fraud. It is worth to mention restoration of the proceedings does not by itself establish that the accident was fabricated. The respondent is required to prove the allegation of fraud by cogent and convincing evidence. Except relying upon Ex.R1 no independent evidence has been adduced to establish that the deceased died due to any cause other than the road traffic accident.

20. In the present case the prompt lodging of the complaint registration of the FIR, preparation of spot mahazar, seizure of the vehicle, IMV report, inquest, post-mortem report recording death due to head injury,

filing of charge sheet and the consistent evidence of PW1 and PW2 cumulatively establish that the accident occurred on 04-11-2024 and that the deceased sustained fatal injuries after falling from the motorcycle due to the rash and negligent riding of its rider, resulting in his death at the spot. Therefore **Issue No: 1 is answered in the Affirmative.**

21. Issue No. 2: The Respondent No: 2 has denied the occurrence of the accident and has contended that the claim petition is a false one. It is further contended that the rider of the offending motorcycle was not holding a valid driving licence and that the accident was not caused due to rash and negligent riding. It has also disputed the age occupation and income of the deceased.

22. The main defence of respondent No: 2 is that no accident had in fact taken place on 04-11-2024 and that the deceased died due to some other reason. In support of this contention respondent No: 2 examined its official as RW1 and produced Ex.R1 a complaint allegedly submitted by one Rajunayaka on 28-07-2025 stating that a false claim had been lodged.

23. However the said contention is not acceptable. RW1 admittedly is not an eyewitness to the incident. His

evidence is only based upon the complaint received from Rajunayaka. During cross-examination RW1 has admitted that the insurance policy covering the offending motorcycle was in force on the date of the accident. He has further admitted that though according to the insurance company the charge sheet was falsely filed neither the insurance company nor Rajunayaka challenged the charge sheet before any competent authority. Thus Ex.R1 remains only an unsubstantiated complaint and cannot prevail over the official police records.

24. On the other hand the petitioners have produced public documents which are prepared by public authorities in discharge of their official duties and carry a presumption of correctness unless rebutted by cogent evidence. Though in Ex.P8/post-mortem report the letters "UDR" have been struck off and the Crime Number is mentioned no material has been produced by respondent No:2 to establish that the said document was fabricated or manipulated. Mere suggestions made in the cross-examination of PW1 are insufficient to disbelieve an official document. More so the post-mortem report reveals that the deceased died due to head injury

sustained in the incident which is consistent with the case of the petitioners.

25. PW1 though not an eyewitness has consistently stated that her husband had gone with his younger brother on the motorcycle in the morning and that she found him dead when she reached the spot. Her evidence is natural and nothing substantial has been elicited in her cross-examination to disbelieve her version.

26. PW2 the eyewitness has categorically deposed that he witnessed the deceased proceeding as a pillion rider on the motorcycle ridden by Jadenayaka, that the motorcycle was ridden in a rash and negligent manner resulting in the pillion rider falling down and sustaining fatal injuries. Merely because PW2 could not estimate the exact speed of the motorcycle or later forgot the registration number of vehicle during cross-examination, does not render his testimony unreliable. A witness is not expected to remember every minute detail after a considerable lapse of time. His presence at the spot has not been effectively disproved. His evidence that he informed the wife of the deceased immediately after the accident also appears natural. The fact that PW2's statement was recorded by the police after about two

months is also not sufficient to reject his testimony particularly when the IO after investigation has filed the charge sheet against the rider of the motorcycle. Delay in recording the statement by the IO by itself does not establish that the accident is fabricated.

27. The prompt registration of the complaint at 11.45 A.M. on the very date of the accident, preparation of the spot mahazar, seizure of the vehicle, IMV inspection inquest, post-mortem examination and filing of the charge sheet all constitute a continuous chain of official records supporting the occurrence of the accident. These documents have not been set aside or declared false by any competent Court.

28. Respondent No: 2 has also contended that the rider was not holding a valid driving licence. However except taking such a plea in the written statement no documentary evidence has been produced to establish that the rider did not possess a valid and effective driving licence as on the date of the accident. The burden of proving breach of policy conditions squarely lies on the insurer. In the absence of any acceptable material such contention cannot be accepted.

29. It is also relevant to note that the claim petition had earlier been settled before the Lok Adalat for a sum of ₹. 24,20,000/- and the case was closed. Subsequently on the allegation of fraud the matter was restored for adjudication. Mere restoration of the proceedings on such allegation does not automatically establish fraud. Once the matter stood restored the burden was on respondent No: 2 to prove the alleged fraud by producing cogent convincing and legally admissible evidence. Except Ex.R1 and the oral testimony of RW1 no independent material has been produced to substantiate the allegation that the accident never occurred. Therefore respondent No: 2 has failed to establish either that the accident was fabricated or that there was any fundamental breach of the policy conditions so as to absolve it from its statutory liability under the MV Act. Consequently respondent No: 1 and 2 are jointly and severally liable to pay the compensation. The respondent No: 2 being the insurer of the offending motor cycle liable to indemnify respondent No:1. Therefore **issue No: 2 is answered in the negative.**

30. Issue No. 3: This Tribunal is already of the opinion that the petitioners have established that the accident occurred due to the rash and negligent riding of

the motorcycle by Jadeyanayaka and that the deceased sustained fatal injuries in the said accident.

