

KADG020010672023

Presented on : 10-03-2023



Registered on : 10-03-2023

Decided on : 12-06-2026

Duration : 3 years, 3 months, 2 days

**IN THE COURT OF PRL. SENIOR CIVIL JUDGE AND ADDL. MACT-
IV., AT DAVANAGERE**

-:: PRESENT ::-

**Sri. M. Mahesh Babu., B.A.,LL.M.,
Prl. Senior Civil Judge
& Addl. MACT-IV, Davanagere.**

DATED THIS 12th DAY OF June - 2026

MVC.No.183/2023

PETITIONERS : 1. Smt. Shanthamma Mattihalli W/o Late
Siddappa Mattihalli, Aged about 47 years,

2. M. Revanasiddappa S/o Late Siddappa
Mattihalli,

Petitioner No.1 & 2 are R/o Hombalaghatta
village, Nichapura post, Davanagere taluk &
district.

3. Thippamma Mallimata W/o K.V. Mahesha,
R/o Avaragolla village, Davanagere taluk &
district.

(By Sri. B.G.C., Adv)

V/s

RESPONDENT/S : 1. K.S. Siddarameshwara S/o Sangappa, Aged about 55 years, Driver of Car bearing Reg. KA-02/AF-1477, R/o Door No.1067/1, 2nd Main, 3rd Cross, KTJ Nagara, Davanagere.

2. Amjad Basha S/o Ahamad Khan, Major, Owner of Car bearing Reg. KA-02/AF-1477, R/o Padmashali Shali road, Nalluru Camp & Post, Channagiri taluk, Davanagere district.

2. The Manager, The Oriental Insurance Company Ltd.,
Divisional office: Door No.289/6, A.M. Arkred, Near Vidyarthi Bhavana, C.G. Hospital road, Davanagere.

(Policy No.472100/31/2023/2818, valid from 26-08-2022 to 25-08-2023)

(R-1 by Sri. R.G.N., Adv)

(R-2 By Sri. V.H., Adv.,)

(R-3 By Sri. K.N.S., Adv.,)

JUDGMENT

1. Instant petition has been filed by the petitioners U/Sec.166 of M.V.Act, against the respondents claiming compensation due to death of Siddappa Mattihalli S/o Basappa in a Road Traffic Accident.

2. The averments of the petition in brief is as under:

That, on 29-11-2022 the petitioner No.1 and her husband was proceeding in respondent No.2's car bearing Reg. No. KA-

02/AF-1477 to Srinivasa Hospital, Mangalore, at that time on 30-11-2022 at about 1.00 Am., in Padivara, Peradoor village of Udupi District the the 1st Respondent being driver of the said car drove the same in rash and negligent manner as a result the tire of the car dashed to stone, as result the right side tire of the car was burst and as a result in the car met with an accident and 1st petitioner husband Siddappa also sustained grievous injuries to all over the body. Immediately of the accident the petitioner No.1's Husband was shifted to Srinivasa Hospital, Mangalore and then he shifted to Sanjeevini Hospital, Davangere, wherein the petitioner took the treatment as inpatient and then the injured Siddappa was shifted to Government C.G Hospital, Davagnere and while he was taking the treatment Siddappa was succumbed to the injuries and the petitioners have incurred Rs.1,00,000/- towards Medical Expenses and transportation of the dead body and funeral ceremony.

Further it is averred that, the deceased was hale and healthy person, aged about 54 years at the time of said accident. He was working as a agriculturist and used to earn Rs.20,00/- per month. Petitioners further submits that petitioners depended upon the income of the deceased person. They have lost their bread earning member of the family, petitioner No.1 has lost her husband, petitioner No.2 lost his father and petitioner No.3 has lost her son and their life has become miserable and the deceased was the only member of their family. Due to death of Siddappa, the petitioners have sustained heavy financial loss and suffering from mental agony and love and

affection. The Udupi district, Hiriyaadka, police have registered case, under Cr.No.134/2020 for the offences punishable U/Sec.279, 338, 304(a) of IPC.

5. Further it is contended that, respondent No.1 is driver of the Car, respondent No.2 is owner of the Car and respondent No.3 is the insurer of the said Car. The accident occurred due to the negligent act of the respondent No.1 and therefore respondent No.1 to 3 are jointly and severally liable to pay the compensation to the petitioners. Hence, the petitioners pray to allow the petition and award the compensation as prayed.

