

KAMS080043572023



**IN THE COURT OF PRINCIPAL SMALL CAUSES & SENIOR
CIVIL JUDGE & M.A.C.T. AT MYSURU.**

Presided Over by SRI AFTHAB.K

Dated on this the 24th day of June, 2026

M.V.C./2388/2023 C/W M.V.C./2389/2023

Petitioner in MVC.2388/2023:

Sri. Siddaraju @ Kumara S/o. Naganna,
Age: 45 years, R/at Mandanahalli village,
Jayapura hobli, Mysuru taluk and district.

Petitioners in MVC.2389/2023:

- 1) Smt. Sundramma W/o. Puttasomanna,
Age: 52 years,
- 2) Sri. Rajanna S/o. Late Mallappa,
Age: 50 years, R/at Deggalehundi village,
Hampapura hobli, H.D. Kote taluk,
Mysuru district.
- 3) Smt. Sarojamma W/o. Javarajappa,
Age: 48 years, R/at Chamanahallihundi village,
Hampapura hobli, H.D. Kote taluk,
Mysuru district.
- 4) Sri. Rajashekara S/o. Late Mallappa,
Age: 46 years, Chamanahallihundi village,
Hampapura hobli, H.D. Kote taluk,
Mysuru district.

5. Sri. M. Shivaraju S/o. Late Mallappa,
Age: 44 years,

1 and 5 are r/at Machanayakanahalli village,
Heerehalli post, Kasaba hobli, H.D. Kote taluk,
Mysuru district.

(By – Sri. K.V. Nagendramurthy, Advocate)

Vs.

Respondents in all petitions:

1. Sri. Abraham K.U. S/o. Ullahan,
Major, R/at Kallampalakki house,
Payampaly post, Manandavadi,
Waynad, Kerala-670646.
(Driver of car bearing No.KL-01/U-6260)

2. The Manager, United India Insurance Co. Ltd.,
Divisional office No.1, 1134, Chamarajapuram,
(Ballal circle), Mysuru.
(Insurer of car bearing No.KL-01/U-6260)
(Policy No.3005013122P109095991)
Policy valid from 13.12.2023 to 12.12.2023

(R1 – Sri. B. Deepak, Advocate)

(R2 – Sri. Jagannath Suresh Kumar, Advocate)

* * * *

COMMON JUDGMENT IN M.V.C.2388/2023 and M.V.C.2389/2023

The petitioner in MVC No.2388/2023 has filed this petition seeking compensation of ₹.3,80,000/- along with interest at the rate of 12% per annum from the date of petition till the date of realization of amount, for the injuries sustained by him in road traffic accident which occurred on 01.12.2023; and the petitioners in MVC.2389/2023 have filed the petition

seeking compensation of ₹.32,00,000/- along with interest at the rate of 12% per annum from the date of petition till realization of the amount for the death of Smt. Parvathamma W/o. Late Mallappa who demised due to injuries sustained by her in the road traffic accident which occurred on 01.12.2023.

2. The brief facts of the case of the petitioners in M.V.C No.2388/2023 to M.V.C. No.2389/2023 are as under:

On 01.12.2023, at around 3.30 p.m., on Mysuru – Manandavadi road, near Mandanahalli village, Jayapura hobli, Mysuru taluk, when the petitioner in MVC.2388/2023 and the deceased Smt. Parvathamma who had gone to attend a house warming ceremony went to the Gate on the motorcycle bearing No.KA-09/HC-3715 belonging to one Sri. Mallikarjuna of Mandanahalli village and were waiting at the gate so that the deceased could catch a bus, the driver of the car bearing No.KL-01/U-6260 went from Mysuru side by driving the same at a high speed and in a rash or negligent manner and he dashed the car against motorcycle on which the deceased as well as the petitioner in MVC.2388/2023 were sitting resulting in both of them falling off from from the motorcycle and sustaining injuries.

2.1. Further in the said accident, the deceased Smt. Parvathamma sustained grievous injuries on her head, hands, legs and abrasions and she was immediately taken to JSS Hospital in an ambulance, however she succumbed to the injuries while she was on her way to the hospital. Further the petitioners in MVC.2389/2023 have incurred ₹.1,00,000/-

towards cremation, obsequies as per the customs prevailing within their community.

