

KADG310004592024



Presented on : 01-07-2024

Registered on : 01-07-2024

Decided on : 16-03-2026

Duration : 01 years, 08 months, 15 days

**IN THE COURT OF SENIOR CIVIL JUDGE AND VIII
MACT, HARIHARA.**

PRESENT: **Smt. PADMASHRI A.MUNNOLI** BA.(L).LL.B .
Senior Civil Judge & VIII MACT,
Harihara.

MVC No. 339/2024

DATED THIS THE 16TH DAY OF MARCH 2026

PETITIONERS:

1. Smt. Sowbhagya Lakshmi, W/o Late H.R. Veerandrakumar Shrestti, Aged about 38 Years.
2. R.V. Balaji Shrestti, S/o Late Veerendrakumar Shrestti, Aged about 17 Years.

Since petitioner No.2 is minor, her own mother petitioner No.1 is represented on his behalf

3. Manjamma, W/o Late Rathna Shobha Swami, Aged about 70 Years. R/o Ward No. 29, Mahathma Gandhi Kolache Pradesh, Harihar taluk, Davangere District.

(By Sri. Ramesh G.B. Advocate)

-Versus -**RESPONDENTS:**

1. Darshan Kumar K., S/o Jagadeehappa K., Aged about 31 years, driver of N. Field bike bearing Reg. No. KA-68-E-4088, R/o Hanagavadi village, Harihar taluk, Davangere District.
2. Anil Heggappanavar, S/o Girish, Aged 35 Years, R/o Vageesh Nagar, Kodiyal Hospete, Ranebennur taluk, Haveri District.
3. The Manager, The New India Assurance Co. Ltd., R/o 1st Floor, Wali complex, Shivamogga road, Harihar.

Policy No. 68050331230100002337, period of cover from 25.06.2023 to 24.06.2024)

**(R.1 and R.2 by Sri. Ganti Kuberagowda, Adv.)
(R-3 by Sri. H. Nagaraj, Advocate)**

**(Smt. Padmashri A. Munnoli)
Sr. Civil Judge and VIII MACT, Harihar**

:J U D G M E N T:

The present petition is filed by the petitioners against the respondents U/s.166 of Motor Vehicles Act 1988, seeking a total compensation of Rs.50,00,000/- with interest at the rate of 9% p.a. in respect of death of

one Veerendrakumar Shresthi, who died in a road traffic accident which took place on 15.04.2024.

2. Brief facts of the case are as under:-

The petitioners are the wife, minor son and mother of the deceased Veerendrakumar Shresthi.

3. Petitioners aver that on 15.04.2024 at around 10.00 p.m. near Vidyanagar cross of Harihar, on Harihar – Shivamogga road, deceased Veerendrakumar Shresthi was returning on TVS XL motorcycle bearing Reg. No. KA-17-HF-1295 and was coming towards Vidyanagar road, near the cross of Vidyanagar, respondent No.1 being the rider of the motorcycle bearing Reg. KA-68-E-4088 came on a high speed from Harihar side to go towards Shivamogga in a rash and negligent manner and dashed against the deceased. As a result deceased sustained grievous injuries, first he was taken to government hospital, Harihar, later shifted to C.G. Hospital, Davangere but, Veerendrakumar Shresthi succumbed to the injuries at the hospital.

4. That prior to the accident deceased was healthy, aged around 46 Years, doing flower business and having monthly income of Rs.50,000/-. Now because of the accidental injuries petitioners are put to loss. That the respondent No.1 is the rider, respondent

No.2 is the owner and respondent No.3 is the insurer of the vehicle and that respondent No.1 to 3 who are jointly and severally liable to pay the compensation.

5. In pursuance of the petition notices issued, respondent No.1 to 3 appeared through their respective counsel. No statement of objections filed by respondent No.1 and 2. Respondent No.3 insurance company alone filed the statement of objections to the main petition.

