

KAMS080038082023



M.V.C./2114/2023

**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 8th DAY OF APRIL 2026

M.V.C./ 2114 / 2023

BETWEEN:

1. Puttammani,
W/o late Darmappa C.P.,
Aged about 70 year,

2. Chandan S. S/o M.Swamy,
Aged about 24 year,

Both are residing at
Kundanahalli Village,
Nandinathapura post,
Kasaba Hobli, Periyapatna Taluk,
Mysuru District- 571107.

(Rptd: By Sri.KSR, Adv)

Petitioners

AND

1. Jayaram S/o Kanna,
Residing at No.3-308, Adarsha
Dravida colony, Market road,
Kushalnagar,
Kodagu District- 571 234.

(Owner and insured of Motor Cycle
bearing reg. No.KA-12-V-8064)

2. Cholamandalam MS General Insurance
Company Limited, No.230, 12th main road,
5th cross, Saraswathipura, Mysuru- 570009.

Policy No.3397/04141773/000/00

Valid from 04.01.2023 to 03.01.2028

(R1 Rptd: By Sri.MBR, Adv)

(R2 Rptd: By Sri.JSK, Adv)

: Respondents

-: JUDGMENT :-

The petitioner No.1 is the grandmother and
petitioner No.2 is the brother of the deceased

Shekhar S. have filed this petition under section 166 of Motor Vehicles Act seeking death compensation of of Rs.36,00,000/- along with interest at the rate of 12% 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 21.10.2023 at about 01.00 a.m., when the deceased Shekhar.S. was traveling as pillion in Yamaha motor bike bearing reg. No.KA-12-V-8064 (**here in after referred as Offending vehicle**) ridden by one Prasanna with high speed in rash and negligent manner, when they reached near Somanahalli tank, Mysuru-Hunsur main road, Hunsur Taluk, Mysuru District, at that time the rider of motor bike lost its control dashed against the road side iron guard and caused accident, the deceased Shekhar S. sustained grievous injuries to his head and other injuries all over the body. Immediately he was taken to Government Hospital, Hunsuru wherein the doctors declared as dead.

The deceased Shekhar S. was doing hotel business was earning Rs.1,000/- per month. On account of the death of the deceased, the petitioners have suffered mental agony. The accident occurred due to actionable negligence of rider of offending vehicle. The respondent No.1 being the owner of offending vehicle, 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. In pursuance to the notices issued to respondents, respondent No.1 and 2 appeared through their counsels and filed their separate objection statements.

4. In the objection statement respondent No.1 by denying the entire averments of the petition contended that, the rider of offending vehicle possess valid driving license at the time of accident. The offending vehicle is duly insured with respondent No.2. Therefore, respondent No.2 is

liable to compensation to the petitioner. Hence, prays to dismiss the petition against this respondent

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 the same is due to the negligence of the deceased himself who was not wearing head gear. The rider of the offending vehicle did not possess valid and effective driving licence at the time of accident. The amount of compensation with interest claimed by the petitioners is highly excessive and exorbitant. On the aforesaid reasons and such others it prays for dismissal of the petition.

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

ISSUES

- 1) Whether the petitioners prove that on 21.10.2023 at about 01.00 a.m., when the deceased Shekhar.S. was traveling as pillion rider in Yamaha motor bike bearing reg. No.KA-12-V-8064 ridden by one Prasanna with high speed in rash and negligent manner, when they reached near Somanahalli tank, Mysuru-Hunsur main road, Hunsur Taluk, Mysuru District, at that time the rider of motor bike lost its control dashed against the road side iron guard and caused accident. Due to the impact of accident the deceased Shekhar.S. succumbed to the injuries as stated in the petition?
- 2) Whether the petitioners are entitled for 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 15 documents and closed their side evidence. On the other hand, one Mr. Manoj C.M., Authorized signatory of respondent No.2 examined as RW1 who produced

and got marked Ex.R1 and 2 documents. Respondent No.1 examined as RW.2 who produced and got marked Ex.R.3 to 6 documents and closed their side evidence.

