

KAMD400000172021



**IN THE COURT OF THE SENIOR CIVIL JUDGE &
MACT, AT MALAVALLI.**

PRESENT: SRI. MAHENDRA. M B.A, LL.B.,
Senior Civil Judge & MACT,
Malavalli.

Dated this 1st day of June 2026

M.V.C. No. 70/2021

PETITIONERS:

1. Smt. Basamma

W/o Late Chikkaswamy
Aged about 56 years,

2. Kum. Radha

D/o Late Chikkaswamy
Aged about 31 years,

Both are R/o Hulahalli Village,
Kasaba Hobli, Malavalli Taluk,
Mandya District.

(By. Sri. K.S.M., Adv.,)

-V/s-

RESPONDENTS:

1. Sri. Jayanth Kumar

S/o Manju.H, Major
R/o Dyapegowdanadoddi village,

Malagalu Post, Kanakapura Taluk,
Ramanagara District.

**(Owner of Lorry bearing
No.KA-53-A-9111)**

2. The Branch Manager,
Reliance General Insurance Co. Ltd.,
No.28, 5th Floor, Southern building,
Eotwing, Centrary building,
M.G.Road, Bangalore.

**(Policy No.140921923340002507
Validity from 26.02.2019 to 25.02.2020)**

**(R1 By Sri N.G.K., Adv.)
(R2 By Sri K.P.K., Adv.)**

J U D G M E N T

The petitioners have filed this petition seeking compensation of Rs.55,80,000/- for the untimely death of one Sri. Ravichandra.H.C, who lost his life in the accident that occurred on 07.09.2019.

2. The facts of the case of the Petitioners are as follows:

The petitioner No.1 is the mother and the petitioner No.2 is the sister of deceased Ravichandra.H.C. The petitioners submitted that, on 07.09.2019 at about 12.45 p.m., the son of

petitioner No.1 and the brother of petitioner No.2 by name Ravichandra.H.C after celebration of Gowri festival at his village was going by riding his Hero Honda Dio motorcycle bearing No.KA-05-KS-1031 from Hulahalli Village to go to Bangalore on Kanakapura-Bangalore road, near Kalahally gate Arch, Kanakapura Town slowly and cautiously on left side of the road by wearing the helmet. At that time, one Lorry bearing No.KA-53-A-9111 being driven by its driver came from Kanakapura side towards Bangalore in a very rash and negligent manner at high speed as to cause endanger to human life and in prosecution of such rash and negligent driving, dashed to the right side back portion of the motorcycle of deceased from back side and caused the accident. In this accident, the said Ravichandra.H.C fell down along with motorcycle and the wheel of the lorry ran over the head and he died at the spot. The Hero Honda Dio motorcycle bearing No.KA-05-KS-1031 was badly damaged. Thus, the accident has been caused entirely due to rash and negligent driving of the Lorry bearing No.KA-53-A-9111 by its driver only.

3. The petitioners further submitted that, immediately after the accident, the injured was taken to Government hospital, Kanakapura for PM examination. After PM examination, the dead body was taken in a private vehicle to his home town by hiring charge of Rs.10,000/-. The petitioners have performed the funeral and obsequies ceremony of deceased Ravichandra.H.C by spending more than of Rs.50,000/-. The petitioners have also spent more than Rs.20,000/- towards the repair expenses of Hero Honda Dio motorcycle bearing No.KA-05-KS-1031. The petitioner No.1 had lost love and affection of her son and the petitioner No.2 had lost love and affection of her brother. The petitioners were entirely depending upon deceased for their livelihood. The age of the deceased was 31 years at the time of accident. The deceased was working as support staff at RICHMOND FELLOWSHIP SOCIETY (INDIA), Bangalore branch, situated at Jayanagar and getting salary of Rs.15,476/- per month. In addition to that, the said organization has provided accommodation to the deceased and it would cost of

