

KAMS080028182023



M.V.C./1589/2023

**BEFORE THE MOTOR ACCIDENTS CLAIMS
TRIBUNAL AT MYSURU**

**(IN THE COURT OF ADDITIONAL SMALL
CAUSES AND SENIOR CIVIL JUDGE, AT
MYSURU)**

PRESENT

**Smt. PRATHIBHA D.S
B.A., LL.B.**

**JUDGE, ADDITIONAL COURT OF SMALL
CAUSES
AS A PRESIDING OFFICER,
MOTOR ACCIDENTS CLAIMS TRIBUNAL,
MYSURU**

DATED THIS THE 12th DAY OF JUNE 2026

M.V.C./ 1589 /2023

BETWEEN:

1. Mahadevappa N,
S/o Nanje Devaru,
Aged about 72 Years,

R/at # 7A/96, 6th cross,
Basaveshwara Nagara,
Kollegala town & Taluk,
Chamarajanagara District.

2. Raveen Kumar M.,
S/o Mahadevappa N,
Aged about 36 years,
R/at # 6th cross,
Basaveshwara Nagara,
Kollegala town & Taluk,
Chamarajanagara District.

Now both are residing at:
C/o Kumaraswamy, 1st cross,
Gowrishankara Nagara, Mysuru City.

(Rptd: By Sri.MS, Adv)

Petitioners

AND

1. Sri.Rajegowda B.V.
S/o Veere Gowda,
249/1, 1st cross,
L.B. Nagar, Banasawadi Post,
Bangalore- 560043.

(Owner of the Maruthi Swift Dzire
Car bearing reg. No.KA-03-MQ-8699)

2. The Branch Manager,
ZUNO General Insurance Co. Ltd.,

Kamala Arcade, 1st floor, New No.71,
(old No-88/A), 26th main, 37th 'B',
cross, Jayanagara, 9th block,
Bangalore- 560069.

Policy No.900512843
Valid From 19.07.2023 to 18.07.2024

(Insurer of the Maruthi Swift Dzire
Car bearing reg. No.KA-03-MQ-8699)

**(R1 Exparte)
(R2 By Sri.BGK, Adv)**

: Respondents

-: JUDGMENT :-

The petitioner No.1 is the husband, petitioner No.2 is the son of the deceased Smt. Rajamma have filed this petition under section 166 of Motor Vehicles Act seeking death compensation of Rs.50,00,000/- along with interest at the rate of 18% per annum from the date of petition till realization of entire amount.

2. The brief facts of the petitioner case are as follows:

That, on 21.07.2023 at about 03.30 p.m., when the deceased Smt.Rajamma was traveling as a pillion in Honda Activa motorcycle bearing reg. No.KA-05-HS-3466 at moderate speed on the left side of the road, near Basavalingaiah's land, Lokkanahalli – Kollegala main road, Madhuvanahalli village, Kollegala taluk, at that time the driver of Maruthi swift Dzire car bearing reg. No.KA-03-MQ-8699 **[hereinafter referred as 'Offending vehicle']** drove the same with high speed in rash and negligent manner dashed the deceased's motorcycle from back side and caused accident. Due to said accident, the deceased sustained grievous injuries to her right leg, head, both the knee, shoulder, face and other injuries all over the body. Immediately she was taken to Government Hospital, Kollegala for first AID treatment and thereafter shifted to Government District Hospital, Chamarajanagara and admitted as inpatient. The

deceased succumbed to the injuries at 6.30 P.M on the same day. The deceased was working as agriculturist and milk vending work and was earning of Rs.20,000/- per month. On account of the death of the deceased, the petitioners have suffered mental agony. The accident occurred due to the actionable negligence of driver of the offending vehicle. The respondent No.1 and 2 being the owner and insurer of the offending vehicle are jointly and severally liable to pay compensation. On these grounds and such others, prayed for allowing of the petition.

3. In pursuance to the notices issued, the respondent No.1 remained absent. Hence, placed exparte. Respondent No.2 appeared through its counsel and filed its objection statement.

