

KADG020017292025



Presented on : 04-03-2025
Registered on: 04-03-2025
Decided on : 03-07-2026
Duration : 1 years, 3 months, 30 days

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

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

DATED THIS 3rd DAY OF July - 2026

MVC.No.116/2025.

PETITIONERS : 1. Smt. Anusuya G, W/o Late Manjunatha G.M, Aged about 36 years,
2. Manvi G.M D/o Late Manjunatha G.M, Aged about 14 years,
3. Bhairav G.M, S/o Late Manjunatha G.M, Aged about 07 years,
Petitioner No.2 & 3 are minors represented through their natural guardian mother.
All are R/o #1240/1, 1st Main, 2nd cross, S.Nijalingappa layout, Davanagere – 577004.

(By Sri.RV., Adv)

V/s

RESPONDENT/S : 1. Lalya Naik D, S/o Duga Naik, Aged about 76 years, Driver of Auto Rickshaw bearing Reg. KA-17/D-0793, R/o Kukkawada village, Davanagere taluk & district.

2. Jyothi W/o Manjunatha, Aged about 35 years, Owner of Auto Rickshaw bearing Reg. KA-17/D-0793, R/o Hale Chikkanahalli, Haralaiah Nagara, Behind APMC, Davanagere - 577003.

(R-1 & 2 by Sri.MNN., Adv)

JUDGMENT

Instant petition has been filed by the petitioners U/s.166 of M.V.Act, against the respondents claiming compensation due to death of Manjunatha G.M, S/o Late Mahalingappa in a Road Traffic Accident.

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

That, on 20/07/2024 at about 02-45 p.m., the deceased Manjunatha G.M., S/o Late Mahalingappa was moving on his TVS Wego two wheeler bearing Reg.No.KA-17/EY-3383 alongwith his daughter, while they were moving near Purantar Hospital road, Davanagere. At that time the respondent No.1 being the driver of Auto Rickshaw bearing Reg.No.KA-17/D-0793 drove the same in a rash and negligent manner with high speed and dashed against TVS Wego two wheeler as a result of accident the deceased Manjunatha G. M., fell down and

sustained head injury and fractures over his vital parts of the body. Immediately, he was taken to C.G Hospital, Davanagere for treatment and got admitted as inpatient, due to severity of the injuries he shifted to SSIMS Hospital, Davanagere. On 22/07/2024 at about 00.30 a.m., while shifting to Manipal Hospital in ambulance he died on the way. After legal and medical formalities the petitioners took the dead body in a hired taxi and conducted last rites and the petitioners have incurred Rs.2,00,000/- towards Medical Expenses and transportation of the dead body and funeral ceremony.

3. Further it is averred that, the deceased was hale and healthy person, aged about 43 years at the time of accident. He was working as a SDA in Bapuji child health Institute and research center, Davanagere and used to earn Rs.21,625/- per month salary. 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 & 3 have lost their father and their life has become miserable and the deceased was the only bread earner of their family. Due to death of Manjunatha G.M., the petitioners have sustained heavy financial loss and suffering from mental agony and love and affection. The Davanagere South Traffic Police Station have registered case, under Cr.No.88/2024 for the offences punishable U/s.281 & 106 of BNS.

4. Further it is contended that, respondent No.1 is driver of the Auto Rickshaw, respondent No.2 is owner of the Auto Rickshaw.

The accident occurred due to the negligent act of the respondent No.1 and therefore respondent No.1 & 2 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.

5. In response to the service of notice to the respondents, the respondent No.1 & 2 have appeared through their counsels and filed their common statement of objection.

In the objection the Respondents have denied the accident was caused mainly due to rash and negligent act of Respondent No.1. Further submitted that, the accident occurred solely negligence on the part of the deceased due to his carelessness riding his two wheeler in a rash and negligent manner and failed to control over his bike. Further, contended that the deceased was not having valid and effective driving licence to ride motor cycle. Hence, prayed to dismiss the petition.

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

ISSUES

- 1. Whether the petitioners prove that, Manjunatha G.M., S/o Late Mahalingappa died due to injuries sustained in the accident that occurred on 20/07/2024 at about 02.45 p.m., near Purantar Hospital road, Davanagere, due to rash and negligent driving of the respondent No.1***

***involving Auto Rickshaw bearing
Reg.No.KA-17/D-0793?***

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

3. What order or award?

7. In order to prove their case, the petitioner No.1 herself examined as PW1 and got marked as many as 3 documents the same were marked at Ex.P1 to P2. Further, the petitioners in order to prove the income of the deceased doctor/RMO of Bapuji Child Health Institute and Research Center, Davanagere as PW2 and got marked Ex.P3 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 is the copy of Aadhaar card, Ex.P3 is the salary certificate. In order to disprove the case of petitioners, the respondents have not entered the witness box and not adduced any evidence on their behalf.