Rs.6,000/- per month. He was receiving the annual emoluments of Rs.2,57,712/- per annum from the said organization. Besides that, he was owned landed properties at his village and personally cultivating the landed properties and growing paddy, sugarcane, groundnut, ragi and other crops. He had also planted the mulberry crop and doing sericulture rearing and also doing dairy farming and from all these sources earning Rs.50,000/- per month. The deceased was the only earning member in his family. The accident has been caused entirely due to rash and negligent driving of the Lorry bearing No.KA-53-A-9111 by its driver. The 1st respondent is the owner and the 2nd respondent is the insurer of offending Vehicle. Therefore, the respondents are liable to pay the compensation of Rs.55,80,000/-. **By contending so, the petitioners have prayed for Judgment and decree as sought for.**

4. After the presentation of the petition, the same was registered and notices were issued and duly served on the respondents. The respondent No.1 and 2 have appeared

before this court through their counsels. The record show that the owner of Lorry bearing No.KA-53-A-9111 namely Sri.Jayanth Kumar, is made as 1st respondent and Reliance General Insurance Company is the 2nd respondent. The respondent No.1 and 2 put their appearance and filed written statement. **The written statement of the respondent No.1 in brief as follows:**

This respondent has specifically denied the averments of the petition. The respondent No.1 admitted that he is the owner of offending vehicle. This respondent further contended that, the offending vehicle insured with 2nd respondent and the 2nd respondent is liable to pay the compensation to the petitioners. The amount mentioned in the claim petition as compensation too high. **Hence, prayed that, dismiss the petition filed by the petitioners.**

5. The respondent No.2 filed written statement and contended that, the petition is not maintainable and liable to be dismissed. This respondent denied the averments of the petition. This respondent contended that, the petition

is bad for non-joinder of necessary parties i.e., rider, owner and insurer of motorcycle bearing No.KA-05-KS-1031. This respondent further denied that, the offending vehicle insured with its company. The driver of the offending vehicle had no valid and effective driving license to drive the particular category of vehicle as on the date of alleged accident. It is further contended that, the petition is bad for non-joinder of necessary parties i.e., driver of the offending vehicle. This respondent further contended that, the alleged accident took place due to negligence of the rider of motorcycle who rode the motorcycle without observing the vehicles who are running on the road and without following the traffic rules. The respondent cannot be held liable unless and until it is proved that, the registration certificate, fitness certificate and permit of the vehicle and driving license of the driver. As per section 134(C) of MV Act, it is mandatory duty of the insured/respondent No.1 to furnish particulars of policy, date, time and place of accident and particulars of driving license. But the respondent No.1 has not complied the mandatory

requires. As per section 158(6) of the MV Act, it is the mandatory duty of the concerned police to forward all the relevant documents to the insurer within 30 days from the date of information. But, the concerned police failed to do so and did not comply with the statutory demand. The respondent No.1 willfully handed over the vehicle without fitness certificate and in violation of terms and conditions of policy. This respondent denies the relationship of petitioners with the deceased person. **Hence, the 2nd respondent prayed that dismiss the petition filed by the petitioners with cost.**

6. The predecessor of this court has been framed the following issues:

ISSUES

- 1. Whether the petitioners prove that, the son of petitioner No.1 and brother of petitioner No.2 by name Sri.Ravichandra.H.C., died in a road traffic accident on 07.09.2019 at 12.45 p.m., on Kanakapura-Bangalore road, near Kalahalli gate Arch, Kanakapura Town, due to rash and negligent driving of Lorry bearing No.KA-53-A-9111 by its driver ?*

2. *Whether the petitioners are entitled for the compensation ? If so, what amount, from whom ? And what interest ?*
3. *What order or award?*

7. To substantiate their contentions, the petitioners have adduced evidence. The petitioner No.1 namely Smt. Basamma has examined herself as PW1 and got exhibited 13 documents as per Exp1 to 13. It is interesting to note that, the owner of the aforesaid Lorry bearing No.KA-53-A-9111 namely Sri.Jayanth Kumar, is made as 1st respondent and Reliance General Insurance Company is the 2nd respondent. The respondents did not choose to adduce their evidence.

8. Heard the arguments from learned counsel for petitioners. The arguments from the respondent side taken as not canvased.