6. In response to the service of notice to the respondents, the respondent No.1 to 3 have appeared through their counsels and respondent No.2 & 3 have filed their separate objections.

In the objection the Respondent No.2 denied the accident was caused mainly due to rash and negligent act of Respondent No.1. Further submitted that, at the time of accident respondent No.2 insured the offending vehicle with respondent No.3 and respondent No.3 is liable to pay the compensation. In spite of this to false petition filed against him and other grounds prays to dismissal the petition.

8. In the objection the Respondent No.3 stated that the deceased was not injured arising out of use of Car bearing Reg. No KA-02/AF-1477, there is no nexus between the deceased sustained injuries. Further, there is a delay of 4 days in reporting the complaint

and afterthought, concocted or for wrongful gain. Further, the petitioners and other vested interests joined hands each other to create a story to suit their needs to get compensation from this respondent. Further, the complainant has given the complaint in the Police station, it can be presumed that the hospital authorities have not sent any MLC intimation to the police. The means that the deceased might have injured somewhere else with a different cause and afterthought the complaint is given to the police after a delay of 4 days. Further, denied the income, age of deceased. Further, the amount of claimed in the petition is excessive, abnormal, exorbitant and imaginary of the claim is not based on any valid data or documents and on other grounds prays for the dismissal of the petition.

9. On the basis of the above rival pleadings, the following issues framed:

ISSUES

- 1. Whether the petitioners prove that, Siddappa Mattihalli S/o Basappa died due to injuries sustained in the accident that occurred on 30-11-2022 at about 1.00 MA, Padigaara, Pedruru village, Udupi district, due to rash and negligent driving of the respondent No.1 involving Car bearing Reg, No. KA-02/AF-1477?***

2. *Whether petitioners are entitled for compensation claimed, if yes, what is the quantum of compensation and who is liable to pay?*

3. *What order or award?*

10. In order to prove their case, the petitioner No.2 himself examined as PW1 and got marked as many as 6 documents the same were marked at Ex.P1 to P6 and closed their side evidence. Among them Ex.P1 is the True copies of FIR, Complaint, PM report, Inquest mahazer, Spot Mahazer, Charge sheet, Ex.P2 Discharge Summary, Ex.P3 is the Five CT scan report, Ex.P4 is the Three X-ray Copies, Ex.P5 is the Two CT Scan reports, Ex.P6 is the Medical bills. In order to disprove the case of Petitioner, the respondent No.1 & 2 have not entered the witness box and adduced any evidence on their behalf.

11. Heard the arguments of both the parties and perused the material on record. On the basis of the pleadings of the respective parties, the following issues have been framed which are as under:

Issue No.1	: In the affirmative
Issue No.2	: Partly in the affirmative
Issue No.3	: As per final order, for the following:

--:: REASONS ::--**12. ISSUE No.1:-**

That, on 29-11-2022 the petitioner No.1 and her husband were proceeding in respondent No.2's car bearing Reg. No. KA-02/AF-1477 to Srinivasa Hospital, Mangalore, at that time on 30-11-2022 at about 1.00 Am., in Padivara, Peradoor village of Udupi District the 1st Respondent being driver of the said car drove the same in rash and negligent manner and pulled the vehicle to the extremi right side of the road, as a result the right side front tire has came in to contact with sharp edged stone as a result the tire busted and as a result the car met with an accident. As a result the 1st petitioner and her husband Siddappa have sustained grievous injuries to all over the body. Immediately, after the accident the petitioner No.1's Husband was shifted to Srinivasa Hospital, Mangalore and then he shifted to Sanjeevini Hospital, Davangere, wherein the petitioner took the treatment as inpatient and then the injured Siddappa was shifted to Government C.G Hospital, Davagnere and while he was taking the treatment Siddappa was succumbed to the injuries and the petitioners have incurred Rs.1,00,000/- towards Medical Expenses and transportation of the dead body and funeral ceremony.

The petitioner No.2 being the son of deceased Siddappa has been examined before the Tribunal as PW.1. In his examination in chief he has reiterated the contents of the petition.

On perusal of FIR as per Ex.P1, it could be seen that, case in Crime No.82/2022 of Hiriadka police station has been registered against the driver of Car bearing registration No,KA-02-AF-1477. Even on perusal of Ex.P1 which is copy of the charge sheet in Crime No.82/2022, wherein the charge sheet filed after investigation by holding that, said accident was due to rash and negligent riding of driver of Car bearing registration No,KA-02-AF-1477, which belong to respondent No.2.