6. The respondent No.3 denied the petition averments. The occurrence of the accident due to negligence of respondent No.1 is denied. It is contended that the vehicle of respondent No.1 is not involved in the accident. and it is falsely implicated. That the accident occurred due to negligence of deceased himself. That deceased did not hold a valid and effective driving licence and was himself negligent. That the liability of respondent No.3 is subject to terms and conditions of the policy. Hence, it was prayed that the petition be dismissed.

7. Based on the above pleadings, the following issues were framed:

1. Whether the petitioners prove that, deceased Veerendrakumar on 15.04.2024 at around 10.00 p.m. on Harihar – Shivamogga road, sustained grievous

injuries and succumbed to the injuries due to rash and negligent act of the rider of the motorcycle bearing Reg. No. KA-68-E-4088?

2. Whether respondent No.3 proves that there is violation of policy conditions?
3. Whether the petitioners are entitled for compensation? If so from whom and to what extent?
4. What order or award?

8. Thereafter in order to prove their case for the petitioners, petitioner No.1 was examined as PW.1. Ex.P.1 to 17 marked for the petitioners. No oral evidence lead by respondent No.3. The policy of insurance by consent is marked as Ex.R.1.

9. Heard. Perused the materials on record.

10. My findings on the above Issues are as under;

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.....

:R E A S O N S:

11. Issue No.1: To prove that the deceased sustained injuries and succumbed to the injuries due to

rash and negligent act of respondent No.1 petitioner No.1 is examined as PW.1. Ex.P.1 to 17 are marked for petitioners. No oral evidence lead by respondent No.1 to 3.

12. PW.1 in her cross-examination states that her husband was returning from bypass on his TVS XL Motorcycle. That a friend of his son intimated about the accident. That one Hanumantharaj gave the complaint about the accident on a next day. She denies the suggestion that there was a head on collision between the motorcycle of respondent No.1 and the deceased. PW.1 states that it is respondent No.1 who caused the accident.

13. Learned counsel for petitioners would argue that the petitioners have established occurrence of the accident. The concerned police have also filed chargesheet against respondent No.1. Therefore, it was prayed that the petition be allowed and the compensation be granted as prayed for.

14. Learned counsel for respondent No.1 and 2 would argue that the vehicle of respondent No.2 is duly insured with respondent No.3. That it is respondent No.3 who is liable to indemnify respondent No.2 if at all the Tribunal comes to the conclusion that the petitioners are entitled for compensation.

15. Learned counsel for respondent No.3 would argue that the vehicle of respondent No.2 is falsely implicated. That the accident occurred due to negligence of deceased himself. Hence, it was prayed that the petition be dismissed.

16. Respondent No.1 and 2 have not contested the petition. Even no oral evidence lead by respondent No.3 to substantiate that there was any negligence on the part of deceased in riding the motorcycle. Even PW.1 in the cross-examination has specifically stated that the accident occurred due to negligence of respondent No.1. Ex.P.1 is the copy of FIR registered in Sy. No. 67/24 by the concerned police on 16.04.2024 at around 10.45 a.m. Respondent No.1 is shown as the accused, it can be seen that even the respondent No.1 is shown to be injured in the accident. Ex.P.2 is the copy of complaint which also mentions that respondent No.1 also got appeared to C.G. Hospital of Davangere. Ex.P3. is the spot panchanama, Ex.P.8 is the chargesheet filed by the concerned police against respondent No.1 for the offenses punishable U/Sec. 279, 338 and 304-A of IPC. Even in column No.17 of the chargesheet there is mention about even respondent No.1 sustaining injuries in the accident. Therefore, from the material on record the petitioners have established that the accident occurred due to negligence

of respondent No.1. Accordingly, for these reasons I answer **issue No.1 in the Affirmative.**

17. Issue No.2: Though respondent No.3 has contended that there is violation of policy conditions by the owner but, no evidence is lead in this regard. Accordingly, I answer **issue No.2 in the Negative.**

18. Issue No.3: The petitioners are the wife, minor son and mother of deceased. While answering Issue No.1, I have held that the petitioners have established the occurrence of the accident due to rash and negligent act of respondent No.1, who was the driver of the offending bike. Therefore, now we have to appreciate what is the compensation which has to be determined to which the petitioners are entitled. Petitioner No.1 and 2 are the wife and minor son of the deceased and petitioner No.3 is the mother. Respondent No.3 has not seriously disputed about the petitioners being the legal heirs of the deceased.

