

KAMD400000482023



**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.21/2023

PETITIONERS:

- 1. Smt. Bhagyamma**
W/o Late Siddappaji
Aged about 49 years,
- 2. Sri. Yogesh.N.S**
S/o Late Siddappaji
Aged about 33 years,
- 3. Kum. Geetha.S**
D/o Late Siddappaji
Aged about 30 years,

All are R/o Nidagodi Village,
Virupakshipura Hobli,
Channapatna Taluk,
Ramanagara District.

(By. Sri. S.P.S., Adv.,)

-V/s-

RESPONDENTS: 1. Sri. D.S.Sagar

S/o Shivalingaiah,
Aged about 44 years
R/o Doddarasinakere Village,
C.A.Kere Hobli, Maddur Taluk,
Mandya District.

**(Owner of Mahindra Bolero Maxi Truck
Plus 1.2 bearing No.KA-11-B-5251)**

2. The Manager,

Reliance General Insurance
Co., Ltd., No.28, 5th Floor,
Southern Portion, East Wing,
Centenary building, M.G.Road,
Bengaluru.

**(Policy No.141522223340000099
Validity from 04.01.2022 to 03.01.2023)**

**(By Sri D.M.S., Adv., for R1)
(By Sri K.P.K.,Adv., for R2)**

J U D G M E N T

The petitioners have filed this petition seeking compensation of Rs.39,70,000/- for the untimely death of one Sri. Siddappaji, who lost his life in the accident that occurred on 02.12.2022.

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

The petitioner No.1 is the wife and the petitioner No.2 and 3 are the children of deceased Siddappaji. The petitioners submitted that, on 02.12.2022 at about 6.35 p.m., near Naganna's house, Halaguru-Maddur road in V.Basapura Village, the husband of petitioner No.1 and father of petitioner No.2 and 3 by name Siddappaji was going to home from Halaguru by proceeding his motorcycle bearing No.KA-40-L-8704 with cautiously, slowly and following traffic rules. While he going on the said left side of the road, at that time, one Mahindra Bolero Goods vehicle bearing No.KA-11-B-5251 being driven by its driver stopped the vehicle without giving any indications or instructions, due to which the said Siddappaji hit the Bolero vehicle as it was dark and caused the accident. In this accident, the said Siddappaji fell down and sustained grievous injuries to his head, forehead, hands and legs and other parts of the body. Thus, the accident has been caused entirely due to rash and negligent driving of the Mahindra Bolero Goods vehicle bearing No.KA-11-B-5251 by its driver only.

3. The petitioners further submitted that, immediately after the accident, the injured was taken to G.Madegowda Multi-speciality Hospital, K.M.Doddi for treatment. Thereafter, he was shifted to JSS Hospital, Mysore and then shifted to Victoria Hospital, Bengaluru for further management. But, while undergoing treatment, he succumbed due to the injuries on 12.12.2022. The petitioners have spent Rs.1,50,000/- towards medical expenses. The PM was conducted at Victoria Hospital, Bengaluru on 13.12.2022. After PM examination, the dead body was taken in a private vehicle to his home town by hiring charge of Rs.20,000/-. The petitioners have performed the funeral and obsequies ceremony of deceased Siddappaji by spending of Rs.2,00,000/-. The petitioner No.1 had lost love and affection of her husband and the petitioner No.2 and 3 have lost love and affection of their father. The petitioners were entirely depending upon deceased for their livelihood. The age of the deceased was 50 years at the time of accident and he could have lived up to the age of 90 years. The deceased was an

agriculturist and doing milk vending business and used to earn Rs.30,000/- 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 Mahindra Bolero Goods vehicle bearing No.KA-11-B-5251 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.39,70,000/-. **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 respondents have appeared before this court through their counsels. The record show that the owner of Mahindra Bolero Goods vehicle bearing No.KA-11-B-5251 namely Sri.D.S.Sagar, is made as 1st respondent and Reliance General Insurance Company is the 2nd respondent. The respondent No.1 and 2 have 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 contended that, the alleged accident occurred due to the rash and negligent riding of the deceased who rode the motorcycle without observing the parked vehicle and himself hit the said vehicle. At the time of alleged accident, the deceased rode the motorcycle without having valid driving license and valid insurance policy of the said motorcycle. The respondent No.1 further contended that, the driver of the offending vehicle was returning from Halagur after taking food for the cows and when the front right side tire of the vehicle got punctured near V.Basapura village, while changing the tire at the roadside by putting an indicator, the deceased himself hit the vehicle from back side and caused the accident. 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-40-L-8704. 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. The petition is bad for non-joinder of necessary party i.e., the driver of Mahindra Bolero Goods vehicle bearing No.KA-11-B-5251. It if further contended that, there was 3 days inordinate delay in lodging FIR, from this it is clear that, the petitioners in collusion with the respondent No.1 and Police, doctors concocted, created and fabricated documents for the purpose of getting compensation. As on the date of alleged accident, the deceased rode his motorcycle without wearing helmet and also without having valid and effective driving

license and insurance policy. In this regard, the investigating officer filed charge sheet against the deceased who rode the motorcycle bearing No.KA-40-L-8704 for the offenses punishable under section 3 of 181 and 146 R/w 196 of IMV Act. Hence, it is clear that, the alleged accident occurred due to the sole negligence on the part of the deceased.

