

KAMD200001962018



PRESENTED ON : 05-02-2018
REGISTERED ON : 12-02-2018
DECIDED ON : 07-04-2026
DURATION : 8 YEARS, 2 MONTHS, 2 DAYS

**IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL
JUDGE AND J.M.F.C., & MACT AT KRISHNARAJAPETE.**

:PRESENT:

SRI. DEVARAJU.H.R. BA., LLB.,

I ADDL.SENIOR CIVIL JUDGE AND JMFC, & MACT
K.R.PETE.

DATED THIS THE 07th DAY OF APRIL-2026

MVC No. 260/2018

PETITIONERS

1. Smt. Parvathamma,
W/o Late Ningaraju
aged about 55 years,
2. Sri. Pradeepa
S/o Late Ningaraju
aged about 37 years,

Both are R/o
Bevinahalli village,
Akkihebbalu hobli,
K.R.Pete taluk,
Mandya district.

3. Smt. Pavithra N.
D/o Late Ningaraju
W/o Vijayakumar,
aged about 41 years,
R/o Kommenahalli village,
Kasaba hobli, K.R.Pete taluk,
Mandya district.

(By Sri. **DRM.**, adv)

v/s

RESPONDENTS

1. Sri. Jagadeesha
S/o Muddappa,
aged about 44 years,
R/o Malaguru village,
Santebachahalli hobli,
K.R.Pete taluk,
Mandya district.

(Owner of Hero Honda Passion
Pro Motor Bike bearing Reg. No.
KA-54-J-8348)

2. The Branch Manager,
United India Insurance
Company Ltd,
KJB Complex,
1st floor, Mysuru Road,
K.R.Pete town 571426,

Policy No. 0720843116P111972898
Valid from 11.12.2016 to 10.12.2017

Insurer of Hero Honda Passion
Pro Motor Bike bearing Reg. No.
KA-54-J-8348)

(By Sri. NKS, Adv,R-1,
& R-1 Exparte)

J U D G M E N T

The Petitioners have filed this petition u/sec. 166 of Motor Vehicles Act, 1988 by claiming compensation of Rs.29,00,000/-along with current and future rate of interest at the rate of 18% p.a. against the

respondents for the death of Ningaraju S/o Late Sannamogannagowda in road traffic accident.

2. The brief facts of the petitioner's case are as under:-

It is the case of the petitioners that, on 14.08.2017 at about 2.30 p.m., the deceased Ningaraju S/o Late Sannamogannagowda, was waiting for Auto in front of Gandhi Nagar Bus stand, to go to Hirikalale village, at that time the rider of the Hero Honda Passion Pro Bike bearing Reg. No. KA-54-J-8348 rode the same in a high speed rash and negligent manner came from Kikkeri side and dashed to the deceased Ningaraju. As a result the deceased fell down and sustained grievous injuries to his head, right shoulder, right hand and other parts of the body.

3. Immediately he was shifted to K.R.Pete Government Hospital for provide treatment. Thereafter, as per the advise of the doctor he shifted to JSS Hospital, Mysuru for further treatment and he has taken treatment as inpatient from 14.08.2017 to 26.08.2017 for a period of 13 days and discharged from the hospital on 26.08.2017. Then on

27.08.2017 at about 9.30 p.m. Sri. Ningaraju's health deteriorated, so that he died on the way to hospital. Immediately dead body was shifted to K.R.Pete Government Hospital. After conduct the inquest and postmortem the dead body was taken to their native and cremated as per their customs with great sorrow.

4. Further the petitioners stated that, the deceased Ningaraju S/o Late Sannamogannagowda was hale and healthy person, prior to the accident he was doing agricultural work, out of which he was earning of Rs. 20,000/- p.m. and he was working as a Secretary at Bevinahalli village Milk Producers Co-Operative Society, and deceased was getting salary of Rs. 10,000/- p.m. totally he was earning Rs. 30,000/-per month for the maintenance of his family. Due to the death of deceased, the petitioner No.1 has lost her beloved husband, petitioners No.2 and 3 lost their beloved father. Respondent No.1 is the owner and respondent No.2 is the insurer, hence both are jointly and severally liable to pay the compensation to the petitioners.

5. After registration of the petition, the notice issued to the respondents. The respondent No.1

remained absent before this court, hence he placed exparte on 07.04.2018.