9. Now answers the above issues are as follows:-

Issue No.1: In the Affirmative
Issue No.2: Partly in the Affirmative.
Issue No.3: As per the final order
for the following:-

REASONS

10. Issue No.1: It is the specific allegation of the petitioner that, on 07.09.2019 at about 12.45 p.m., after celebration of Gowri festival at his village the deceased was going by riding his Hero Honda Dio motorcycle bearing No.KA-05-KS-1031 from Hulahalli Village to go to Bangalore on Kanakapura-Bangalore road, near Kalahally gate Arch, Kanakapura Town slowly and cautiously on left side of the road by wearing the helmet. At that time, one Lorry bearing No.KA-53-A-9111 being driven by its driver came from Kanakapura side towards Bangalore in a very rash and negligent manner at high speed as to cause endanger to human life and in prosecution of such rash and negligent driving, dashed to the right side back portion of the motorcycle of deceased Ravichandra.H.C from back side and caused the accident. Due to the accident, the said Ravichandra.H.C fell down along with motorcycle and the wheel of the lorry ran over the head of Ravichandra.H.C and he died at the spot. (Lorry bearing No.KA-53-A-9111 herein

after called as “offending vehicle” for brevity). The respondent No.2 other hand it is specific stand taken that the petitioners are not entitled the compensation as stated in the petition.

11. To substantiate their contentions, the petitioners have adduced evidence. The petitioner No.1 namely Smt. Basamma, has examined herself as PW1. The PW1 has filed her affidavit under order XVIII Rule 4 of CPC in lieu of her examination in chief, wherein she has reiterated entire petition averments. The PW1 has got marked ExP1 to 13.

12. It is important to note that in her chief examination, the PW1 specifically states that, she is the mother and the petitioner No.2 is the sister of deceased Ravichandra.H.C. In the written statement the respondent No.2 has denied the same. Thus, the question would be, whether this fact is sufficient to disbelieve the case of the petitioners? But, again this tribunal repeat, in examination in chief of PW1 and petition has specifically stated that the

petitioner No.1 is the mother and petitioner No.2 is the sister of deceased Ravichandra.H.C, thus, it becomes clear that the examination in chief of PW1 does some material points, which go against the respondents. Here this tribunal seek to cite the ratio laid down in the decision reported in ***AIR 2002 SC page No.3651 in the case of Saravana Singh V/s State of Punjab.*** In this decision, the Hon'ble Apex Court has concluded that **“Whenever an opponent does not avail himself of the opportunity of cross examining their witness on essential points, then, the evidence adduced by that witness, on that issues or question, has to be accepted as true and correct”.**

13. Keeping in view the ratio laid down in the aforesaid **Saravana Singh's case**, again this tribunal say that in the examination- in-chief of PW1 there is a specific mention about the relationship of the Petitioners with the deceased person. Yet, the Respondent No.2 has not disputed the say of the Petitioners in that connection, by posing at least a casual suggestion. Therefore, the ratio laid down in

the aforesaid decision is squarely applicable to the facts and circumstances of this case. Hence, whatever the evidence given by PW1, to the effect that the petitioner No.1 is the mother and petitioner No.2 is the sister of deceased person has to be accepted as true and correct. Thus, this tribunal conclude that the petitioner No.1 is the mother and petitioner No.2 is the sister of deceased Ravichandra.H.C.

14. Again this tribunal say that it is the specific say of the 2nd Respondent that the 2nd respondent has not denied the accident. It is important to note that during her cross-examination, the PW1 specifically admits that, at the time of the accident she (PW1) was not present, at the spot. Thus, this admission of PW1 makes it clear that she is not an eye witness of the accident in question. Hence, in opinion of the tribunal that, it is not correct to conclude anything only on the basis of the evidence of this PW1. Therefore, it is the duty of this court to peruse, before drawing any conclusion, the other evidence available also.

15. It is relevant to note that the ExP8 is the Charge Sheet or final report. The ExP8 shows that the jurisdictional police, after investigating the case, have filed the Charge Sheet, wherein one Sri. Shivaraju.B.K is cited as eye witness. It is relevant to note that the said witness of the accident has not examined by the Petitioners before this Court.

