

**KAMS080030042023**



M.V.C./1702/2023

**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 28<sup>th</sup> DAY OF APRIL 2026**

**M.V.C./ 1702 / 2023**

**BETWEEN**

1. Sri.Parameshwara,  
S/o Kariyanna Shetty,  
Aged about 70 years,
2. Smt. Indramma,  
W/o Parameshwara,  
Aged about 59 years,

Both are residing at No.188,  
10<sup>th</sup> ward, II division, Halladakeri,  
Gundlupete, Chamarajanagar  
District-571111.

**Petitioners**

**(Rptd: By Smt.ASP, Adv)**

**AND**

1. Siddachari V. S/o Venkatasomachari,  
Horeyala Village, Begur Hobli,  
Gundlupete Taluk, Chamarajanagar  
District-571109.

(Owner of the bike  
Reg.No.KA-10-EB-7528)

2. Cholamandalam M.S. General Insurance Co.Ltd.,  
No.C., 1<sup>st</sup> floor, Sigma complex, new  
Kantharaja Urs Road, Kuvempunagar,  
Mysuru- 570023.

Policy No.3397/01078588/000/00  
(Valid From 25.02.2020 to 24.02.2025)

**Respondents**

**(R1 Rep. By Sri. RMS, Adv)**  
**(R2 Rep. By Sri. JSK, Adv)**

**-: JUDGMENT :-**

The petitioner No.1 and 2 are the parents of the deceased Pradeep P. have filed this petition under section 166 of Motor Vehicles Act seeking death compensation of Rs.30,00,000/- along with interest at 12% per annum from the date of petition till realization of amount.

**2. The brief facts of the petitioner's case are as follows:** on 23.03.2023 at about 06.45 p.m., when the deceased Pradeep. P. was

proceeding in his Scooter bearing reg. No.KA-10-EB-9117 at moderate speed on the left side of the road, when he reached near Malabar hotel, Yelachagere bore gate, Gundlupete- Nanjangud main road, Nanjangud Taluk and Mysuru District, at that time the rider of bike bearing reg. No.KA-10-EB-7528 (**here in after referred as Offending vehicle**) rode the same with high speed in rash and negligent manner, dashed the deceased's scooter from opposite side and caused accident. Due to the impact the deceased Pradeep P. sustained grievous injuries to his head, face, legs, and other injuries all over the body. The deceased succumbed to the injuries on the way of hospital. The deceased Pradeep P. was working at SSB technology as an operator and was earning Rs.15,000/- per month. On account of death of the deceased, the petitioners have suffered mental agony. The accident occurred due to the actionable negligence of the rider of offending vehicle. The respondent No.1 being the rider cum owner and the respondent No.2 being the insurer of the offending vehicle are jointly and severally liable to pay

compensation to the petitioners. On these grounds and such others, it is prayed for allowing of the petition.

3. After service of notice, the respondents appeared through their counsels and filed their objection statements separately.

4. In their objection statement, the respondent No.1 by denying the accident, age, income and occupation of the deceased contended that, the accident did not cause due to the rash and negligent riding of the rider of offending vehicle, but due to the negligence of the deceased himself who was riding his scooter without following traffic rules and without driving licence. The petition is bad for non-joinder of necessary parties. The offending vehicle is duly insured with respondent No.2. Therefore, respondent No.2 is liable to compensation to the petitioner. The amount of compensation claimed by the petitioner is highly excessive, exorbitant and exaggerated and without any legal basis. Hence, prays to dismiss the petition against the respondent No.1.

5. In its objection statement, the respondent No.2, by denying the accident, age, income and occupation of the deceased contended that, the accident did not cause due to the rash and negligent riding of the rider of offending vehicle, but due to the rash and negligent manner of the petitioner who not following the rules of the road and he was not wearing head gear and he did not possess valid and effective driving license as on the date of accident. The driver of offending vehicle did not possess valid and effective driving license as on the date of accident. The petition is bad for non-joinder of necessary parties. The petitioner will not be entitled to any interest on non pecuniary loss and on the award under the head of future prospectus. The amount of compensation claimed by the petitioner is highly excessive, exorbitant and exaggerated and without any legal basis. On the aforesaid reasons and such others it prays for dismissal of the petition against this respondent.

