

KAHS400000482022



Presented on : 14-01-2022  
Registered on : 14-01-2022  
Decided on : 18-03-2026  
Duration : 4 years 2 months 4 days

**IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC**  
**MACT, AT ARSIKERE**

**DATED THIS THE 18<sup>th</sup> DAY OF MARCH 2026**

**Present : Sri. Kirankumar D. Wadigeri., B.A.L., L.L.B.**  
Senior Civil Judge & J.M.F.C & MACT.,  
Arsikere.

**M.V.C.No.38/2022**

Petitioners : 1) Sri. Annappa  
S/o Late Thimmappa  
Aged about 49 years,  
R/o Chikka Banavara,  
Banavara Town @ Hobli,  
Arsikere Taluk, Hassan District.

Since petitioner sustained diffuse Brain  
injury as such  
Rep: by his wife  
Smt Shanthamma  
W/o Annappa as Next friend  
Aged about 46 years,  
R/o Chikka Banavara,  
Banavara Town @ Hobli,  
Arsikere Taluk, Hassan District.

Since petitioner is dead LR' on Record

- P1(a) Smt.Shanthamma  
W/o Annappa,  
Aged about 49 years
- P1(b) Smt.Ashwini W/o Prasad  
D/o Annappa,  
Aged about 30 years
- P1(c) Smt.Rupini C.A W/o Ramesh  
D/o Annappa  
Aged about 29 years
- P1(d) Sri.Kirankumar C.A  
S/o Annappa  
Aged about 27 years

All are R/o  
Chikkabanavara,  
Chaluvanahalli post,  
Banavara Hobli,  
Arsikere Taluk.

(By Sri B.K.V, Advocate)

**-V/s-**

- Respondents : 1) Smt.Pushpavathi  
W/o Channabasavaiah  
Aged about 46 years,  
R/o No.C-4<sup>th</sup> Cross, Kancaghatta  
New Extension, Vidyanagara,  
Tiptur Town, Hassan District.

(Owner of Hyundai Car bearing Reg.  
No.KA-44-2512)

- 2) The Branch Manager  
Reliance General Insurance Company,  
Branch office, 1<sup>st</sup> floor, Kruthika Arcade,  
MPL, SAS No:329, 331, near N R Circle,  
H.N Pura, Hassan – 573201.

Policy No. 9202220231102119718  
dated 13.12.2020 To 12.02.2021

(R-1 by Sri S.P., Advocate)  
(R-2 by Sri K.M.S.N., Advocate)

### **J U D G M E N T**

Initially the deceased petitioner has filed this petition through his wife Smt.Shanthamma under Section 166 of Motor Vehicle Act 1989 for the grant of compensation for the injuries sustained by him in the road traffic accident on 22.01.2021.

2. The deceased petitioner has pleaded in this petition that on 22.01.2021 at about 4.30 a.m., he was proceeding on a motorcycle bearing No.KA-13-K-8189 towards Kodimutt School slowly. At that time, a Car bearing No.KA-44-M-2512 belonging to the respondent No.1 came in a high speed, rash and negligent manner as if endangering to human life by its driver and dashed against the bike of the petitioner and caused the accident. Due to which, he has sustained grievous injuries and immediately he has been shifted to JC

Hospital Arsikere and first aid was given and then shifted to SSB Multi specialty Hospital Hassan and taken treatment as an inpatient for one month and under went all major treatments and spent the amount of Rs.5 to 6 lakhs and he was in Coma for about 25 days and even now also his situation is not under the control and he has lost memory power and hence this petition by his next friend who is his wife. Further they have spent Rs.7,00,000/- towards medical expenses for attendants and food and nourishment and still the petitioner requires to spend Rs.3 to 5 lakhs for further treatment on injuries.

3. During the pendency of the petition, the petitioner died due to the injuries sustained in the said accident and PM was also conducted on the dead body of the deceased petitioner and subsequently his legal heirs were brought on record as petitioner Nos.1(a) to 1(d).

