

KAMS080018602023



M.V.C./1069/2023

**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 2<sup>nd</sup> DAY OF JULY 2026**

**M.V.C./ 1069 /2023**

**BETWEEN:**

1. Smt. Manjula, W/o. Devaraj,  
Aged about 46 years,  
(Mother in law of the deceased)
2. Sri. Devaraja S/o. Late Eraiah,  
Aged about 54 Years,  
(Father in law of the deceased)  
Both are residing at Ibbadi Village,  
Doddamagge Hobli,  
Arakalgud Taluk, Hassan District.

**(Rptd: By Sri.BRG, Adv)**

**Petitioners**

**AND**

1. Harish.S.J., S/o. Jawaregowda,  
Shambhunathapura Village,  
Arakalgud Taluk, Hassan District.  
  
(Owner of lorry bearing No.KA-64-0048)
2. The Divisional Manager, Shriram General  
Insurance Company Limited,  
CH 66/2904/1 Sapthaswara Complex,  
2<sup>nd</sup> Floor, Opp. Reliance Home Finance,  
Kantharaj Urs Road, Saraswathipuram,  
Mysore-570009.  
Policy No.10003/31/23/352355  
Valid from 03.02.2023 to 03.02.2024
3. Ganesha S/o Raju,  
Aged about 52 years,  
(Father of the deceased)
4. Kumari W/o Ganesh,  
Aged about 47 years,  
(Mother of the deceased)

Both are residing at  
Jainkal Betta,  
Madhalapura Village,  
Somvarapete Taluk,  
Kodagu District.

**(R1 Exparte)**  
**(R2 By Sri.MVG, Adv)**  
**R3 &4 By Sri.KM, Adv)**

**: Respondents**

**-: JUDGMENT :-**

The petitioner No.1 is the father in law, petitioner No.2 is the mother in law of the deceased Shobha S.G. have filed this petition under section 166 of Motor Vehicles Act seeking death compensation of Rs.35,00,000/- along with interest from the date of petition till realization of entire amount. Later the parents of the deceased Shobha S.G impleaded as the respondent No.3 and 4.

**2. The brief facts of the petitioner case are as follows:** That, on 20.05.2023 at about 8.30 p.m., when the deceased Shobha.S.G., was traveling as pillion in motor cycle bearing reg. No.KA-03-HW-4139 ridden by her husband at moderate speed on the left side of the road, when they reached in front of SSK Mutton Stall, Arakalagoodu-Holenarasipur road, Nagalapura Gate, Kasaba Hobli, Hassan District, at that time the driver of Lorry bearing reg. No.KA-64-0048 **[hereinafter referred as 'Offending vehicle']** drove the same with high speed in rash and negligent manner, dashed the motor cycle from hind side and caused accident, due to the impact of the accident the deceased sustained severe head injury and other injuries all over the body. The deceased succumbed to the injuries

at the spot itself. The deceased being a tailor and was earning of Rs.25,000/- 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 riding of the rider of the deceased who was not wearing protective headgear and not holding effective driving licence as on the date of the accident. The offending vehicle was insured with respondent No.2 vide policy bearing No.10003/31/23/352355 valid from 03.02.2023 to

03.02.2024. The admissibility of liability is subjected to the terms and conditions of the policy. The driver of the offending vehicle did not possess valid and effective driving licence, registration certificate and permit as on the date of the 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.** During pendency of the proceedings the petitioners filed impleading application and got impleaded the respondent No.3 and 4/the parents of the deceased as parties to the proceedings. The respondent No.3 and 4 appeared through their counsel and filed objection statement. They contended that, their daughter/deceased Smt. Shobha S.G got married one month prior to the accident. They have performed the marriage of the deceased by spending huge money. The deceased being a tailor was looking after the respondent No.3 and 4 even after her marriage. The petitioners already received a sum of Rs.32,00,000/- as compensation for death of their son/son-in law of the respondent No.3 and 4. The respondent No.3 and 4 have got dismissed their petition filed by them for compensation of death of their daughter before Hon'ble court of Senior Civil Judge, Holenarasipura in MVC No.1247/2023 by filing not pressed memo as they were

made as a parties in this petition. As the respondent No.3 and 4 wholly depending on the deceased they are entitled for the entire compensation amount. As the petitioners received death compensation of their son and they are well settled, they are not depending on the deceased and hence, they are not entitled for the compensation. Therefore, prayed to award entire compensation in their favour.

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

### **ISSUES**

- 1) Whether the petitioners prove that, on 20.05.2023 at about 8.30 p.m., when the deceased Shobha.S.G., was traveling as pillion rider in motor cycle bearing reg. No.KA-03-HW-4139 ridden by her husband at moderate speed on the left side of the road, when they reached in front of SSK Mutton Stall, Arakalagoodu-Holenarasipur road, Nagalapura Gate, Kasaba Hobli, Hassan District, at that time the driver of Lorry bearing reg. No.KA-64-0048 drove the same with high speed in rash and negligent manner, dashed the motor cycle from hind side and caused accident. Due to the impact of accident the deceased Shobha.S.G. 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.2 examined himself as PW.1 who produced and got marked Ex.P1 to 12 documents and closed their side evidence. On the other hand, respondent No.3 examined himself as RW1 who produced and got marked Ex.R1 to 7 documents and closed their side evidence.