31. Regarding quantum in the absence of satisfactory proof of income the monthly income of the deceased is taken notionally at ₹. 15,750 /-. Adding 25% towards future prospects as per the principle laid down in National Insurance Co.Ltd Vs Pranay Sethi, the monthly income comes to ₹. 19,688/- as he is aged 49 years. After deducting 1/3rd towards personal and living expenses, since petitioner no;1as well as petitioner No: 4 and 5 are only considered as dependents, the monthly contribution to the family works out to ₹. 13,125/- per annum comes around ₹. 1,57,500/-. Applying the multiplier of '13' the loss of dependency is assessed at ₹. 20,47,500/-. The petitioners are further entitled to compensation under conventional heads i.e Loss of consortium to petitioner No: 1 ₹. 40,000/-, Loss of estate ₹. 15,000/-, Funeral expenses ₹. 15,000/-, love and affection to petitioners 2 and 3 ₹. 40,000/- each and Filial consortium to petitioners 4 and 5 ₹. 40,000/- each totally ₹. 1,60,000/-.

32. Accordingly the petitioners are entitled to compensation under the following heads:

<i>Loss of dependency</i>	₹. 20,47,500/-
<i>Loss of estate</i>	₹. 15,000/-
<i>Funeral expenses</i>	₹. 15,000/-
<i>Consortium, filial, love & affection</i> ₹. 40,000/- x 5	₹. 2,00,000/-
Total	₹. 22,77,500/-

Therefore, the petitioner are entitled for **₹. 22,77,500/-** together with interest at the rate of **6%** p.a. from the date of petition till realization.

33. The offending motorcycle was admittedly covered by a valid insurance policy as on the date of the accident and the insurer has failed to establish any statutory defence under the Motor Vehicles Act respondent No: 1 being the owner and respondent No: 2 being the insurer are jointly and severally liable to pay the compensation. However respondent No: 2 the insurer shall indemnify the insured and deposit the compensation amount with interest at 6% per annum from the date of petition till realization within the time stipulated by this Tribunal. Hence **Issue No: 3 is answered partly in the affirmative.**

34. Issue No: 4: In view of the above discussions and findings on Issue No: 1 to 3, I pass the following:

ORDER

The claim petition filed by the petitioners under Section 166 of MV Act is hereby allowed in part with costs.

Out of the total compensation of **₹. 21,97,500/-** (after deduction of ₹. 80,000/-), **(Rupees Twenty One Lakhs Ninety Seven Thousand Five Hundred only)** the petitioner No: 1 is entitled to receive **50%**, petitioner No. 4 & 5 are entitled to receive **25% each** with interest at **6%** per annum from the date of petition till realization.

Out of the compensation awarded to Petitioner No: 1, 50% shall be deposited in any nationalized bank for three years. The compensation awarded to the petitioner No: 4 and 5 shall be released upon proper identification.

The petitioner No: 2 and 3 are entitled **₹. 40,000/- each** and shall be released upon proper identification.

The respondent No: 2 is directed to deposit the award amount along with interest at 6% p.a within two months from the date of this order.

Draw decree accordingly.

Advocate fee is fixed at ₹. 1,000/-.

[Dictated to the stenographer directly on the computer, corrected by me and then pronounced in open Court on this the 09th day of July, 2026].

(SUNITHA)

Senior Civil Judge & Addl.,
MACT., Kollegala.

ANNEXURE:**Witness examined in favour of the petitioners:**

PW1 : Smt. Kamalibai
PW2 : Rajesh

Documents marked in favour of the petitioners:

Ex.P1 : True copy of FIR
Ex.P2 : True copy of complaint
Ex.P3 : True copy of spot mahazer
Ex.P4 : True copy of seizure mahazer
Ex.P5 : True copy of sketch
Ex.P6 : True copy of IMV report
Ex.P7 : True copy of inquest report
Ex.P8 : True copy of PM report
Ex.P9 : True copy of charge sheet
Ex.P10 to 15 : Notarized copies of Aadhaar cards

Witnesses examined in favour of respondent/s:

RW1 : Sumanth

Documents marked in favour of respondent/s:

Ex.R1 : Complaint

(SUNITHA)

Senior Civil Judge & Addl.
MACT., Kollegala.