16. It is important to note that, according to petitioners the deceased Sri. Ravichandra.H.C, was proceedings in his motorcycle. The said fact not denied by the respondents. As per ExP4 Panchanama shows that the accident occurred on Kanakapura-Bangalore main road near Kallahalli gate of Kanakapura Town. The investigation Officer has draw the Panchanama at spot as per ExP4 and also draw the sketch as per ExP3. Thus, in opinion of the Tribunal that having regard to the over all facts and circumstances of this case, this court can conveniently say that even the driver of the offending vehicle had contributed for the occurrence of the accident.

17. At this juncture, it is worth to refer the judgment reported in 2021 (2) KCCR 1478 in the case between National Insurance Co. Ltd., by its Branch Manager Bellary V/s Ningamma and others.,

Motor Vehicles Act, 1988 Section 166, Death due to accident. Insurance pleading that death did not occur due to accident, but due to lightening. The documents such as FIR, complaint and spot Panchanama showing that offending vehicle was involved and its driver had caused the accident. Insurance also not challenged the charge-sheet filed against driver of offending vehicle. The plea of insurer not sustainable.

18. The respondents are denied the occurrence of the accident. The petitioners have produced several documents. Exp1 is the True copy of FIR, Exp2 is the True copy of complaint, Exp3 is the True copy of sketch, Exp4 is the True copy of Spot mahazar, Exp5 is the True copy of Inquest report, Exp6 is the True copy of IMV report, Exp7 is the True copy of PM report, Exp8 is the True copy of Charge sheet, Exp9 and 10 are the Notarized copies of Aadhar cards, Exp11 is the salary certificate of deceased, Exp12 is the Identity card and Exp13 is the Notarized copy of driving license.

19. ExP1 is reveals that the jurisdiction Police have registered the case against driver of the offending vehicle, showing the involvement of the vehicle. The ExP3 and 4 sketch and Panchanama showing that the offending vehicle caused the accident and the said vehicle was seized under the mahazar. The postmortem report and the final opinion of the Doctor who conducted the postmortem opinion that the cause of death is due to Polytrauma resulting from shock and Hemorrhage to vital organs brain, chest (lungs), have pointed towards the driver of the offending vehicle. In terms of the opinion in the postmortem report, it is clear that the death is due to the impact of the accident.

20. It is pertinent to note that the respondent No.2 has taken a contention that the driver of offending vehicle is not holding valid driving license. On perusal of ExP8 True copy of charge-sheet reveals that, the investigation Officer filed charge-sheet against the driver of offending vehicle for the offenses punishable under section 279 and 304(a) of IPC. It is clear that the driver of the offending vehicle has holding valid driving license in respect of said vehicle.

21. In terms of the FIR registered against the driver of the offending vehicle, the police have also filed charge sheet alleging that, the driver was guilty of the offense punishable under Sections 279 and 304(A) of Indian Penal Code. Thus, in all the circumstances put together, the involvement of the vehicle in the accident, registration of FIR, report of the inspector of motor vehicle, postmortem report and the charge sheet filed by the police against the driver, would unmistakably indicate that, the death of the deceased person was due to the accident caused by the rash and negligent driving of the driver of offending vehicle. **Therefore, this Tribunal answer the issue No.1 in the Affirmative.**

22. **Issue No.2:** It is the contention of petitioners that, prior to accident, deceased Sri. Ravichandra.H.C, was hale and healthy and he was working as support staff at RICHMOND FELLOWSHIP SOCIETY (INDIA), Bangalore branch, situated at Jayanagar and getting salary of Rs.15,476/- per month. In addition to that, the said organization has provided accommodation to the deceased and it would cost of