4. Further they have pleaded that the deceased was hale and healthy aged about 49 years and he was doing coolie and getting income of Rs.700/- per day. That the petitioner No.1(a) is the wife, petitioner No.1(b) and 1(c) are the daughters and petitioner No.1(d) is the son of the deceased and they were depending upon the earnings

of the deceased. After the accident crime was registered against the driver of the Car in Crime No.15/2021 before the Banavara Police Station. That the Respondent No.1 is the owner and respondent No.2 is the insurer of the offending Car bearing Reg.No.KA.44-M-2512 are liable to pay the compensation of Rs.30,00,000/-.

5. After service of notice, the respondent Nos.1 and 2 have appeared before the Court through their respective counsels and filed the written statements in which they have denied about the averments of petition of the petitioners and age and income of the deceased and manner of the accident and about the contents of the petition of the petitioners. It is contended by the Respondent No.1 that, her Car bearing Reg. No.KA-44-M-2512 is insured with the respondent No.2 company and driver of the said Car had valid DL at the time of accident. Therefore, the respondent No.2 company being the insurer of the said Car is liable to pay the compensation to the petitioners if any awarded.

6. The respondent No.2 has further contended that the driver of the said Car and deceased petitioner had no valid and effective driving licence at the time of accident and hence there is violation of

policy conditions and provisions of MV Act. Further contended that there is one day delay in lodging the compliant which shows that the deceased petitioner colluding with the Police have created false story against the insured vehicle. Further contended that the insurer and insured of the Bike bearing No.KA-13-K-8189 and driver of the offending Car bearing No.KA-44-M-2512 are the proper and necessary parties to the petition and hence the petition is bad for non-joinder of necessary parties. Further it is contended that there is non-compliance of Section 134 and 158(6) of MV Act. Hence, for such other reasons, it is prayed to dismiss the petition.

7. On the basis of the above pleadings this Court has framed the following:

### **ISSUES**

- 1) Whether the petitioners prove that, Sri.Annappa S/o Late Thimmappa has died, due to actionable rash and negligent act of driver of Car bearing Reg.No.KA.44/M-2512 in the motor vehicle accident on the date, time and the place as being asserted in the petition?
- 2) Whether the respondent No.2 proves that there is violation of policy conditions?

3) Whether the petitioner are entitled for any compensation? If so, what is the quantum and from whom?

4) What order or award?

8. In order to prove their case, the petitioner No.1(a) herself got examined as PW.1 and documents got marked as per Ex.P.1 to Ex.P.319. On the other hand, the respondents did not adduce any evidence on their behalf.

9. Heard and perused the documents.

10. My findings to 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:-

### **REASONS**

11. **Issue No.1** : Initially the deceased petitioner has filed this petition through his wife Smt.Shanthamma under Section 166 of Motor Vehicle Act 1989 for the grant of compensation for the injuries

sustained by him in the road traffic accident on 22.01.2021 due to rash and negligent act of the driver of the offending vehicle. During the pendency of the petition, the petitioner died and his legal heirs were brought on record as petitioner Nos.1(a) to 1(d). PW-1 is the wife of the deceased Sri.Annappa S/o Late Thimmappa, who has stated about the alleged accident, in her examination-in-chief and she further stated that her husband died due to the injuries sustained in the alleged accident and died in the Hospital. She has produced charge sheet, FIR, complaint, G-Tree and PM report which have been marked as Ex.P.1 to P5.

12. In the cross-examination of PW-1, nothing has been elicited in order to disprove the manner of the alleged accident as stated by the petitioners in their petition and as narrated in the prosecution case. However, she has stated that her deceased husband had valid and effective driving licence at the time of accident, but same is not produced by her. As per the prosecution case and charge-sheet which is filed against the driver of the said Car for the offences punishable under Section 279 and 337 of IPC initially and after death of the deceased petitioner and after conducting PM report, Section 304(A) of IPC has been added as per the order of the Court. So, the

alleged accident was occurred only due to the rash and negligent driving of the Car by its driver belonging to the respondent No.1. As per Ex.P5 PM report, the Doctor has opined the cause of death was due to 'septicemia' as a result of infection of Bedsores, which developed as the deceased was bed-ridden for long period consequent to the road traffic Accident. So, as per the said report, the petitioner died due to the injuries sustained in the said road traffic accident. Hence, **my finding to Issue No.1 is in the affirmative.**

