Presented on : 27-09-2024
Registered on : 21-12-2024
Decided on : 20-05-2026
Duration : 1 year 7 months 23 days

IN THE COURT OF THE SENIOR CIVIL JUDGE AND MACT AT SEDAM

PRESENT: SRI.SAGAR GURUGOUDA PATIL
B.A., LL.B(Spl).
Senior Civil Judge & Member MACT,
Sedam.

DATED THIS THE 20th DAY OF MAY-2026

M.V.C.No.1727/2024

PETITIONERS:

1. Kalavati W/o Prakash Malipatil, Age: 40 years, Occ: Household,

2. Priyanka W/o Lakhansingh Nelogi, Age: 28 years, Occ: Household,

   Both are R/o Kodla, Tq: Sedam, Dist: Kalaburagi. Now at Digganva, Tq: Chittapur, Dis: Kalaburagi.

   (Advocate for petitioners Sri. N.S.P.)

//Versus//

RESPONDENTS:

1. Almas S/o Chandmiyan, Age: Major, Occ: Owner of Auto No.KA-32/D-1064, R/o Kachur, Tq: Sedam, Dist: Kalaburagi PIN-

585222. M.No.9900591539

2. National Insurance Company Ltd.
   Through its Divisional Manager,
   Bilgundi complex, Station Road,
   Kalaburagi.

   Policy No.610400312310004610
   w.e.f. 08.02.2024 to 07.02.2025.

3. Ramchandra S/o Dhansingh Chavan, Age: Major, Occ: Owner of motorcycle, No.KA-53/HA-4474, R/o Siddarod Nagar, Kurkunta Madkal, Tq: Sedam, Dist: Kalaburagi.

(Respondent No.1 by Sri.H.L.A. Advocate)
(Respondent No.2 by Sri.T.V.P. Advocate)
(Respondent No.3 by Sri.M.R.C. Advocate)

JUDGMENT

This claim petition is filed by the petitioners u/s 166 of M.V.Act seeking award of compensation of Rs.44,00,000/- in connection with the death of Anil S/o Prakash Malipatil who succumbed to the injuries sustained in the motor vehicle accident.

2) The brief facts of the petition are summarized as under: On 27.06.2024 in the evening hours the deceased Anil S/o Prakash Malipatil and his sister Priyanka had been to Nagavi Yallamma Temple for darshan from Sedam and stayed at temple in the night. On 28.06.2024 in the morning hours after darshan, deceased Anil and his sister came to Chittapur bus stand at about

11-00 AM to go to Sedam. The mother in law of deceased Basamma and her daughter Shilpa meet in the Chittapur bus stand. The buses are not available in the Chittapur bus stand to go to Sedam. They sat in the Kalaburagi bus came to Tengli cross to go to Sedam. The buses are not available in the Tengli cross to go to Sedam. The deceased Anil informed his friend Zahiruddin came to Tengli cross along with Auto No.KA-32/D-1064 to go to Sedam. The deceased Anil sat in the Auto right side of the driver and his sister, mother in law and her daughter were sat in the behind seat of the Auto. The driver of Auto was driving the Auto in normal speed by observing the Traffic rules. When the Auto came near Malkhed Vijya Dhaba on Kalaburagi Sedam main road, then a lorry was going in front of the auto, the driver of the Auto while overtaking the Auto at that time the rider of motorcycle bearing No.KA-53/HA-4474 came from opposite side in high speed, rash and negligent manner and dashed to the deceased Anil and deceased Anil fell down on the road, the accident took place at about 1-00 PM. Due to which deceased sustained grievous injuries to right leg, right elbow, left forehead and other parts of the body. Immediately after the accident deceased was admitted at Malkhed hospital for treatment, thereafter deceased was admitted at GIMS Hospital Kalaburagi. As per adivese of the doctor due to serious injuries of the deceased, he was admitted at Manur Hospital Kalaburagi for further treatment, the grievous injuries sustained by the deceased the deceased was died in the hospital

at about 8-25 AM on 29.06.2024 while taking treatment.

3) The deceased was very hale & healthy before the accident. He was earning Rs.25,000/- per month by doing hotel labour work and spending entire income for the welfare of his family. The petitioner No.1 is mother and petitioner No.2 is sister of the deceased Anil. On account of death of deceased Anil the petitioners are suffering from financial and mental distress and loses their love and affection of the deceased.