Rs.6,000/- per month. He was receiving the annual emoluments of Rs.2,57,712/- per annum from the said organization. Besides that, he was owned landed properties at his village and personally cultivating the landed properties and growing paddy, sugarcane, groundnut, ragi and other crops. He had also planted the mulberry crop and doing sericulture rearing and also doing dairy farming and from all these sources earning Rs.50,000/- per month. The petitioner No.1 being the mother and the petitioner No.2 being the sister of deceased entirely depending on his earnings. The deceased Sri. Ravichandra.H.C was aged about 31 years and given the entire earning to the family for maintenance. It is argued by the learned counsel for the petitioners that, deceased is the son of petitioner No.1 and the brother of petitioner No.2. He was hale and healthy and looking after the family affairs and maintaining the family and he was the only earning member in the family and the entire family members were mainly depending upon his income. Due to untimely death of said Sri. Ravichandra.H.C, they have lost dependency.

LOSS OF DEPENDENCY

23. Whether petitioners can be considered as dependents of the deceased is the question. This court has relied upon the decision of **Hon'ble Apex court reported in 2022 (13) SCC 494 between Oriental insurance company Limited V/s Kahlon @ Jasmail Singh Dead by LR's and another.** In para No.9 of the said decision the Hon'ble Apex court observed as follows:

“Giving a broad liberal interpretation to the provisions of the Act so that legal representative due not suffer injustice, it was observed that the claim for personal injuries will not survive on death of the injured unrelated to the accident but the legal representative could pursue the claim for enhancement of the claim for loss of the estate which would include expenditure on medical expenses, traveling, attendant, diet, doctor fee and reasonable monthly annual accretion to the estate for a certain period. It is trite that the income which a person

derives compositely forms part of the expenditure on himself his family and the savings go to the estate. The unforeseen expenses as aforesaid natural have to be met from the estate cause in pecuniary loss to the estate”.

24. As per the above decision is aptly applicable to present facts and circumstances of the case. This Tribunal also relied upon decision of **Hon’ble High Court of Karnataka rendered in M.F.A No.102868 of 2014 (M.V.D) between Reliance General Insurance Company Limited V/s Gangapp Saunshi and others.** Wherein the Hon’ble High Court of Karnataka held that, **“Even if the dependency is relevant criteria to claim compensation for loss of dependency, it does not mean financial dependency and the dependency includes gratuitous service dependency, physical dependency, emotional dependency and pshcological dependency so an and so forth, which can never be equated in terms of the money. Even married sons and daughters are entitled**

for compensation not only on conventional heads, but also on loss of dependency". The petitioner No.1 is the mother and the petitioner No.2 is the sister of deceased Sri.Ravichandra.H.C. Therefore, it is very much clear that during his lifetime the deceased was residing with petitioner No.1 and 2. Now the question before the court is whether petitioner No.1 and 2 who are majors be considered as dependents or not?. Admittedly, the deceased was bachelor. Hence, sister will not be considered as dependent and mother alone will be considered as a dependent.

25. The **Hon'ble Supreme court in the decision reported in (2020) 11 SCC 356 in the case between National insurance company Limited V/s Virender and others,** observed that, **"In Manjuri Bera (supra) had expounded that liability to pay compensation under the Act does not cease because of absence of dependency of the concerned legal representative. Notably, the expression "legal representative" has not been defined in the Act.**

“In Manjuri Bera (supra), the Court observed thus :-"9. In terms of clause (c) of sub-section (1) of Section 166 of the Act, in case of death, all or any of the legal representatives of the deceased become entitled to compensation and any such legal representative can file a claim petition. The proviso to said sub-section makes the position clear that where all the legal representatives had not joined, then application can be made on behalf of the legal representatives of the deceased by impleading those legal representatives as respondents.

The Hon'ble Supreme court also observed that,

"In paragraph 15 of the said decision, while advertng to the provisions of Section 140 of the Act, the Court observed that even if there is no loss of dependency, the claimant, if he was a legal representative, will be entitled to compensation. In the concurring judgment of Justice S.H. Kapadia, as His Lordship then was, it is observed that there is

distinction between "right to apply for compensation" and "entitlement to compensation". The compensation constitutes part of the estate of the deceased. As a result, the legal representative of the deceased would inherit the estate. Indeed, in that case, the Court was dealing with the case of a married daughter of the deceased and the efficacy of Section 140 of the Act. Nevertheless, the principle underlying the exposition in this decision would clearly come to the aid of the respondent Nos. 1 and 2 (claimants) even though they are major sons of the deceased and also earning.