6. The respondent No. 2's company put its appearance through its advocate Sri. NKS., and filed its written statement and contended that, the petition filed by the petitioners is not maintainable either in law or on facts, hence same is liable to be dismissed. Further the respondent No.2's company has denied that the Hero Honda Motor Bike bearing Reg. No.KA-54-J-8348 was insured with its company. Further contended that, the rider of Hero Honda Motor Bike bearing Reg. No. KA-54-J-8348 was not having valid driving license to rode the particular type of vehicle as on the date of accident. Further contended that, the alleged accident was not occurred due to any rash and negligent riding of the rider of the Motor bike. But it is learnt that the alleged accident was occurred due to fault and negligent of Sri.Ningaraju, himself who standing on the middle of the road and Sri.Ningaraju was not died due to as per alleged accidental injuries, but he died due to some other health reasons. Petitioner and respondent No.1 have colluded with each other and filed false complaint and petition with an intention to get unlawful gain

from this respondent if possible. Further denied all other averments. Hence, prays for dismiss the petition.

7. On the basis of the pleadings of the parties, the following issues have been framed by my learned Predecessor:

ISSUES

1. Do the petitioners prove that on 14.08.2017 at 2.30 p.m. in front of Gandhi Nagar Primary Health Center, situated at K.R.Pete-Channarayapatna main road, Krishnarajapet taluk, the deceased Ningaraju S/o late Sannamognnagowda succumbed to the grievous injuries sustained by him due to rash and negligent driving of driver of Hero Honda Passion Pro bike bearing Regn No. KA-54-J-8348?

2. Does the respondent No. 2 proves that the driver of the aforesaid Hero Honda Passion Pro Bike bearing Regn No. KA-54-J-8348, did not possess valid and effective driving license as on the alleged date of accident?

3. Whether the petitioners are entitled to the compensation as sought for?

4. What award or order?

8. The petitioners in order to prove their case, the petitioner No.2 has examined himself as PW.1 and got marked 122 documents as per Ex.P.1 to Ex.P122. On the other hand, the respondent No.2 regularly absent before this court, hence, evidence of respondent No.2 is taken as nil on 25.02.2026.

9. Heard Both Sides. Perused the entire records.

10. My findings to the above issues are as follows:

**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:-** It is the case of the petitioners that, on 14.08.2017 at 2.30 p.m. in front of Gandhi-Nagar Primary Health Center, situated at K.R.Pete-Channarayapatna main road, Krishnarajapet taluk, the deceased Ningaraju S/o late Sannamoggnagowda

sustained grievous injuries to his head and shoulders due to negligent act of the rider of the Bike bearing Reg. No. KA-54-J-8348. He has taken treatment at JSS Hospital Mysuru from 14.08.2017 to 26.08.2017. On 27.08.2017 he died due to accidental injuries.

12. As already stated *supra*, the petitioners in order to prove their case petitioner No.2 has examined himself as PW-1. PW-1 has filed an affidavit in lieu of his chief examination and he reiterated the entire averments of the petition and got marked Ex.P1 to Ex.P122.

13. From the evidence and record it can be seen that, on receipt of complaint lodged petitioner No.2 herein, the Kikkeri Police has registered FIR in Crime No.0187/2017 against the rider of the offending bike bearing Reg. No. KA-54-J-8348 for the offences punishable U/sec. 279, 337 of IPC and 187 of MV Act. Further records reveals that after investigation the police have filed the charge sheet against one Sri.Swami B.L. who rode the offending vehicle at the time of accident for the offences punishable u/sec.279, 304(A) of IPC and 187 of MV Act. There is nothing on record to believe that, the charge sheet filed by the police is defective or collusive. Ex.P8

Postmortem report shows that, due to accidental injuries sustained in road traffic accident. The spot panchanama, rough sketch and IMV report marked at Ex.P6, Ex.P7 and Ex.P9 show that the accident took place at the extreme left side of the K.R.Pete-Kikkeri road, i.e., near pathway. The IMV report goes to show that, the accident occurred not to due to any mechanical defect of the vehicle.

14. The learned counsel for the respondent No.2 cross examined the PW-1. I have perused the entire cross examination of PW-1. But nothing has been elicited from him to disbelieve his version or the death of his father in a road traffic accident. Therefore, there is no reason to deny the evidence of PW-1. Moreover, it is settled law that the term “Rashness and Negligence has to be construed lightly while deciding a petition for claim and compensation under IMV Act as compare to the word “Rashness and Negligence as finds mentioned in the Indian Penal Code. This is because the provisions of IMV Act dealing with the compensation are benevolent legislation and not a penal one. Therefore on oral appreciation of the evidence, I am of the opinion that, the accident occurred due to the sole negligence on

the part of rider of the offending bike. Accordingly, I hold, issue No.1 is answered in **Affirmative**.