4) The accident was occurred due to rash and negligent driving of both the vehicles i.e., motorcycle bearing No.KA-53-HA-4474 by its rider and Auto No.KA-32/D-1064 by its driver and a case was registered against the rider/driver of the both the vehicles in Crime No.42/2024 of Malkhed P.S. for the offences punishable Us.279, 337 and 304-(A) of IPC. The deceased was travelling in the Auto and he comes under third party. Therefore, respondent No.1 being the owner of the vehicle and respondent No.2 being the insurer of the vehicle are jointly and severally liable to pay the compensation of Rs.44,00,000/- with interest to the petitioners. Hence prays to allow the petition.

5) In pursuance of the service of notice, the respondent No.1 to 3 appeared through their respective counsels and filed their separate statement of objections. The respondent No.1 in his statement of objection has denied the entire petition averments

and submitted that the respondent No.1 is owner of R.C. holder of vehicle Auto bearing No.KA-32/D-1064 with valid insurance in National Insurance on the date of alleged accident and also valid driving license of driver on the same date. There was no negligence on the part of driver vehicle. So not to cause to death of claimant's son from respondent No.1's vehicle and respondent No.1 had not violated any norms of law therefore respondent No.1 is not liable to pay compensation to the petitioners. Hence, prays to dismiss claim petition.

6) The respondent No.2 in its statement of objection has denied the entire petition averments and it is submitted that the respondent no.1 has not given any notice in writing to the respondent no.2 company regarding the occurrence of alleged accident and involvement of one Auto bearing Reg.no. KA-32 D-1064 in the alleged accident. The respondent no.1 has not co-operated with respondent no.2 in respect of claim. The respondent no.1 as per condition no.1 of policy issued to the owner U/s 134(c) and 159 of MV Act, required to inform the concerned police station and insurance company in writing and shall give such information cooperation and assistance as the company requires.

7) That clause 159 makes it compulsory on the part of the driver of the vehicle in the accident, to produce the certificate of

registration and insurance, the certificate of fitness, permit, and driving license without delay and the police officer who makes a report of accident shall send a copy of the report to the accident claims Tribunal. The police report referred in Sec. 159 shall be in form no.54. In the present case, the respondent no.1 has not forwarded any letter, claim summons or process to the company in respect of the present claim under the policy if issued to him, and thus respondent no.1 has clearly violated the terms and conditions of the policy, more particularly condition no.1 therefore the respondent no.2 is not liable to pay any compensation to the petitioners.

8) It is submitted that the accident is caused outside the limit area of the permit issued to the auto and police have filed a charge sheet against the driver of the auto U/Sec.192-A of MV Act for the said reason. It is also submitted that the auto is having a seating capacity of only 4 members including driver whereas the deceased was seated by the side of the driver of the auto which is the violation of policy conditions and there is 1 days delay in lodging the FIR. It is submitted that the driver of the auto bearing Reg.No.KA-32/D-1064 was not holding valid and effective driving license at the time of accident and also the said auto was not duty insured as on the date of the accident and the auto was not having valid permit to ply on the road. Hence, prays to dismiss the petition.

9) The respondent No.3 in his statement of objection has denied the entire petition averments and submitted that the respondent No.3 is the Owner of the motor cycle Bearing No. KA534474. It is further submitted that one Mohamad khaja had stolen the motor cycle of respondent No.3 in front of mini Vidhansoudha Sedam on 28/06/2024. Thereafter same day respondent no.3 went Sedam PS to give complaint but Sedam PS neglected the complaint and Sedam PS advised to give his complaint in E-FIR. Respondent No.3 tried to file E-FIR but server issue arose and when he was unable to file E-FIR finally he directly went Sedam PS and given written complaint on 24/09/2024 Sedam PS filed FIR Crime No. 157/2024 U/s 379 of IPC. It is further submitted that, at the time of accident the respondent No.3 not aware and because his motor cycle. was stolen by thief. It is respectfully submitted that, one Mohammad Khaja was stolen Respondent No.3 bike on dated 28-06-2024 and Malkhed PS captured thief and Sedam police as well as charge sheet witness No.21 took him custody for investigation. Therefore it is clearly shown that the respondent No.3 has no role in said accident. Hence the respondent No.3 has not liable to pay any compensation to petitioners. Hence, prays to dismiss the petition.