"It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of

the fact whether the concerned legal representative was fully dependent on the deceased and not to limit the claim towards conventional heads only. The evidence on record in the present case would suggest that the claimants were working as agricultural labourers on contract basis and were earning meagre income between Rs.1,00,000/- and Rs.1,50,000/- per annum. In that sense, they were largely dependent on the earning of their mother and in fact, were staying with her, who met with an accident at the young age of 48 years.

26. In view of the law laid down by the Hon'ble Supreme court, it is the bound and duty of the Tribunal to consider the application irrespective of the fact whether the legal representative concerned was fully dependent on the deceased and not to limit the claim towards conventional heads only. The petitioner No.1 only dependent on deceased. The petitioner No.2 is not dependent on deceased.

27. Compensation towards loss of love and affection

Petitioner No.1 being the mother of the deceased has lost her son's love and care. Bearing in mind the relationship of the petitioner No.1 with the deceased, I am of the opinion that, awarding compensation of **Rs.50,000/- under this head would be just and reasonable.**

28. The petitioners have taken a contention that, prior to accident, deceased Sri. Ravichandra.H.C was hale and healthy and working as support staff at RICHMOND FELLOWSHIP SOCIETY (INDIA), Bangalore branch, situated at Jayanagar and getting salary of Rs.15,476/- per month. In addition to that, the said organization has provided accommodation to the deceased and it would cost of Rs.6,000/- per month. He was receiving the annual emoluments of Rs.2,57,712/- per annum from the said organization. Besides that, he was owned landed properties at his village and personally cultivating the landed properties and growing paddy, sugarcane, groundnut, ragi and other

crops. He had also planted the mulberry crop and doing sericulture rearing and also doing dairy farming and from all these sources earning Rs.50,000/- per month. The petitioner No.1 is the mother of deceased was entirely depending on his earnings. In support of their contention, the petitioners have produced ExP11 salary certificate. But, the author of the salary certificate was not examined by the petitioners before this court. Therefore, it is necessary to consider notional income of the deceased. The Hon'ble High court of Karnataka has prepared chart for the purpose of deciding the matters at Lok Adalath. According to the chart, for an accident of the year 2019, notional income fixed is at Rs.14,000/- per month. Accordingly, monthly income of deceased is fixed at Rs.14,000/-. The deceased died leaving behind him 2 petitioners as the dependents as per cause title of the petition. The deceased was bachelor and died at the age of 31 years. Therefore, as per **Sarla Verma's** case, 50% of the income shall be deducted towards his personal living expenses. Accordingly, monthly income of deceased is fixed

at Rs.7,000/-. If that is the case, his yearly income would be Rs.84,000/-. As per the PM report, inquest report, his age is shown as 31 years. If the age of deceased is taken into consideration, as per the table given in **Sarala Varma's** case by the Hon'ble Supreme court, the multiplier applicable is 16. Therefore, loss of dependency would be $7,000 \times 12 \times 16 = 13,44,000/-$. Admittedly the deceased was self employed and he died at the age of 31 years. In view of the law laid down by the **Hon'ble Apex Court in the case of National Insurance Company Vs. Pranay Sethi and others reported in (2017) 16 SCC 680**, In addition to the said income, the petitioner No.1 also entitled for additional 40% of the income as future prospect, which would be Rs.18,81,600/-. Therefore, in my opinion the petitioner No.1 is entitled for **Rs.18,81,600/-**. **Towards loss of dependency.**

29. At this juncture, this Tribunal relying upon judgment of **Hon'ble Supreme court in National insurance company Limited V/s Pranay Sethi reported in (2017)**

16 SCC 680. In the said judgment, Hon'ble Supreme court held that,

Reasonable figures on conventional heads, namely loss of estate, loss of consortium and funeral expense should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. The aforesaid amounts should be enhanced at the rate of 10% in the every three years. By considering the same, three years already elapsed as such the petitioners are entitled to get 10% enhancement under the conventional heads.

