

KAMD200013912018



Presented on : 21-12-2018
 Registered on : 21-12-2018
 Decided on : 17-06-2026
 DURATION : 7 YEARS, 5 MONTHS, 27
 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 17th DAY OF JUNE-2026

MVC No. 1810/2018

- PETITIONERS
1. Boregowda
(dead by his LRs)
 - 1(a) Smt.Nagamma
W/o Late Boregowda,
(died by her Lrs)
(abated)
 - 1(b) Sri.Manjegowda
S/o Late Boregowda
aged about 38 years,
 - 1(c) Sri.Gowdegowda
@ Rajugowda,
S/o Late Boregowda,
aged about 36 years,
 - 1(d) Sri.Ganesha
S/o Late Boregowda
aged about 34 years,
 - 1(e) Sri.Rani
W/o Late Rajashekhara,
aged about 45 years,

1(f) Sri.A.R.Lokesh
S/o Late Rajashekhara,
aged about 22 years,

1(g) Sri. A.R.Rakesha
S/o late Rajashekhara,
aged about 20 years,

All are R/o Aghalaya village,
Santebachahalli hobli,
K.R.Pete taluk,
Mandya district.

(By Sri/Smt. MSL/KM., Adv)

v/s

RESPONDENTS

1. Sri. Vishwanatha D.K.
S/o Krishnegowda,
Major,
R/o No. 159, Devihalli village,
Shanthigrama Hobli,
Hassan District.

(Owner of Maxi Cab
No. KA-09-5066)

2. The Divisional Manager,
United India Insurance
Company Limited,
Near Ramaswamy Circle,
Mysore (Policy Issuing Office
B.M.Road, Hassan)

(Policy No. 0714013118P103373338
Valid from 16.06.2018 to 15.06.2019)

(By Sri. NKS/MP, Adv, for R-2,
R-1exparte)

J U D G M E N T

The original petitioner namely Sri.Boregowda has filed this petition u/sec. 166 of Motor Vehicles Act, 1989 by claiming compensation of Rs.42,00,000/- along with current and future rate of interest at the rate of 18% p.a. against the respondents for the injuries sustained in the road traffic accident. Further it appears that in connection with the accident petitioner died on 10.02.2019. Hence, his legal heirs come on the records as petitioner no.1(a) to (g).

Note: Among the petitioners, the petitioner No.1(a) died during pending of the petition leaving behind her petitioner No. 1(b) to (g) as legal heirs. Hence, petition with respect to petitioner No.1(a) is abated as per order dated 06.01.2026.

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

It is the case of the deceased petitioner that, on 25.11.2018 at about 7.00 A.M. he was coming left side of the Shravanabelagola-Aghalaya main Road in front of Government Primary School, Aghalaya situated on the left side of the road by observing road rules and regulations, at that time one Maxi Cab

bearing Reg. no. KA-09-5066 being driven by its driver came from Shravanabelagola in a very rash and negligent manner at high speed so as to cause endanger to human life and dashed against him. Due to the said accident the petitioner fell down and then the wheel of the Maxi cab ran over his left leg and he sustained fracture of left leg, injuries to head, right leg and other parts of the body.

3. Immediately after the accident the petitioner was taken to Government Hospital, Shravanabelagola for provide first aid treatment. As per the advice of the doctor the petitioner was shifted to Punya Hospital, Channarayapattana, further as per the advice of the doctor he shifted to Janapriya Hospital, Hassan and he admitted as inpatient. Due to the injuries and fractures he has suffered lot of mental agony. The petitioner has admitted as inpatient in Janapriya Hospital, Hassan from 25.11.2018 to 12.11.2018.

4. On perusal of the records it appears that during pending of the petition original petitioner namely Sri. Boregowda died. Hence, his legal heirs brought on record as petitioner No.1(a) to (g). They have filed necessary application to amend the

petition. Accordingly, they have filed amended petition by stating that subsequently as a result of grievous injuries on account of the accident the original petitioner Sri.Boregowda died on 10.02.2019 leaving behind the petitioner No.1(a) to (g) as his legal heirs. Postmortem also conducted and in result of death of original petitioner 2nd FIR also came to be existence. Hence, petitioner No.1(a) lost her beloved husband, petitioner No. 1(a) to (b) to (d) lost their beloved father, petitioner No. (e) lost her beloved father-in-law and petitioner No. (f) and (g) lost their beloved grand father. Hence, the respondents are liable to pay compensation of Rs.42,00,000/- with interest at the rate of 18% p.a. Hence, he prays for allow the petition.

