

KADW050015512025



Presented on : 15-05-2025
Registered on : 23-05-2025
Decided on : 28.04.2026
Duration : 0 years, 11 months, 13 days

**IN THE COURT OF I ADDL. SENIOR CIVIL JUDGE
& ADDL. M.A.C.T., DHARWAD.**

**Present : SMT. VIJAYALAXMI GHANAPUR
LLM,
I Addl. Senior Civil Judge,
& Addl. M.A.C.T., Dharwad.**

MVC No.350/2025

Dated this the 28th day of April 2026

Petitioner : Smt. Anasavva W/o. Devendrappa
Baludi, Age : 65 Years,
Occ : Housewife, R/o. Annigeri,
Tq : Annigeri, Dist : Dharwad.

Now at Saraswatpur Dharwad.

(By Sri. S. S. Kampali., Adv)

V/s

Respondents : 1 Ravindra S/o. Veerabhadrappe
Akkasaligar, Age : 45 Years,

Occ : Business,
R/o. Shri Kalikadevi Jewelers shop
Javali Bazar Gadag,
Dist : Gadag-582101.

(Owner of motor cycle bearing
Reg No.KA-26/EJ-1205)

2 The Divisional Manager
United India Insurance Co Ltd.,
R/o. Ankola Arcade,
Opp : District Court,
P. B. road, Dharwad.

(Policy No.0402013124P106901718
(period from 09.08.2024 to 08.08.2025)

(R-1 By Sri. D. P. Pattar., Adv)
(R-2 By Sri. R. H. Kulkarni., Adv)

: JUDGMENT :

The petitioner has filed this claim petition U/Sec.166(1) of M.V. Act against the respondents for seeking compensation of Rs.20,00,000/- along with interest at the rate of 18% p.a. on account of death of Devendrappa S/o. Irappa Baludi in a road traffic accident.

2. **The substance of the petition, in brief, are as under :**

Petitioner pleaded that she is the wife of deceased Devendrappa S/o. Irappa Baludi, who died in a road traffic accident occurred on 24.12.2024 at about 7.15 p.m., when the deceased Devendrappa Irappa Baludi was proceeding as pedestrian, when he reached near Deshpande plot, Annigeri on NH 67, Gadag-Hubballi road, at that time one rider of the motor cycle bearing Reg No.KA-26/EJ-1205 came from Hubballi towards Gadag, at high speed and in a rash and negligent manner without following traffic rules and regulations and dashed to the said Devendrappa and caused accident, due to impact of this accident, said Devendrappa fell down on the road and sustained fatal injuries and died on the way while shifting to the hospital.

3. Soon after the accident, Devendrappa Baludi was shifted to PHC Annigeri, after taking first aid treatment he was shifted GIMS Hospital, Gadag, but due to severe injuries said Devendrappa Baludi died on the way while shifting to

the hospital. After postmortem at the GIMS Hospital, Gadag the corpse was handed over to the petitioner for funeral.

4. The deceased Devendrappa Baludi was hale and healthy prior to the accident, he was doing labour work and earning Rs.18,000/- per month and same was contributing to the maintenance of his family. The petitioner is the wife was dependent, due to un-sudden death of Devendrappa Baludi, she has suffered mental agony, shock, loss of love and affection and also financial crises.

5. Jurisdictional police registered case against the rider of the motor cycle bearing No.KA-26/EJ-1205 in Cr No.152/2024 U/Sec.281. 125(a) and 106 of BNS, which is owned by respondent No.1 and insured with respondent No.2, hence both are jointly and severally liable to pay compensation to the petitioner. Hence, this petition is filed.

6. In response to the petition notices, respondent No.1 and 2 have appeared before the Court through their respective counsel and filed separate objections.

7. **The substance of objections of respondent No.1, in brief, is are under:**

The respondent No.1 is the owner of the motor cycle bearing Reg No.KA-26/EJ-1205 denied the petition averments in toto. It is contended that at the time of alleged accident deceased Devendrappa consuming the alcohol suddenly entered the road and dashed against the vehicle and due to the injuries cased on his bond and hree days under treatment and died. Further submitted that on the date of alleged accident the rider of the motor cycle was holding valid and effective DL. Hence, the accident occurred to negligence of deceased Devendrappa. Further submitted that at the time of accident the insurance policy was in force. Further contended that the compensation, and interest claimed by the petitioner is highly excessive, exorbitant and baseless. Hence, prayed to dismiss the petition against respondent No.1.