15. Issue No.2:- It is the contention of the respondent No.2 that as on date of alleged accident the rider of the offending bike had no valid driving license. In case on hand respondent No.1 is the owner of the offending vehicle. Admittedly the police have filed charge sheet for the offence punishable U/ sec.279, 304(A) of IPC r/w/sec.187 of IMV Act against the rider of the offending bike. Moreover petitioners have furnished certified copy of the Driving License of rider of the offending bike namely Sri. Swamy B.L. as per Ex.P10. On perusal of the Ex.P10 it appears that rider of the offending bike had valid driving license as on date of accident. Hence, it is clear that rider of the offending vehicle possess valid license at the time of accident. Hence, without much discussion I hold that rider of the offending bike possess valid and effective driving license to rode the particular type of vehicle as on date of accident. Accordingly, I hold Issue No.2 in the **Negative**.

16. Issue No.3:-

LOSS OF DEPENDENCY: It is the case of the petitioners that, the petitioner No.1 is the wife, petitioner No. 2 and 3 are the children of deceased Sri. Ningaraju. Therefore, nothing on record to disbelieve their version that they are the legal heirs of deceased Sri. Ningaraju and they are also considered as dependents on the income of the deceased. Hence, petitioners are the dependents on the income of deceased Sri. Ningaraju.

17. It is relevant to note that, the petitioners have not produced any document to show the actual age of deceased. But as per PM Report marked at Ex.P8, the age of the deceased shown as 61 years as on the date of accident. The respondent has not disputed the age of deceased Sri. Ningaraju. Hence, tribunal can rely on the age mentioned in the postmortem report. As already stated above in postmortem report age of the deceased mentioned as 61 years. Therefore, the appropriate multiplier as per **Sarla Verma's** case for the said age group is 06.

18. PW-1 has stated that prior to accident deceased was doing agricultural work, out of which

he was earning of Rs. 20,000/- p.m. and he was working as a Secretary at Bevinahalli village Milk Producers Co-Operative Society, and deceased was getting salary of Rs. 10,000/- p.m. totally he was earning Rs. 30,000/-per month and was contributing for the maintenance of his family. Petitioners have furnished RTC extracts as per Ex.P15 to 23, wherein katha of the property stands in the name of petitioner No. 1 and also furnished endorsement issued by the Chief Executive Officer and President of Bevinahalli village Milk Producers Co-Operative Society at as per Ex.P122. Based on the RTC Extract court can not assess the exact income of the deceased. However, on perusal of the Ex.P122 it appears that deceased was getting of Rs.13,000/-. Further it is pertinent to note that respondent No.2 did not dispute the Ex.P122. Hence, it is proper to take consideration of income of the deceased is Rs. 13,000/- based on the Ex.P122.

19. In the present case the deceased was aged about 61 years. His income is taken as Rs. 13,000/- p.m. in the decision reported in **(2017) 16 Supreme court Cases 680 (National Insurance Company Limited V/s Pranaya Sethi and Others)**, no income added towards future prospectus. Therefore the total

income comes to Rs.13,000/-. Since petitioners dependents on the income of the deceased 1/3rd is to be deducted towards the personal expenses of deceased. 1/3rd of Rs.13,000/- works out of Rs.3900/-. Income for consideration is Rs.9,100/- (Rs.13,000-3900). Annual income works out to Rs. 1,09,200/- (Rs.9100X 12). Appropriate Multiplier is 6. Thus loss of dependency works out to Rs.6,55,200/- (Rs. 1,09,200 X 6).

20. LOSS OF CONSORTIUM: In view of the ratio laid down by the Hon'ble Apex Court in Civil Appeal No.2705/2020 in the case of **United India Insurance Company Limited V/s Satinder Kaur and Others**, each of the petitioners are entitled to a sum of Rs.40,000/- each on account of loss of consortium and loss of love and affection.

21. Loss of Estate: The petitioners are entitled for Rs.15,000/- towards loss of estate.

22. Funeral Expenses: Petitioners are entitled for Rs.15,000/- towards funeral expenses.

23. Medical Expenses: It is the contention of the petitioners that deceased has taken treatment at JSS Hospital Mysuru from 14.08.2017 to 26.08.2017.