2.2 Further the petitioner in MVC.2388/2023 had sustained grievous injuries on his left knee and other parts of the body and even he was taken to JSS Hospital, Mysuru where he underwent treatment as an inpatient from 01.12.2023 to 04.12.2023 during the course of which he even underwent surgery. Further the petitioner in MVC.2388/2023 has incurred ₹.1,00,000/- towards medical expenses.

2.3. Further prior to the accident the petitioner in MVC.2388/2023 was hale and healthy and was into agriculture from which he was earning ₹.25,000/- per month and was maintaining his family. Further now due to injuries sustained in the accident, the petitioner in MVC.2388/2023 is unable to do the said work and hence he has no source of income of his own. Further due to injuries sustained by him on his left leg, the petitioner is unable to walk, sit, stand and unable to basic day to day activities. Further as per the advise of the doctors, the petitioner in MVC.2388/2023 is taking treatment on OPD basis even to this day.

2.4. Further the deceased Smt. Parvathamma was hale and healthy prior to the accident and was doing animal husbandry and milk vending business from which she was earning ₹.15,000/- per month was maintaining her family. Further the petitioners in MVC.2389/2023 being legal heirs were dependents of the deceased Smt. Parvathamma. Further now due to untimely demise of Smt. Parvathamma, the petitioners in MVC.2389/2023 have lost love, care and guidance of their mother.

Further the deceased was the sole bread earning member of the family and petitioners in MVC.2389/2023 were dependent on her income, as such they are finding it difficult to maintain themselves. Further after the death of Smt. Parvathamma, her body was subjected to PME and was handed over to the petitioners in MVC.2389/2023.

2.5. Further the accident occurred due to rash or negligent driving of the car bearing No.KL-01/U-6260 by its driver, as such the Jayapura Police have registered a case in Crime No.212/2023 against the driver of the car, hence the respondent No.1 being the owner and respondent No.2 being the insurer are jointly and severally liable to pay compensation to the petitioners. On these grounds it is prayed that both the petitions be allowed as prayed for.

3. In response to the notice issued by this tribunal, the respondents appeared through their counsel and filed their detailed, yet, separate objections to main petition.

4. The objections of respondent No.1 in MVC.2388/2023 and 2389/2023 in brief are as follows:

The petitions are neither maintainable under law or facts and the same are liable to be dismissed *in limine*. Further, the petition averments are denied *in toto*, more particularly the averments regarding age, income and occupation of the deceased Smt. Parvathamma and petitioner in MVC.2388/2023. Further, it is admitted that the respondent No.1 is the owner of the car bearing No.KL-01/U-6260 and the said car was being driven by a person who possessed a valid and effective DL at

the time of accident. Further at the time of accident, the vehicle was duly insured with respondent No.2 company.

4.1. Further at the time of accident, the car was being driven cautiously on the left side of the road and by observing the movement of the ongoing vehicles. Further the accident occurred due to negligence on the part of the petitioner in MVC.2388/2023 who was riding the motorcycle bearing No.KA-09/HC3715 from opposite direction and while overtaking the bus lost control over his vehicle and hit the car, hence the respondent No.1 is not liable to pay compensation to the petitioners.

4.2. Further the compensation and interest claimed are high and exorbitant. Further in the event of this tribunal coming to the conclusion that the petitioners are entitled for compensation, since the vehicle belonging to respondent No.1 was duly insured with respondent No.2 company and as the driver possess a valid and effective DL, the respondent No.2 company be directed to pay the compensation by indemnifying the respondent No.1. On these grounds, it is prayed that the petitions as against respondent No.1 be dismissed.

5. *The objections of respondent No.2 in MVC. 2388/2023 and 2389/2023 in brief are as follows:*

The petitions are neither maintainable under law or facts and the same are liable to be dismissed *in limine*. Further all the material allegations in the petitions are false and hence are denied *in toto* more particularly the averments regarding age, income and occupation of the

deceased as well as the petitioner in MVC.2388/2023. Further it is admitted that the car bearing No.KL-01/U-6260 belonging to respondent No.1 was insured with respondent No.2 company under the policy No.3005013122P109095991 and the same was private car liability only policy which was in force from 13.12.2023 to 12.12.2023 as on the date of accident, however the policy was issued subject to terms and conditions.

