

KAMS080005392023



M.V.C./387/2023

**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 2nd DAY OF APRIL 2026

M.V.C./ 387 / 2023

BETWEEN

- 1) Manjula,
W/o. Late Channa,
Aged about 43 years,

- 2) Mamatha C.,
D/o. Late Channa,
Aged about 20 years,
- 3) Mahesh Kumar C.
S/o. Late Channa,
Aged about 16 years,

Since petitioner No.3 is
minor represented by his natural
guardian mother petitioner No.1

(Rptd: By Sri.NBR, Adv)

Petitioners

AND

- 1) Nishanth Kumar Singh,
S/o Sham Narayana Singh,
Aged about 43 years,
R/at Quarters No.C/18,
Shakti Nagar, Gerve CGM
office, Shejari deepka
Cobra, Chhattisgarh- 495452.

(Owner of car bearing Reg.No.CG-12-AJ-7490)

- 2) The Manager, United India Insurance
Co. Ltd., New Kantharaja Aras road,
Ballal circle, Mysuru- 495452.
- 3) Radhika Singh W/o B.P.Singh,
aged about 35 years,

R/at Devanandana Nagara,
Phase-2, Bailaspur, Chhattisgarh,
Bailaspur- 495001.

(Owner of car bearing Reg.No.CG-10-F-4166)

(R1-Rptd: By Smt.PC, Adv)
(R2-Rptd: By Smt.GMV, Adv)
(R3-Rptd: By Sri.JBR, Adv)

Respondents

-: JUDGMENT :-

The petitioner No.1 is the wife, petitioner No.2 and 3 are the children of the deceased Channa have filed this petition under section 166 of Motor Vehicles Act seeking death compensation of Rs.45,00,000/- along with interest at 18% per annum from the date of petition till realization of entire amount.

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

That, on 22.11.2022 at about 07.30 p.m., when the deceased Channa was proceeding by walk on

the left side of the road at Mysore-Malavalli main road, Maliyuru village, Bannur Hobli T.Narasipura Taluk, Mysuru District, at that time the drivers of car bearing reg. No.CG-12-AJ-7490 and CG-10-F-4166 **[hereinafter referred as 'Offending vehicle No.1 and 2 Respectively]** trying to over take each other, drove the same with high speed in rash and negligent manner, dashed the deceased and caused accident. Due to the impact of accident the deceased Channa sustained grievous injuries to his head, back and other injuries all over the body. Immediately he was taken to Government Hospital, Bannur for first AID and thereafter he was shifted to Cauvery Hospital, Mysuru as inpatient and thereafter taken regular treatment at K.R.Hospital, Mysuru on OPD basis. The deceased succumbed at the hospital on 05.01.2023 at about 09.30 p.m. On account of the death of the deceased, the petitioners have suffered mental agony. The accident occurred due to the actionable negligence of the drivers of offending vehicle No.1 and 2. The respondent No.1 and 3 being the owners and

respondent No.2 being insurer of the offending vehicle No.1 is liable to pay compensation to the petitioners. On these grounds and such others prayed for allow the petition.

3. In pursuance to the notices issued, to the respondents, the respondent No.1 and 2 appeared through their counsels. Respondent No.3 appeared through her GPA Holder. Respondent No.1 not chosen file his objection statement. Respondent No.2 and 3 filed their objection statement separately.

4. In its objection statement, the respondent No.2, by denying the accident, age, income and occupation of the deceased contended that, as per the charge sheet filed 1st respondent is not at all party in this case, it is filed against the driver of the alleged car /Abhivan Singh and owner of the car Radhika Singh as the alleged car has no insurance at the time of the accident. Hence this respondent is not at all liable to pay any compensation to the

petitioner. The owner of the car bearing Reg No.CG-10-F-4166 did not possess valid and effective driving license, FC and permit as on the date of accident. On the aforesaid reasons and such others it prays for dismissal of the petition.