**8.** Heard arguments petitioner and respondent No.2. In spite of sufficient opportunity the counsel for respondent No.3 and 4 not come forward to the address the arguments. Hence, the arguments of the respondent No.3 and 4 taken as nil. Perused the materials available on record.

**9.** 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 :-**

**10. 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 9 documents. Wherein, Ex.P1 is FIR, Ex.P2 is complaint, Ex.P3 is spot mahazar, EX.P4 is sketch Ex.P.5 is seizure mahazars 2 in No's, Ex.P6 is the IMA report, Ex.P7 is the inquest, Ex.P8 is Post- mortorm report and Ex.P9 is charge sheet. The first information statement go to show that on the basis of information lodged by Devaraju/ petitioner No.2 herein, the concerned police have registered the case against the driver of the offending vehicle. It is alleged that the driver of the lorry drove in a rash and negligent manner. The investigating officer after conducting detailed investigation has placed the charge sheet against the driver of the offending vehicle for the offences punishable U/Sec.279, 304(A) of IPC R/w Sec.

187 of IMV Act. Thus the materials on record suggests that the accident had occurred on account of composite negligence on the part of the driver of offending vehicle.

**11.** The spot mahazar and spot sketch is also in consonance with the case of the petitioner. Due to the rash and negligent driving of driver of the offending vehicle the deceased succumbed to the injuries sustained by her. Furthermore the respondent No.2 has not disputed the fact that the deceased had succumbed to the injuries sustained by her in the aforesaid accident. Therefore, by overall and documentary evidence as discussed above the petitioners proved that the deceased had succumbed to the injuries sustained by her in the accident caused by the offending vehicle. **Accordingly issue No.1 is answered 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 mother in law, petitioner No.2 is the father in law, respondent No.3 is the father and respondent No.4 is the mother of the deceased. They claims themselves to be the dependents upon the deceased.

**13.** Learned counsel for the petitioners vehemently argued that, the petitioners are entitle for entire compensation as they are depending on the deceased and the parents/ the respondent No.3 and 4 are not entitle for compensation as they are not dependents as they performed marriage of their daughter and lost rights over the deceased. Hence, prays to consider only the petitioners as dependents of the deceased and reject the prayer of the respondent No.3 and 4.

**14.** It was the case of the respondent No.3 and 4 that, they were depending on the income of the deceased and they also incurred huge expenditure to perform her marriage. The deceased was looking after them before her marriage and even after her marriage. The father of the deceased/ respondent No.3 examined as RW.1 who deposed in consonance with their case.

**15.** In the present case it is seen that, the deceased got married one month prior to the accident. The deceased is a tailor by profession and the certificate is produced by the father of the deceased/ RW.1 in his evidence. No doubt after marriage the daughter-in law will spend her earnings on her in laws and family, however, in recent days the married women who are working also look after their

parents. In the present case, the marriage of the deceased performed one month prior to the accident. Therefore, the parents obviously depending on the income of the deceased. Hence, in this peculiar circumstances of the case, the respondent No.3 and 4 being a parents of the deceased also considered as dependents of the deceased.

**16.** So far as dependency on the women is concerned, 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 and respondent No.3 and 4 are considered as dependents of the deceased.

**17.** Now coming to the age of the deceased, As per the Aadhaar card/Ex.P11 the deceased was born on 25.05.1999. As such the age of the deceased is 23 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 23 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.

**18. Loss of Dependency with future prospectus:** The petitioners have pleaded that the deceased was working as toiler was earning Rs.25,000/- per day. No documents produced to prove the income of the deceased. The certificate of the tailoring/ Ex.R5 itself is not sufficient to adjudicate the quantum of income. 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. For the fixation of the notional income of the deceased, as per the revised notional income chart prepared by the Hon'ble Karnataka State Legal Services Authority, Bengaluru dated 26.02.2022 chart, for all the districts coming under the Hon'ble High Court of Karnataka, Principal Bench, Bengaluru 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.

**19.** 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 the 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 40% of the income should be the warrant where the deceased was in the age group of below 40 years. For the monthly income of the deceased i.e., for Rs.16,000/- an additional 40% is to be added. 40% of Rs.16,000/- is Rs.6,400/-. Thus the monthly income of the deceased would be Rs.22,400/-.