5.1. Furthermore the driver of the car did not possess a valid and effective DL at the time of accident as the driver of the car should have obtained specific endorsement in his DL permitting him to drive a car. Further the respondent No.1 by entrusting the vehicle to an unauthorized person has committed breach of policy conditions as well as provisions of M.V. Act and for this reason alone, the respondent No.2 cannot be directed to indemnify the respondent No.1 in paying compensation to the petitioners. Further the compensation and interest claimed are high and exorbitant.

5.2. Further the accident did not occur due to negligence on the part of the driver of the car bearing No.KL-01/U-6260. Further it is denied that the petitioner in MVC.2388/2023 and the deceased were sitting on the motorcycle bearing No.KA-09/HC-3715 and were waiting for the bus near Mandanahalli bus stop and the car bearing No.KL-01/U-6260 dashed against the motorcycle. Further there is complete misrepresentation of facts in the complaint. Further the petitioner in MVC.2388/2023 was heavily intoxicated and was in an inebriated state. Further in such a state he rode the motorcycle in a rash or negligent

manner from the cross road and suddenly entered the main road without observing the movement of the vehicles and without following the rules and caused the accident. Further inspite of the same, the police registered a false case on the basis of false FIS filed by misrepresenting the actual facts, at the behest of the villagers, so as to project that the driver of the car was at fault. Further even the police mechanically registered the FIR and also filed the charge-sheet just to facilitate the claims of the petitioners, as such the petition is not maintainable and hence is liable to be dismissed. Further the petitioners ought to have impleaded the owner and insurer of the motorcycle bearing No.KA-09/HC-3715 which was involved in the accident. On these grounds, it is prayed that the petition as against respondent No.2 be dismissed.

6. After carefully going through the pleadings on either side; and also the documents produced in M.V.C.No.2388/2023, the following issues came to be framed:-

1. *Whether the petitioner proves that he had sustained grievous bodily injuries in road traffic accident which occurred on 01.12.2023 at around 3.30 p.m., on Mysuru – Manandavadi main road, near Madanahalli gate, Jayapura hobli, Mysuru taluk, when the petitioner was standing by the side of the road, due to rash or negligent driving of the car bearing No.KL-01/U-6260 by its driver ?*
2. *Whether the respondent No.2 proves that the*

respondent No.1 has violated the policy conditions as contended at para.3 of the objections of the respondent No.2?

3. *Whether the petitioner is entitled for the compensation? If so, from whom; and what is the quantum ?*

4. *What order or award?*

7. Similarly, after carefully going through the pleadings on either side; and also the documents produced in M.V.C.No.2389/2023, the following issues came to be framed:-

1. *Whether the petitioners prove that deceased Smt. Parvathamma W/o. Late Mallappa died in the Road Traffic Accident which occurred on 01.12.2023 at around 3.30 p.m., on Mysuru – Manandavadi main road, near Madanahalli gate, Jayapura hobli, Mysuru taluk, when the deceased was standing by the side of the road, due to rash or negligent driving of the car bearing No.KL-01/U-6260 by its driver ?*
2. *Whether the respondent No.2 proves that the respondent No.1 has violated the policy conditions as contended at para.3 of the objections of the respondent No.2?*

3. *Whether the petitioners are entitled for the compensation? If so, from whom; and what is the quantum ?*

4. *What order or award?*

8. In order to discharge the burden cast on them, the petitioners in MVC.2389/2023 examined the petitioner No.5 as PW.1 through whom Ex.P1 to P6 and P12 to P18 documents got exhibited. Thereafter, the petitioner in MVC.2388/2023 examined himself as PW.2 through whom Ex.P7 to P11 were got exhibited and petitioners' evidence stage was closed. Thereafter, the respondent No.2 examined its Administrative officer as RW.1 through whom Ex.R1 to R4 documents got exhibited and also examined one Sri. K.S. Sandeep as RW.2 through whom Ex.R5 to R7 documents got exhibited and closed its side.

