

KAMD500014112023



Presented on : 08-11-2023

Registered on : 09-11-2023

Decided on : 10-04-2026

Duration : 2 years, 05 months, 02 days

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

DATED THIS THE 10th DAY OF APRIL, 2026

PRESENT

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

M.V.C. No.1661/2023

Petitioners : 1. Puttalakshmamma
W/o Krishnegowda,
Aged about 55 years,
2. Krishnegowda H.N.
S/o Late Ningegowda
Aged about 68 years,
3. Ravikumar H.K.
S/o Krishnegowda,
Aged about 37 years,

All are R/o Hoovinahalli village,
Kasaba hobli,
Nagamangala Taluk,
Mandya District.

(Sri.C.G.Lakshminarayana Advocate)

- V/s -

Respondents : 1. Parashuram Udayaraj
Proprietor Sri. Dattakrupa Fuel Station,
B.M.road, Bellur cross and Bellur hobli,
Nagamangala Taluk,
Mandya District,

(The owner of the Lorry Ashok Lyland
bearing No.KA-54-9067)

2. The Oriental Insurance Co., Ltd.,
Mysore Branch, Mysore,
R/p by its Branch Manager,
No.2912, Sri. Venkateshwara Plaza,
1st main, Saraswathipuram,
Mysore-570009.

(Policy No.421890/31/2023/3267
Valid from 31.03.2022 to 30.03.2024)

**(R1 rep. by Sri. D.R.Manjunath Advocate
&
R2 rep. by Sri. H.L.Shivalingaiah
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.50,00,000/- for the untimely death of deceased Praveenkumar in a Vehicle Accident which occurred on 16.06.2023.

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

On 16.06.2023 at 4.00 P.M. the deceased Praveenkumar was riding the bike bearing No.KA-42-1563 on left side of the road from Nagamangala-Bindiganavile towards his village at 4.10 p.m. at the house of Kantharaju, near a bridge, Tuppadamadu, at that time the driver of Lorry bearing No.KA-54-9067 drove the same in rash and negligent manner at high speed so as to endanger to human life and dashed to the Praveenkumar. Due to which, the Praveenkumar sustained grievous injuries and died at the spot. The petitioners spent Rs.1,00,000/- towards transportation of dead body and also

spent Rs.4,00,000/- to performed the funeral and 11th day ceremony of the deceased. The 1st petitioner is the mother and 2nd petitioner is the father and 3rd petitioner is the brother of the deceased Praveenkumar. The accident has taken place due to the rash and negligent driving by the driver of Lorry bearing Reg.No.KA-54-9067. Further stated that, the 1st respondent is the owner and 2nd 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 stated that, on the date of accident the insurance policy of the offending vehicle was not in force. The driver of the Lorry bearing No.KA-54-9067 was not holding a valid and effective driving

licence at the time of accident. The respondent No.1 has not having fitness certificate as on the date of accident. The driver of the Lorry bearing No.KA-54-9067 was not having driving licence as on the date of accident. Further, it is submitted that, insurance policy of the motorcycle was not inforce at the time of accident. Hence, prays for dismissal of the petition with cost.

4. The following Issues have been framed.

ISSUES

- (1) *Whether the petitioners prove that on 16.06.2023 at about 4.10 p.m. near Thuppadamadu, Nagamangala-Bindiganavile road, the driver of the Lorry bearing No.KA-54-9067 was drove in rash and negligent manner and dashed to the Two wheeler bearing No.KA-42-1563 and due to the said accident, the rider of the Two wheeler by name Praveenkumar had fell down and sustained grievous injuries and died at the spot ?*
- (2) *Whether the petitioners prove that they are entitle for compensation ? From whom, to what extent ?*
- (3) *What order ?*

5. To substantiate their contention, the 2nd petitioner has examined himself as PW.1 and got marked Ex.P1 to Ex.P12 documents. The respondents have not adduced any evidence.

6. Heard the counsel for the petitioners and the counsel for respondent No.2. The counsel for respondent No.2 filed written argument.