10) On the basis of the aforesaid pleadings the Tribunal framed the following issues for consideration:

1) Whether the petitioners prove that on 28.06.2024 at about 01-00 PM, near Malkhed Vijay Dhaba, on Kalaburagi – Sedam main road, Tq: Sedam, Dist: Kalaburagi, while the deceased Anil travelling in a Autorickshaw bearing Reg.No.KA-32/D-1064 towards Sedam, at that time, the driver of Autorickshaw while over taking his vehicle the rider of motorcycle bearing Reg.No.KA-53/HA-4474 came from opposite side with high speed and in a rash and negligent manner and dashed to the deceased Anil who was travelling in the said Auto as inmate due to which the deceased succumbed to the injuries?

2) Whether, the petitioners are entitled for the compensation? If so, to what amount and from whom?

3) What award or decree?

11) In order to prove their case, petitioner No.1 has examined herself as PW 1 and and got marked 9 documents as Exs.P1 to P9. The respondents No.1 and 3 have not lead any evidence. The respondent No.2 has got examined its official as RW.1 and through him got marked 2 documents as Ex.R.1 and 2.

12) Heard the arguments. Perused the records.

13) On hearing arguments and on perusal of the materials on record and on appreciating the evidence on record, my findings on the above issues are as under:

1. IN THE AFFIRMATIVE
2. AS PER THE OBSERVATION
3. AS PER THE FINAL ORDER

for the following:

R E A S O N S

14) **ISSUE No.1:** It is the specific case of the petitioners that the accident in question was occurred due to involvement of a Auto bearing Regn.No.KA.32/D-1064 and TVS XL motorcycle bearing Reg.No.KA-53/HA-3474. In order to substantiate this contention the petitioner No.1 has examined herself as PW 1 and she has filed affidavit U/O 18 rule 4 of CPC containing her examination-in-chief by reiterating the petition averments and got marked 9 documents as Exs.P1 to P9. The FIR, complaint, charge sheet, inquest panchanama, panchanama, IMV report, PM report at Ex.P.1 to 7 shows that as on the date of the accident the driver of respondent No.1 was driving the Auto bearing Regn.No.KA.32/D-1064 with high speed and in rash and negligent manner and caused accident while overtaking the said Auto from the lorry and due to which the rider of motorcycle bearing Reg.No.KA-53/HA-4474 came from font side in high speed, rash and negligent manner and dashed to the deceased Anil who sat by the side of the driver of Auto and fell down from the Auto and sustained grievous injuries. The charge sheet, inquest and P.M. report at Ex.P3, 4 and 7 show that the deceased died on

29.06.2024 at 8.25 AM due to the injuries caused in the accident. The Crime Details Form reveals the accident spot and the involvement of the offending vehicles.

15) After service of petition notice the respondent No.1 to 3 have appeared through their counsels and filed their written statements denying the negligence on the part of the driver and rider of both the vehicles. But respondent No.1 and 3 have failed to enter into the witness box. The respondent No.2 has got examined its officials as RW.1 and got marked 2 documents as Ex.R.1 and 2. Therefore, the written statement averments of respondent No.1 & 3 have not been substantiated. The respondent No.1 to 3 have not challenged the FIR & challan so far. Therefore adverse inference has to be drawn against the respondent No.1 to 3.

16) On perusal of the IMV report at Ex.P.6 it is seen that the accident had not occurred due to any mechanic defects of the both the vehicles. The respondent No.2 in the written statement even though has denied alleged negligence on part of the driver of the Auto but he it not placed on record any material to substantiate the same. Therefore, in the absence of any cogent materials in this regard from the respondents only inference which has to be drawn is that the accident in question was the result of rash and negligent act of the driving/riding of the both the

vehicles. The I.O. has also filed charge sheet against the rider of the motorcycle as accused No.1 for the offences punishable U/Sec.279, 337, 304-(A) of IPC and Sec.181, 194(d) and 196 of IMV Act and against the driver of the Auto as accused No.2 for the offences punishable U/Sec.279, 337, 304-(A) of IPC and Sec.192(a) of IMV Act.

17) The police records and the evidence of PW.1 makes it clear that the accident had occurred due to rash and negligent driving and riding of the both offending vehicles. For the aforesaid reasons I answer Issue No.1 in the affirmative.

