KAMD500001712019

IN THE COURT OF THE Ist ADDL. SENIOR CIVIL JUDGE & M.A.C.T. AT NAGAMANGALA

:PRESENT:

SRI.NARASIMHA MURTHY M.
B.A.LLM., UGC – NET, JRF,
Ist ADDL. SENIOR JUDGE & M.A.C.T., NAGAMANGALA

M.V.C. No.188/2019

DATED : THIS THE 25th DAY OF APRIL, 2026

Petitioners	:	1.	Smt. Sakamma W/o Late Venkateshgowda, Aged about 70 years,
		2.	Smt. Rathnamma D/o Late Venkateshgowda, Aged about 56 years,
		3.	Sri. Nagaraju S/o Late Venkateshgowda, Aged about 54 years,
		4.	Sri. Ramachandra S/o Late Venkateshgowda. Aged about 52 years.

5. Sri. Sathya
S/o Late Venkateshgowda,
Aged about 50 years,

6. Sri. Somashekara
S/o Late Venkateshgowda,
Aged about 48 years,

7. Honnappa
S/o Late Venkateshgowda,
Aged about 46 years,

Petitioner No.1 & 7 are resident of
Devalapura village,
Devalapura Hobli,
Nagamangala Taluk,
Mandya District.

(By Sri.M.R.Prabhuswamy Advocate)

- V/s -

Respondents : 1. Sri. Rahabarpasha
S/o Nazeer Ahammad B.K.
Aged about 49 years,
R/o Mekka Mazjid road,
Nagamangala Town,
Mandya District.

2. Thimmegowda H.
S/o Late Halegowda,
Aged about 55 years,
R/o Bindiganavile road,
T.B.Extension,
Nagamangala,
Mandya District.

(Owner of motorbike Bajaj Caliber Bearing Reg.No.KA-11-J-6689)

2. United India Insurance Co., Ltd.,
R/p by its Branch Manager,
No.119/B, Kambli building,
M.C.Road, Ashoka Nagara,
Mandya-571401.

(Policy No.0720013117P104170682
Valid from 19.06.2017 to 18.06.2018)

(R1 rep. By Sri. Shaik Ahamed, R2 rep. By Sri. P.C.Manjunath Advocate and R3 rep. by Sri.B.C.Basavaraju Advocate)

* * * *

JUDGMENT

This is a claim petition filed by the petitioners against the respondents U/s.166 of Motor Vehicle Act, 1989 claiming compensation amount of Rs.20,00,000/- for the untimely death of deceased Venkateshgowda S/o Thimmaiah in a Vehicle Accident which occurred on 02.01.2018, in front of Vijaya Bank, Devalapura village.

2. The brief averments of the petition is as follows:

On 02.01.2018 at about 7:30 P.M. the deceased Venkateshgowda was going to his house on the left side of the Nagamangala-Devalapura road in front of Vijaya Bank at

Devalapura village, at that time the Bajaj Caliber motorcycle bearing Reg.No.KA-11-J-6689 being driven by its rider rode the vehicle in rash and negligent manner at high speed so as to endanger to human life and dashed against the deceased Venkateshgowda. Due to which, the Venkateshgowda sustained grievous injuries to head and other parts of the body. Immediately the Venkateshgowda shifted to Government hospital Nagamangala for treatment, after first aid treatment the Venkateshgowda was shifted to Adichunchanagiri hospital of higher treatment and he was died on 11.01.2018. After PM examination the dead body of the Venkateshgowda handed over to the petitioner for spent Rs.2,00,000/- for transportation. The petitioners have spend Rs.1,00,000/- performing the funeral and 11th day ceremony of the deceased.

Further stated that, the deceased was hale and healthy and he was aged about 80 years and he was doing agriculture work and earning of Rs.30,000/- per month. The petitioners were depended on him. The 1st petitioner is the wife, the petitioners 2 to 7 are the children of the deceased.