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 16.06.2023 at 4.00 p.m. the deceased Praveenkumar was riding the bike bearing No.KA-42-1563 on left side of the road from Nagamangala-Bindiganavile towards his village at 4.10 P.M. near Tuppadamadu, the house of Kantharaju near a

bridge at that time the driver of the Lorry bearing No.KA-54-9067 drove the same with high speed in a rash and negligent manner and dashed the deceased Praveenkumar. Due to which, the deceased Praveenkumar sustained grievous injuries and died at the spot.

9. Per contra, the respondent No.2 has submitted that, the rider of the motorcycle No.KA-42-U-1563 not having insurance police at the time of accident.

10. The 2nd petitioner has examined himself as PW.1. He has been chief examined by way of affidavit, wherein, he has reiterated the entire petition averments and also has deposed that, the accident has been caused due to the rash and negligent driving by the driver of Lorry bearing Reg. No.KA-54-9067. In the cross examination of PW.1, he has denied the suggestion that, the accident was due to the fault of his son.

11. 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 in 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 preponderance 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.P12 documents. Ex.P1 is the FIR wherein, the complaint has been lodged against the driver of the Lorry bearing Reg.No.KA-54-9067 for the accident that occurred on 16.06.2023 at 4:10 P.M., near Kantharaju house, Nagamangala-Bindiganavile road, Thuppadamadu village,

kasaba hobli, Nagamangala Taluk. Ex.P2 is the complaint and it is given by one Gangadhar H.N. Ex.P3 is the inquest mahazar. Ex.P4 is the P.F. Ex.P5 is the seizure mahazar. Ex.P8 is the Post Mortem report which reveals that, the death of the deceased is due to craniocerebral damage resulting from shock and hemorrhage. Ex.P9 is the crime details form. Ex.P10 is the rough sketch. Ex.P11 is the IMV report. Ex.P6 is the Charge sheet it goes to show that, the driver of the Lorry bearing Reg. No.KA-54-9067 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 Praveenkumar. On perusal of the charge sheet it clearly shows that, the concerned police after completion of entire investigation filed charge sheet against the driver of the offending vehicle. As such, rash and negligent act of the driver of the Lorry bearing Reg. No.KA-54-9067 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 driver of offending vehicle. It is also to be noted that, except the bare denial the driver of the offending vehicle was not negligent in driving the vehicle on the date of accident, the respondents have not supported their defence by proving through satisfactory evidence that, the accident was not due to the fault of the driver of offending vehicle. Further, the respondents have not adduced any evidence to establish that the accident was due to contributory negligence by the deceased. Hence, there is no effective contra evidence by the respondents to disbelieve the case of the petitioners that, the accident in question was due to the rash and negligent act by the driver of the Lorry bearing Reg. No.KA-54-9067. 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 driver of the offending vehicle and the deceased died due to the accident. Hence, with this observation **Issue No.1 is answered in the Affirmative.**

12. **ISSUE No.2:** In this case the petitioners have claimed compensation of Rs.50,00,000/- 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?

13. The question would be, how the assessment of compensation in the case of death has to be made. Fortunately, in *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”.

14. 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 33 years. On perusal of the Aadhar card of the deceased it shows his date of birth is in the year 1988. Hence, the age of the petitioner at the time of accident is considered as 35 years. Thus, I conclude that, as on the date of the accident, the deceased was aged around 35 years.

15. The next question would be, what was the income or earning of the said deceased Praveenkumar. The record shows that, as per evidence of PW.1 the deceased was doing agriculture and milk vending business and earning around Rs.30,000/- per month. The petitioners have not produced any document to show the deceased was earning Rs.30,000/- per month.

16. 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.

17. By considering and applying the said principle to the case on hand, since the deceased was 35 years old and his income is considered as Rs.16,000/-, the future prospects at the rate of 40% is taken as 6,400/-. So the actual income of the deceased is Rs.22,400/-.

18. 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 parents and brother, this Tribunal views that, one third ($1/3$) has to be deducted towards his personal expenses. Hence, I conclude that one third ($1/3$) of the income of the deceased should be deducted towards personal and living expenses of the deceased. Hence, that would be Rs.7,466/-. So, Rs.14,934/- is the actual income of the deceased per month and his yearly income is Rs.14,934 X 12 = 1,79,208/-. Therefore, the loss of

dependency comes to Rs.1,79,208/- 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 35 years the multiplier applicable is 16.