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.

6. The respondent No.2's company put his appearance through its counsel Sri. NKS/MP and filed its detailed written statement and contended that the petition filed by the petitioners is not maintainable either in law or facts and it is liable to

be dismissed. Further contended that, the injured Boregowda was not died due to injuries sustained in the alleged accident. But it is learnt that deceased Boregowda died due to some other reasons. Further contended that, the Maxi Cab bearing No.KA-09-5066 was insured with this respondent as on the date of accident. However, the driver of the Maxi Cab bearing No.KA-09-5066 was not having valid driving license to drive that 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 driving of Maxi Cab bearing No.KA-09-5066. But it is learnt that Boregowda going on middle of the road and he himself is responsible for the alleged accident. Complainant, petitioners and 1st respondent have colluded with each other filed false complaint with an intention to get unlawful gain from this respondent if possible. The police misusing their power and manipulating documents to assist the claimants to file false case to get compensation. This respondent does not admit that petitioners are legal heirs of deceased and dependents on deceased. Petitioner No.1(b) to 1(d) are major sons of deceased and not dependents on deceased Boregowda. Further

contended that, the other heads of compensation claimed in the petition particularly in death petition compensation on the heads pain and agony, suffering are not permissible. Hence, this respondent is not liable to pay any compensation to petitioners. By contending so, respondent No.2 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 25.11.2018 at 7.00 am, near Government Primary School situated on Shravanabelagola-Aghalaya road, the deceased/ original petitioner Boregowda S/o Late Gowdegowda sustained grievous injuries due to actionable negligence of the driver of Maxi Cab bearing Reg. No. KA-09-5066, which collided with him?

2. Does the respondent No. 2 prove that the driver of the aforesaid Maxi cab bearing Reg. No. KA-09-5066, did not possess valid and effective driving license as on the alleged date of accident?

3. Whether the legal heirs of the petitioner are entitled to the compensation as sought for?

4. What order and award?

ADDITIONAL ISSUES

1. Do the petitioners prove that original petitioner deceased Boregowda S/o Gowdegowda succumbed on 10.02.2019 due to the injuries sustained by him in road traffic accident, which occurred on 25.11.2018 at about 7.00 a.m. near Govt. Primary School situated on Aghalaya-Shravanabelagola main road due to the actionable negligence of driver of the Maxi Cad bearing Reg. No. KA-09-5066, which collided with him?

8. The petitioners in order to prove their case, the petitioner No.1(b) himself has examined as PW.1 and got marked 19 documents as per Ex.P.1 to Ex.P19 and another a witness examined as PW-2. The respondent No.2 submits that he has no evidence to be lead. Hence, evidence of respondent No.2 is taken as nil on 20.08.2025.

9. Learned counsel for the petitioner advanced her arguments on merits. Learned counsel for the respondent No.2 has filed his detailed written

arguments on merits. Perused the entire available materials on 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**
Addl. Issue No.1: **In the Affirmative**,
Issue No.4: **As per final**
order for the following:-

REASONS

11. Issue No.1 and Additional Issue No.1:

These issues are inter linked with each other hence they are taken up together for common discussion in order to avoid repetition of the facts and evidence of the case.

12. it is the case of the petitioners that, road traffic accident took place on 25.11.2018 at 7.00 am, near Government Primary School situated on Shravanabelagola-Aghalaya road, the original petitioner Boregowda S/o Late Gowdegowda sustained grievous injuries due to actionable negligence of the driver of Maxi Cab bearing Reg. No. KA-09-5066, which collided with him. Subsequently, in connection with the injuries sustained in road

traffic accident, the original petitioner Sri.Boregowda died on 10.02.2019.

13. As already stated *supra*, the petitioners in order to prove their case petitioner No.1(b) has examined himself as PW-1. PW-1 has filed affidavit in lieu of his examination in chief and he reiterated the entire averments of the petition and got marked Ex.P1 to Ex.P19.