Further states, the 1st respondent is the rider, 2nd respondent is the owner and 3rd respondent is the insurer of the offending vehicle. Hence, the respondents are jointly and severally liable to pay compensation to the petitioners. Hence, prays for allowing the petition.

3. The respondent No.1 inspite of appearing through Counsel has not filed any objection to the petition.

The respondent No.2 has filed written statement and apart from usual denial of the petition averments contends and submitted that, he is the owner of the Bajaj Caliber bearing Reg.No.KA-11-J-6689. Further stated that, the said motorcycle was comprehensively insured with the 3rd respondent and the policy was in force as on the date of accident. Hence, prays for dismissal of the petition against respondent No.2.

The respondent No.3 has filed written statement and apart from usual denial of the petition averments contends and submitted that, there was a delay of four days in filing the complaint. Further submitted that, the vehicle bearing Reg.No.KA-11-J-6689 was not insured with the company at the time of accident. Further submitted that, the deceased Venkateshgowda was aged about 80 years as per the PM report and petitioners No.2 to 7 are major children and are not dependents and as such they are not entitled for compensation as claimed in the petition. Further submitted that, the rider of the Bajaj Caliber motorcycle bearing Reg.No.KA-11-J-6689 at the time of accident was not having valid and effective DL to ride the vehicle. Further submitted that, as per the spot mahazar/sketch submitted by the police official it is found that the accident was occurred on middle of the road and hence accident if any due to the negligent act of the deceased himself only and as such there is contributory negligence on the part of the deceased. Hence, prays for dismissal of the petition with cost.

4. The following Issues have been framed.

ISSUES

(1) Whether the petitioners prove that on 02.01.2018 at 7.30 p.m. Nagamangla-Devalapura road, in front of Vijaya Bank at Devalapura village rider of the motorcycle i.e. Bajaj Caliber bearing No.KA-11-J-6689 rode in rash and negligent manner and dashed to the Venkateshgowda who was going in front of his house on the left side of the road and due to said accident Venkateshgowda sustained grievous injuries on his head and other parts of the body and while taking treatment he was died on 11.01.2018 ?

(2) Whether the petitioners prove that, they are entitled for compensation ? From whom, to what extent ?

(3) What order or award ?

5. To substantiate their contention, the petitioner No.5 has examined herself as PW.1 and got marked Ex.P1 to Ex.P34 documents. The official of R3 is examined as RW1 and Ex.R1 is marked for respondent No.3.

6. Heard the counsel for the petitioner and respondent No.3. The respondent No.3 has filed written arguments.

7. My answers to the above said issues are as follows:

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

REASONS

8. ISSUE No.1: It is the case of the petitioners that, on 02.01.2018 at about 7:30 P.M. the deceased Venkateshgowda was going to his house on the left side of the Nagamangala-Devalapura road in front of Vijaya Bank at Devalapura village, at that time the Bajaj Caliber motorcycle bearing Reg.No.KA-11-J-6689 being driven by its rider rode the vehicle in rash and negligent manner at high speed so as to endanger to human life and dashed against the deceased Venkateshgowda. Due to which, the Venkateshgowda sustained grievous injuries to head and other parts of the body. Immediately the Venkateshgowda shifted to Government hospital Nagamangala for treatment, after first aid treatment the Venkateshgowda was shifted to Adichunchanagiri hospital of higher treatment and he was died on 11.01.2018.

9. Per contra, the respondent No.3 has submitted that, the accident is due to the fault of the deceased.

10. The petitioner No.5 has examined herself as PW.1. She has been chief examined by way of affidavit, wherein, she has reiterated the entire petition averments and also has deposed that, she is deposing on behalf of other petitioners. The PW.1 deposed that, she is the daughter of the deceased and the petitioner No.1 is the wife of the deceased and the petitioners No.2 to 6 and 7 are the children of the deceased and they were dependent on the deceased. PW.1 in her chief examination has deposed, the accident has been caused due to the rash and negligent riding by the rider of Bajaj Caliber motorcycle bearing Reg. No.KA-11-J-6689. In the cross examination of PW.1, she has denied the suggestion that, the accident was due to the fault of the deceased.