9. Heard arguments of learned counsel for petitioners and respondents on main.

10. After giving its anxious consideration to arguments canvassed and after meticulously going through the oral and documentary evidence adduced by the petitioners in M.V.C.No.2388/2023 and M.V.C.No.2389/2023, the aforesaid issues are answered as under;

(a) *Issue No.(i) in MVC No. 2388/2023 & 2389/2023 : In the affirmative*

(b) *Issue No.(ii) in MVC No. 2388/2023 & 2389/2023 : In the negative*

(c) *Issue No.(iii) in MVC No. 2388/2023 & 2389/2023 : Partly affirmative and regarding the*

*amount of
compensation and
from whom the same
needs to be recovered,
the same is detailed
in final order.*

*(d) Issue No.(iv) in MVC No. 2388/2023 & 2389/2023 : As per the final order
for the following:*

REASONS

11. Issue No.1 in M.V.C. No.2388/2023 and M.V.C. No.2389/2023:

At the very outset it is necessary to set out the facts leading to the present case, according to the petitioners, on 01.12.2023, at around 3.30 p.m., on Mysuru – Manandavadi road, near Mandanahalli village, Jayapura hobli, Mysuru taluk, when the petitioner in MVC.2388/2023 and the deceased Smt. Parvathamma were standing at the Gate on the motorcycle bearing No.KA-09/HC-3715 belonging to one Sri. Mallikarjuna of Mandanahalli village so that the deceased could catch a bus, the driver of the car bearing No.KL-01/U-6260 went from Mysuru side by driving the same at a high speed and in a rash or negligent manner and dashed the car against motorcycle on which the deceased as well as the petitioner in MVC.2388/2023 were sitting resulting in the deceased Smt. Parvathamma sustaining grievous injuries on her head, hands, legs and abrasions which resulted in her death while she was on the way to JSS Hospital in an ambulance and the petitioner in MVC.2388/2023 sustaining grievous injuries on his left knee and other parts of the body for which he underwent treatment as an inpatient at

JSS Hospital, Mysuru from 01.12.2023 to 04.12.2023 during which he even underwent surgery and even to this day the petitioner in MVC.2388/2023 is taking treatment on OPD basis. The petitioners in MVC.2388/2023 being children of the deceased Smt. Parvathamma have filed the petition in their capacities as legal heirs and dependents of the deceased.

12. In order to discharge the burden cast on them, the petitioners in MVC.2389/2023 examined petitioner No.5 as PW.1 and the petitioner in MVC.2388/2023 got himself examined as PW.2 and they have clearly deposed regarding negligent driving of the car bearing No.KL-01/U-6260 by its driver which led to the accident resulting in the death of Smt. Parvathamma and injuries to the petitioner in MVC.2388/2023. To substantiate these aspects, the petitioners have relied upon the Ex.P1 and P2 which are the true copies of the F.I.R in Crime No.212/2023 of Jayapura Police station and FIS lodged by one Sri. Lokesh, relative of the petitioner in MVC.2388/2023. Further, the petitioners have produced charge sheet documents which are marked as Ex.P1 to P7 and P12. Further the petitioners, in order to show that Smt. Parvathamma demised due to injuries sustained in the accident and petitioner in MVC.2388/2023 sustained injuries in the said accident, have also produced the PME, inquest panchanama and wound certificate of the petitioner in MVC.2388/2023. All these police documents make it amply clear that, according to the IO, the said accident occurred due to rash or negligent driving of the Car by respondent No.1 resulting in the death of

Smt. Parvathamma and injuries to the petitioner in MVC.2388/2023 as narrated in Ex.P7.

13. The respondent No.3 has contended that the accident leading to death of Smt. Parvathamma and which led to injuries to petitioner in MVC.2388/2023 occurred due to negligence on the part of PW.2 who was riding the motorcycle, as he was under the influence of the alcohol. It would not be out of context to note that the versions of respondent No.1 and 2 are not corroborating in respect of the actual facts which transpired on that day. Perhaps according to respondent No.1 the motorcycle on which the deceased and PW.2 were proceeding went from the opposite direction and while trying to overtake a bus, it hit the car whereas according to respondent No.1, the PW.2 who was the rider of the motorcycle was in inebriated condition entered the main road from a cross road without observing the movement of vehicles and while doing so went in front of the car. Contrary to all these contentions, the petitioners claim that the PW.2 had parked his vehicle by the side of the road and the deceased and PW.2 were waiting for the bus at that juncture the car hit the parked motorcycle.