8. **The substance of objections of respondent No.2, in brief, is are under:**

The respondent No.2 is the insurer of the motor cycle bearing Reg. No.KA-26/EJ-1205 denied the petition averments in toto. It is contended that the accident occurred due to sole negligence of deceased Devendrappa only. Further contended that the rider of the motor cycle was holding valid and effective DL to drive the said vehicle. Further denied that the petitioner was the legal heir of deceased Devendrappa. Further specifically denied the age, occupation and income of the deceased Devendrappa. Further the interest and compensation claimed by the petitioner is highly excessive, exorbitant and baseless. Further contended that the liability if any, of this respondent is subject to the terms, conditions, limitations and exceptions of the policy of insurance of motor cycle and further subject to validity of its RC book, FC and permit as well as the validity of DL of the rider of the motor cycle at the time of accident. Hence, prayed to dismiss the petition with cost.

9. Based on the above rival pleadings, the following issues framed :

ISSUES

- 1. Whether the petitioners prove that on 24.12.2024 at about 7.15 p.m., when the deceased Devendrappa Irappa Baludi was proceeding as pedestrian, he reached near Deshpande plot, Anniger on NH 67, Gadag-Hubballi road, at that time one rider of the motor cycle bearing Reg No. KA-26/EJ-1205 came from Hubballi towards Gadag, at high speed and in a rash and negligent manner without following traffic rules and regulations and dashed to the said Devendrappa and caused accident, due to impact of this accident, said Devendrappa fell down on the road and sustained fatal injuries and died on the way while shifting to the hospital ?**
- 2. Whether the petitioner is entitle for compensation? If so, what is the quantum of compensation and from whom ?**
- 3. What order or award ?**

10. To prove the case of the petitioner, the wife of deceased Devendrappa i.e., petitioner examined herself as P.W.1 and got marked Ex.P.1 to P.8. On the other hand, the Deputy manger of the respondent No.2 examined as R.W.1 and got marked Ex.R.1 & R.2.

11. Heard the learned counsel for petitioner and learned counsel for respondent No.2. respondent No.2 has filed a memo with citation. Perused the pleadings, oral and documentary evidence, memo along with citation filed by respondent No.2 and entire materials available on record.

12. My findings on the above issues is as follows:

ISSUE No.1 : **In the Affirmative**
ISSUE No.2 : **Partly Affirmative**
ISSUE No.3 : **As per final order for the following :**

REASONS

13. **ISSUE NO.1** : Petitioner stated that, Devendrappa died in a road traffic accident occurred due to the actionable negligence of rider of the motor cycle bearing Reg No.KA-26/EJ-1205. On the contrary, the respondent No.1 and 2 denied the same and contended that due to sole negligence of deceased Devendrappa only the accident occurred and he died in the said accident.

14. It is well settled position of law that, the proceedings under M V Act are summary in nature and it is beneficial legislation and the evidence required about negligence act is sufficient if it is in the nature of preponderance of probability. It is also well settled that to claim compensation U/S 166 of MV Act it is sine-qua-non to demonstrate the actionable negligence on the part of tortfeasor, which is to be proved by preponderance of probability but not beyond shadow of doubt as required in a criminal trial. Initial burden is on the petitioner to demonstrate the

actionable negligence on the part of rider of the motor cycle in question. In this backdrop let me scrutiny the proof display by the parties to lis to unveil the truth regarding rival contentions.

15. To justify the averments of the petition, the wife of deceased Devendrappa by name Anasavva Baludi filed her evidence affidavit and examined as P.W.1 by reiterating petition averments.

16. To justify the verbal evidence petitioner's placed reliance on documents viz., Ex.P.1 is the certified copy of first information report along with complaint registered by Annigeri PS against offending rider of motor cycle bearing Reg No.KA-26/EJ-1205 on the basis of complaint lodged by Anasuya Devendrappa Baludi, Ex.P.2 is the certified copy of crime details along with sketch and photographs, wherein the topographical situation of place of accident and exact place of impact are narrated, Ex.P.3 is the certified copy of MVI

report, wherein it is opined that the accident was not occurred due to any mechanical defects of the vehicle, Ex.P.4 is the certified copy of charge sheet filed by police against the rider of the motor cycle.