8. Heard arguments of both sides and perused materials on record.

9. Counsel for the petitioner relied on the following rulings in support of his arguments.

1. *2006 ACJ 2825 decided on 20.09.2004 between Mohamooda and others V/s United India Insurance co. Ltd and others*
2. *2019 (2) TAC 200 (Kant) decided on 5.01.2018 between Shantawwa V/s Ajitsingh and another*
3. *2020 ACJ 1 decided on 21.08.2019 between Senior Divisional Manager, National Insurance Co., Ltd., V/s Jyotiba Appaji Shigate and others*
4. *2015 (3) TAC 686 (Ker.) decided on 19.06.2015 between Oriental Insurance Co. Ltd V/s Baby*
5. *2017 ACJ 374 decided on 14.01.2016 Virender Singh and another V/s Iffo-Tokio General Insurance Co.Ltd., and another*
6. *2015 ACJ 389 (Kant) decided on 19.09.2013 between Iffco-Tokio General Insurance Co.Ltd V/s Prabhakar Reddy*

and another

7. *2007 ACJ 2824 (Mad.) decided on 07.06.2006 between New India Assurance Co. Ltd V/s Vijaya Kandiban and another*
8. *2021 ACJ 2685 decided on 25.10.2021 between N. Jayasree and others V/s Cholamandalam MS General Insurance Co. Ltd.,*

10. 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 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 rash and negligent riding of rider of offending vehicle. To substantiate this fact, the petitioners have placed reliance on Ex.P1 to 7 documents. Wherein, Ex.P1 is FIR, Ex.P2 is Complaint, Ex.P3 is spot mahazar, Ex.P4 is MVA report, Ex.P5 is inquest, Ex.P6 is postmortem report and Ex.P.7 is charge sheet. The perusal of the contents of first information statement go to show that on the basis of information lodged by one Mr.Bannavva, the concerned police have registered the case against one Sri. Prasanna/ the rider of the offending vehicle.

12. The respondent No.2 contended that there is a doubt with regard to the rider of the bike. The investigating officer also not sure about the rider of the vehicle and hence filed charge sheet against both Sri. Prasanna and deceased Sri. Shekhar S. for the offences punishable U/Sec.279 and 304(A) of IPC R/w Sec.181 of IMV Act.

Therefore, the insurance company is not liable to pay any compensation to the petitioner as the deceased himself is a tortfeasor.

13. In this regard, the respondent No.1 who is the owner of the vehicle was got examined himself as RW2 and got marked the documents at Ex.R3 to 6. Ex.R.4 is the Aadhar card of deceased Sri. Prasanna and Ex.R6 is the learner's license of deceased Prasanna. He deposed that, deceased Prasanna is his relative and they both are residing at Adarsha Dravida Colony, Kushalnagar. He further deposed that the said Prasanna had taken his bike at 5.00 pm and he had learning license. The counsel for respondent No.2 cross- examined RW.2 and nothing is elicited from RW2 to disbelieve his evidence.

14. As the accident took place in the mid night, the investigating officer expressed their inability to find out the fact of rider of the bike and filed charge sheet against both the deceased Sri. Prasanna and Shri. Shekhar S. The representative

of respondent No.2 who examined as RW.1 also deposed that, it is the only claim petition in respect of the aforesaid accident and they also not have any information regarding rider of the bike on the date of accident.

15. Counsel for petitioner by relying on the decision reported in 2007 ACJ 2828 (Mad) vehemently argued that the statement given on oath before the tribunal is on higher pedestal and hence by considering the evidence of RW.2 it can be concluded that Sri. Prasanna was the rider of the bike. As rightly pointed out the by the counsel for the petitioner, the RW.2 who is the owner of the offending vehicle himself deposed that he had handed over the bike to the deceased Prasanna who had learner's license. Such being the case it is clear that the deceased was a pillion and Sri. Prasanna was the rider of the offending vehicle.