13. **Issue No.2:** The respondent No.2 has taken contention that, the deceased and the driver of the said Car had no valid and effective driving licence at the time of the accident and hence there is violation of policy conditions. In order to substantiate the same, the respondent No.2 has not taken any efforts to prove that the driver of the said Car had no valid and effective driving licence at the time of accident. Furthermore after perusal of the charge sheet, the case was registered against the driver of the said Car for the offences punishable under Section 279, 337 and 338 of IPC. No such offence is made out against the driver of the Car in order to show that he had no valid and effective driving licence at the time of the accident. Though the petitioners have not produced any documents to show that the deceased petitioner had valid driving licence, but the alleged

accident was occurred only due to the negligent driving of the Car by its driver. Therefore, there is no such violation of policy conditions as contended by the respondent No.2. Hence, my finding to **Issue No.2 is in the Negative.**

14. **Issue No.3:** The petitioners have taken the contention that, at the time of the accident, age of the deceased was 49 years and he was doing Coolie work and earning Rs.700/- per day. As per the PM report produced by the petitioners which has been marked as Ex.P.5, age of the deceased was 50 years. As per the Aadhar card produced by the petitioners, which shows that the deceased petitioner was born on 01.01.1971. Hence, as on the date of accident, the petitioner was aged 50 years. Further, in order to prove the income of the deceased, the petitioners have not produced any other documents. As per Notification No.KAE 228 LWA 2018 dated 11.12.2019 Minimum Wages with effect from 11.12.2019 has to be taken for Rs.12,586/-. Therefore, income of the deceased is taken for Rs.12,586/- per month.

15. As discussed above age of the deceased at the time of the accident was 50 years. Hence, the multiplier '**13**' is applicable to the case on hand.

16. As discussed above income of the deceased per month is taken as Rs.12,586/-. So his yearly income will be Rs.12,586 X 12= 1,51,032/-.

17. In this case in hand the deceased was having four dependents and in view of the decision reported in **Sarala Verma case**, 1/4<sup>th</sup> of the income of the deceased has to be deducted for his personal and living expenses and remaining amount to be taken to calculate the compensation amount i.e., Rs.1,51,032/- = 37,758/-. So, Rs.37,758/- will be deducted in Rs.1,51,032/- which is of Rs.1,13,274/-. So, the petitioners are entitled for Rs.1,13,274 x 13 = **14,72,562/-** under the head loss of dependency and loss of estate.

18. Further the petitioners are entitled for the amount of **Rs.30,000/- for funeral and death ceremony of the deceased** and **Rs.10,000/- for transportation of the dead body of the deceased.**

In the decisions passed by **the Hon'ble Supreme Court of India** in:

**1. Civil Appeal No.9581/2018** in between **Magma General Insurance Co. Ltd. V/s Nanu Ram Alias Chuhru Ram and others.**

**2. MFA No.987/2012** passed by the Hon'ble High Court of Karnataka in between **Siddamma and**

**others V/s National Insurance Co. Ltd. and another.**

After gone through the said decisions the petitioner Nos.1(b) to 1(d) are entitled for **Rs.20,000/- each for parental consortium** and petitioner No.1(a) is entitled for **Rs.20,000/- for Spousal consortium**. In this case, the petitioners have also produced the medical bills and medical prescriptions of deceased Annappa, which have been marked as Ex.P.6 to P.309. In which there are some advance bills and they are not considered. So, considering the same the petitioners are entitled the amount of **Rs.4,71,523/-** under the head of medical expenses. So, all the petitioners are entitled for **Rs.20,64,085/- and the same is rounded off to Rs.20,64,100/-** with interest @ 6% per annum from the date of petition till realization.