14. With these versions in mind when the records are revisited, it becomes explicitly clear that the police records corroborate the version of the petitioners. In fact in the column No.17 of the chargesheet which is exhibited as Ex.P3, the IO has specifically mentioned that the motorcycle was parked on the side on the road when the accident occurred, which negates the claims of the respondents that the

motorcycle was on the move when the accident occurred. To top it all, none of the respondents deny the fact that point of impact is not on the road instead it is situated on the side of the road. Perhaps the tyre marks reveal that if the motorcycle was not there at the spot, the car would have hit the pile of bricks which was there right next to the point of impact. The Ex.P5 makes it evident that whether the motorcycle was on the move or not, the point of impact is situated on the side of the road and, as already observed, if not for the motorcycle, the car would have hit the pile of bricks. The other aspect of the matter is that PW.2 is the eye witness and despite being subjected to probing cross examination nothing could be elicited from the mouth of PW.2 which could suggest that the motorcycle was on the move and was not parked at the time of accident. It would be relevant to add at this juncture itself that though a suggestion was put to PW.2 the vehicle was not parked at the time of accident instead it was moving, witness not only denies the said suggestion and emphatically claims that the vehicle was parked by the side of the road.

15. The reason why this tribunal has devoted much time discussing on the aspect whether the vehicle was parked or on the move is, the respondent No.2 company has contended that the motorcycle was on the move and since the records reveal that PW.2 was in inebriated condition at the time of accident, it must be held that there was contributory negligence on the part of PW.2. With this contention in mind when the records are perused, more particularly, Ex.R3 to R6, there remains no doubt in the mind of this tribunal that indeed PW.2 was inebriated. But the question is where this tribunal has already held that the vehicle was

parked by the side of the road at the time of accident, does the fact that the PW.2 was in inebriated condition is of any consequence at all. This is because what this tribunal is concerned with is did PW.2 do anything to contribute to the accident and the facts reveal that he was standing by the side of the road, but the car dashed against him. No doubt to reach the spot he should have ridden the motorcycle and it is obvious that he had ridden the motorcycle in an inebriated state, but the same is of no relevance in the context of the accident, as the evidence suggests that the motorcycle was parked at the time of accident. Perhaps this could be the reason for IO not invoking Section 185 of MV act against the PW.2.

16. Furthermore, it is relevant to note, even at the cost of repetition that, the Jayapura Police who registered the FIR on the basis of FIS lodged by Sri. Lokesh have charge sheeted the Sri. Anilkumar P.T. who is the driver of the Car thereby *prima facie* opining that the said accident occurred due to rash or negligent driving of the Car by the said Sri. Anilkumar P.T.. Perhaps, the PW.1 and 2 were cross-examined by learned counsel for the respondent No.2 on the point of negligence to cull out admissions that even PW.2 contributed to the accident but nothing which could move this Court to doubt the said contention of the petitioners that the negligence was entirely on the part of driver of the car could be elicited from their mouth. In fact PW.1 and 2 have specifically and emphatically denied the suggestions put to them to the effect that there was no rashness or negligence on the part of the driver of the Car.

17. Needless to state except for the suggestions denying the fault of the respondent No.1 that were put to PW.1 and 2, which came to be denied by the PW.1 and 2, the respondents have not placed any piece of document which could move this Court to hold that the accident leading to the present petitions did not occur due to rash or negligent driving by the driver of the Car. Further, though the respondent No.2 company examined its authorized representative as RW.1, but the same is not substantiated by any reliable and cogent evidence which could move this court to brush aside the police records and conclusion arrived at by the I.O. Furthermore, the respondent No.2 company has not examined the driver of the Car in support of its contention that the actionable negligence was entirely on the part of the deceased. Thus, in the absence of any cogent evidence which could rebut the assertions made by PW.1 and 2 on oath supported by Ex.P3, the chargesheet and the documents annexed to it, will have to be accepted as *prima-facie* materials to hold that accident, occurred due to rash and actionable negligence on the part of the driver of the offending Car.