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

## **ISSUES**

- 1) Whether the petitioners prove that, on 23.03.2023 at about 06.45 p.m., when the deceased Pradeep. P. was proceeding in his Scooter bearing reg. No.KA-10-EB-9117 at moderate speed on the left side of the road, when he reached near Malabar hotel, Yelachagere bore, Gundlupete-Nanjangud main road, Nanjangud Taluk and Mysuru District, at that time the rider of bike bearing reg. No.KA-10-EB-7528 rode the same with high speed in rash and negligent manner, dashed the deceased's scooter from opposite side and caused accident. Due to the impact of accident the deceased Pradeep.P. 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 himself as PW.1 who produced and got marked Ex.P1 to 11 documents

and closed his side evidence. On the other hand, Assistant Manager of respondent No.2 company by name Sri.Manoj C.M. examined as RW1 who produced and got marked Ex.R1 and 2 documents and closed its side evidence.

**8.** Heard arguments respondent No.2. In spite of sufficient opportunity the counsel for petitioner and respondent No.1 not come forward to the address the arguments. Hence, the arguments of the petitioner and respondent No.1 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 the rash and negligent riding of the rider of offending vehicle. To substantiate this fact, the petitioner No.1 filed his 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 spot sketch, 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 Parameshwara/PW.1, concerned police have registered the case against the rider of the offending vehicle.

**11.** It is the contention of respondent No.2 company that the accident occurred due to the sole negligence of the deceased who rode his motor bike without holding valid driving license and without valid headgear. In order to substantiate its contention respondent No.2 examined its Assistant Manager as RW1. RW1 deposed that the accident occurred due to the sole negligence of the deceased. As such, the police after investigation filed charge sheet against the deceased for not having driving license to his motor bike. The charge sheet material discloses that the deceased was riding his motor bike without driving license at the time of accident, as such, the investigating officer has filed charge sheet against the deceased for the offences punishable U/Sec.181 of IMV Act. However, investigating officer has also filed charge sheet against the rider of offending vehicle for the offences of punishable U/Sec.279 and 304(a) of IPC R/w Sec. 187 and 181 of IMV Act for rash and negligent driving on his part. In order to prove that the accident occurred due to the sole negligence of the deceased no document has been produced.

Further, learned counsel for respondent No.2 argued that since the deceased riding his motor bike without holding driving license, as such he has to contribute to the accident.

12. As it is well settled principle of law that **"to establish contributory negligence, some act or omission, which materially contributed to the accident or the damage, should be attributed to the person against whom it is alleged"**. Admittedly, except self serving testimony of RW1 the respondent No.2 company has not produced any reliable material to show that the accident occurred due to the contributory negligence of the deceased. Admittedly, the investigating officer has filed charge sheet against the deceased for riding his bike without holding driving license for the offences punishable U/Sec.181 of IMV Act. Certainly if a person plying vehicle on road without holding a valid driving license is an offence. The same by itself may not leads towards the negligence of the person who was

plying his vehicle without driving license. As stated supra, the plea of contributory negligence has to prove by the respondent No.2 company with reliable evidence and not by conjecture. Thus, in the absence of any supportive evidence the contention of respondent No.2 company that the accident occurred due to the contributory negligence of the deceased cannot be accepted.

**13.** Furthermore the investigating officer after conducting a detailed investigation has placed charge sheet against the respondent No.1/ the rider of the offending vehicle for the offences punishable U/Sec.279, and 304(A) of IPC R/w Sec 187 and 181 of IMV Act. 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 rider of the offending vehicle. Furthermore, the respondents had 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 answered in the affirmative.**

**14. Issue No.2:** As discussed *supra*, the deceased succumbed to the injuries sustained by him in the road traffic accident occurred due to the negligent act of rider of the offending vehicle. The petitioner No.1 and 2 are the parents of the deceased and they are to be construed as dependents of the deceased.