4. In its objection statement, the respondent No.2 by denying the age, occupation and income of the deceased, contended that, the accident did not caused due to the rash and negligent driving of the

driver of offending vehicle, but the same due to the negligence of the rider of the deceased who entered the busy road without observing oncoming vehicle and both the rider and deceased who were not wearing headgear. The driver of the offending vehicle did not possess valid and effective driving license at the time of accident. The amount of compensation and interest claimed by the petitioners is highly excessive, exorbitant and without any legal basis. For the aforesaid reasons and such others prays to dismiss the petition.

5. On the basis of rival pleadings, this tribunal had framed the following:-

I S S U E S

- 1) Whether the petitioners prove that, on 21.07.2023 at about 03.30 p.m., when the deceased Smt.Rajamma was traveling as a pillion rider in Honda Activa motorcycle bearing reg. No.KA-05-HS-3466 at moderate speed on the left side of the road near Basavalingaiah land, Lokkanahalli – Kollegala main road,

Madhuvanahalli village, Kollegala taluk, Chamarajanagara district, at that time the driver of Maruthi swift dzire car bearing reg. No.KA-03-MQ-8699 drove the same with high speed in rash and negligent manner dashed the deceased's motorcycle from back side and caused accident. Due to the impact of accident the deceased Smt. Rajamma succumbed to the injuries as stated in the petition?

- 2) Whether the petitioners are entitled for any compensation? If so, at what extent and from whom?
- 3) What Order or relief?

6. In order to substantiate their case, the petitioner No.1 examined himself as PW.1 who produced and got marked Ex.P1 to 13 documents. and also examined eye witness by name Shivakumaraswamy @ Shivanna as PW2 and closed their side evidence. On the other hand, respondent No.2 not lead evidence on its side.

7. Heard arguments of both sides and perused the materials available on record.

8. On consideration of the oral and documentary evidence placed on record, this tribunal answers the aforesaid issues as hereunder:

Issue No.1 – In the affirmative

Issue No.2 – Partly in the affirmative and regarding the amount of compensation and from whom the same needs to be recovered, the same is detailed in final order

Issue No.3 – As per final orders for the following,

-: REASONS :-

9. **Issue No.1:-** The petitioners have specifically contended that the accident occurred due to rash and negligent driving of driver of offending vehicle. To substantiate this fact, the petitioners have placed reliance upon Ex.P1 to 8 documents. Wherein, Ex.P1 is FIR, Ex.P2 is

Complaint, Ex.P3 is spot mahazar and spot sketch, EX.P4 is seizure mahazar, Ex.P.5 is IMA report, Ex.P6 is inquest, Ex.P7 is Post- mortorm report and Ex.P8 is charge sheet. The first information statement go to show that on the basis of information lodged by one Raveen Kumar M., the concerned police have registered the case against the driver of the offending vehicle. It is alleged that the driver offending vehicle drove the vehicle in a rash and negligent manner. The spot mahazar and spot sketch are also in consonance with the contents of the complaint, which stated that the deceased sustained grievous injuries in the aforesaid accident and succumbed to the injuries sustained by her. The respondents disputed the genesis of the case of the petitioners. However during the course of her cross-examination, it was suggested to PW-1 that, the accident did not cause due to the rash and negligent driving of driver of offending vehicle, but the same due to the negligent riding of rider of the deceased. Thus by suggesting this aspect, the respondent No.2 admits

the accident, though denies any negligence on the part of the driver of the offending vehicle. There is no serious dispute on part of the respondent No.2 as to the factum of accident. Furthermore the factum of the accident has been substantiated by producing the necessary police records as well the medical records/Ex.P1 to Ex.P13.

10. Furthermore, the eye witness of the accident one Shivakumaraswamy @ Shivanna examined himself as PW2 has clearly deposed about the rash and negligent driving of the driver of the offending vehicle.