17. On perusal of the charge sheet, the rider of the alleged motor cycle bearing Reg No.KA-26/EJ-1205 has been charge sheeted U/Sec.281, 125(b), and 106 of BNS R/w Sec.3 R/w Sec.181 of M V Act. The respondent No.2 has not disputed the police documents produced by the petitioner which was prepared by the police while discharging their official duty. Therefore, looking to the documentary evidence i.e., spot mahazar, topography and charge sheet, I hold that accident took place due to negligence of rider of offending motor cycle. Hence, it is clear that the accident was taken place because of the negligence on the part of rider of the alleged motor cycle. Accordingly, I answer **issue No.1 in the Affirmative.**

18. **ISSUE NO.2** : It is proved that the Devendrappa died in the road accident due to the negligence of rider of the alleged motor cycle. The respondent No.2 specifically alleged that petitioner was not legal heir of deceased Devendrappa. In order to prove the relationship of the petitioner with the deceased Devendrappa she has produced her aadhar card and aadhar card of deceased Devendrappa and ration card as per Ex.P.6 to P.8. Ex.P.6 is the copy of aadhar card of deceased Devendrappa, in the said document his name is mentioned as Devendrappa Irappa Balodi, Ex.P.7 is the copy of aadhar card of petitioner, in the said document her name is mentioned as Anasavva Devendrappa Baludi and Ex.P.8 is the copy of ration card and in the said document here name is mentioned as Anasavva Devendrappa Gouri. So, from these documents it is depict that deceased Devendrappa is the husband of petitioner. Petitioner being wife of deceased Devendrappa is entitle for compensation under the following heads;

A) LOSS OF DEPENDENCY AND FUTURE

PROSPECTUS : To ascertain the loss of dependency and future prospects, the age, income of deceased and the number of dependents of the deceased are relevant.

19. As above stated the age of the deceased Devendrappa is about 72 years. In Ex.P.5 P M report the age of the deceased Devendrappa is mentioned as 71 Years. The petitioner has also produced copy of aadhar card of deceased Devendrappa as per Ex.P.6 which reveals the date of birth of deceased Devendrappa as 01.06.1953. So, as per Ex.P.5 and 6 as on the date of the accident the deceased was aged about **72 years**. Said documents are issued by Government Authority and they are public document and has their own presumptive value. As per the judgment of Hon'ble Apex Court in **Pranay Seti** the age of the deceased has to be considered. As per the Judgment of Hon'ble Apex Court in **Sarala Varma** the multiplier applicable is '**5**'.

20. Petitioner stated that, the deceased was hale and healthy and doing labour work and was earning Rs.18,000/- per month. To prove the avocation and income of deceased, the petitioner has not produced any documents. So, in the absence of proof, the income of deceased is considered as per the recent chart prepared by KSLSA for settling cases before Lok Adalat.

21. As per the chart the notional income during **2024 is Rs.15,750/-** before the Trial Courts. Our own Hon'ble High Court in Judgment of **C. Kempamma and others V/s Managing Director, M. K. Agro Tech Pvt Ltd and another decided, on 05.01.2021 at para No.7** By considering the chart prepared by KSLSA for notional income and held as under :

“Therefore, the notional income of the deceased is assessed as per the guidelines issued by the Karnataka State Legal Services Authority”.

So looking to the living cost during the year 2024, it is just and proper to consider the income of the deceased Devendrappa is at the rate of **Rs.15,750/-**.

22. Further as stated above that there is **only one** dependent. Hence, $\frac{1}{2}$ of the income of the deceased Devendrappa shall be deducted towards his personal expenses, on such deduction, the income of the deceased comes to **(15,750 – 7,875) = Rs.7,875/-**.

23. The income of the deceased is taken **Rs.7,875/- pm**, then loss of dependency comes to **Rs.4,72,500/- (Rs.7,875X12X5)**. Considering the above facts, I deem it just and reasonable to grant compensation of **Rs.4,72,500/-** under the head of loss of dependency and future prospectus.