On consideration of these documents, the police have conducted investigation and filed charge sheet confirming charges leveled against the driver of Car bearing registration No,KA-02-AF-1477, belonging to the respondent No.2.

In decision reported in 2009 ACJ 287 (National Insurance Company Vs. Pushpa Rama and others), wherein it was held that, certified copy of the criminal court such as FIR, recovery memo and mechanical inspection of vehicle are documents of sufficient proof to reach the conclusion that, driver was negligent – proceedings under Motor Vehicle Act are not akin to proceedings in a civil suit. Hence, strict rules of evidence are not required to be followed in this regard.

In a claim for compensation under section 166 of Motor vehicles Act, 1988, the claimant is to prove the incident only on preponderance of probabilities and the standard of proof

beyond reasonable doubt is not required as held by Hon'ble Supreme Court in the decision reported in **2011 SAR (CIVIL) 319 Kusum and others V/s Satbir and others.**

Further Hon'ble Supreme Court in case of **Bimla Devi and Others V/s. Himachal Road Transport Corporation and Others (2009)13 SCC 530**, wherein it is held that, it was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied.

As per ratio laid down in above decision and so also in view of the facts and circumstances of the case and testimony of PW.1 coupled with contents Ex.P.1 which is the FIR, complaint and charge sheet, I am of the considered opinion that, due to an actionable negligence of driver of the driver of Car bearing registration No,KA-02-AF-1477, which belongs to respondent No.2 there was an accident which resulted in death of Siddappa Mattihalli. **Hence I answer Issue No.1 in the Affirmative.**

18. ISSUE No.2:- Entitlement of petitioners to claim compensation can be assessed and determined under following heads.

Towards loss of Dependency: PW.1 claims that, his father deceased Siddappa, before an accident he was hale and healthy. He was doing agriculture and thereby he used to earn more than Rs.20,000/- per month.

As per Ex.P.1 Inquest report discloses that, as on date of an accident Siddappa is aged about 55 years. It is stated by PW.1, prior to an accident deceased Siddappa was getting income of Rs.20,000/- per month. In order to prove his income deceased has not produced any material. As per the guidelines issued KSLSA, Bangalore dated 26-02-2022 the notional income for the year 2022 has been mentioned as Rs.15,500/- for the courts coming under Hon'ble high Court of Karnataka, Principle Bench, Bangalore. Accordingly the notional income of the petitioner in the year **2022**, the petitioner might have earned Rs.15,500/- per month. Then his yearly income would be Rs. 1,86,000/-.

Further, in a citation reported in **United India Insurance Co., Ltd., V/s Kasiammal reported in 1997 (III) CTC 346 and Gafaran V/s Tilakraj Kapur reported in 2005 ACJ 1711 and New India Assurance Company Limited V/s Ramya Raghavan reported in 2006 ACJ 2347**; wherein it is held that, the question whether married son living separately and not dependent on the deceased can maintain a claim petition. Further, in the above said Kasiammal case it is held that, the dependency of the legal representatives is a question to be considered

and does not mean only the dependents can claim compensation. The compensation being the amount for the loss to the estate of the deceased, it has to be considered as to whether the legal representatives had been put to loss because of the death of the deceased. Wherever the deceased is an earning member, naturally his savings is an accumulation for the estate which can be divided by the legal representatives after the death of the deceased. As the legal representatives had been put to loss of the earning of the deceased, the legal representatives are also entitled for the compensation.

16. As I already observed above, income of the deceased Siddappa has been considered as Rs.15,500/- per month. As per P.M report, the age of the deceased as on the date of accident is mentioned 55 years. In a citation reported in ***AIR 2017 SC 5157, between National Insurance Company Limited V/s Pranay Sethi and others*** it is held that,

“In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

17. Here in the present case as I already observed above, the deceased was aged about 55 years and in view of the above citation, addition of 10% income of future prospect has to be considered. Accordingly, the total income of the deceased comes to Rs.15,500 + Rs.1,500-00 which comes to Rs.17,000-00. As such, the yearly income of the deceased comes to Rs.17,000-00 x 12 = Rs.2,04,000-00 and the appropriate multiplier applicable to the present case is 11 as per the principle laid down in **Smt. Sarla Verma and others V/s Delhi Transport corporation and another reported in ILR 2009 SC 310 4: (2009) SCR1098: (2009) and SCC 121 : JT 2009(6) SC 495(2009) 6SCALE 129** case. Further, it is also held in the above said citation **National Insurance Company Limited V/s Pranay Sethi and others** that, it is held that, deductions for personal and living expenses where the deceased was married, the deduction towards personal and living expenses of the deceased should be one-third $1/3^{\text{rd}}$ where the number of dependent family members is 2 to 3. One fourth $1/4^{\text{th}}$ where the number of dependent family members is 4 to 6, And One-fifth $1/5^{\text{th}}$ where the number of depend family members exceeds six.