14. From the evidence and record it can be seen that, on receipt of complaint lodged by one Ganesha S/o Boregowda, the K.R.Pete Town Police has registered FIR in Crime No.377/2018 against the driver of the offending maxi cab bearing No. KA-09-5066 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 the respondent No.1, who is the owner of the offending vehicle 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.P10 Postmortem report show that, the deceased died due to complications of head injury sustained in road traffic accident. The spot & seizure panchanama,

rough sketch and IMV report marked at Ex.P5 to 7 and Ex.P12 show that the accident took place at the extreme left side of the Shravanabelagola-Aghalaya main 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.

15. The learned counsel for the respondent No.2 has 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.

16. The petitioners have examined eye witness of the incident by name Sri.Mahadevegowda A.N as PW-2. I gone through the entire cross examination of PW-2. The PW-2 clearly stated that, accident occurred due to rash and negligent act of the driver of offending vehicle.

17. Therefore there is no reason to deny the evidence of PW-1 and 2. 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 driver of the offending Maxi cab. Accordingly, I hold, issue No.1 is answered in **Affirmative.**

18. Issue No.2:- It is the contention of the respondent No.2 that as on date of alleged accident the driver of the offending vehicle had no valid driving license. In case on hand admittedly 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 and 187 of IMV Act against the driver of the offending vehicle. Hence, it is clear that driver of the offending vehicle possess valid license at the time of accident. Hence, without much discussion I hold that rider of the offending vehicle possess valid and effective driving license to drive the particular type of vehicle as on date of accident. Accordingly, I hold Issue No. 2 in the **Negative.**

19. Issue No.3:-

Medical expenses: Admittedly, petitioner died during the pending of this petition. He has spent sum amount towards his medical expenses. Hence, petitioners are entitled for medical expenses incurred by the original petitioner. The petitioner have produced Ex.P17 i.e., medical bills. As per these documents the petitioner has spent total sum of Rs.1,93,746.88/- towards medical expenses. Nothing on record to disbelieve the genuineness of these medical bills. Hence, sum of Rs. 1,93,746.88/ - *round off* Rs.1,93,747 /- towards medical expenses.

20. LOSS OF DEPENDENCY: It is the case of the petitioners that, the petitioner No. 1(b) to (d) lost their beloved father, petitioner No.1 (e) lost her beloved father-in-law and petitioner No. (f) and (g) lost their beloved grandfather. On the other hand respondent No.2 has denied the dependency of the petitioners on deceased Boregowda. I carefully gone through the cross examination of PW-1, but nothing has been elicited from the mouth of PW-1 with respect to non dependency of the petitioners on the deceased. Therefore, nothing on record to disbelieve their version that they are the legal heirs of deceased

Boregowda. Hence, they are the dependents on the deceased Boregowda. They are also considered as dependents on the income of the deceased.

21. 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.P10, the age of the deceased is shown as 55 years as on the date of accident. The respondent No.2 has not disputed the age of deceased Boregowda. 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 55 years. Therefore, the appropriate multiplier as per **Sarla Verma's** case for the said age group is 10.

22. PW-1 has stated that prior to accident deceased was doing agricultural work, he owning landed properties, personally cultivating the land, raising the crops, doing milk vending and also doing Coolie work and getting income of Rs.25,000/- per month and was contributing for the maintenance of his family. But they have not produced any documents to show the avocation and the income of the deceased. It is relevant to note here decision of Our Hon'ble High Court of Karnataka (DB) held in

MFA No. 103807/2016 (MVI) (between **New India Assurance Company Limited V/s Abdul and Others**) Wherein Our Hon'ble High Court has up held the guidelines issued by the state legal service authority to fix the notional income. Therefore it is proper to fix the notional income of the deceased as per the guidelines issued by the Karnataka State Legal Service Authority. **Hence, as per the guidelines issued by the Karnataka State Legal Service authority the notional income of the deceased is taken as Rs.12,500/- per month as the accident took place in the year 2018.**

23. In the present case the deceased/original petitioner was aged about 55 years. His notional income is taken as Rs. 12,500/-p.m. in the decision reported in **(2017) 16 Supreme court Cases 680 (National Insurance Company Limited V/s Pranaya Sethi and Others)** 15% income to be added towards future prospectus. 15% of Rs. 12,500/- work out to Rs.1875/-. Therefore the total income comes to Rs.14,375/- (Rs.12,500 + Rs.1875). Since petitioner No.1(a) to (g) are dependents on the income of the deceased, 1/5th has to be deducted towards the personal expenses of deceased. 1/5th of Rs.14,375/-

works out of Rs.2875/-. Income for consideration is Rs.11,500/- (Rs.14,375-2875). Annual income works out to Rs. 1,38,000/- (Rs.11,500 X 12). Appropriate Multiplier is 10. Thus loss of dependency works out to Rs.13,80,000/- (Rs. 1,38,000 X 10).