6. This respondent further contended that, the alleged accident took place due to negligence of the rider of motorcycle i.e., deceased who rode the motorcycle without observing the vehicles who are running on the road and without following the traffic rules. The respondent cannot 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 denied that, the petitioners are dependents and legal heirs of deceased. The amount mentioned in the claim petition as compensation too high. **Hence, the 2nd respondent prayed that dismiss the petition filed by the petitioners with cost.**

7. Based on the rival pleadings, this court has framed the following issues:

ISSUES

- 1. Whether the petitioners prove that, the accident was took place on 02.12.2022 solely due to rash and negligent driving of the offending vehicle by its driver ?*
- 2. Whether the petitioners prove that, the husband of the petitioner No.1 and father of the petitioner No.2 and 3 namely Sri Siddappaji died in the accident ?*

3. Whether the petitioners are entitled for compensation as claimed ? If so, to what extent and from whom ?

4. What order or award?

8. To substantiate their contentions, the petitioners have adduced evidence. The petitioner No.1 namely Smt. Bhagyamma has examined herself as PW1 and got exhibited 21 documents as per ExP1 to 21. ExR1 to 4 got marked through confrontation. The witness namely Sri.Siddappaji was examined himself as PW2 on behalf of the petitioners and ExP22 got marked. It is interesting to note that, the owner of the aforesaid Mahindra Bolero Goods vehicle bearing No.KA-11-B-5251 namely Sri. D.S.Sagar, is the 1st respondent and Reliance General Insurance company is the 2nd respondent. The respondents did not choose to adduce evidence on their behalf.

9. Heard the arguments from learned counsel for petitioners. The learned counsel for the petitioners also filed the written arguments, the same is perused by this court. The arguments from the respondents side taken as not canvassed.

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

Issue No.1: In the Affirmative
Issue No.2: In the Affirmative
Issue No.3: Partly in the Affirmative.
Issue No.4: As per the final order
for the following:-

REASONS

11. Issue No.1 and 2: These two issues are taken together for discussion since they required common discussion and so also they are inter connected with each other.

12. It is the specific allegation of the petitioner that, on 02.12.2022 at about 6.35 p.m., near Naganna's house, Halaguru-Maddur road in V.Basapura Village, the deceased by name Siddappaji was going to home from Halaguru by proceeding his motorcycle bearing No.KA-40-L-8704 with cautiously, slowly and following traffic rules. While he going on the said left side of the road, at that time, one Mahindra Bolero Goods vehicle bearing No.KA-11-B-5251 being driven by its driver stopped the vehicle without giving any indications or instructions, due to which the said Siddappaji

hit the Bolero vehicle as it was dark and caused the accident. Due to the accident, the said Siddappaji fell down and sustained grievous injuries to his head, forehead, hands and legs and other parts of the body. (Mahindra Bolero Goods vehicle bearing No.KA-11-B-5251 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.

13. To substantiate their contentions, the petitioners have adduced evidence. The petitioner No.1 namely Smt. Bhagyamma, 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 21. ExR1 to 4 got marked through confrontation.

14. It is important to note that in her chief examination, the PW1 specifically states that, she is the wife and the petitioner No.2 and 3 are the children of deceased

Siddappaji. In the written statement the respondent No.2 have 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 wife and the petitioner No.2 and 3 are the children of deceased Siddappaji, thus, it becomes clear that the examination in chief of PW1 does some material points, which go against the 2nd respondent. Further, the record also shows that by conducting the cross examination of PW1 the learned counsel for the 2nd respondent has not at all suggested that the petitioners are not related to the deceased person. 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”.

15. 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 2nd Respondent has 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 wife and the petitioner No.2 and 3 are the children of the deceased person has to be accepted as true and correct. Thus, this tribunal conclude that the Petitioner No.1 is the wife and the petitioner No.2 and 3 are the children of deceased Siddappaji.

16. Again this tribunal say that it is the specific say of the 2nd Respondent that the 2nd respondent has 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.

17. It is relevant to note that the ExP10 is the Charge Sheet or final report. The ExP10 shows that the jurisdictional police, after investigating the case, have filed the Charge Sheet, wherein one Sri. Siddappaji S/o Puttaswamachar is cited as eye witness. It is relevant to note that the said witness of the accident is examined as PW2 by the Petitioners before this Court.