30. In view of the law laid down in the said judgment by the Hon'ble Supreme court, reasonable figures on conventional heads, namely loss of estate, loss of consortium and funeral expense should be Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively. Further, the aforesaid amounts should be enhanced at the rate of 10% in the every three years. In this case, 3 years has been exceeded. By considering the same, since the three years has been elapsed as such the petitioners are each entitled to get 10% enhancement under the conventional heads. The petitioner No.1 being the dependent of deceased is entitled for

compensation on conventional heads, namely loss of estate, loss of consortium and funeral expense under the conventional heads.

31. The Hon'ble Supreme court in the decision reported in **(2018) 18 SCC 130** in the case between **Magma General Insurance Co. Ltd., V/s Nanu Ram @ Chururam**, held as under:-

A Constitution Bench of this Court in Pranay Sethi (supra) dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is Loss of Consortium.

In legal parlance, "consortium" is a compendious term which encompasses 'spousal consortium', 'parental consortium', and 'filial consortium'.

The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, co-operation, affection, and aid of the other in every conjugal relation."

Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training."

Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world over have recognized that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial Consortium.

32. The petitioner No.1 is claiming to be mother of deceased. As stated above, during life time of deceased was staying with petitioner No.1. Therefore, as per the aforementioned decisions, the petitioner No.1 being the mother is entitled for filial consortium of Rs.44,000/-.

33. The petitioners have contended that, they have also spent more than Rs.60,000/- towards transportation of dead body and towards funeral expenses and obsequies ceremony. Therefore, they have claimed compensation of the said amount towards, Transportation, funeral expenses and obsequies ceremony. The injured was died and P.M. was conducted, after P.M., the dead body was shifted to petitioners village. Hence, there is some distance between both the places. Therefore, the petitioners might have spent some amount towards transportation of dead body of the deceased. But there is no evidence to show the exact amount which they have spent. Hence, baring in the mind of the distance between Kanakapura hospital to place of burial. I am of the opinion that, awarding compensation of

Rs.10,000/- under this head would be just and reasonable. However, in view of the law laid down by the **Hon'ble Apex Court in the case of National Insurance Company Vs. Pranay Sethi and others referred to supra**, the petitioner No.1 is entitled to **Rs.16,500/- towards funeral expenses and obsequies ceremony**. Accordingly, they have entitled for compensation under the head of **loss of estate at Rs.16,500/-**. In view of the General principles laid down by the Hon'ble Supreme Court in **Pranay Sethi** case referred to above and also in a recent judgment in the case of **N.Jayashree and others V/s Cholamandalam MS General Insurance company Ltd**, which is published in **2021 SCC Online SC 967**, the petitioner No.1 is entitled for compensation in the following heads:

1. Loss of dependency	-	Rs.18,81,600/-
2. Loss of love & affection	-	Rs. 50,000/-
3. Loss to estate	-	Rs. 16,500/-
4. Funeral Expenses	-	Rs. 16,500/-
5. Loss of filial consortium to the petitioner No.1	-	Rs. 44,000/-

6. Expenses of transportation of dead body	-	Rs. 10,000/-
7. Medical expenses	-	Nil

Total - Rs.20,18,600/-

Thus, the petitioner No.1 in all entitled for compensation of **Rs.20,18,600/-** (Rupees Twenty Lakhs Eighteen Thousand and Six Hundred only).

LIABILITY

34. In this case, it is held that, the accident had taken place entirely due to rash and negligent driving of the Lorry bearing No.KA-53-A-9111 by its driver. It is pertinent to note, the respondent No.1 and 2 did not choose to adduce evidence. As discussed above the driver of the offending vehicle has valid driving license. The vehicle was insured with respondent No.2 and the policy was in force. The respondent No.1 is the owner of said vehicle in question and the respondent No.2 is the insurance company and the policy which was in force as on the date of accident. The same is not disputed by Respondent No.2 insurance company. The

Respondents No.1 and 2 being the owner and insurer of the offending vehicle are jointly and severally liable to pay compensation to the petitioners. However, Respondent No.2 being the insurer shall transfer the award amount within 2 months from the date of award. Therefore, the opinion of the Tribunal the Respondent No.2 is liable to pay compensation to the petitioners.