19. PW.1 in her cross-examination states that she has not produced any documents to establish the avocation and income of deceased. The petitioners have not placed on record any material to establish the exact age, income and avocation of the deceased. In the petition it is stated that the deceased was aged around 46 years. Ex.P.1 to 17 are marked for the petitioners. In Ex.P.1 the

FIR the age of deceased is shown as 50 years, so also in Ex.P.6 the PM report the age is shown as 50 years. Though in the Aadhar card marked at Ex.P.9 the date of birth of deceased is shown as 01.06.1978, but, in my opinion except the date of birth mentioned in the Aadhar card, the petitioners have not placed on record any material to establish that deceased was born in the year 1978. Further, in the Aadhar card the information is entered on the basis of the information given by the particular person. Therefore, the date of birth mentioned in the Aadhar card in my opinion cannot be looked into. Further in Ex.P.11 the copy of PAN card, the date of birth of deceased is shown as 08.08.1973. Therefore, if this is also considered deceased can be said to be aged around 50 years at the time of accident. Therefore, the age mentioned in Ex.P.11 and Ex.P.6 is considered for the purpose of calculation of the compensation. There are three dependents and therefore, 1/3 of the total income will have to be deducted towards personal and living expenses. Further, the income will have to be fixed notionally. Therefore, if the chart prepared by KSLSA for the purpose of Lok Adalath is considered, the income can be taken at Rs. 16,500/-for the year 2024. Therefore, the income for the purpose of calculation of compensation is considered at Rs.11,000/- (16,500/--5,500/-). As the

deceased was coming under the age group of 46-50 years. Therefore, the multiplier applicable will be "13" as per the Sarala Varma's case. Therefore, the loss of income comes to Rs.17,16,000/- (Rs.11,000 X 13 X 12). Therefore, the total loss of dependency comes to Rs.17,16,000/-. The deceased was aged around 50 years. Therefore, as per Pranay Sethi's case deceased can be considered as self employed as he was stated to be doing flower business. Therefore, 25% of the above income will have to be taken for the purpose of calculating the future prospectus. Therefore, the same comes to Rs. 21,45,000/- (Rs.17,16,000 - 25/100). Therefore, the total loss of dependency comes to Rs.21,45,000/- (17,16,000+ 4,29,000).

20. The Hon'ble Apex Court in Pranay Sethi's case has observed that, there should be an enhancement of the compensation granted under the conventional heads at the rate of 10% in every three years. The said decision was rendered on 31st October 2017. Therefore, while granting compensation under the conventional heads an enhancement at the rate 10% will have to be made. As such, the petitioners are entitled for compensation of Rs.16,500/- for funeral expenses and Rs.16,500/- for loss of estate. Petitioner No.1 being the wife of deceased is entitled for Rs.44,000/- towards spousal consortium and

petitioner No.2 being the minor son is entitled for parental consortium of Rs.40,000/- and petitioner No.3 being the mother is entitled for Rs.40,000/- towards filial consortium as held by Hon'ble Supreme Court in the case of United India Insurance Company Vs. Satinder Kaur @ Satvinder Kaur and Others reported in (2020) SCC Online 410. Accordingly, the total compensation amount payable is as under:

Loss of dependency	:	Rs.21,45,000/-
Funeral Expenses	:	Rs.16,500/-
Loss of Estate	:	Rs.16,500/-
Spousal Consortium	:	Rs.44,000/-
Parental and filial Consortium	:	Rs.80,000/-
Total		Rs.23,02,000 /-