12. It is well settled principle that, in Motor Accident Compensation Cases strict proof of negligence is not required. This is also been held by the ***Apex Court in 2009 (13) SCC 530 between Bimladevi and others V/s Himachala Pradesh Road Transport Corporation and also AIR 2011 SC 1504***, *wherein, the Apex Court has held that, in Motor Accident Compensation Cases strict proof of negligence is not required to be established before the Court. The claimants were merely to establish their case on the touchstone of pre-*

ponderance of probability. The standard of proof beyond reasonable doubt could not have been applied." Hence, by relying on above cited decision in the present case on hand, PW.1 has produced Ex.P1 to Ex.P.34 documents. Ex.P1 is the complaint wherein, the complaint has been lodged against the rider of the Bajaj Caliber motorcycle bearing Reg.No.KA-11-J-6689 for the accident that occurred on 02.01.2018 at 7:30 P.M. at Devalapura village. Ex.P2 is the requisition. Ex.P3 is the further statement of complainant. Ex.P5 is the inquest mahazar. Ex.P6 is the P.F. Ex.P6 is the spot mahazar. Ex.P8 is the Post Mortem report which reveals that, the death of the deceased is due to pneumonia consequent upon neck of right femur fracture. Ex.P9 is the IMV report. Ex.P10 is the MLC extract. Ex.P4 is the Charge sheet which goes to show that, the rider of Bajaj Caliber motorcycle bearing No.KA-11-J-6689 has been charge sheeted on the allegations that, he has committed the offence of rash and negligent driving and as a result caused accident which resulted in the death of the deceased Venkateshgowda. On perusal of the charge sheet it clearly shows that, the concerned police after completion of entire investigation filed charge sheet against the rider of the offending vehicle. As such, rash and negligent act of the rider of the Bajaj Caliber motorcycle bearing Reg. No.KA-11-J-6689 is said to be established. Further, charge sheet is said to be a reliable document for proving negligence in a Motor Vehicle

Accident claim petition. Hence, the charge sheet supports the case of the petitioners that, the accident was due to rash and negligent driving by the rider of offending vehicle. Therefore, on perusal of the entire oral and documentary evidence on record it is clear that, the accident was due to the rash and negligent act of the rider of the offending vehicle and the deceased died due to the accident. Hence, with this observation **Issue No.1 is answered in the Affirmative.**

13. **ISSUE No.2**: In this case the petitioners have claimed compensation of Rs.20,00,000/- for the death of the deceased in a Motor Vehicle Accident case. Now, the question is for how much compensation they are entitled to and from whom?

14. The question would be, how the assessment of compensation in the case of death has to be made. Fortunately, *Sarla Verma -V/s- Delhi Transport Corporation, (2009) 6 SCC 121 at para No.18 and 19,* the Hon'ble Apex Court has prescribed the guidelines for determining the compensation in case of death. For convenience sake, I have reproduced the relevant portion for better understanding.

> *"Basically only three facts need to be established by the claimants for assessing compensation in the case of death:*
>
> *(a) age of the deceased:*

(b) income of the deceased; and the

(c) the number of dependents.

The issues to be determined by the Tribunal to arrive at the loss of dependency are:

i. Additions/deductions to be made for arriving at the income.
ii. The deduction to be made towards the personal living expenses of the deceased; and
iii. The multiplier to be applied with reference to the age of the deceased.

If these determinants are standardized, there will be uniformity and consistency in the decisions. There will lesser need for detailed evidence. It will also be easier for the insurance companies to settle accident claims without delay. To have uniformity and consistency, the Tribunals should determine compensation in cases of death, by the following well-settled steps;

Step 1 (Ascertaining the multiplicand) – The income of the deceased per annum should be determined, out of the said income a deduction should be made in regard to the amount which the deceased would have spent on himself by way of *personal and living expenses. The balance, which is considered to be the contribution to the dependent family, constitutes the multiplicand.*

Step 2 (Ascertaining the multiplier) – Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased.