INTEREST

35. So far as the interest is concerned, the petitioners have claimed interest at the rate of 18% per annum from the date of petition till realization. Though they have claimed 18% interest on the compensation amount, having regard to the facts and circumstances of the case and other attendant circumstances and also in the light of the ratio laid down by the Hon'ble Apex Court in the case between **Neeta V/s DM. MSRTC** reported in **(2015) 3 SCC 590** and in the case of **Eruchaya Priya V/s State Express Transport Corporation Ltd**, published in **2020 SCC Online SC 601**, the opinion of the Tribunal that, it is proper to award 9%

future interest on the compensation amount from the date of petition till its entire realization. In view of the above detailed discussion, I answer **Point No.2 partly in the affirmative.**

36. **Point No.3:** For the aforesaid reasons and discussions, I proceed to pass the following:

O R D E R

The petition filed by the petitioners U/s 166 of Indian Motor Vehicle Act, is hereby allowed in part with costs.

The petitioner No.1 is entitled for compensation of **Rs.20,18,600/-** (Rupees Twenty Lakhs Eighteen Thousand and Six Hundred only) with interest at 9% per annum on the compensation amount from the date of filing of petition till its entire realization.

The petition against the petitioner No.2 is dismissed.

Respondent No.1 and 2 being the owner and insurer of the offending vehicle are liable to pay the compensation to the petitioner No.1. Hence, R2 shall transfer the award amount within 2 months from the date of award.

Out of the compensation amount aforementioned in favour of petitioner No.1, the respondent No.2 is hereby directed to transfer 50% of the award amount with interest to the bank account of petitioner No.1 within 2 months from the date of award.

Out of the compensation amount aforementioned in favour of petitioner No.1, the respondent No.2 is hereby directed to kept the remaining 50% of award amount in Fixed Deposit in the name of petitioner No.1 for a period of 3 years before any nationalized bank.

Advocates fees is fixed at Rs.1,000/-.

Petitioner No.1 shall submit affidavit furnishing petitioners nationalized bank account details with IFSC along with canceled cheque having petitioners name within 30 days from today. Petitioner No.1 shall also submit copy of bank account passbook, Aadhar card and Pan card. The counsel for the petitioners shall verify the authenticity of the details and submit the same to the office along with memo.

Pending clerk and CMO shall verify and endorse the correctness of the bank details in the order sheet to enable drawing of the award.

Office to include all above details of petitioners and draw award after receipt of memo from the counsel for the petitioners.

The respondent shall transfer the award amount to the bank account specified in the award and intimate to this tribunal.

Failure to furnish aforesaid details within 30 days shall dis-entitle the petitioners to interest until such compliance.

(Dictated to the Stenographer, directly typed by her on the computer, Order corrected and signed by me, then pronounced by me in the Open Court on this the **1st day of June -2026**).

(MAHENDRA.M)
Senior Civil Judge & MACT,
Malavalli.

ANNEXURES

Witnesses examined on behalf of the petitioners:

PW1 - Smt. Basamma

Documents exhibited on behalf of the petitioners:

Exp1 - True copy of FIR
Exp2 - True copy of Complaint.
Exp3 - True copy of Sketch
Exp4 - True copy of Spot mahazar
Exp5 - True copy of Inquest report
Exp6 - True copies of IMV report
Exp7 - True copies of PM report
Exp8 - True copies of Charge sheet
Exp9 & 10 - Notarized copies of Aadhar cards
Exp11 - Salary certificate

- Exp12 - Identity card
- Exp13 - Notarized copy of Driving license

Witnesses examined on behalf of the Respondents:

- NIL -

Documents exhibited on behalf of the Respondents:

- NIL -

(MAHENDRA.M)

Senior Civil Judge & MACT
Malavalli.