24. 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.

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

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

27. The Calculation table stands as follows:

1. Loss of Dependency	Rs. 13,80,000 /-
2. Loss of Consortium	2,40,000/-
Rs.40,000/- each to petitioner No.1(b) to (g) (40,000X6)	
3. Loss of Estate	Rs. 15,000
4. Funeral expenses	Rs. 15,000/-
5. Medical Bills	Rs. 1,93,747/-
Total	Rs.18,43,747/-

28. Hence the petitioners are entitled for total compensation of Rs.18,43,747 /-.

29. 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. It is made it clear that petitioners are only entitled for interest on compensation amount from the date of death of original petitioner Sri.Boregowda.

30. LIABILITY: The Respondent No. 2 has admitted in its written statement that, Mahindra Maxi Cab bearing Reg. no. KA-09-5066 insured with its company. 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-09-5066 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**.

31. 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 hereby partly allowed with cost in the following terms:

The petitioners are entitled for compensation of Rs.18,43,747/- with interest at the rate of 6% per annum from the date of death of original petitioner namely Sri.Boregowda i.e., 10.02.2019 till its realization.

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

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

**Petitioner No.1(b) to (d):
Rs.4,60,936.75 /- each.**

**Petitioner No. 1(e) to (g):
Rs.1,53,645/-each.**

Respondent No. 2 is hereby directed to shall transfer 70 % of compensation amount to the bank account of the petitioners together with interest as bank details given below.

Name: Sri. Manju @ Manjegowda
Account no. 54048494844
Branch State Bank of India,
Aghalaya branch,
IFSC Code SBIN0040435
Pan No. FOJPM0699F

Name: Sri. Raju Bore Gowda
Account no. 64117936258
Branch State Bank of India,
Aghalaya branch,
IFSC Code SBIN0040435
Pan No. ALJPG5163C

Name: Sri. Ganesha
Account no. 8029121000765
Branch Mandya District Co-
Operative Central Bank,
K.R.Pete branch,
IFSC Code KSCB0008001
Pan No. DSRPG1875B

Name: Smt. Rani
Account no. 64045437259
Branch State Bank of India,

IFSC Code **Aghalaya branch,**
SBIN0040435
Pan No. **GHIPR8841D**

Name: **Sri. Lokesh A.R**
Account no. **64107400956**
Branch **State Bank of India,**
Aghalaya branch,
IFSC Code **SBIN0040435**
Pan No. **BDHPL0114R**

Name: **Sri. Rakesha A.R**
Account no. **50100589685321**
Branch **HDFC Bank Limited,**
Peenya branch,
Bengaluru
IFSC Code **HDFC0004261**
Pan No. **CIJPR2170K**

Remaining 30% of compensation amount of petitioners shall be invest in FD in the name of petitioners. Hence, respondent No.2 is hereby directed to deposit the 30% of remaining compensation amount before this court in order to make fixed deposit in the name of petitioners.

After deposit of the 30% of the compensation amount of the petitioners the office is directed to deposit the compensation amount in the name of petitioners in any nationalized bank on the choice of petitioners for a period of 5 years.

The petitioners 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.

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 17th day of June-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.Ganesha,
PW-2 : Sri.A.N.Mahadevegowda,

Documents exhibited on behalf of petitioners:

Ex.P-1 : FIR,
Ex.P-2 : Complaint,
Ex.P-3 : Another Complaint,
Ex.P-4 : Requisition,
Ex.P-5 : Spot Panchanama,
Ex.P6 : Rough Sketch,
Ex.P7 : Seizure panchanama,
Ex.P8 : Inquest report,
Ex.P9 : Photos,
Ex.P10 : Postmortem report,
Ex.P11 : FSL Report,
Ex.P12 : IMV report,
Ex.P13 : Wound certificate,
Ex.P14 : MLC Report,
Ex.P15 : Intimation,
Ex.P16 : Charge sheet,
Ex.P17 : Medical bills,
Ex.P18 : Medical prescriptions,
Ex.P19 : CT Scan reports.

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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