B) COMPENSATION TOWARDS CONSORTIUM : As per the Judgment of Hon'ble Apex Court reported in **AIR 2020 SC 3076, between United India Insurance Co. Ltd V/ s Satinder Kaur @ Satwinder Kaur and others, dated**

30.06.2020, the Hon'ble Apex Court by considering the Judgment of **Pranay Sethi and Magma General Insurance case** held that : The petitioner being the wife is entitle for consortium. Hence, petitioner is entitle for **Rs.40,000/- + she is entitle for 20% i.e., Rs.8,000/- as per the guidelines given in the above said Pranay Sethi case. Hence, petitioner is entitle for Rs.48,000X1=Rs.48,000/-** under this head.

C) TOWARDS LOSS OF ESTATE : Further the petitioner is the wife of deceased Devendrappa as such, in view of the Judgment of our **Hon'ble Apex Court reported in Pranay Sethi case**, the petitioner is entitle for compensation of **Rs.18,000/- (includes 20% as per the guidelines given in the above said Pranay Sethi case).**

D) TOWARDS FUNERAL EXPENSES : Further she is entitle for an amount of **Rs.18,000/- (includes 20% as per the guidelines given in the above said Pranay Sethi case)**

under the head of transportation of dead body, funeral and obsequies ceremony expenses.

Petitioner is entitle for compensation under the following heads :

Sl. No.	Nature of heads	Compensation
1)	Towards loss of dependency future prospectus	Rs.4,72,500 /-
2)	Towards consortium	Rs.48,000/-
3)	Towards loss of Estate	Rs.18,000/-
4)	Towards funeral expenses	Rs.18,000/-
	Total	Rs.5,56,500/-

24. **LIABILITY** : It is proved that accident occurred due to the negligence of rider of the offending motor cycle bearing No.KA-26/EJ-1205. The Counsel for respondent No.2 vehemently argued that the said rider of the motor cycle had no license and Sec.3 of M V Act leveled against the said

rider. Both side Counsel admitted that the rider of the motor cycle is having LMV license. But, LMV license holder cannot legally ride a motor cycle. Hence, I hold that the rider of the motor cycle has no valid and effective DL to rider the motor cycle. The respondent No.1 being the owner is liable to pay the said compensation to the petitioner. Accordingly, the owner of the said vehicle is liable to pay the compensation.

25. But, as per the Judgment of **Perminder Singh – Vs – New India Assurance Co. Ltd., decided on 01.07.2019 by Hon'ble Apex Court in Civil Appeal No.5123/2019 (arising out of SLP (Civil) No.23153/2018) reported in AIR 2019 SC 3128, by considering its earlier of Shamanna and others – Vs – Divisional Manager, Oriental Insurance Co. Ltd., and others, held as under :**

“It is also relevant to note that the owners and drivers of the offending trucks have not appeared at any stage of the proceedings, including this Court. 7.1. This Court in

Shamanna and others – Vs _ The divisional Manager, The Oriental Insurance Co. ltd. And others held that if the driver of the offending vehicle does not possess a valid driving license, the principle of pay and recover can be ordered to direct the insurance company to pay the victim, and then recover the amount from the owner of the offending vehicle.”

26. In Judgment passed by our Hon'ble High Court bearing **MFA No.30131/2010**, dated 12th May 2020, between **New India Assurance Co. Ltd., - Vs – Yallavva and others reported in 2020 (2) KCCR 1405 (Full Bench)**, it has been specifically held that if there is a breach of policy as to non-holding of valid D.L., then the insurance company has to pay the compensation and recover it from the owner. In said Judgment the Hon'ble High Court considered the judgments of Apex Court and specifically considered the point of pay and recover. So, by applying above said judgments of Hon'ble

Apex Court and our High Court, I hold that the respondent No.2 being the insurance company is liable to pay the compensation to petitioners and then recover it from respondent No.1 in accordance with law, as held by Hon'ble Apex Court.

27. In the Judgment of **Yallavva** as referred above is passed by Hon'ble 3 Judges of Hon'ble High Court of Karnataka and it was specifically rendered on the point of pay and recover. The Hon'ble Apex Court also in **Shamanna case** held that though the owner is liable to pay compensation, the Insurance Company has to pay the same and recover it.