18. Furthermore, as already discussed, perusal of Ex.P5 rough sketch reveals that the point of impact is situated on the side of the road and next to it is a pile of bricks. When the said facts are considered taking into account the fact that the road where the accident occurred is a straight road, it becomes obvious that the accident entirely due to negligence on the part of the driver of the car and it was the driver of the car who had the last opportunity to avoid the mishap and had he been cautious, he could have certainly averted the accident. When the

documents placed before the tribunal are perused, especially the charge-sheet filed by the police at Ex.P3 makes it amply clear that according to the IO, the accident occurred due to rash and negligent and high speed driving of the Car by its driver; and there is absolutely nothing in the form of evidence before this tribunal which could move this tribunal to overlook or brush aside the charge-sheet. No doubt this tribunal is not bound by the charge-sheet as it is only an opinion of the IO but for this court to overlook the charge-sheet there must be credible and strong evidence which is lacking in this case.

19. The view taken by this Court that the police records are *prima facie* proof in support of the case of the petitioner, is supported by the decision rendered in ***Kishan Gopal and another Vs. Lala and others*** reported in **2013 (4) T.A.C 5 (S.C.)**, wherein the Hon'ble Apex Court has categorically held thus:

16. In view of the aforesaid facts, the Tribunal should have considered both oral and documentary evidence referred to supra and appreciated the same in the proper perspective and recorded the finding on the contentious issue No. 1 & 2 in the affirmative. But it has recorded the finding in the negative on the above issues by adverting to certain statements of evidence of AW-1 and referring to certain alleged discrepancies in the FIR without appreciating entire evidence of AW-1 and AW-2 on record properly and also not assigned valid reasons in not accepting their testimony. The Tribunal should have taken into consideration the pleadings of the parties and legal evidence on record in its entirety

and held that the accident took place on 19.07.1992, due to which Tikaram sustained grievous injuries and succumbed to the same and the case was registered by the Uniara Police Station under Sections 279 and 304-A, IPC read with Sections 133 and 181 of the M.V. Act against the first and second respondents. The registration of FIR and filing of the charge-sheet against respondent Nos.1 & 2 are not in dispute, therefore, the Tribunal should have no option but to accept the entire evidence on record and recorded the finding on the contentious issue Nos.1 and 2 in favour of the appellants.

(Emphasis supplied by me)

This very view was endorsed by the Hon'ble High Courts of various states including Division Bench Hon'ble High Court of Allahabad in ***United India Insurance Co. Ltd., Vs. Urmila and others*** reported in 2010 (1) T.A.C. 121 (All.) (D.B) and Hon'ble High Court of Andhra Pradesh in ***K. Rajani and others Vs. M. Sathyanarayana Goud and another*** reported in 2015 ACJ 797 (A.P.) and Hon'ble High Court of Punjab and Haryana in ***National Insurance Co. Ltd., Vs. Parkashi and others*** reported in 2017 ACJ 1922 (P&H.) Even otherwise, it is established principle of law that in a claim for compensation filed under Section 166 of Motor Vehicles Act, 1988, the claimant is expected to prove the incident on basis of principle of *preponderance of probabilities* and the view taken by this Court is fortified by the decision rendered by the Hon'ble Supreme Court in ***Kusum and others V/s Satbir and others*** which is reported in 2011 SAR (CIVIL) 319. Further the Hon'ble Supreme Court in case of ***Bimla Devi and others v. Himachal Road Transport***

Corporation and others reported in (2009) 13 SCC 530 has observed that, it is necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants are merely required to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied.

20. It would not be out of context to note that the respondent No.2 company which took a specific contention that the accident occurred due to actionable negligence on the part of the deceased has not summoned and examined the driver of the Car i.e., Sri. Anilkumar P.T. to prove its contention. This lapse on the part of respondent No.2 company certainly needs to be considered against its contention that there was actionable negligence on the part of PW.2. The view taken by this court is supported by the decisions rendered by Hon'ble High Court of Karnataka in *Manager, Shriram General Insurance Co. Ltd., Vs. Shamalamma and others* reported in 2018 ACJ 1100 (Kant) and *National Insurance Co. Ltd., Vs. Ningamma and others* reported in 2021 ACJ 2399.