16. As aforesaid the petitioners by placing their evidence and by producing the police documents are able to establish the factum of

accident occurred solely on the negligence of the Sri. Prasanna /rider of offending vehicle. 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 this tribunal answers issue No.1 in the affirmative.**

17. **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 is the grandmother and petitioner No.2 is the elder brother of the deceased. It is argued by the counsel for respondent No.2 that the brother is not dependent on the income of the unmarried deceased. It is to be noted that in ***National Insurance Company Ltd., V/s Pranay Sethi & Ors. reported in (2017) 16 SCC 680,*** Hon'ble apex court held that. "*In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will*

either be independent and earning, or married, or be dependent on the father”.

18. Admittedly, no material placed on records to show that the petitioner No.2 being the elder brother was dependent on the income of unmarried deceased who was his younger brother. PW.1 also deposed that the petitioner No.2 is a earning member. Thus, as per the aforesaid dictum of the Hon'ble Apex court the petitioner No.2 being the elder brother of the deceased and earning member cannot be construed to be the dependent of the unmarried deceased. However, the petitioner No.1 is the dependent of the deceased as it is seen that the parents of the deceased predeceased to him and the deceased was residing with the petitioner No.1 as seen from Ex.P.12/ ration card and Ex.P.9/ study certificate. Thus by considering all these aspects the petitioner No.1 being the grandmother of the deceased is to be construed as sole dependent of the deceased.

19. Now coming to the age of the deceased, as per Aadhar card/Ex.P14 of the deceased, he was in the year 2001. As such age of the deceased was 22 years. Thus the deceased had completed age of 22 years as on the date of accident. The respondents have not disputed the age of the deceased. Thus taking into account all these aspects, the age of the deceased is considered to be 22 years.

20. Now in view of the dictum of 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.

21. **Loss of Dependency with future prospectus:** The petitioners have claimed that the deceased was doing hotel business and was earning Rs.1,000/- per day. To substantiate the same the petitioners have produced Ex.P.13 which is the license in the name of the petitioner No.1 for running hotel. However, the same is not sufficient to assess the earning of the deceased. As no materials are placed on record to show the 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.

22. 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 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/-.

23. 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 22 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.11,200/- X 12 X 18 = Rs.24,19,200/-**.

24. **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 for 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.

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

26. Thus considering the all these aspects, the petitioners are entitled for compensation under the following heads.

Sl.No.	Head	Amount in Rs.
1	Loss of Dependency (With Future prospectus) in favour of petitioner No.1	Rs.24,19,200/-
2	Loss of consortium Rs.48,400x 2)	Rs.96,800/-
3	Loss of Estate in favour of petitioner No.1	Rs.18,150/-
4	Funeral Expenses in favour of petitioner No.1	Rs.18,150/-
	TOTAL	Rs.25,52,300/-

The petitioner No.1 is entitled for compensation amount of **Rs.25,03,900/-** and the petitioner No.2 is entitled for compensation amount of **Rs.48,400/-**.

27. **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.

28. **Liability:-** The fact that as on the date of accident, the offending vehicle was insured with it, is not disputed by the respondent No.2. The offending vehicle was insured with respondent No.2 company vide policy bearing No.3397/04141773/000/00 valid between 04.01.2023 to 03.01.2028. Whereas, the accident occurred on 21.10.2023.

29. The respondent No.2 has taken a specific stand that the rider of the offending vehicle did not possess valid DL as on the date of accident. Investigating officer has also filed charge sheet under sec 181 of IMV Act. Therefore, the owner of the offending vehicle violates the terms and conditions of the policy being given his vehicle to ride to the person who having no effective driving licence.