11. Furthermore, the investigating officer after conducting detailed investigation has placed the charge sheet against the one Shivarajegowda/the driver of the offending vehicle for the offences punishable U/Sec.279, 337, 338 and 304(A) of IPC. As discussed *supra*, the petitioners by leading their evidence and by producing the relevant documents is able to establish the factum of accident, which had

occurred due to actionable negligence of the driver of the offending vehicle. **Thus, for all these reasons this tribunal answers issue No.1 in the affirmative.**

12. Issue No.2: As discussed supra, the deceased succumbed to the injuries sustained by her in the road traffic accident occurred due to the negligent act of the driver of the offending vehicle. So far as the petitioner's dependency is concerned, the petitioner No.1 is the husband, petitioner No.2 is the major son of the deceased. They claims themselves to be the dependents upon the deceased. Learned counsel for the respondent No.2 vehemently argued that, the petitioners are not entitle for compensation under the head of loss of dependency as the deceased is the women and housewife. However, in the ruling reported in 2022 ACJ 1251 (Ker.) between United India Insurance Co.Ltd. Vs Shalumol and others it is held that, dependency means not only the financial dependency, but would include dependency

towards gratuitous service, physical dependency, emotional dependency, psychological dependency and so on and so forth, which can never be equated in terms of money. Therefore, the petitioners are considered as dependents of the deceased and the argument of the respondent No.2 can not be accepted in this regard.

13. Now coming to the age of the deceased, As per the Aadhaar card/Ex.P9 the deceased was born on 01.01.1961. As such the age of the deceased is 62 years as on the date of the accident. The respondent No.2 has not disputed the age of the deceased. Thus taking into account all these aspects, the age of the deceased is considered to be 62 years. Now in view of the dictum of the Hon'ble Supreme court reported in **Smt.Sarala Verma & Ors. V/s Delhi Transport Corp. & Anor. reported in (2009) 6 SCC 121 and in National Insurance Company Ltd., V/s Pranay Sethi & Ors. reported in (2017) 16 SCC 680**, just compensation is to be awarded by

applying appropriate multiplier. Now this tribunal has to assess the compensation to be awarded on the basis of the yardstick given in the aforesaid decisions.

14. Loss of Dependency with future prospectus: The petitioners have pleaded that the deceased was working as agriculturist and milk vending work was earning Rs.20,000/- per month. To substantiate the same the counsel for petitioner has produced RTC/ Ex.P12 and 13. The said document is not sufficient to hold that the petitioner was earning Rs.20,000/- per month. As no materials are placed on record to show the exact earnings of the deceased, the court has to adjudicate the quantum of income, considering the notional income. As per the revised notional income chart prepared by the Hon'ble Karnataka State Legal Services Authority, Bengaluru dated 26.02.2022 the notional income suggested for the year 2023 is Rs.16,000/-. Taking into account all these aspects, this tribunal considers notional

income of the deceased to be Rs.16,000/- per month.

15. As stated supra the deceased was married, having a husband and a major son. In case of 2 to 3 dependent of a married deceased, the deduction of $1/3^{\text{rd}}$ is to be deducted towards her personal expenses. $1/3^{\text{rd}}$ of Rs.16,000/- is Rs.5,333/-. Hence Rs.5,333/- is to be deducted towards the personal expenses of the deceased. Therefore Rs.16,000/- minus Rs.5,333/- which comes to Rs.10,667/- p.m. Thus, the contribution of the deceased towards her family of each month would be of Rs.10,667/-. As discussed supra, the age of the deceased was 62 years. Hence the multiplier of 07 is to be applied to the age group of 61 to 65 years. Hence the loss of dependency would be **Rs.10,667/- X 12 X 07 = Rs.8,96,028/-**.

16. Loss of consortium, Loss of Estate and funeral expenses: In so far as loss of

consortium, loss of estate and funeral expenses are concerned, as per the dictum of Hon'ble Supreme court in Pranay Sethi's case, the petitioner No.1 is entitled to spousal consortium, petitioner No.2 is entitled to parental consortium of Rs.40,000/- each and after adding escalation of 10% for every three years, the petitioners No.1 and 2 are entitle for Rs.48,400/- each.

17. Towards loss of estate, the petitioners are entitle for Rs.15,000/- and after adding escalation of 10% for every three years, the petitioners No.1 and 2 are entitle for **Rs.18,150/-**. Towards funeral expenses, the petitioners are entitle for Rs.15,000/- and after adding escalation of 10% for every three years, the petitioners No.1 and 2 are entitle for **Rs.18,150/-**.

18. Thus considering the all these aspects, the petitioner No.1 and 2 are entitled for compensation under the following heads.