21. Therefore, the petitioners are entitled for a total compensation of Rs.23,02,000/- with interest at the rate of 6% p.a. from the date of petition till realization. Accordingly for these reasons I answer **Issue No.3 Partly in the Affirmative.**

Regarding Liability:

22. The insurance company has not disputed the liability. Ex.R.1 the policy of insurance discloses that the offending vehicle bike bearing Reg. No. KA-68-E-4088 was

insured with respondent No.3 for the period of 25.06.2023 to 24.06.2024. Therefore, there was policy of insurance to the offending vehicle and therefore, it is respondent No.3 who is liable to indemnify respondent No.2.

23. Issue No.4:-For findings given on the above said issues and reasons discussed therein I proceed to pass the following:-

ORDER

The petition filed by the petitioners under Section 166 of Motor Vehicles Act, 1988 is hereby allowed in part with costs.

Petitioners No.1 to 3 are entitled for a total compensation of Rs. 23,02,000/- (Rupees Twenty Three Lakhs Two Thousand Only) with interest at the rate of 6% p.a. from the date of petition till realization.

Respondent No.2 and 3 are liable to pay the compensation to the petitioners.

Respondent No.3 being the insurer is directed to deposit the said compensation amount within two months from the date of award ,

Out of the total compensation of Rs.23,02,000/- with interest ordered above, on deposit, petitioner No.1 is entitled for 60% of the total compensation amount and petitioner No.2 and 3 are entitled for 20% each of the total compensation amount.

Out of the apportioned amount of petitioners No.1, 50% shall be released in her favour by creating the recipient ID and remaining 50% of the apportioned amount shall be kept as fixed deposit in any nationalized bank of the choice of petitioner No.1 in her name for a period of 3 years.

The entire apportioned amount of petitioner No.2 shall be kept as fixed deposit in any nationalized bank of the choice of petitioner No.1 until petitioner No.2 attains the age of 21 years. However, the petitioner No.1 can withdraw the periodical interest that would accrue on the said deposit for the benefit of minor.

Out of the 20% of the total compensation apportioned against petitioner NO.3, 50% shall be released in her favor and remaining 50%

shall be kept as FD in her name for a period of 3 years in any nationalized bank of the choice of petitioner No.3.

Advocate's fees is fixed at Rs.500/-.

Draw award accordingly.

(Dictated to the stenographer, transcribed and typed by her, script corrected and signed by me, then pronounced in the open court on this the 16th day of March 2026).

(Smt. Padmashri A. Munnoli)
Sr. Civil Judge and VIII MACT, Harihar

ANNEXURE

Witness examined for the petitioner/s:

P.W.1 : Sowbhagyalakshmi

Documents marked for the petitioner/s:

Ex.P.1 : True copy of FIR
Ex.P.2 : True copy of FIS
Ex.P.3 : True copy of spot panchanama
Ex.P.4 : True copy of vehicle seizure mahazar
Ex.P.5 : True copy of inquest mahazar
Ex.P.6 : True copy of Postmortem report
Ex.P.7 : True copy of motor vehicles accident report
Ex.P.8 : True copy of chargesheet
Ex.P.9 : Notarized Aahdar card copy of Veerendra Kumar Shresti, Showbaghya Lakshmi
Ex.P.10 : Notarized PAN card copy of Sowbagya Lakshmi
Ex.P.11 : Notarized PAN card copy of Veerendrakumar Shresti
Ex.P.12 : True copy of Accident information report
Ex.P.13 : True copy of rough sketch

- Ex.P.14 : True copy of photo taken at the spot of accident
Ex.P.15 : True copy of photo taken at the time of vehicle
panchanama
Ex.P.16 : True copy of indemnity bond
Ex.P.17 : True copy of report U/Sec. 158(6) of MV Act

Witnesses examined for the respondent/s:

- Nil -

Documents marked for the respondent/s:

- Nil -

(Smt. Padmashri A. Munnoli)
Sr. Civil Judge and VIII MACT, Harihar