19. The learned counsel of the respondent No.2 has vehemently argued that the petitioner No.1(b) and 1(c) are the married daughters and they were not dependents of the deceased petitioner. In this regard he has relied the decision reported in **Civil Appeal No(s) of 22265-22266/2018 in between Deep Shikha & another Vs National Insurance Company Limited and others**. It could be seen from the averments of amended petition of the petitioners, they have

specifically stated that all the petitioners were dependents of the deceased petitioner. On the other hand, the respondent No.2 has not at all contended in its written statement that the petitioner No.1(b) and 1(c) are not the dependents of the deceased petitioner. Therefore, the above said decision is not aptly applicable to this case in hand. Further it is argued by the learned counsel of respondent No.2 that there is a contributory negligence on the part of the deceased petitioner as well as driver of the offending Car and hence 50% of the liability shall be fixed on the deceased petitioner. In this regard, he has relied the following decisions:

*1) 2024 ACJ 634 in between Sanna Papamma and others Vs B.Basavaraj and others*

*2) 2021 ACJ 1050 in between Raju Singh Vs Sharanappa and others*

*3) 2018 ACJ 1730 in between Reliance General Insurance Co. Ltd Vs M.Jayalakshamma and others*

*4) Civil appeal No.2410-2412/2023 in between Shri Ram General Insurance Co. Ltd Vs Bhagat Singh Rawat and others.*

20. As discussed above in view of the findings on Issue No.1 and as per the Prosecution case, the alleged accident was occurred only

due to the negligent driving of the Car by its driver. No such offence is made out against the deceased petitioner. Therefore, there is no such contributory negligence on the part of the deceased petitioner also. Therefore, the above said decisions relied by the learned counsel of the respondent No.2 and arguments put-forth by him are not sustainable.

21. It is not disputed by the respondent No.2 that its company is the insurer of the said offending vehicle. Therefore, the respondent No.2 being insurer of the Car is liable to pay the said compensation with interest @ 6% per annum to the petitioners from the date of the petition till realization of the award amount. **Hence, my finding to Issue No.3 is Partly in the Affirmative.**

22. **Issue No.4:-** In the result, I proceed to pass the following:-

### **ORDER**

The petition filed by the petitioners is hereby allowed in part and they are entitled for compensation of **Rs.20,64,100/-** (Rupees Twenty lakhs Sixty Four Thousand One hundred only) with interest @ 6% per annum from the date of petition till realization of the award amount from the Respondent No.2.

Out of the said compensation amount, the petitioner No.1(a) is entitled for 40% and the petitioner Nos.1(b) to (d) are entitled for 20% each. Out of the said amount, 50% amount of the petitioners shall be deposited in the Nationalized Bank or scheduled bank in their names as per their choice up to 3 years and they are entitled to take accrued interest amount periodically.

Petitioners are directed to furnish details of their bank accounts and Pan cards before releasing the deposited amount by the respondent No.2.

Advocate fee is fixed for Rs.500/-.

Draw award accordingly.

(Dictated to the Stenographer directly on computer, typed by her and after corrections, pronounced by me in the open court on this 18<sup>th</sup> day of March 2026)

**(Kirankumar D. Wadigeri)**  
Senior Civil Judge & MACT,  
Arsikere.

**:ANNEXURE:**

**LIST OF WITNESSES EXAMINED FOR THE PETITIONERS:**

PW.1 : Smt. Shanthamma

**LIST OF DOCUMENTS EXHIBITED FOR THE PETITIONERS:**

Ex.P.1	:	Charge sheet
Ex.P.2	:	F.I.R.
Ex.P.3	:	Complaint
Ex.P.4	:	G-tree
Ex.P.5	:	PM report
Ex.P.6 to 162	:	Medical bills
Ex.P.163 to 309	:	Medical prescriptions
Ex.P.310	:	Discharge summary
Ex.P.311 to 313	:	3 Attested copies of Aadhar cards
Ex.P.314 to 316	:	3 Attested copies of Pan cards
Ex.P.317 to 319	:	3 Attested copies of Bank Passbooks

**LIST OF WITNESSES EXAMINED FOR THE RESPONDENTS:**

-Nil-

**LIST OF DOCUMENTS EXHIBITED FOR THE RESPONDENTS:**

-Nil-

**Senior Civil Judge & MACT,  
Arsikere.**