Sl.No.	Heads	Amount in Rs.
1	Loss of Dependency (With Future prospectus)	Rs.8,96,028/-
2	Loss of consortium (Rs.48,400/- X 2)	Rs.96,800/-
3	Loss of Estate	Rs.18,150/-
4	Funeral Expenses	Rs.18,150/-
	TOTAL	Rs.10,29,128/-

Thus the petitioners are entitled to total compensation of **Rs.10,29,128/-**.

19. Interest: In so far as award of interest is concerned, the petitioner has claimed an interest at the rate of 18% p.a. from the date of petition. In view of decision of Hon'ble High Court of Karnataka, in **Vijay Ishwar Jadhav & Ors. V/s Ulrich Belchior Fernandes & Anor. i.e. in M.F.A.No.100090/2014 [MV] dated 07.03.2018**, it is held that "in the absence of any law relating to interest on judgment, the MACT has to follow the provision of Sec.34 of CPC". Thus this

tribunal deems it proper to award interest at the rate of 6% p.a. on the aforesaid compensation amount.

20. Liability:- The fact that the offending vehicle was insured with respondent No.2 company is not disputed. The offending vehicle was insured vide policy bearing No.900512843 valid between 19.07.2023 to 18.07.2024. The alleged accident occurred on 21.07.2023 Thus, as on the date of accident, the insurance of the offending vehicle was under the period of validity. The respondent No.2 failed to prove that the driver of offending vehicle did not possess valid driving license at the time of accident. Thus, the vehicle in question was duly insured with the respondent No.2 and as such, it is the respondent No.2 company, which needs to indemnify the respondent No.1. **Accordingly issue No.2 is answered partly in the affirmative.**

21. Issue No.3:- As aforesaid the petitioner No.1 is the husband, petitioner No.2 is the son of

the deceased. By considering age and relationship of the petitioners with the deceased, if in the compensation amount 60% is apportioned to the share of petitioner No.1, 40% to the share of petitioner No.2 will mete the ends of justice. In the light of foregoing discussions, this court proceeds to pass the following:

ORDER

The petition filed by the petitioners U/Sec.166 of the Motor Vehicles Act is hereby allowed in part.

*The petitioner No.1 and 2 are hereby awarded total compensation amount of **Rs.10,29,128/- (Ten lakhs, twenty nine thousand one hundred and twenty eight only)** with interest at the rate of 6% p.a. from the date of petition till its entire realization.*

The respondent No.1 and 2 are jointly liable to pay the compensation amount to the petitioners. The respondent No.2 being the insurer is liable to indemnify the respondent No.1 and to deposit the compensation awarded within a period of 30 days.

The compensation amount is hereby apportioned between the petitioner No.1 and 2 in the ratio of 60:40 respectively.

Out of the compensation amount allotted to the share of the petitioner No.1 and 2, on being deposited is ordered to release 75% in favour of the petitioner No.1 and 2 as per their apportion on proper identity and verification, remaining 25% shall be deposited in the name of petitioner No.1 and 2 in any nationalized or scheduled bank of their choice for a period of two years. The petitioner No.1 and 2 shall be entitled to draw the accrued interest on the said deposit.

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

Draw award accordingly.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced in the Open Court on 12th day of June 2026).

sd/-

**(PRATHIBHA D.S)
Judge, Addl. Court of
Small Causes & MACT,
MYSURU.**

ANNEXURE

List of witnesses examined on behalf of petitioners:

PW1 Sri. Mahadevappa N
PW2 Sri. Shivakumaraswamy @ Shivanna

List of witnesses examined on behalf of respondents:

-Nil-

List of documents marked on behalf of petitioners:

Ex.P1 Certified copy of FIR
Ex.P2 Certified copy of complaint
Ex.P3 Certified copy of spot mahazar and
 Spot sketch
Ex.P4 Certified copy MVA report
Ex.P5 Certified copy of seizure mahazar
Ex.P6 Certified copy of inquest
Ex.P7 Certified copy of postmortem report
Ex.P8 Copy of charge sheet
Ex.P9 Copy of Aadhar card of deceased
Ex.P10 & 11 Copy of Aadhar cards petitioners

Ex.P12 & 13 RTC's

**List of documents marked on behalf of
respondents:**

-Nil-

sd/-

**(PRATHIBHA D.S)
Judge, Addl. Court of
Small Causes & MACT,
MYSURU.**