18) **ISSUE No.2**: The petition discloses that the petitioners are mother, sister and brother of the deceased.

19) The petitioners have claimed a total compensation of Rs.44,00,000-00. Their entitlement to claim this compensation shall be assessed and determined under the following heads:

20) LOSS OF DEPENDENCY: It is the specific case of the petitioners that son of petitioner No.1 and brother of petitioner No.2 viz Anil was doing hotel labour work by earning Rs.25,000-00 per month. But they have not produced any documents to substantiate their version. Therefore notional income of the deceased has to be considered.

21) It is relevant to note that as per the revised notional income chart issued by the Karnataka Legal Services Authority, Bengaluru for conducting Lok Adalath, wherein notional income for the year 2024 is considered as Rs.15,750-00. In this regard it is useful to refer the decision of the Hon'ble High Court of Karnataka in the case of Sri Iqbal Ahamed VS Vice Chairman, M/s Patel Integrated Logistics Ltd., & another, reported in ILR 2017 KAR 3045, wherein the Hon'ble High Court at para 11 of its judgment held as under:

> 11. In large number of cases, this Court has noticed that despite the fact this Court had formulated a Chart of notional income of the injured / deceased, for the purpose of Lok Adalat, and has followed the Chart even in Court cases, but even then the Chart is not being followed by the Learned Tribunals. Invariably, the claimants file an appeal before this Court and plead that the notional income assessed by the Learned Tribunal is not in consonance with the Chart prepared by this Court. Inevitably, to do justice to the claimants, this Court has to issue notice. Therefore, for the failure of the Tribunal to flow the Chart, this Court is inundated with large number of appeals. The sky-rocketing dockets are placing unnecessary burden on this Court. Since the High Court is required to do justice to the people, it has no other option, but to devote many Benches to deal with the flow of Miscellaneous First Appeals coming from the Claims Tribunals. Hence, in order to reduce the flood of litigation, it is imperative that the Learned Tribunals should follow the Chart of notional income, prepared by this Court, in order to assess the notional income of the injured / deceased in every claim petition.

22) In view of the above decision of the Hon'ble High Court I am bound to consider the notional income of the deceased as Rs.15,750-00 per month. The annual gross income would be Rs.1,89,000-00. In the copy of the Aadhar card the date of birth year of the deceased Anil was shown as 2001 and as on the date of accident deceased Anil was 23 years old. Therefore, as per the law laid down by the Hon'ble Supreme Court in the case of National insurance Company Limited VS Pranay Sethi and others, reported in (2017) 16 SCC 680, the 40% of actual income should be added towards future prospects. For the purpose of clarity the para 59.4 of the judgment of the Hon'ble Supreme Court is reproduced below.

> 59.4. In case the deceased was self-employed or 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 necessary method of computation. The established income means the income minus the tax component.

23) Applying the above principle of law in this case 40% of actual income should be added towards future prospects. If 40% of Rs.15,750/- is added it comes to Rs.15,750 + Rs.6,300-00 = Rs.22,050-00 per month. The annual income of the deceased is comes to Rs.2,64,600/-.

24) Coming to the aspect of deduction the Hon'ble Supreme Court in the case of Sarala Verma VS Delhi Transport Corporation reported in 2009 ACJ 1298 laid down the guidelines as under:

> 31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parents(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependent and the mother alone will be considered as a dependent. in the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependent on the father.

25) In the instant case the deceased Anil died unmarried leaving behind him his mother and sister. In view of the above decision of the Hon'ble Supreme Court the petitioner No.1 being mother has to be considered as dependent. The same goes to show that the number of dependent is only one and therefore 1/2 of the gross income of the deceased has to be deducted towards his personal &

living expenses.

26) Hence if the monthly income is assessed at Rs.22,050-00 p.m and 1/2 is deducted it comes to Rs.11,025-00 p.m. The same goes to show that the monthly contribution of the deceased to the family is Rs.11,025-00 and the yearly contribution is Rs.1,32,300-00 (multiplicand). Consequently the yearly income of the deceased has to be considered as Rs.1,32,300-00. In the Aadhar card the date of birth year deceased is mentioned as 2001. Therefore, the age of the deceased as on the date of accident was 23 years and the same is considered. The same goes to show that as on the date of accident he was aged about 23 years. Therefore as per the law declared by the Hon'ble Apex court in the case of Sarala Verma VS Delhi Transport Corporation (2009 ACJ 1298) the multiplier applicable to the age group of 15 to 25 years is '18'. The aforesaid yearly income has to be multiplied by applying appropriate multiplier '18' having regard to the assessment of the age made in the postmortem. Consequently the compensation on the head of dependency would be Rs.1,32,300-00 x 18 = Rs.23,81,400-00.