Hence, they have spent sum of Rs. 2,50,000/- towards medical expenses. The petitioners have produced Ex.P-24 to 89 medical bills. As per these documents the petitioners have spent total sum of Rs. 67032.75/- towards medical expenses. On perusal of these documents the petitioners have furnished bills with respect to advance payment made by them. Hence, they are not entitled for advance bill which paid by them. Nothing on record to disbelieve the genuineness of remaining medical bills. Hence, the petitioners are entitled for Rs.67,032.75/- round off Rs. 67,033/- towards medical expenses

24. The Calculation table stands as follows:

1. Loss of Dependency	Rs. 6,55,200/-
2. Loss of Consortium	1,20,000/-
Rs.40,000/- each to petitioner No.1 to 3 (40,000X3)	
3. Loss of Estate	15,000/-
4. Funeral expenses	15,000/-
5. Medical Expenses	67,033/-
Total	Rs. 8,72,233/-

25. Hence the petitioners are entitled for total compensation of Rs. **8,72,233/-**.

26. REGARDING INTEREST AND LIABILITY:

having regard to the nature of claim and current bank rate of interest, this tribunal is of the view that if interest at the rate of 6% p.a. is awarded, it would meet the ends of justice.

27. LIABILITY: The petitioners have produced certified copy of insurance policy i.e., Ex.P12, vide No. 0720843116P111972898. On perusal of the said document it appears that policy was in force from 11.12.2016 to 10.12.2017. Hence, it is clear that as on date of accident offending vehicle insured with the 2nd respondent's company. The respondent No.1 being the owner of the offending vehicle bearing reg. No. KA-54-J-8348 and respondent No.2 being the insurer of the said vehicle, are jointly and severally liable to pay the compensation to the petitioners. It is made clear that the primary liability is on the respondent No.2 to pay compensation with interest at the rate of 6% p.a. from the date of claim petition till its realization of the entire amount. Accordingly, I answer Issue No.3 partly in the **Affirmative**.

28. Issue No.4: In view of my answer to the above referred issues, I proceed to pass the following:

ORDER

The Petition filed by the petitioners u/sec.166 of Motor Vehicles Act is partly allowed with cost in the following terms:

The petitioners are entitled for compensation of Rs. 8,72,233/- with interest at the rate of 6% per annum from the date of petition till its realization.

Respondent No. 2 shall deposit the compensation amount within 60 days from the date of this order.

The petitioner No.1 to 3 are entitled for compensation amount with interest by way of apportionment as follows:

Petitioner No.1 Rs. 5,72,233,-

**Petitioner No. 2 & 3: Rs.1,50,000/-
Lakh each.**

Respondent No.2 shall transfer 70 % of compensation amount to the bank accounts of the petitioner No.1 to 3 together with interest to the bank details given below.

Name: Smt. Parvathamma
Account no. 73510100001952
Branch Bank of Baroda,
Mandagere branch,
IFSC Code BARB0VJMAGE
Pan No. JDLPP6509N

Name: Sri. Pradeep N
Account no. 73510100008093
Branch Bank of Baroda,
Mandagere branch
IFSC Code BARB0VJMAGE
Pan No. BFQPN1396J

Name: Smt N.Pavithra
Account no. 7351011115293
Branch Bank of Baroda,
Mandagere branch
IFSC Code BARB0VJMAGE
PAN No. GTMPP2270Q

Remaining 30% of compensation amount of petitioner No.1 to 3 shall invest in FD in the name of petitioner No.1 to 3 in the bank details as furnished above for a period of 5 years.

The petitioner No.1 to 3 are at liberty to withdraw the periodical interest occurred on the deposit amount from time

to time, however the bank shall not permit raise any loan on the fixed deposit.

The respondent No.2 shall furnish copy of the FD details to this court within 60 days form the date of this order.

Advocate's fee is fixed at Rs. 1000/-.

Draw Award accordingly.

(Dictated to the Stenographer, transcribed and computerized by her, script corrected and then pronounced by me in the Open Court on this the 07th day of April-2026)

(DEVARJAU H.R.)

I Addl. Sr. C.J & JMFC., & MACT,
K.R.Pete.

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A N N E X U R E

Witnesses examined for the petitioners:

PW-1 : Sri. Pradeep

Documents exhibited on behalf of petitioners:

Ex.P-1 : Complaint,

Ex.P-2 : FIR,

Ex.P-3 : Complaint,

Ex.P-4 : Requisition,

Ex.P-5 : Inquest report,

Ex.P-6 : Spot panchanama,

Ex.P-7 : Rough sketch,
Ex.P-8 : Postmortem report,
Ex.P-9 : IMV report,
Ex.P10 & 11 : Driving License & RC,
Ex.P12 : Insurance Policy,
Ex.P13 : Charge sheet,
Ex.P14 to 23 : RTCs,
Ex.P24 to 89 : Medical Bills,
Ex.P92 to 121 : Medical Prescriptions,
Ex.P122 : Salary slip.

Witnesses examined for the respondents:

-Nil -

The documents marked for the respondents:

-Nil -

I Addl. Sr. C.J & JMFC., & MACT,
K.R.Pete.

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