8. Heard the arguments of both the parties and perused the materials on record. My answers to the above issues 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 ::--

9. **ISSUE No.1:-** That, on 20/07/2024 at about 02-45 p.m., the deceased alongwith his daughter were proceeding in a motor cycle bearing Reg.No.KA-17/EY-3383 while proceeding near Purantar Hospital road, Davanagere, at that time the respondent No.1 being the driver of auto rickshaw bearing Reg.No.KA-17/D-0793 drove the same in rash and negligent manner and dashed to the deceased motor cycle and caused accident, as a result the deceased fell down. Immediately, after the accident the petitioner No.1's husband was shifted to C.G., Hospital, Davanagere and got admitted as inpatient and due to severity of the injuries he was shifted to SSIMS Hospital, Davanagere for better treatment and thereafter while shifting to Manipal Hospital in an ambulance he died during the course of treatment and the petitioners have incurred Rs.2,00,000/- towards Medical Expenses and transportation of the dead body and funeral ceremony.

10. The petitioner No.1 being the wife of the deceased Manjunatha G.M., has been examined before the Tribunal as PW1. In her examination in chief she has reiterated the contents of the petition. On perusal of FIR as per Ex.P1, it could be seen that, case in Crime No.88/2024 of Davanagere South Traffic police station has been registered against the driver of Auto Rickshaw bearing registration No.KA-17/D-0793. Even on perusal of Ex.P1 which is copy of the charge sheet in Crime No.88/2024, wherein the charge sheet filed after investigation by

holding that, said accident was due to rash and negligent driving of driver of auto rickshaw bearing registration No.KA-17/D-0793, which belong to respondent No.2.

11. On consideration of these documents, the police have conducted investigation and filed charge sheet confirming charges leveled against the driver of auto rickshaw bearing registration No.KA-17/D-0793, belonging to the respondent No.2.

12. **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.

13. In a claim for compensation U/s.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.**

14. 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.

15. As per ratio laid down in above decision and so also in view of the facts and circumstances of the case and testimony of PW1 coupled with contents Ex.P1 which is the FIR, complaint and charge sheet, I am of the considered opinion that, due to an actionable negligence of driver of the auto rickshaw bearing Reg.No,KA-17/D-0793, which belongs to respondent No.2 there was an accident which resulted in death of Manjunatha G.M. **Hence I answer Issue No.1 in the Affirmative.**

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

Towards loss of Dependency:-

The PW1 claims that, her husband deceased Manjunatha G.M, before an accident he was hale and healthy. He was working as a SDA in a Bapuji Child Institute and

Research Center, Davanagere and earning monthly salary of Rs.21,675/-.

17. As per Ex.P1 Inquest report discloses that, as on date of an accident Manjunatha G.M., is aged about 43 years. It is stated by PW1, prior to an accident deceased Manjunatha G.M., was getting monthly salary of Rs.21,675/-. In order to prove income of the deceased, the petitioners have examined Dr.B.M.Revappa, RMO of Bapuji Child Health Institute and Research Center, Davanagere as PW2. PW2 has deposed that the deceased Manjunatha G.M., was working as a SDA in Bapuji Child Institute and Research Center, Davanagere since 2019 in the scale of pay Rs.11,600/- to 21,000/-. Further, PW2 deposed that the deceased is getting salary of Rs.21,675/- in the month of June 2024, in that regard he has produced Ex.P3 salary certificate of June 2024 issued by the Director of Bapuji Child Health Institute and Research Center, Danvanagere. Then his yearly income would be Rs.2,60,100/-.

18. 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.

19. As I already observed above, income of the deceased Manjunatha G. M., has been considered as Rs.21,675/- per month. As per P.M., report, the age of the deceased as on the date of accident is mentioned 43 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.

20. Here in the present case as I already observed above, the deceased was aged about 43 years and in view of the above

citation, addition of 25% income of future prospect has to be considered. Accordingly, the total income of the deceased comes to Rs.21,675/- + Rs.5,419/- which comes to Rs.27,094/-. As such, the yearly income of the deceased comes to Rs.27,094/- x 12 = Rs.3,25,128/- and the appropriate multiplier applicable to the present case is 14 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 $\frac{1}{3}^{\text{rd}}$ where the number of dependent family members is 1 to 3. One fourth $\frac{1}{4}^{\text{th}}$ where the number of dependent family members is 4 to 6, And One-fifth $\frac{1}{5}^{\text{th}}$ where the number of depend family members exceeds six.

21. Herein, the case petitioners No.1 to 3 are the dependents of deceased Manjunatha G.M. Hence $\frac{1}{3}^{\text{rd}}$ of his income would be deducted towards his personal and living expenses. If that is so, $\frac{1}{3}^{\text{rd}}$ of Rs.3,25,128/- would be Rs.1,08,376/-. If that is so, Rs.1,08,376/- is deducted in Rs.2,16,752/-, yearly income of deceased Manujunatha G.M., would be Rs.2,16,752/-.