Step 3 (Actual calculation) – The annual contribution to the family (multiplicand) when multiplied by such multiplier gives the loss of dependency to the family".

15. Keeping in view the position of law laid down by the Hon'ble Apex Court in Sarla Verma's case, now, I proceed to discuss about the age of the deceased. The age of the deceased as per the postmortem report Ex.P8 is shown as 80 years. Thus, I conclude that, as on the date of the accident, the deceased was aged around 80 years.

16. The next question would be, what was the income or earning of the said deceased Venkateshgowda. The record shows that, as per evidence of PW.1 the deceased was agriculturist and earning around Rs.30,000/- per month. The petitioners to support their contention have produced Ex.P17 to 26 i.e. RTC extracts, wherein, the RTC extracts stands in the name of the 1st petitioner. Hence, said document cannot support the case of the petitioners. Hence, by applying the concept of notional income, the accident having occurred in 2018, the income of the deceased is considered as Rs.12,500/- per month as per the guidelines of KSLSA dated 22.02.2022.

17. The next question would be, whether the future prospects has to be taken into account in addition to income of the deceased. This Court would like to rely on the decision of the *constitutional bench decision of Apex Court in* ***(2017) 16 SCC 680 in National Insurance Company Ltd., -V/s- Pranay Sethi and others,*** *has held that, in the case of death of deceased who was self employed or on a fixed salary and*

where the deceased was below 40 years then 40%, in the case of age of deceased between 40 to 50 years then 25% and in the case of age of deceased between 50 to 60 years then 10% of the established income excluding the tax component is to be taken towards the future prospects.

18. By considering and applying the said principle to the case on hand, since the deceased was 80 years old as per the above citation the future prospects cannot be considered. So the actual income of the deceased is taken as Rs.12,500/-.

19. The next question would be, what is the amount that needs to be deducted for personal and living expenses of the said deceased. Since, the deceased has left behind his wife and his children. The petitioner No.2 to 7 are major children and they are not taken into consideration towards for personal and living expenses of the said deceased. This Tribunal views that, half (1/2) has to be deducted towards his personal expenses. Hence, I conclude that half (1/2) of the income of the deceased should be deducted towards personal and living expenses of the deceased. Hence, that would be Rs.6,250/-. So, Rs.6,250/- is the actual income of the deceased per month and his yearly income is Rs.6,250 X 12 = 75,000/-. Therefore, the loss of dependency comes to Rs.75,000/- per year. Further, in Sarla Verma’s case itself the Hon’ble Supreme Court has given the

table of multipliers. Wherein, it is shown that, for the person aged around 80 years the multiplier applicable is 5.

20. Further, to compute the total loss of dependency, this Court has to multiply the yearly loss of dependency by the appropriate multiplier. If we do so then, the total loss of estate or loss of dependency comes to Rs.75,000 x 5 = Rs.3,75,000/-.

23. Undisputedly, petitioner No.1 is the wife, petitioner 2 to 7 are the major children of the deceased. Hence, this Tribunal views that, petitioner No.1 is only dependent on the deceased.

21. As per the observation made by the *Apex Court in United India Insurance Company Ltd. V/s Satinder Kaur @ Satwinder Kaur and others, reported in Civil Appeal 2705 of 2020, wherein, it has referred to decision of Apex Court in Magma General Insurance Company Ltd., V/s Nanu Ram & Others wherein, parental consortium is granted to the child upon the loss of prematured death of a parent, for loss of parental aid, protection, affection, society, discipline, guidance and training and spousal consortium is granted to the wife for loss of care and comfort and affection of the deceased.* Based on above cited case, the petitioner No.1 is entitled for Rs.50,000/- towards loss of spousal consortium. Further, petitioner No.2 to 7 are entitled for Rs.20,000/- each towards love and affection and the petitioners are entitled for

Rs.15,000/- towards funeral expenses and transportation of dead body and Rs.15,000/- towards loss of estate is awarded. Hence, based on the principle laid down in the above cited cases and taking into consideration of facts and circumstances of the case, I deem it fit to award compensation under the conventional heads as under:-