5. The GPA holder of the respondent No.3 in his objection statement by denying the entire averments of the petition contended that, the death of the deceased in the accident is due to the negligence and carelessness of the deceased who was consumed alcohol at the time of rushing to board the bus. It is admitted that the respondent No.3 is owner of the vehicle bearing registration No.CG-10-F-4166 and also respondent No.2 is the insurer of the said vehicle, but at the time of the accident the insurance policy of the said vehicle was lapsed. The deceased was admitted to Bannur Public hospital in the same car and then admitted to Kaveri Hospital, Mysuru. The said Abhinav Singh already spent huge amount of Rs. 4,12,273/- and for other expenses about Rs.30,000/- has also

been paid. In spite of it the petitioners have filed the present application with the sole intention of harassing the 3rd respondent. On the aforesaid grounds and such others prays to dismiss the petition against her.

6. On the above rival pleadings, following issues arises for consideration of this tribunal:

ISSUES

- 1) Whether the petitioners prove that, on 22.11.2022 at about 07.30 p.m., when the deceased Channa was proceeding by walk on the left side of the road at Mysore-Malavalli main road, Maliyuru village, Bannur Hobli T.Narasipura Taluk, Mysuru District, at that time the drivers of car bearing reg. No.CG-12-AJ-7490 and CG-10-F-4166 trying to over take each other, drove the same with high speed in rash and negligent manner, dashed the deceased and caused accident. Due to the impact of accident the deceased Channa 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?

7. In order to substantiate their case, the petitioner No.1 examined herself as PW.1 who produced and got marked Ex.P1 to 17 documents and closed their side evidence. On the other hand, Sri.Jayatheertha H.G., Administrative Officer of respondent No.2 company examined as RW1 who produced and got marked Ex.R1 document. One Abhinav Singh, the driver of the offending vehicle No.2 bearing registration No.CG-10-F-4166 examined himself as RW2 on behalf of respondent No.3 as GPA holder who produced and got marked Ex.R.2 to 4 documents and closed their side evidence.

8. Heard arguments of petitioner and respondent No.2 and 3. In spite of sufficient opportunity the counsel for respondent No.1 not come forward to the address the arguments.

Hence, the arguments of the respondent No.1 taken as nil. Perused the materials available on record.

9. Counsel for the petitioner filed written arguments.

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

Issue No.1 – Partly in the affirmative.

Issue No.2 – Partly 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 :-

11. Issue No.1:- The petitioners have specifically contended that the accident occurred due to the rash and negligent driving of the driver

drivers of offending vehicles. To substantiate this fact, the petitioner No.1 filed her affidavit in lieu of examination in chief, examined as PW1 and placed reliance on Ex.P1 to 8 documents. Wherein, Ex.P1 is FIR, Ex.P2 is complaint, Ex.P3 is spot mahazar, Ex.P4 is seizure mahazar, Ex.P5 is MVA report, Ex.P6 is inquest, Ex.P7 is postmortem report and Ex.P8 is charge sheet. The perusal of the contents of First information Statement go to show that on the basis of information lodged by one Smt.Manjula/PW.1 herein, concerned police have registered the case against drivers of offending vehicles.

12. It is pertinent to note here that the respondent No.2 has contended that there is an inordinate delay caused in lodging of the First information. The alleged accident had occurred on 03.10.2022 at 07.30 a.m. The FIR came to be registered on 22.11.2022. Admittedly there is a delay of 49 days in registration of the report. However, the delay caused in lodging the first information is always not fatal to the case of the

petitioner. In accident cases, the priority of the injured or his family members would be of giving medical treatment to the injured. The materials placed on record clearly go to show that the deceased has taken treatment at Cauvery Hospital, Mysuru on the same day itself. Even the contents of the first information statement, explains the delay and suggests that the delay has been caused only on account of the treatment being undergone by the deceased and for the assurance given by the respondents. When the priority of the family members of any injured would be saving of the life of injured, the said delay cannot be construed to be inordinate. As held by Hon'ble Apex Court in Ravi Vs. Badrinarayan & Ors. reported in (2011) 4 SCC 693, the significance of FIR is to prove the factum of accident and delay in lodging FIR should not be treated to be fatal in genuine cases. Thus this Tribunal is of the opinion that the delay caused in lodging the first information is natural and stands duly explained.