21. In view of the ratio laid down in the citations referred to above and applying the same to the case at hand supported by the oral and documentary evidence placed on record by PW.1 and 2, this Tribunal is of the considered opinion that the accident leading to the present petitions, indeed occurred due to the actionable negligence of driver of the offending Car bearing Reg. No.KL-01/U-6260 resulting in death of Smt. Parvathamma and grievous injuries to petitioner in

MVC.2388/2023 and the respondent No.3 company has failed to prove that even the deceased contributed to the accident due to his own negligence or rashness. *Wherefore Issue No.I in MVC.2388/2023 and MVC.2389/2023 are held in the Affirmative.*

22. Issue No.(III) in M.V.C. No. 2388/2023 and M.V.C. No.2389/2023:

Though it may turn out that the issues were not dealt with in order, but for the sake of convenience and since this Court has already held Issue No.I in M.V.C. No. 2388/2023 and MVC No.2389/2023 in the affirmative, which makes it more than obvious that the petitioners are entitled for compensation, this court has ventured to consider issue No.III in both the peititons ahead of issue No.II. Needless to state the quantum of compensation which is awarded has to be proportionate to the nature of the injuries and the compensation has to be awarded by keeping in mind the pecuniary damages and non-pecuniary damages suffered by the injured-claimants. By pecuniary damages this Court is referring to the actual loss sustained by the petitioners, which can be determined in terms of money, by taking into account the oral or documentary evidence whereas by non-pecuniary damages this Court is referring to the losses that the claimant has though suffered, but will not be able to prove for the reason that it can neither be calculated in terms of the money nor can it be proved leading documentary evidence. Perhaps the non-pecuniary damages can be figured out by looking into the facts of each case by taking into account the nature of injuries and the aftermath. It is required to be reminded to oneself that compensation in a case arising out of injury can never be granted on mathematical

precision and invariably a good amount of guesswork is involved while determining the compensation in such cases. Perhaps unlike in a fatal case, in a case involving bodily injury the victim is left to suffer throughout his life; and hence it becomes the bounden duty of the tribunal to award compensation to a victim of permanent disability so as to bring in sustainability and also to ensure that victim is not pushed to poverty.

23. In view of the finding of this court on Issue No.I in M.V.C No.2389/2023 which is held in the affirmative, the next aspect to be considered is quantum of compensation and as to whom the same needs to be paid. It is relevant to note that though the petitioners claim that prior to the accident the deceased Smt. Parvathamma W/o Late Mallappa was hale and healthy and was earning ₹.15,000/- per month by doing animal husbandry and milk vending business, but have not produced any reliable piece of document on the basis of which this court could accept the contention regarding the income of the deceased. Perhaps, the court will now have to consider the notional income of the deceased by bearing in mind the year of accident. In this regard it is relevant to note that the Principal Bench of the Hon'ble High Court of Karnataka, at Bengaluru while holding Lok-Adalath is determining the notional income at ₹.16,000/- if the accident had occurred in the year 2023, in cases where the actual income of the deceased or injured, as the case may be, is not proved; and the same had been circulated by the Hon'ble Karnataka State Legal Services Authority, Bengaluru directing the courts, dealing with the motor vehicle compensation cases, to

determine the notional income as determined therein, while holding lok-adalats at District Courts. Hence, this Tribunal is of the opinion that it is just and proper to fix the notional income of deceased at ₹.16,000/- per month, in the absence of proof of income of the deceased. Hence the income of Smt. Parvathamma S/o Late Mallappa can be notionally considered at the rate of ₹.16,000/- per month.

24. It is necessary to take note that the Hon'ble Supreme Court of India in the matter of *National Insurance Company Limited v. Pranay Sethi and others* reported in (2017) 16 SCC 680 has clearly observed at para 61 (iv) as under:

“(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”

As regards the age of the deceased at the time of her death, the petitioners have produced Ex.18 which is the Adhaar card of the deceased Smt. Parvathamma, as per which the date of the birth of the deceased is 01.01.1958, whereas the date of accident is 01.12.2023, as such, the age of the deceased was 65 years, more precisely 65 years and 11 months at the time of her death. Since the deceased was aged more than 65 years the question of considering future prospects does not arise. Thus the total income of the deceased for the purpose of determining the compensation would be ₹.16,000/-.