27) FUNERAL EXPENSES: The Hon'ble Supreme Court in the case of National Insurance Company Ltd., VS Pranay Sethi, reported in (2017) 16 SCC 680 in para 59.8 of its judgment held that reasonable figures on conventional heads, viz. loss of estate,

loss of consortium and funeral expenses should be Rs.15,000-00, Rs.40,000-00 and Rs.15,000-00 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years. Therefore in this case the petitioners are entitled for Rs.15,000-00 towards funeral expenses.

28) LOSS OF ESTATE: The Hon'ble Supreme Court in the case of Pranay Sethi, reported in (2017) 16 SCC 680 in para 59.8 of its judgment held that reasonable figures on conventional heads, viz. loss of estate, loss of consortium and funeral expenses should be Rs.15,000-00, Rs.40,000-00 and Rs.15,000-00 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years. Therefore in this case the petitioners are entitled for Rs.15,000-00 towards loss of estate.

29) LOSS OF CONSORTIUM: The Hon'ble Supreme Court in the case of Pranay Sethi, reported in (2017) 16 SCC 680 in para 59.8 of its judgment held that reasonable figures on conventional heads, viz. loss of estate, loss of consortium and funeral expenses should be Rs.15,000-00, Rs.40,000-00 and Rs.15,000-00 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years. In this case the petitioners being mother and sister have lost company of deceased. Therefore, they are entitled for Rs.40,000-00 each in total Rs.80,000-00 towards loss of consortium.

30) Thus the claimants are entitled to the following compensation:

Compensation under different heads Amount in Rs

1	Loss of dependency	23,81,400-00
2	Funeral expenses	15,000-00
3	Loss of estate	15,000-00
4	Loss of consortium	80,000-00
	TOTAL	24,91,400-00

31) The claimants are entitled to a total compensation of Rs.24,91,400-00. In view of the decision of the Hon'ble High Court in M/s Joyeeta Bose & others VS Venkateshan & others, (MFA 5896/2018 and connected matters disposed on 24-08-2020) the claimants are entitled for interest at the rate of Rs.6% per annum from the date of petition till the realization of the amount.

32) REGARDING LIABILITY: As far as liability is concerned, this court has already concluded that the accident took place due to the rash and negligent act of both the rider of the motorcycle bearing Reg.No.KA-53/HA-3474 and driver of the Auto bearing Reg.No.KA-32/D-1064. Therefore, the owners of both the vehicles are liable to pay 50% of the compensation each out of the total compensation awarded to the petitioners.

33) The RC copy at Ex.P.9 shows that respondent No.1 is

owner of the offending Auto. The copy of DL shows that the driver of the Auto by name Zahiroddin had DL to drive the offending Auto. The copy of insurance is at Ex.R.2, wherein the offending Auto was insured with the respondent No.2 and the policy is motor passenger carrying vehicle-package. The same shows that the offending Auto was insured with respondent No.2 and driver of the offending Auto had DL to drive the Auto at the time of the accident.

34) The learned counsel for respondent No.2 has argued that the Autorickshaw was plied beyond the permit limits and thereby policy condition is violated therefore the respondent No.2-insurer is not liable to pay the compensation. Per contra, the learend counsel for the petitioners has argued that there is no fundamental breach of terms of the policy. Therefore, the defense of the insurer cannot be accepted. In support of his arguments he has relied on the decision of the Hon'ble High Court of Karnataka in the case of the Divisional Manager, United India Insurance Company Ltd., Vs. Smt. Jayamma and Ors., reported in ILR 2018 Kar 1849, wherein the Hon'ble High Court held as under;

> *MOTOR VEHICLES ACT, 1988 ('the Act' for short) SECTION 166 Claim petition filed under Judgment and Award Tribunal fastened the liability on the Insurer Appealed against Defence raised by the Insurer, violation of permit conditions by the owner of the vehicle Duty of the Insurer is to establish that the breach of policy condition is the primary cause for the accident-*
>
> *Held:*

It is well established principle of law that the insurer has to establish that the breach of policy is so fundamental that it ended the contract which has been entered into between the insurer and the insured. In other words, violation must be of such a nature that it is the primary cause of the accident and not otherwise. With this object, the Legislature has spelled out grounds on which the Insurance Company can avoid its liability. The defence provided to the Insurance Company is a statutory right. We cannot import or read any other grounds than what are spelled out in sub-Section (2) of Section 149 of the Act.