18. It is important to note that, according to petitioners the deceased Sri. Siddappaji was proceeding in his motorcycle. The said fact not denied by the respondent No.2. As per Exp4 Panchanama shows that the accident occurred on Halaguru-Maddur road, near Naganna's Silkworm house of V.Basapura Village. The investigation Officer has draw the Panchanama and sketch at spot as per Exp4 and 5. 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.

19. 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.

20. The respondents are denied the occurrence of the accident. The petitioners have produced several documents. ExP1 is the Certified copy of FIR, ExP2 and 3 are the Certified copies of complaints, ExP4 is the Certified copy of Spot mahazar, ExP5 is the Certified copy of Sketch, ExP6 and 7 are the Certified copies of Seizure mahazars, ExP8 is the Certified copy of IMV report, ExP9 is the Certified copy of Inquest report, ExP10 is the Certified copy of Charge sheet, ExP11 is the Certified of PM report, ExP12 is the Certified copy of Order sheet in CC No.21/2023, ExP13 is the 3 Medical prescriptions, ExP14 is the CT scan report, ExP15 is the 2 Advance medical bills, ExP16 is the 32 Medical bills, ExP17 is the Final bill, ExP18 to 21 are the Notarized copies of Aadhar cards and ExP22 is the Certified copy of witness statement.

21. ExP1 is reveals that the jurisdiction Police have registered the case against driver of the offending vehicle,

showing the involvement of the vehicle. The Exp4 and 5 Panchanama and sketch showing that the offending vehicle caused the accident and the said vehicles was seized under the mahazars as per Exp6 and 7. The postmortem report and the final opinion of the Doctor who conducted the postmortem opinion that the cause of death is due to Coma consequent upon head injury sustained, 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.

22. 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 Exp10 Certified copy of charge-sheet reveals that, the investigation Officer filed charge-sheet against the driver of offending vehicle for the offenses punishable under section 304(a) of IPC R/w Section 190 r/w 117 of IMV Act. It is clear that the driver of the offending vehicle has holding valid driving license in respect of said vehicle.

23. 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 304(a) of IPC R/w Section 190 r/w 117 of IMV Act. 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 and 2 in the Affirmative.**

24. **Issue No.3:** It is the contention of petitioners that, prior to accident, deceased Sri. Siddappaji, was hale and healthy and he was an agriculturist and doing milk vending business and used to earn Rs.30,000/- per month. The petitioner No.1 being the wife and the petitioner No.2 and 3 being the children of deceased entirely depending on his

earnings. The deceased Sri. Siddappaji was aged about 50 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 husband of petitioner No.1 and father of petitioner No.2 and 3. 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. Siddappaji, they have lost dependency.

LOSS OF DEPENDENCY

25. 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”.

26. 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 wife and the petitioner No.2 and 3 are the children of deceased Sri.Siddappaji. Therefore, it is very much clear that during his lifetime the deceased was residing with petitioner No.1 to 3. Now the question before the court is whether petitioner No.1 to 3 who are majors be considered as dependents or not?. As per above decision the petitioners are considered as dependents of deceased.

27. 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 adverting 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.

28. 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 deceased died at the age of 50 years and residing with petitioner No.1 to 3 and if he was alive, definitely he would have contributed his earnings to the petitioner No.1 to 3. Therefore, it cannot be said that, the petitioners are not dependents.

29. Compensation towards loss of love and affection

Petitioners being the wife and children of the deceased have lost their love and care. Bearing in mind the relationship of the petitioners with the deceased, I am of the opinion that, awarding compensation of **Rs.50,000/- under this head would be just and reasonable.**

30. The petitioners have taken a contention that, prior to accident, deceased Sri. Siddappaji was hale and healthy

and doing agriculture, milk vending business and used to earn Rs.30,000/- per month. The petitioner No.1 is the wife and petitioner No.2 and 3 are the children of deceased were entirely depending on his earnings. In support of their contention, the petitioners have not produced any supporting documents to substantiate the same. The petitioners also not produced any oral evidence in that regard. 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 2022, notional income fixed is at Rs.15,500/- per month. Accordingly, monthly income of deceased is fixed at Rs.15,500/-. The deceased died leaving behind him 3 petitioners as the dependents. Therefore, as per **Sarla Verma's** case, 1/3rd of the income shall be deducted towards his personal living expenses. Accordingly, monthly income of deceased is fixed at Rs.10,333/-. If that is the case, his yearly income would be Rs.1,23,996/-. As per the PM report, inquest report, his age is

shown as 50 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 11. Therefore, loss of dependency would be $10,333 \times 12 \times 11 = 13,63,956/-$. Admittedly the deceased was self employed and he died at the age of 50 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 petitioners also entitled for additional 15% of the income as future prospect, which would be Rs.15,68,549/-. Therefore, in my opinion the petitioners are entitled for **Rs.15,68,549/-**. **Towards loss of dependency.**

31. 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.