1.	*Compensation towards loss of dependency*	Rs. 3,75,000-00
2.	*Compensation towards loss of spousal consortium*	Rs.50,000-00
3.	*Compensation towards loss of love and affection*	Rs.1,20,000-00
4.	*Compensation towards funeral expenses.*	Rs.15,000-00
5.	*Compensation towards loss to estate*	Rs.15,000-00
	Total	**Rs.5,75,000-00**

22. Therefore the petitioners are entitled for compensation amount of **Rs.5,75,000/-** (Rupees Five Lakhs Seventy five thousand only) for the death of deceased Venkateshgowda. In my opinion, above said compensation

awarded to the petitioners is just, fair and proper in the facts and circumstances of the case.

23. Now, this Tribunal has to consider who is liable to pay compensation amount to the petitioners. Admittedly, in this case respondent No.2 is the owner and respondent No.3 is the insurer of the offending vehicle. The official of 3rd respondent is chief examined as RW1. He has deposed that the rider of the motorbike bearing No.KA-11/J-6689 have not driving license to ride the motorcycle as on the date of the accident and he is shown as accused No.1 under section 279, 304(A) of IPC and read with section 3, 181 and 187 of Motor Vehicle Act in the charge sheet and that, he had no valid driving licence to ride the motorcycle at the time of accident.

24. The counsel for the respondent No.3 has relied upon the following decisions:

1. M.F.A. No.7070/2014(MV-I) between Baby and Others V/s Nagendra Kumar & Another.

2. M.F.A. No.4739/2024(MV-D) between Bhagyashree and Others V/s Bajaj Allianz General Insurance Co., Ltd., and Another.

25. The petitioner has filed a memo and produced the notarized copy of driving license of the rider of the motorbike bearing No.KA-11/J-6689.

26. The counsel for the petitioners relied on the following citations.

1. 2025 LiveLaw (SC) 408 between M/s Chatha Service Station V/s Lalmati Devi & Others wherein it was held that,

> "The licence of the driver also did not have an endorsement as required under the Act. We find absolutely no reason to entertain the appeals and dismiss the same affirming the direction to the insurance company to pay the amounts to the claimants and recover it from the owner of the Oil-tanker.

2. 2025 LiveLaw (SC) 1044 between K.Nagendra V/s The New India Insurance Co., Ltd. & Others wherein, it was held that,

> 7.4. In S.Iyyapa V/s United India Insurance Co., Ltd., it was held that if at the time of accident, there is a discrepancy in the vehicle

being dofven by the driver and the endorsement on the driver’s license (i.e. the kind of vehicle said driver is permitted to operate) then, in such a case, pay and recover shall be permitted.

7.5. In M/s Chatha Service Station v. Lalmati Devi & Others it was held that when a vehicle involved in an accident is found to be carrying certain goods which it was not authorized to as per law (in the instant case hazardous goods within the meaning of Rule 9 of Central Motor Vehicles Rules, 1989) the insurance company while would be required to compensate the victim of the accident, it shall be entitled to recover the amount so paid from the holder of the insurance policy.

10. At the same time though, when an insurance company takes on a policy and accepts payments of premium in pursuance thereto, it agrees to do so within certain bounds. The contract lays down the four corners within which such an insurance policy would operate. If that is the case, to expect the insurer to pay compensation to a third party, which is clearly outside the bounds of the said agreement would be unfair. Balancing the need for payment of

compensation to the victim vis-a-vis the interest of the insurer, the order of the High court applying the pay and recover principle, in our considered view, is entirely justified and requires no interference.

27. On perusal of the said DL extract it shows that, the rider of motorbike bearing No.KA-11-J-6689 i.e. respondent No.1/ accused No.1 had driving licence to ride motorcycle from 29.09.1993 till 29.04.2029. Hence, the respondent No.3 has failed to establish their contention that the rider of offending vehicle had no valid driving licence to ride the vehicle on the date of accident. The policy is marked as Ex.R1 and it is clearly shows that at the time of accident the policy was in force. Admittedly, in this case respondent No.2 is the owner and respondent No.3 is the Insurer of the offending vehicle. Therefore, both the respondents are jointly and severally held liable to pay the compensation amount to the petitioner. However, respondent No.3 is liable to indemnify the respondent No.2.