13. Furthermore the investigating officer after conducting a detailed investigation has placed charge sheet against one Abhinav Singh/RW2 for the Offence punishable Under Section 279 and 304(A) of IPC and against respondent No.3 for the offences punishable Under Sec.146 and 196 of IMV Act. As discussed *supra*, though the petitioners alleged that the accident occurred due to the actionable negligence of the drivers of the offending vehicle No.1 and 2, 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 the sole actionable negligence of the driver of the offending vehicle No.2 bearing registration No.CG-10-F-4166 and not due to the negligence of driver of the offending vehicle No.1 as rightly contended by counsel for respondent No.2. Furthermore, the respondents have not disputed the fact that the deceased had succumbed to the injuries sustained by him in the aforesaid accident. **Thus, for all**

these reasons issue No.1 is answered partly in the affirmative.

14. Issue No.2: According to the petitioners the deceased was married at the time of accident. The petitioner No.1 is the wife, the petitioner No.2 is the daughter and petitioner No.3 is the minor son of the deceased. Thus all the petitioners are to be construed as dependents of the deceased.

15. Now coming to the age of the deceased, the Aadhaar card/Ex.P14 goes to show that the deceased was born on 18.08.1973. As such the age of the deceased was 49 years. The age of the deceased has not been disputed by the respondents. Thus taking into account all these aspects, the age of the deceased is considered to be 49 years.

16. 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.

17. Loss of Dependency with future prospectus:: The petitioners have claimed that the deceased being a coolie was earning Rs.20,000/- per month. To substantiate the said fact the petitioners have not produced any documents. 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 2022 is Rs.15,500/-. Taking into account all

these aspects, this tribunal considers notional income of the deceased to be Rs.15,500/- per month.

18. It is well settled principle of law that future prospectus could be granted even in cases pertaining to notional income. In this regard it is pertinent to refer the judgment of **Hon'ble Apex Court in the case of Kirti Vs. Oriental Insurance Co. Ltd. reported in (2021) 2 SCC 166.** Thus as per the judgment of Hon'ble Apex court in Pranay Sethi's case, an additional 25% of the income should be the warrant where the deceased was in the age group between 40 to 50 years. For the monthly income of the deceased i.e. for Rs.15,500/- an additional 25% is to be added. 25% of Rs.15,500/- is Rs.3,875/-. Thus the monthly income of the deceased would be Rs.19,375/-.

19. As stated supra the deceased was having a wife and two children. In case of 2 to 3

dependents of a married deceased, the deduction of $\frac{1}{3}^{\text{rd}}$ is to be deducted towards his personal expenses, $\frac{1}{3}^{\text{rd}}$ of Rs.19,375/- is Rs.6,458/-. Hence Rs.6,458/- is to be deducted towards the personal expenses of the deceased. Therefore Rs.19,375/- minus Rs.6,458/-, which comes to Rs.12,917/- p.m. Thus the contribution of the deceased towards his family of each month would be Rs.12,917/-. As discussed supra, the age of the deceased was 49 years. Hence the multiplier of 13 is to be applied to the age group of 46 to 50 years. Hence the loss of dependency would be **Rs.12,917/- X 12 X 13 = Rs.20,15,052/-**.

20. 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 and 3 are entitled to parental consortium of Rs.40,000/- each and after adding escalation of 10% for every

three years, the petitioners No.1 to 3 are entitle for **Rs.48,400/-** each.

21. 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 to 3 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 to 3 are entitle for **Rs.18,150/-**.

22. Expenses relating to treatment, hospitalization and medicines:- The petitioners claims that they have incurred medical expenses for deceased's treatment. To substantiate this fact the petitioners have produced the medical bills which are together marked at Ex.P10. The total amount due under these bills is Rs.499/-. The respondent on the other hand has contended that the bills are cooked up documents. No documents produced to prove the same. Ex.P7/post-mortem

report go to show that the deceased was died on 05.01.2023. Thus by considering the duration of treatment, this tribunal is in no hesitation to consider these documents as true and correct.

23. Respondent No.3 in her objection statement contended that Sri.Abhjinav Singh has borne the medical expenses of the deceased. In order to substantiate the same Sri.Abhjinav Singh examined as RW2 as a GPA holder of respondent No.3 and has produced medical bills which are together marked at Ex.R3 and bank statement has been marked at Ex.R4. The said fact has been admitted by PW1 in her cross-examination. However, the PW.1 deposed that they have also spent more than Rs.1,50,000/- as medical expenses. No documents is produced to prove the same. Hence this tribunal is of the opinion that, the petitioners are entitled for the said amount of **Rs.499/-**.