32. 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 elapsed as such the petitioners are entitled to get 10% enhancement under the conventional heads. The petitioners being the dependents of deceased is entitled for compensation on conventional heads, namely loss of estate, loss of consortium and funeral expense under the conventional heads.

33. 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.

34. The petitioners are claiming to be wife and children of deceased. As stated above, during life time of deceased was staying with petitioners. Therefore, as per the

aforementioned decisions, the petitioners being the wife and children are each entitled for spousal and parental consortium of Rs.44,000/- each in total Rs.1,32,000/-.

35. The petitioners have contended that, they have spent Rs.1,50,000/- towards medical expenses. In this regard, they have produced Exp16 - 32 Medical bills of Rs.18,517/- and Exp17 - Final bill of Rs.20,659/- in total Rs.39,176/-. But, they have not produced any other bills or documents to substantiate their contention of spending Rs.1,50,000/-. Therefore, in my opinion the petitioners are entitled for **Rs.39,176/- towards loss of Medical expenditure.**

36. The petitioners have contended that, they have also spent more than Rs.2,20,000/- 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 Bengaluru 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 petitioners are 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 to 3 are entitled for compensation in the following heads:

1. Loss of dependency	-	Rs.15,68,549/-
2. Loss of love & affection	-	Rs. 50,000/-
3. Loss to estate	-	Rs. 16,500/-
4. Funeral Expenses	-	Rs. 16,500/-
5. Loss of spousal consortium to the petitioner No.1	-	Rs. 44,000/-
6. Loss of parental consortium to the petitioner No.2 & 3 (Rs.44,000/- each)	-	Rs. 88,000/-
7. Expenses of transportation of dead body	-	Rs. 10,000/-
8. Medical expenses	-	Rs. 39,176/-
Total		- Rs.18,32,725/-

Thus, the petitioner No.1 to 3 in all entitled for compensation of **Rs.18,32,725/-** (Rupees Eighteen Lakh Thirty Two Thousand Seven Hundred and Twenty Five only).

APPORTIONMENT

37. The petitioner No.1 is entitled for 50% and petitioner No.2 and 3 are each entitle for 25% in the compensation amount.

LIABILITY

38. In this case, it is held that, the accident had taken place entirely due to rash and negligent driving of the Mahindra Bolero Goods vehicle bearing No.KA-11-B-5251 by its driver. It is pertinent to note, the respondents 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

39. 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.3 partly in the affirmative.**

40. **Point No.4:** For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

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

The petitioners are entitled for compensation of **Rs.18,32,725/-** (Rupees Eighteen Lakh Thirty Two Thousand Seven Hundred and Twenty Five only) with interest at 9% per annum on the compensation amount from the date of filing of petition till its entire realization.

The petitioners No.1 to 3 are entitled for compensation at the ratio of 50:25:25 out of the total compensation amount.

Out of the compensation amount aforementioned in favour of petitioner No.1 to 3, the respondent No.2 is hereby directed to transfer 50% of amount of compensation to the Bank account of the petitioner No.1 to 3 together with interest within 60 days from the date of award.

Further, the respondent No.2 shall invest the remaining amount of compensation i.e., 50% together with interest in FD in the name of petitioner No.1 to 3 in the Bank of petitioner No.1 to 3 for a period of 3 years.

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

Petitioners shall submit affidavit furnishing petitioners nationalized bank account details with IFSC along with canceled cheque having petitioners name within 30 days from today. Petitioners 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 No.2 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 petitioner 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. Bhagyamma
PW1 - Sri. Siddappaji

Documents exhibited on behalf of the petitioners:

- Exp1 - Certified copy of FIR
- Exp2 & 3 - Certified copies of complaints
- Exp4 - Certified copy of Spot mahazar
- Exp5 - Certified copy of Sketch
- Exp6 & 7 - Certified copies of Seizure mahazars
- Exp8 - Certified copy of IMV report
- Exp9 - Certified copy of Inquest report
- Exp10 - Certified copy of Charge sheet
- Exp11 - Certified of PM report
- Exp12 - Certified copy of Order sheet in CC No.21/2023
- Exp13 - 3 Medical prescriptions
- Exp14 - CT scan report
- Exp15 - 2 Advance medical bills
- Exp16 - 32 Medical bills
- Exp17 - Final bill
- Exp18 - 21 - Notarized copies of Aadhar cards
- Exp22 - Certified copy of witness statement

Witnesses examined on behalf of the Respondents:

- NIL -

Documents exhibited on behalf of the Respondents:

- ExR1 - Ration card
- ExR2 to 4 - Xerox copies of Aadhar cards

(MAHENDRA.M)

Senior Civil Judge & MACT
Malavalli.