22. In Inquest report as per Ex.P1 age of deceased Manjunatha G.M., is mentioned as 43 years. If that is so, as on date of an accident deceased Manjunatha G.M., was aged about 43 years. As such correct multiplier as per guidelines of **Sarala Varma case** would be 14. As already discussed above yearly income of deceased is Rs.2,16,752/-. If multiplier 14 is applied to the yearly income of deceased it comes to Rs.30,34,528/-. Therefore the petitioners are entitled for an amount of **Rs.30,34,528/-** under this particular head.

Towards loss of Love and Affection:-

As already held the fact that, the petitioner No.1 to 3 are wife and children of deceased is not seriously denied by contesting respondents. Due to death of Manjunatha G.M., petitioners have lost love and affection of deceased Manjunatha G.M., 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 Manjunatha G.M., 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 Manjunatha G.M., 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.

Consortium:-

It is pertinent to state that Hon'ble Supreme Court in a decision reported in **(2018)18 SCC 130 Magna General Insurance Company Limited vs Nanu Ram Alias Chuhru Ram and others** as held as under:-

21. A Constitution Bench of this Court in Pranay Sethi deals with the various heads under which compensation is to be awarded in death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care help,

comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse:

21.1. Spousal consortium is generally defined as rights pertaining to the relationship of a husband – wife which allows compensation to the surviving spouse for loss of “company, society, cooperation, affection, and aid of the other in every conjugal relation”.

21.2. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world – over have recognized that the value of a child’s consortium for exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdiction therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world – over have recognized that the value of a child’s consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the

death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

It appears from above extracted ratio that, the term consortium encompasses spousal, parental and filial consortium. The said preposition of law has been affirmed by **Hon'ble Supreme Court in a subsequent Full Bench decision reported in 2020 SCC on line 410 between United India Insurance Company Limited vs Satinder Kaur @ Satwinder Kaur and others**. Wherein also it is held that, the term consortium is a compendious, which encompasses, spousal, filial and parental consortium as such, directed to award amount in all three heads relating to consortium. In view of sacred ratio laid down in the above extracted decisions, this tribunal awards amounts under the head of consortium as follows:-

Towards spousal and filial consortium:-

It appears from petition averments that, petitioner No.1 has lost love and affection of her husband, petitioner No.2 & 3 have lost love and affection of their father as such, they are entitled for an amount of Rs.1,32,000/- under this head.

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

1	Towards Loss of Dependency	Rs. 30,34,528-00
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	Towards consortium (spousal & filial)	Rs. 1,32,000-00
	Total	Rs.32,26,528-00

Thus petitioners shall be awarded a total compensation of Rs.32,26,528/- 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.

24. Once it is held that, petitioners are entitled for the compensation and the quantum is fixed, the liability has to be fixed. Thus, there was no valid coverage as on the date of incident in question. Therefore, the respondent No.2 who is owner is liable to pay entire compensation to the petitioner. **Accordingly, I answer Issue No.2 partly in the affirmative.**

25. **ISSUE No.3:-** In view of my findings on issue No.1 & 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***

Manjunatha G.M in the motor vehicle accident is partly allowed with costs.

➤. The petitioners are entitled for the total compensation of Rs.32,26,528/- with interest at the rate of 6% p.a. from the date of petition till realization.

➤. The respondent No.2 being the owner is liable to pay the compensation amount. The respondent No.2 shall deposit the said compensation amount within 01 month.

➤. Petitioner No.1 is entitled to get 60% and petitioner No.2 & 3 are entitled to get 20% each.

➤. 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.2 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.2 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 40% of the amount transferred as FD in the name of petitioners No.1 for a period of three years and compliance is to be reported by the concerned bank to this Tribunal without fail.

➤. After transfer of the compensation amount to the bank, the concerned bank is hereby directed to keep entire compensation amount of petitioner No.2 & 3 i.e., 20% each of the amount transferred as FD in the name of petitioners No.2 & 3 till they attain the age of majority.

➤. The concerned Bank is directed not to release the FD amount in favour of the petitioner No.1 to 3 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 him, corrected and pronounced by me in the open court on this the 3rd day of July - 2026)

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

-: ANNEXURE :-

Witnesses examined for the Petitioner:-

PW1	Anusuya G.
PW2	B.M.Revappa.

Witnesses examined for the Respondents:- Nil

Documents exhibited by the Petitioners:-

- | | |
|-------|--|
| Ex.P1 | True copies of FIR, Complaint, Statement, PM report, Mahazar, Inquest mahazer, Spot Mahazer, Charge sheet. |
| Ex.P2 | Aadhaar card. |
| Ex.P3 | Salary certificate. |

Documents exhibited by the Respondents:- Nil.

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