Further Held:

(a) in the facts and circumstances of the case, plying the autorickshaw a few kilometers beyond the permit limits doesn't amount to fundamental breach of the terms of the policy. The said alleged violation finds no place in Section 149(2) of the Act. Therefore, the defence of the insurer that the vehicle in question had been driven beyond the territorial limits of Ranebennur amounts to violation of the permit condition, is not acceptable.

(b) The terms and conditions attached to each type of permit cannot be construed as the purpose for the permit. 'Purpose' and 'the terms of conditions' are two different aspects. The Legislature in its wisdom thought it fit to restrict the defence available under Section 149(2)(a) (i) (c) of the Act 'for a purpose not allowed by the permit' and not for 'violation of any terms and conditions of the permit. For example, if a vehicle holding goods carriage permit is carrying passengers or vice-versa. Then, it can be held that the vehicle holding goods carriage permit is being used for a purpose not allowed by the permit. The breach of conditions of the permit would by itself can not be characterised as the purpose not allowed

in the permit.

(c) Even as could be seen from the written statement filed by the insurer, at paragraph 9, he has specifically contended that permit given to the autorickshaw bearing registration No. KA. 27/A. 1891 is to ply within 10 kms from the city limits of Ranebennur. But the owner of autorickshaw had taken away the said autorickshaw 22 kms away from Ranebennur limits. There is difference between two aspect. First one, there is no permit at all to ply the vehicle and the second one is, there is permit but has gone beyond the limit. In the first one, it is a fundamental breach and on proof, the insurer can avoid the liability. With respect to the second, city permit to a particular distance is fixed because large number of such vehicles are operated in the State to the detriment of public interest. Another aspect is that the State has to see that the ownership and control of the material resources are so distributed as best serve the common good and there should not be concentration. In that light, a breach only invites criminal penalty, as such, it is not so fundamental to say there is breach of policy condition.

35) The above principle of law is aptly applicable to the case at hand. IN view of the above principle of law it becomes clear that in the instant case the breach i.e., plying the Auto beyond permitted area only invites criminal penalty, as such, it is not so fundamental to say there is breach of policy condition. Therefore, the contention of the respondent No.2 cannot be accepted. Accordingly, the respondent No.2 is liable to pay 50% of compensation out of total compensation amount.

36) The learned counsel for the petitioner has argued that the respondent No.2 is directed to pay entire award amount to the petitioners and thereafter recover 50% of the award amount from the respondent No.3. In this regard he has relied on the decision of the Hon'ble High Court of Karnataka Kalaburagi Bench in the case of Smt. Fatima Begum and Ors. Vs. Syed Yusuf and Ors., in MFA No.2000415/2019 (MVD) D.D. 27.11.2025, wherein the Hon'ble High Court held as under;

16. In respect of liability is concerned, the Apex Court in the case of KHENYEI-V-NEW INDIA ASSURANCE COMPANY LIMITED AND OTHERS reported in (2015) 9 SCC 273 has held as follows;

NC: 2025:KHC-K: 7281-DB HC-KAR 22.1 In the case of composite negligence, plaintiff/claimant is entitled to sue both or any one of the joint tort feasors and to recover the entire compensation as liability of joint tort feasors is joint and several.

22.2 In the case of composite negligence, apportionment of compensation between two tort feasors vis a vis the plaintiff/claimant is not permissible. He can recover at his option whole damages from any of them.

22.3 In case all the joint tort feasors have been impleaded and evidence is sufficient, it is open to the court/tribunal to determine inter se extent of composite negligence of the drivers.