30. Now whether the owner of the offending vehicle breach the conditions termed under policy is a point for consideration. In order to prove regarding who was the rider and whether he had a driving license or not, the owner/ respondent No.1 got examined himself as RW2 and produced Ex.R6. EX.R-6 goes to show that the driver of the offending vehicle got learner's licence which was under the period of validity between 04.01.2023 to 03.01.2028. whereas the accident occurred on 21.10.2023. As such as on the date of the accident learner's licence obtained by the driver was valid as on the date of the accident. *Just because he has not*

*accompanied by a person who having licence to ride the motor cycle as a pillion rider, it cannot be said that the driver of offending vehicle was not duly licenced to ride vehicle. Further in the rulings relied by the petitioner in **Senior Divisional Manager National Insurance Co. Ltd Vs Jyotiba Appaji Shingate and other reported in 2020 ACJ 1** Hon'ble High court of Karnataka (DB) held that the "learner's licence is also a valid licence, the rider or the learner need not be accompanied by any instructor for motor cycle as contemplated under rule 24 (3) of central motor vehicles rules". In **Shantawwa Vs Ajitsingh and other reported in 2019 ACJ 278** Hon'ble High court of Karnataka held that "If a person who is driving motor cycle under the learner's license can be said to be duly licenced or holding a valid licence".*

31. Further, the Hon'ble Supreme Court in **Shamanna and another V/s The divisional Manager, The Oriental Insurance Co. Ltd., and others in Civil Appeal No.8144/2018** the Hon'ble Apex Court held that, "if a vehicle at the

time of accident was driven by a person having a learner's licence, the insurance companies would be liable to satisfy the decree." In view of the dictum of aforesaid judgments of the Hon'ble Apex Court and Hon'ble high court of Karnataka, the contention of the respondent No.2 that the rider of the offending vehicle was holding only a learner's license to ride the motor cycle on road is not an effective driving license cannot be accepted. Furthermore, in Ex.R2/copy of policy the condition imposed by the insurance company clearly goes to show that the person holding effective learner's license may also drive the vehicle. It is also held by this court while discussing issue No.1 that Sri. Prassana who was holding learner's license was riding the offending vehicle and not the deceased Shekhar S. 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.**

32. **Issue No.3:-** As discussed supra the petitioner No.1 is the sole dependent of the deceased Sri. Shekhar S. Therefore, petitioner No.1

and 2 are entitled for compensation as detailed in the final order. 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.

*The petitioner Nos.1 is hereby awarded total compensation amount of **Rs.25,03,900/- (Rupees twenty five lakhs, three thousand and nine hundred only)** with interest at the rate of 6% p.a. from the date of petition till its entire realization.*

*The petitioner Nos.2 is hereby awarded compensation amount of **Rs.48,400/- (Rupees forty eight thousand and four 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 award within a period of 30 days.

Out of the compensation amount allotted to the petitioner No.1 on being deposited is ordered to release 50% in favour of the petitioner No.1 on proper identity and verification, remaining 50% shall be deposited in the name of petitioner No.1 in any nationalized bank or scheduled bank of her choice for a period of three years. The petitioner No.1 shall be entitled to draw the accrued interest on the said deposit.

Considering the meager amount awarded in favour of petitioner No.2 there shall be no order for investment, accordingly on deposit being made, office is directed to release the entire amount to the petitioner No.2 on proper identification.

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 8th 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 Smt. Puttammani

List of witnesses examined on behalf of respondents

RW.1 Manoj C.M
RW.2 Jayaram

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 MVA report
Ex.P5 Copy of inquest
Ex.P6 Copy of postmortem report
Ex.P7 Copy of charge sheet
Ex.P8 Family survival certificate
Ex.P9 Study certificate of the deceased
Ex.P10 Death certificate of father of the deceased
Ex.P11 Death certificate of mother of the deceased
Ex.P12 Ration card
Ex.P13 General licence
Ex.P14 Notarized copy Aadhar card of the deceased
Ex.P15 Notarized copy Aadhar card of the petitioners

List of documents marked on behalf of respondents

- | | |
|-------|---|
| Ex.R1 | Authorization letter |
| Ex.R2 | Copy of policy |
| Ex.R3 | Notarized copy Aadhar card of the respondent No.1 |
| Ex.R4 | Notarized copy Aadhar card of the Prasanna K.M. |
| Ex.R5 | B Register extract |
| Ex.R6 | Learner's Licence of Prasanna K.M. |

sd/-

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