**15.** Now coming to the age of the deceased, as per Aadhar card/Ex.P9 of the deceased he was born on 22.11.1993. As such age of the deceased was 29 years. Thus the deceased had completed age of 29 years as on the date of accident. The respondent No.2 has not been disputed the age of the deceased. Thus taking into account all these aspects, the age of the deceased is considered to be 29 years for computation of compensation. 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.

**16. Loss of Dependency with future prospectus:** The petitioners have claimed that the deceased was working as operator at SSB technology was earning Rs.15,000/- per month. To substantiate the same the petitioners have produced Ex.P.11/letter by SSB technology. Since the petitioner not hold permanent or fixed job the petitioner needed to prove the salary slip with other corroborative evidence. Admittedly no substantive documents has been produced to prove the salary of the petitioner. In the absence of the same, 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.

**17.** 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 40% of the income should be the warrant where the deceased was in the age 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/-.

**18.** As stated supra the deceased was unmarried. In case of unmarried deceased, the

deduction of 50% is to be deducted towards his personal expenses. 50% of Rs.22,400/- is Rs.11,200/-. Hence Rs.11,200/- is to be deducted towards the personal expenses of the deceased. Therefore Rs.22,400/- minus Rs.11,200/-, which comes to Rs.11,200/- p.m. Thus the contribution of the deceased towards his family of each month would be Rs.11,200/-. As discussed supra, the age of the deceased was 29 years. Hence the multiplier of 17 is to be applied to the age group of 26 to 30 years. Hence the loss of dependency would be **Rs.11,200/- X 12 X 17 = Rs.22,84,800/-**.

**19. 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 are entitled to filial 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.

**20.** 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/-**.

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

<b>Sl.No.</b>	<b>Heads</b>	<b>Amount in Rs.</b>
1	Loss of Dependency (With Future prospectus)	<b>Rs.22,84,800/-</b>
2	Loss of consortium (Rs.48,400/- X 2)	<b>Rs.96,800/-</b>
3	Loss of Estate	<b>Rs.18,150/-</b>
4	Funeral Expenses	<b>Rs.18,150/-</b>
	<b>TOTAL</b>	<b>Rs.24,17,900/-</b>

The petitioner No.1 and 2 entitled for compensation amount of **Rs.24,17,900/-**.

**22. Interest:** In so far as award of interest is concerned, the petitioners have claimed an interest at the rate of 12% 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.

**23. Liability:-** The fact that the offending vehicle was insured with respondent No.2 company is not disputed. The offending vehicle insured with respondent No.2 company vide policy bearing No.Policy No.3005/ 3397/01078588/000/00 valid From 25.02.2020 to 24.02.2025. Whereas, the

alleged accident occurred on 23.03.2023. As such, the policy of the offending vehicle is under the period of validity as on the date of accident

**24.** The respondent No.2 company contended that the rider of the offending vehicle did not possess valid driving license at the time of accident. As such, the insured violate the terms and conditions of the policy. Thus, the respondent No.2 company is not liable to pay compensation to the petitioner. In order to substantiate its contention the respondent No.2 company examined its Assistant manager by name Sri. Manoj C.M. as RW1. RW1 deposed that the rider of the offending vehicle did not possess valid driving license and violate the terms of the policy. As such, the respondent No.2 is not liable to indemnify compensation amount to the insured. The charge sheet material discloses that the police after detailed investigation has filed charge sheet against the respondent No.1 for the offences punishable U/ Sec.181 of IMV Act for riding the motor cycle without possessing a valid driving license.

**25.** Furthermore, the respondent No.1 being the rider cum owner of offending vehicle though appeared in this case, not filed his objection statement and did not enter into the witness box, not produced the driving license. As such, the evidence of RW1 coupled with the charge sheet, the respondent No.2 company established the factum that the rider of offending vehicle had no valid and effective driving license as on the date of accident, as such the insured/respondent No.1 violate the terms and conditions of the policy.