However, determination of the extent of negligence between the joint tort feasors is only for the purpose of their inter se liability

so that one may recover the sum from the other after making whole of payment to the plaintiff/claimant to the extent it has satisfied the liability of the other. In case both of them have been impleaded and the apportionment/ extent of their negligence has been determined by the court/tribunal, in main case one joint tort feasor can recover the amount from the other in the execution proceedings. 22.4 It would not be appropriate for the court/tribunal to determine the extent of composite negligence of the drivers of two vehicles in the absence of impleadment of other joint tort feasors. In such a case, impleaded joint tort feasor should be left, in case he so desires, to sue the other joint tort feasor in independent proceedings after passing of the decree or award."

NC: 2025:KHC-K:7281-DB HC-KAR In view of the above judgment, the claimants are entitled to recover the compensation from any one of tort feasers. Accordingly, the Insurance Company is directed to deposit the entire compensation amount with liberty to recover 50% of the award amount from the owner of the Mahindra pick up goods vehicle bearing No.KA-32-A-6097.

37) The above principle of law is aptly applicable to the case at hand. In view of the above principle of law this court find it just and proper to direct the insurance company i.e., respondent No.2 to deposit entire compensation amount with a liberty to recover 50% of the award amount from the owner of the motorcycle bearing Reg.No.KA-53/HA-4474 i.e., respondent No.3

by filing execution petition.

38) As far as apportionment of amount of compensation is concerned the petitioner No.1 being the mother and petitioner No.2 being sister of deceased Anil are entitled for 1/2 compensation each. Hence, I answer Issue No.2 accordingly.

39) **ISSUE No.3:** In view of reasons and discussions on Issues Nos.1 & 2, I proceed to pass the following:

O R D E R

The petition filed by the petitioners against the respondents u/s 166 of the M.V.Act is hereby partly allowed with costs.

The petitioners are entitled for compensation amount of Rs.24,91,400-00 with interest at the rate of 6% from the date of petition till its complete realization.

The respondent No.1 and 2 being the owner and insurer of the offending Auto are jointly liable to pay 50% of the compensation amount and respondent No.3 being the owner of offending motorcycle is solely liable to pay remaining 50% of compensation amount.

The respondent NO.2 is hereby directed to deposit entire compensation amount of

Rs.24,91,400-00 with accrued interest with this court within 3 months from the date of award and the respondent No.2 is at liberty to recover 50% of compensation amount with interest 6% per annum out of Rs.24,91,400-00 from respondent No.3 by filing execution petition.

It is held that the petitioner No.1 and 2 entitled for 1/2 share each in the compensation amount of Rs.24,91,400-00 with interest at 6% p.a. from the date of petition till the date of realization.

Out of amount deposited by the respondent No.2, 60% each of compensation amount shall be released in favour of petitioner No.1 and 2 and remaining compensation amount awarded to them shall be deposited in any of the Nationalized Bank of their choice for the period of three years with a right to receive the periodical interest.

After deposit of compensation amount with interest thereon disburse amount as mentioned above as per guidelines laid down by Hon'ble High Court in MFA No.2509/2019 (ECA) and as per General Circular No.2/2019 dated 19.8.2019.

Bank shall not advance loan on such FD, and shall not cause premature release of FD without permission from the Tribunal.

Bank shall release amount along with interest thereon in favour of petitioner No.1 and 2 on proper verification and identification credit said amount to their account after expiry of three years period of deposit without waiting for further order of Tribunal.

The Advocate fee is fixed at Rs.1000/-. Draw award accordingly.

(Dictated to the Stenographer directly on computer, the same revised, corrected and pronounced in the open court on this 20th day of May-2026)

(SAGAR GURUGOUDA PATIL)
Senior Civil Judge & MACT, Sedam.

A N N E X U R E

LIST OF WITNESSES EXAMINED:

FOR PETITIONER/S

PW.1 : Kalavati W/o Prakash Malipatil

FOR RESPONDENT/S

RW.1 : N. Dinesh Kumar

LIST OF DOCUMENTS MARKED:

FOR PETITIONER/S

Exs.P1 : Certified copy of FIR
P2 : Certified copy of Complaint
P3 : Certified Crime charge sheet

P4	:	Certified copy of inquest panchanama
P5	:	Certified copy of panchanama
P6	:	Certified copy of IMV report
P7	:	Certified copy of P.M. Report.
P8	:	Copy of DL
P9	:	RC copy

FOR RESPONDENT/S

Ex.R.1	:	Authorization letter
Ex.R.2	:	Copy of insurance policy

Senior Civil Judge & MACT, Sedam

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