24. Thus considering the all these aspects, the petitioner No.1 to 3 are entitled for compensation under the following heads:

Sl. No.	Heads	Amount in Rs.
1	Loss of Dependency with future prospectus	Rs.20,15,052/-
2	Loss of consortium (Rs.48,400/- X 3)	Rs.1,45,200/-
3	Loss of Estate	Rs.18,150/-
4	Funeral Expenses	Rs.18,150/-
5	Expenses relating to treatment, hospitalization and medicine	Rs.499/-
	TOTAL	Rs.21,97,051/-

The petitioners are entitled for total compensation of **Rs.21,97,051/-**.

25. Interest: In so far as award of interest is concerned, the petitioners have claimed an interest at the rate of 18% p.a. from the date of petition. In view of decision of the 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.

26. Liability:- As discussed petitioner No.1 is is proved that the accident is caused due to the negligence of offending vehicle No.2. Admittedly as on the alleged date of the accident, the offending vehicle No.2 was uninsured. As such it is the owner of the said vehicle i.e., respondent No.3 who has to make good the compensation amount to the petitioners. As aforesaid the respondent No.3 being the owner of the offending vehicle No.2 which is held responsible for the accident is liable to pay the compensation amount to the petitioners. **Accordingly issue No.2 answered partly in the affirmative.**

27. Issue No.3:- As aforesaid the petitioner No.1 is wife and petitioner No.2 and 3 are the children of the deceased. By considering age and relationship of the petitioners with the deceased, if in the compensation amount 40% is apportioned to the share of petitioner No.1 and 30% each to the share of petitioner No.2 and 3 would mete the ends of justice. In the light of foregoing discussions, this tribunal proceeds to pass the following:

ORDER

The petition filed by the petitioners in Under Section 166 of Motor Vehicles Act is partly allowed with cost.

*The petitioner No.1 to 3 are hereby awarded total compensation amount of **Rs.21,97,051/- (Rupees twenty one lakhs, ninety seven thousand and fifty one only)** with interest at the rate*

of 6% p.a. from the date of petition till its entire realization.

The compensation amount is hereby apportioned between the petitioner No.1 to 4 in the ratio of 40:30:30 respectively.

The respondent No.3 is liable to pay the compensation amount to the petitioners and to deposit the compensation awarded within a period of 30 days.

Out of the compensation amount allotted to the petitioner No.1 and 2 on being deposited is ordered to release 75% in favour of the petitioner No.1 and 2 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.

Out of the compensation amount allotted to the share of the petitioner No.3 being minor, is ordered to be deposited entire amount of his apportion in the name of petitioner No.3 in any nationalized or scheduled bank of petitioner No.1's choice till he attains majority.

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 2nd day of April 2026).

sd/-

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

ANNEXURE

List of witnesses examined on behalf of petitioners:

PW.1 Manjula

List of witnesses examined on behalf of respondent:

RW.1 Sri.Jayatheertha H.G.,

RW.2 Abhinav Singh

List of documents marked on behalf of petitioners:

Ex.P1 Copy of FIR

Ex.P2 Copy of complaint

Ex.P3 Copy of spot mahazar

Ex.P4 Copy of seizure mahazar

Ex.P5 Copy of MVA report

Ex.P6 Copy of inquest

Ex.P7 Copy of postmortem report

Ex.P8 Copy of charge sheet

Ex.P9 Discharge card

Ex.P10 Medical bills

Ex.P11	Prescriptions
Ex.P12	X-ray
Ex.P13	IP bills
Ex.P14	Notarized copy of Aadhar card of the deceased
Ex.P15	Notarized copy of Aadhar card of PW1 and petitioners
Ex.P16	Notarized copy of PAN card of PW.1
Ex.P17	Ration card

List of documents marked on behalf of respondent:

Ex.R1	Authorization letter
Ex.R2	GPA
Ex.R3	Medical bills
Ex.R4	Account statement

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