28. In the light of the above discussion, the petitioners are entitled to compensation of Rs.5,75,000/-. The petitioners have sought for interest at the rate of 18% p.a. from the date of petition till realization. In Vijay Ishwar Jadhav & Others V/s Ulrich Belchior Fernandes & Another in M.F.A.No.100090/2014

[MV] dated 07-03-2018 the Hon'ble High Court of Karnataka has held that in the absence of any law relating to interest on judgments, the MACT has to follow the provisions of Sec.34 of CPC and accordingly awarded interest at 6%. Considering the facts and circumstances of the present case and the principles laid down in the aforesaid decision, if interest at the rate 6% p.a. from date of petition till realization is awarded, it would meet the ends of justice. Hence, with this observation Issue No.2 is answered partly in the Affirmative.

29. ISSUE No.3 : Based on the above said reasonings, I proceed to pass the following:

ORDER

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

The petitioners are awarded compensation amount of **Rs.5,75,000/- (Rupees Five Lakhs Seventy five thousand only)** together with interest thereon at the rate of 6% per annum from the date of petition till the date of realization.

The respondents No.2 and 3 are jointly and severally held liable to pay compensation amount awarded in this case.

However, respondent No.3 being the insurer is directed to deposit the said compensation amount in this case in the Tribunal within 30 days from the date of this order.

After such deposit, the compensation along with the interest shall be apportioned and the petitioner No.1 is entitled for 70% of the compensation awarded and petitioner No.2 to 7 are entitled for 5% each of the compensation awarded.

Out of the compensation apportioned to petitioner No.1, 70% shall be transfered to her Bank account after due identification and the remaining 30% shall be kept in FD in any schedule Bank in her name for a period of 2 years.

Out of the compensation apportioned to petitioners No.2 to 7, since the amount is meager the entire compensation apportioned to petitioners No.2 to 7 shall be transferred to their respective Bank accounts after due identification.

Advocate fee is fixed at Rs.1,000/-.

Draw award accordingly.

(Dictated to the Stenographer in part and dictated directly on the computer and computerized by him, corrected, signed and then pronounced by me in the Open Court on this the 25th day of April, 2026)

(NARASIMHA MURTHY. M)
I ADDL. SENIOR CIVIL JUDGE &
MEMBER MACT, NAGAMANGALA.

ANNEXURE

1. List of witnesses examined on behalf of the petitioners :

PW.1	:	Satya

2. List of documents marked on behalf of the petitioners:

Ex.P.1	:	Certified copy of F.I.S
Ex.P.2	:	Certified copy of Requisition
Ex.P.3	:	Certified copy of Further statement
Ex.P4	:	Certified copy of charge sheet
Ex.P5	:	Certified copy of Inquest mahazar
Ex.P6	:	Certified copy of PF form
Ex.P7	:	Certified copy of Spot mahazar
Ex.P8	:	Certified copy of PM report

Ex.P9	:	Certified copy of MVA report
Ex.P10	:	Certified copy of MLC extract
Ex.P11	:	Certified copy of Seizure mahazar
Ex.P12 & 13	:	Certified copy of Requisition
Ex.P14	:	Certified copy of B extract
Ex.P15	:	Certified copy of Notice
Ex.P16	:	Certified copy of Reply
Ex.P17 to 26	:	RTC extracts
Ex.P27 to 34	:	Aadhar cards

3. List of witnesses examined on behalf of the respondents:

RW.1	:	Saket Kumar Barnwal

4. List of documents marked on behalf of the respondents:

Ex.R.1	:	Certified copy of Insurance policy

(NARASIMHA MURTHY. M)
I ADDL. SENIOR CIVIL JUDGE &
MEMBER MACT, NAGAMANGALA.