Herein, the case petitioners No.1 to 3 are the dependents of deceased Siddappa. Hence $1/3^{\text{rd}}$ of his income would be deducted towards his personal and living expenses. If that is so, $1/3^{\text{rd}}$ of Rs.2,04,000/- would be Rs.68,000/-. If that is so, Rs.68,000/- is deducted in Rs.2,04,000/-, yearly income of deceased Siddappa would be Rs.1,36,000/-.

In Inquest report as per Ex.P1 age of deceased Siddappa is mentioned as 55 years. If that is so, as on date of an accident deceased Siddappa was aged about 55 years. As such correct multiplier as per guidelines of **Sarala Varma case** would be 11. As already discussed above yearly income of deceased is Rs1,36,000/-. If multiplier 11 is applied to the yearly income of deceased it comes to Rs.14,96,000/-. Therefore the petitioners are entitled for an amount of **Rs.14,96,000/-** under this particular head.

Towards loss of Love and Affection: As already held the fact that, the petitioner No.1 to 3 are wife, son and mother of deceased is not seriously denied by contesting respondent. Due to death of Siddappa, petitioners have lost love and affection of deceased Siddappa for rest of their life. In view of ratio laid down by Hon,ble Supreme Court in case of **National Insurance Company Ltd v/s Pranay Sethi and others**, I deem it just and proper to award them reasonable sum of **Rs.30,000/-** under this particular head.

Towards Funeral Expenses: In absence of any cogent material to prove exact expenses incurred by petitioners towards funeral expenses of deceased Siddappa, in view of ratio laid down by Hon'ble Supreme Court in case of **National Insurance Company Ltd v/s Pranay Sethi and others**, I

deem it just and proper to award them reasonable sum of **Rs.15,000/-** under this particular head.

Towards loss of Estate: Certainly due to death of Siddappa there has been loss to the estate of deceased, the petitioners have lost income of deceased for their lost years, which he would have earned had he been alive. In view of ratio laid down by Hon,ble Supreme Court in case of **National Insurance Company Ltd v/s Pranay Sethi and others**, I deem it just and proper to award them reasonable sum of **Rs.15,000/-** under this particular head.

23. Towards diet, food, nourishment, attendant and conveyance charges etc.:-

As stated supra, in the present case on hand, discharge summary has been produced at Ex.P2 which demonstrates that from 07-12-2022 to 11-12-2022 deceased was admitted as inpatient in Sanjivini hospital, Davanagere. Further, the deceased took treatment as inpatient about 5 days. Hence petitioners are entitled Rs.2,000/- (Rs.400 X 5 days) towards laid up period. The deceased when sustained injury he is unable to discharge his own work without any assistant. Hence, petitioners are entitled Rs.2,000/- (Rs.400 X 5 days) towards attendance charge.

Medical Expenditure: Further the Hon'ble Apex Court in CDJ 2016 SC 824 (Sandya Rani Debbarma & Anr v., National Insurance Company & Anr.,) has laid down the different heads under which compensation may awarded in case of death. Further the petitioners have furnished the medical bills at Ex.P8 for Rs.85,306/-which is rounded off to Rs.85,310/-. Since there is not much dispute towards the same the medical expenditures towards the treatment of deceased Siddappa is accepted.

28. Thus the petitioner shall be awarded compensation amount under following head as mentioned below:-

1	Towards Loss of Dependency	Rs. 14,96,000-00
2	Towards Loss of Love and Affection.	Rs. 30,000-00
3	Towards Funeral Expenses.	Rs. 15,000-00
4	Towards Loss of Estate.	Rs. 15,000-00
5	Medical expenses	Rs. 85,310-00
6	Towards laid up period	Rs. 4,000-00
Total		Rs. 16,45,310-00

Thus petitioners shall be awarded a total compensation of Rs.16,45,310/- together with cost of the petition and interest

at the rate of 6% p.a from the date of the petition till the realization of the amount. The respondent No.3 company is held liable to compensate the petitioners and it is directed to deposit the above compensation amount. **Accordingly, I answer Issue No.2 Partly in the Affirmative.**

25. ISSUE No.3:- In view of my findings on issue No.1 and 2, I proceed to pass the following:

--:: ORDER ::--

The petition filed by the petitioners U/s 166 of M.V. Act claiming compensation on account of death of Siddappa in the motor vehicle accident is partly allowed with costs.