28. In the decisions of Hon'ble High Court of Karnataka, in **MFA No.3297/2019 and MFA No.6154/2019**. But, with due respect to said former Judgments, I incline to rely upon later Judgment of our own Hon'ble High Court of Karnataka, Dharwad Bench of **MFA No.101956/2024 clubbed with 102527/2023**,

1025233/2023 and 101954/2024, disposed on 02.12.2024 by relying upon catena of decisions of Hon'ble Supreme Court of India as stated supra, was pleased to hold that “ **Therefore, keeping in mind the ratio laid down by the Hon'ble Apex Court in the aforesaid cases and also decision of a co-ordinate Bench of this Court referred to supra, we deem it appropriate to hold that the insurance company is liable to pay the compensation in the first instance to the claimants and then recover the same from the owner of the vehicle in question, by applying the principle of 'Pay and Recover'.**”

29. **INTEREST** : Awarding the interest on compensation amount is concern in **MFA No.103557/2016 (Sriram General Ins.Co. Ltd., V/s. Smt. Lakshmi & Others) (DD.20-03-2018)** the Hon'ble High Court of Karnataka has held that as per Sec.34 of CPC, the rate of interest that can be awarded on judgments cannot be more than 6% and that since **Sec.149 of the Motor Vehicles Act** provides for

interest on judgments, the interest to be awarded in claim petitions has to be 6% per annum and not more than that. Hence, in the case on hand, interest at the rate of **6% per annum** is awarded. Accordingly, **I answer issue No.2 Partly Affirmative.**

30. **ISSUE NO.3** : By virtue of above findings, Tribunal proceeds to pass the following;

ORDER

The claim petition filed by the petitioner U/Sec.166(1) of M V Act is hereby allowed in part with costs.

Petitioner is entitle for compensation of **Rs.5,56,500/- (Rs. Five Lakh Fifty Six Thousand Five Hundred only)** with interest @ **6% per annum** from the date of petition till its realization.

Respondent No.1 is liable to pay the said compensation to the petitioner.

Anyhow, the respondent No.2 shall deposit the said compensation amount within **30** days from the date of this Judgment and then recover the same from respondent No.1 in accordance with law, as held by the Hon'ble Apex Court in Shamanna's case.

After deposit of the Award amount and interest by the Respondent No.2, release the compensation amount awarded to petitioner through K-2 bill after proper identification.

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

Draw an award accordingly.

(Dictated to the stenographer directly on the computer system, corrected, signed and then pronounced by me in the open Court on this the **28th day of April 2026.**)

(Vijayalaxmi Ghanapur)
I Addl. Senior Civil Judge,
& Addl. M.A.C.T. Dharwad.

A N N E X U R E

1.Witnesses examined on behalf of the Petitioner :

P.W.1 : Smt. Anasavva W/o. Devendrappa Baludi

2. Documents marked as Exhibits for the Petitioner:-

- Ex.P.1 : Certified copy of FIR along with complaint
Ex.P.2 : Certified copy of crime details along with sketch and photographs
Ex.P.3 : Certified copy of MVI report
Ex.P.4 : Certified copy of charge sheet
Ex.P.5 : Certified copy of P M report
Ex.P.6 to 8 : Copies of aadhar cards and ration card

3. Witnesses examined on behalf of the Respondents:-

- R.W.1 : Thimmappa Mareppa

4. List of documents marked on behalf of Respondents:-

- Ex.R.1 : Authorization letter
Ex.R.2 : Insurance policy

(Vijayalaxmi Ghanapur)
I Addl. Senior Civil Judge,
& Addl. M.A.C.T. Dharwad.

(Judgment pronounced in the open Court vide separate Order)

ORDER

The claim petition filed by the petitioner U/Sec.166(1) of M V Act is hereby allowed in part with costs.

Petitioner is entitle for compensation of **Rs.5,56,500/- (Rs. Five Lakh Fifty Six Thousand Five Hundred only)** with interest @ **6% per annum** from the date of petition till its realization.

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After deposit of the Award amount and interest by the Respondent No.2, release the compensation amount awarded to petitioner through K-2 bill after proper identification.

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

Draw an award accordingly.

I Addl. Senior Civil Judge,
& Addl. M.A.C.T. Dharwad.