19. 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 $\text{Rs.1,79,208} \times 16 = \text{Rs.28,67,328/-}$.

20. Undisputedly, petitioners 1 and 2 are parents of the deceased and petitioner No.3 is the brother of the deceased. Hence, this Tribunal views that, they are dependents of the deceased.

21. As per the principle laid down by the *Apex Court* in *Pranay Sethi* case cited above it was held that greatest agony for a parent is to lose their child during their life time and the parents have right to be compensated in the case of accidental

death of their child and Rs.40,000/- was awarded for each parent for the loss of the child. Hence, for loss of filial consortium Rs.40,000/- each is awarded to the petitioner No.1 and 2 who have lost their son. By applying the above principle to the case on hand, the petitioners 1 and 2 are jointly entitled for Rs.80,000/- towards loss of filial consortium. Further, petitioner No.3 is entitled for Rs.20,000/- towards loss of his brother. Further, the petitioners are entitled for Rs.15,000/- towards funeral expenses and transportation expenses 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.	<i>Compensation towards loss of dependency</i>	<i>Rs.28,67,328-00</i>
2.	<i>Compensation towards loss of</i>	<i>Rs.80,000-00</i>

	<i>filial consortium</i>	
3.	<i>Compensation towards loss of brother</i>	<i>Rs.20,000-00</i>
4.	<i>Compensation towards funeral and obsequies ceremony and transportation expenses</i>	<i>Rs.15,000-00</i>
5.	<i>Compensation towards loss to estate</i>	<i>Rs.15,000-00</i>
	Total	Rs.29,97,328-00

22. Therefore the petitioners are entitled for compensation amount of **Rs.29,97,328/-** which is rounded off to **Rs.29,97,400/-**. (Rupees Twenty nine Lakhs Ninety seven thousand and Four hundred only) for the death of deceased Praveenkumar. In my opinion, above said compensation awarded to the petitioners is just, fair and proper in the facts and circumstances of the case.

23. Admittedly, in this case respondent No.1 is the owner and respondent No.2 is the Insurer of the offending vehicle.

Therefore, both the respondents are jointly and severally held liable to pay the compensation amount to the petitioners. However, respondent No.2 is liable to indemnify the respondent No.1.

24. In the light of the above discussion, the petitioners are entitled to compensation of Rs.**29,97,400/-/-**. 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.

25. **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.29,97,400/- (Rupees Twenty nine Lakhs Ninety seven thousand and Four hundred 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.1 and 2 are jointly and severally held liable to pay compensation amount awarded in this case.

However, respondent No.2 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 and 2 are entitled for 40% each of the compensation awarded and petitioner No.3 is entitled for 20% of the compensation awarded.

Out of the compensation apportioned to petitioner No.1 and 2, 70% shall be transferred to their Bank account after due identification and the remaining 30% shall be kept in FD in any schedule Bank in their names for a period of 3 years.

Out of the compensation apportioned to petitioner No.3, 70% shall be transferred to his Bank account after due identification and the remaining

30% shall be kept in FD in any scheduled Bank in his name for a period of 3 years.

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 10th 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 : Krishnegowda

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

Ex.P.1 : Certified copy of F.I.R.

Ex.P.2 : Certified copy of FIS

Ex.P.3 : Certified copy of Inquest mahazar

Ex.P.4 : Certified copy of PF

Ex.P.5 : Certified copy of seizure mahazar

Ex.P.6 : Certified copy of Charge sheet.
Ex.P.7 : Certified copy of Photos
Ex.P.8 : Certified copy of PM report
Ex.P.9 : Certified copy of Spot mahazar
Ex.P.10 : Certified copy of Sketch
Ex.P.11 : Certified copy of MVA report
Ex.P.12 : Certified copies of Aadhar cards

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

- NIL -

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

- NIL -

I ADDL. SENIOR CIVIL JUDGE &
MEMBER MACT,
NAGAMANGALA.