✍. The petitioners are entitled for the total compensation of Rs.16,45,310/- with interest at the rate of 6% p.a. from the date of petition till realization.

✍. The respondent No.1 & 2 are the driver and owner and respondent No.3 is the Insurer. Hence respondent No.3 is liable to pay the compensation amount. The respondent No.3 shall deposit the said compensation amount within 01 month.

✍. Petitioner No.1 & 2 are entitled to get 40% each and petitioner No.3 is entitled to get 25% i.e., 40:40:20.

✍. As per the judgment of Hon'ble Supreme Court of India passed in Civil Appeal No.4299/2025 between Paraminder Singh V/s Honey Goyal and others, the respondent No.3 is hereby directed to transfer the compensation amount with interest to the account of the petitioners as stated above after due verification within two months along with up-to-date interest. The petitioners are directed to furnish particulars of bank details to the respondent No.3 within a period of two weeks from the date of this order.

✍. After transfer of the compensation amount to the bank, the concerned bank is hereby directed to keep 30% of the amount transferred as FD in the name of petitioners No.1 and 2 for a period of three years and compliance is to be reported by the concerned bank to this Tribunal without fail.

✍. The concerned Bank is directed not to release the FD amount in favour of the petitioner without the order of the Tribunal. Office is hereby directed to intimate this order to the concerned Bank.

✍. The Advocate's fee is fixed at Rs.2,000/-.

✍. Draw award accordingly.

(Judgment dictated to stenographer, directly on computer and typed by her, corrected and pronounced by me in the open court on this the 12th day of June - 2026)

(M. MAHESH BABU)
Prl. Senior Civil Judge
& Addl. MACT-IV, Davanagere.

:- ANNEXURE :-

Witnesses examined for the Petitioner:-

PW-1 M. Revanasiddappa.

Witnesses examined for the Respondents:- Nil

Documents exhibited by the Petitioners :

Ex.P1	True copies of FIR, Complaint, PM report, Inquest mahazer, Spot Mahazer, Charge sheet
Ex.P2	Discharge Summary
Ex.P3	Five CT scan report

Ex.P4 Three X-ray Copies
Ex.P5 Two CT Scan reports
Ex.P6 Medical bills.

Documents exhibited by the Respondents:- Nil.

**(M. MAHESH BABU)
Prl. Senior Civil Judge
& Addl. MACT-IV, Davanagere.**

(Judgment pronounced in the open court
vide separate Order)

ORDER

The petition filed by the petitioners U/s 166 of M.V. Act claiming compensation on account of death of Siddappa in the motor vehicle accident is partly allowed with costs.

✍. The petitioners are entitled for the total compensation of Rs.16,45,310/- with interest at the rate of 6% p.a. from the date of petition till realization.

✍. The respondent No.1 & 2 are the driver and owner and respondent No.3 is the Insurer. Hence respondent No.3 is liable to pay the compensation amount. The respondent No.3 shall deposit the said compensation amount within 01 month.

✍. Petitioner No.1 & 2 are entitled to get 40% each and petitioner No.3 is entitled to get 25% i.e., 40:40:20.

✍. As per the judgment of Hon'ble Supreme Court of India passed in Civil Appeal No.4299/2025 between Paraminder Singh V/s Honey Goyal and others, the respondent No.3 is hereby directed to transfer the compensation

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✓. After transfer of the compensation amount to the bank, the concerned bank is hereby directed to keep 30% of the amount transferred as FD in the name of petitioners No.1 and 2 for a period of three years and compliance is to be reported by the concerned bank to this Tribunal without fail.

✓. The concerned Bank is directed not to release the FD amount in favour of the petitioner without the order of the Tribunal. Office is hereby directed to intimate this order to the concerned Bank.

✓. The Advocate's fee is fixed at Rs.2,000/-.

✓. Draw award accordingly.

**(M. MAHESH BABU)
Prl. Senior Civil Judge
& Addl. MACT-IV, Davanagere.**