**20.** As stated supra the deceased was married, having a father in law, mother in law and parents of advanced age. In case of 4 to 6 dependent of a married deceased, the deduction of 1/4<sup>th</sup> is to be deducted towards her personal expenses. 1/4<sup>th</sup> of Rs.22,400/- is Rs.5,600/-. Hence Rs.5,600/- is to be deducted towards the personal expenses of the deceased. Therefore Rs.22,400/- minus Rs.5,600/- which comes to Rs.16,800/- p.m. Thus, the contribution of the deceased towards her family of each

month would be of Rs.16,800/-. As discussed supra, the age of the deceased was 23 years. Hence the multiplier of 18 is to be applied to the age group of 21 to 25 years. Hence the loss of dependency would be **Rs.16,800/- X 12 X 18 = Rs.36,28,800/-**.

**21. 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 and 2 and respondent No.3 and 4 are entitled consortium of Rs.40,000/- each and after adding escalation of 10% for every three years, the petitioner No.1 and 2 and respondent No.3 and 4 are entitle for **Rs.48,400/-** each.

**22.** Towards loss of estate, the petitioner No.1 and 2 and respondent No.3 and 4 are entitle for Rs.15,000/- and after adding escalation of 10% for every three years, the petitioner No.1 and 2 and respondent No.3 and 4 are entitle for **Rs.18,150/-**. Towards funeral expenses, the petitioner No.1 and 2 and respondent No.3 and 4 are entitle for Rs.15,000/- and after adding escalation of 10% for every three years, the petitioner No.1 and 2 and respondent No.3 and 4 are entitle for **Rs.18,150/-**.

**23.** Thus considering the all these aspects, the petitioner No.1 and 2 and respondent No.3 and 4 are entitled for compensation under the following heads.

| <b>Sl.No.</b> | <b>Heads</b>                                   | <b>Amount in Rs.</b>  |
|---------------|------------------------------------------------|-----------------------|
| 1             | Loss of Dependency<br>(With Future prospectus) | <b>Rs.36,28,800/-</b> |
| 2             | Loss of consortium<br>(Rs.48,400/- X 4)        | <b>Rs.1,93,600/-</b>  |
| 3             | Loss of Estate                                 | <b>Rs.18,150/-</b>    |
| 4             | Funeral Expenses                               | <b>Rs.18,150/-</b>    |
|               | <b>TOTAL</b>                                   | <b>Rs.38,58,700/-</b> |

Thus the petitioners are entitled to total compensation of **Rs.38,58,700/-**.

**24. Interest:** In so far as award of interest is concerned, the petitioner has claimed an interest 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.

**25. 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.10003/31/23/352355 Valid from 03.02.2023 to 03.02.2024. The alleged accident occurred on 20.05.2023. 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.**

**26. Issue No.3:-** As aforesaid the petitioner No.1 is the father in law, petitioner No.2 is the mother in law and respondent No.3 and 4 are the parents of the deceased. By considering age and relationship of the petitioner No.1 and 2 and respondent No.3 and 4 with the deceased, if in the compensation amount 30% each is apportioned to the share of petitioner No.1 and 2, and 20% each to the share

of respondent No.3 and 4 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 U/Sec.166 of the Motor Vehicles Act is hereby allowed in part.*

*The petitioner No.1 and 2 and respondent No.3 and 4 are hereby awarded total compensation amount of **Rs.38,58,700/- (Thirty eight lakhs, fifty eight thousand and seven hundred 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 and respondent No.3 and 4 in the ratio of 30:30:20:20 respectively.*

*Out of the compensation amount allotted to the share of the petitioners and respondent No.3 and 4, on being deposited is ordered to*

*release 75% in favour of the petitioners and respondent No.3 and 4 as per their apportion on proper identity and verification, remaining 25% shall be deposited in the name of petitioners and respondent No.3 and 4 in any nationalized or scheduled bank of their choice for a period of two years. The petitioners and respondent No.3 and 4 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 2<sup>nd</sup> day of July 2026).*

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

**ANNEXURE**

**List of witnesses examined on behalf of petitioners:**

PW1            Sri. Devaraja

**List of witnesses examined on behalf of respondents:**

RW1            Sri. Ganesha

**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 Spot sketch                        |
| Ex.P5  | Seizure mahazar 2 in No's                  |
| Ex.P6  | IMA report                                 |
| Ex.P7  | Copy of inquest                            |
| Ex.P8  | Copy of postmortem report                  |
| Ex.P9  | Copy of charge sheet                       |
| Ex.P10 | Death certificate of the deceased          |
| Ex.P11 | Notarized copy of Aadhar card of deceased  |
| Ex.P12 | Notarized copy of Aadhar cards petitioners |

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

|       |                                                         |
|-------|---------------------------------------------------------|
| Ex.R1 | Copy of death certificate                               |
| Ex.R2 | Notarized copy of Aadhar card of deceased               |
| Ex.R3 | Notarized copy of Aadhar cards of respondent No.3 and 4 |
| Ex.R4 | Marriage invitation card                                |
| Ex.R5 | Tailoring training certificate                          |
| Ex.R6 | Order sheet in CC No.1247/2023                          |
| Ex.R7 | Copy of petition and objection in in CC No.1247/2023    |

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