**26.** Learned counsel for the respondent No.2 company argued that, once the defence taken by the insurer is accepted by the tribunal, it is bound to discharge the insurer and fix the liability only on the owner or the rider of the vehicle. Moreover, the accident occurred after amendment to the IMV act there is no concept of pay and recovery and hence prayed to consider the same.

**27.** In this regard, in the rulings reported in 2025 ACJ 265 *between ICICI Lombard General Ins.*

*Co.Ltd V/s Arti Devi and others, the Hon'ble High Court of Judicature at Allahabad held that,*

*"mere omission of proviso attached to sub-section (4) of Section 149 of Motor Vehicles Act, 1988 after its replacement by Section 150 of Motor Vehicles (Amendment) Act, 2019 (32 of 2019), neither takes away the liability of the insurer to pay the claimants nor its right to recover the said amount from the owner. The law to this effect remains intact and unaffected by Amendment Act, 2019 and, hence, insurer shall continue to indemnify the owner's risk in relation to accidents taking place after 01.04.2022 and "PAY & RECOVER" principle will still continue to govern the field advancing social object of the Statute protecting third party interest".*

**28.** In the judgment of Hon'ble supreme court in **National Insurance company Ltd Vs Swaran Singh reported in (2004)3 SCC 297,** the Hon'ble apex court held that *"Even if the insurer succeeds in establishing its defense, the tribunal or the court can direct the insurance company to pay the award amount to the claimant and in turn, recover the same from the owner of the vehicle".*

29. Further in the recent decisions in **SLP No.8434/2023 between Akula Narayana Vs Oriental Insurance Company Limited and another** Hon'ble Apex court held that, "even on breach of insurance conditions, the insurance company was ordered to pay compensation by giving right to the insurer to recover the same from the vehicle owner". The pay and recover principle has been consistently followed even though it was doubted in a referred case which remained unanswered. Further observed that recently in **Rama Bai Vs Amit Minerals reported in 2025 SCC online SC 2067** again applied the said principle and directed the insurance company to pay and recover from the insured.

30. As per the dictum of aforesaid well settled principle of law, it is the respondent No.2 insurance company to pay compensation amount to the petitioner at first instance and then recover from the owner/respondent No.1 herein. **Accordingly issue No.2 answered partly in the affirmative.**

**31. Issue No.3:-** As aforesaid the petitioner No.1 is the father and the petitioner No.2 is the mother 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 60% to the share of the petitioner No.2 would mete the ends of justice. In the light of foregoing discussions, this tribunal proceeds to pass the following:

**ORDER**

*The petition filed under section 166 of the Motor Vehicles Act is hereby allowed in part with cost.*

*The petitioner No.1 and 2 are hereby awarded total compensation amount of **Rs.24,17,900/- (Rupees twenty four lakhs, seventeen thousand nine hundred only)** with interest at the rate of 6% p.a. from the date of petition till its entire realization.*

*The respondent No.2 insurance company is directed to pay the compensation amount to the petitioners and to deposit the compensation awarded within a period of 30 days.*

*Liberty is reserved in favour of the respondent No.2 company to pay the said amount at the first instance and recover the same from respondent No.1/ owner of Motor bike bearing reg. No.KA-10-EB-7528 in accordance with law.*

*The compensation amount is hereby apportioned between the petitioner No.1 and 2 in the ratio of 40:60 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 28<sup>th</sup> 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:**

PW1            Sri.Parameshwara

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

RW1            Sri.Manoj C.M..

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

Ex.P1            Certified copy FIR  
Ex.P2            Certified copy complaint  
Ex.P3            Certified copy spot mahazar  
Ex.P4            Certified copy spot sketch  
Ex.P5            Certified copy of MVA report

Ex.P6	Certified copy of inquest
Ex.P7	Certified copy of Post-mortorm report
Ex.P8	Certified copy of charge sheet
Ex.P9	Notarized copy of Aadhar card of the deceased
Ex.P10	Certified copy of Aadhar cards of petitioners
Ex.P11	Letter from SSB technology

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

Ex.R1	Authorization letter
Ex.R2	Copy of policy

sd/-

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