LOSS OF DEPENDENCY

25. As already the deceased Smt. Parvathamma at the time of death was aged 65 years. The deceased is survived by her children who are the petitioners herein. As regards the relationship of the petitioners with the deceased Smt. Parvathamma, the petitioners have produced Ex.P13 to 18 which are the adhaar cards of the petitioners as well as the deceased; and even otherwise the respondent No.2 has not seriously disputed the relationship of the deceased with the petitioners wherefore it must be held that the petitioners are indeed the legal heirs of the deceased. But the respondent No.2 company has disputed the dependency of the petitioners on the deceased, in fact the PW.1 was cross examined at length on the point of dependency on the ground that all the petitioners are majors as such they cannot be considered to be the dependents as on the date of death of Smt. Parvathamma. But it is relevant to note that the petitioners have specifically contended that they were dependent on the income of the deceased and even otherwise, merely because the petitioners are major, the same by itself would not infer that they were not the dependents of the deceased. In fact, the Hon'ble Apex Court in *Seema Rani and others Vs. The Oriental Insurance Co. Ltd., and others* rendered on 11.02.2025 in *Civil Appeal No.2323/2025*, wherein the Hon'ble Apex Court by relying on the decision in *National Insurance Co. Ltd., Vs. Birender and others* rendered on 13.01.2020 in *Civil Appeal No.242-243 of 2020* held thus:

"9. We have heard the learned counsel for the Appellants. We are unable to agree with the view taken by the Tribunal on the dependents of the deceased. This Court in National Insurance Company Limited v. Birender & Ors, had expounded that major married and earning sons of the deceased, being legal representatives, have a right to

apply for compensation, and the Tribunal must consider the application, irrespective of whether the representatives are fully dependent on the deceased or not....

10. Adverting to the facts at hand, on a perusal of the statement of Shashi Kumar, the son of the deceased (Appellant No.2 herein), annexed as Annexure P6, was working at a petrol pump, while the other son was involved in temporary employment opportunities only. Both of them were residing with the deceased. In such circumstances, it cannot be said that they were self-sufficient or independent of the deceased. Similarly, applying the exposition in Birender (Supra), there is no reason to exclude a married daughter from compensation. Therefore, in view of this, the High Court erred in excluding these dependants."

In fact in *National Insurance Co. Ltd., Vs. Birender and others* rendered on 13.01.2020 in *Civil Appeal No.242-243 of 2020*, the Hon'ble Apex Court held as under;

In paragraph 15 of the said decision, while adverting to the provisions of Section 140 of the Act, the Court observed that even if there is no loss of dependency, the claimant, if he was a legal representative, will be entitled to compensation. In the concurring judgment of Justice S.H. Kapadia, as His Lordship then was, it is observed that there is distinction between "right to apply for compensation" and "entitlement to compensation". The compensation constitutes part of the estate of the deceased. As a result, the legal representative of the deceased would inherit the estate. Indeed, in that case, the Court was dealing with the case of a

married daughter of the deceased and the efficacy of Section 140 of the Act. Nevertheless, the principle underlying the exposition in this decision would clearly come to the aid of the respondent Nos. 1 and 2 (claimants) even though they are major sons of the deceased and also earning.

15. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependant on the deceased and not to limit the claim towards conventional heads only. The evidence on record in the present case would suggest that the claimants were working as agricultural labourers on contract basis and were earning meagre income between Rs.1,00,000/- and Rs.1,50,000/- per annum. In that sense, they were largely dependant on the earning of their mother and in fact, were staying with her, who met with an accident at the young age of 48 years.

(Emphasis supplied by me)

Hence, the contention of the respondent No.2 company that the petitioners being major sons cannot be considered as dependents of the deceased cannot be accepted.

26. Now that this court has concluded that the petitioners were the dependents on the deceased, there need not be any further deliberation to

hold that 1/3rd of the *income of the deceased needs to be deducted towards their personal and living expenses in adherence to principles laid down by the Hon'ble Apex Court in Sarla Varma Vs. Delhi Transport Corporation and another* reported in **2009 ACJ SC 1298**. As already observed 1/4th income of the deceased should be deducted towards her personal and living expenses which would mean ₹.4,000/- per month and when the said sum is deducted from the monthly income of the deceased, the balance amount is **₹.12,000/- (16,000 – 4,000= 12,000)**. This tribunal has already held that the petitioners are the dependents deceased Smt. Parvathamma. Further this Court has already held that the age of the deceased Smt. Parvathamma at the time of his death was more than 72 years and if the age of the deceased as on the date of accident is more than 65 years, as per table provided in *Sarla Varma Vs. Delhi Transport Corporation and another (2009 ACJ SC 1298)*, the multiplier applicable would be 5. Hence, loss of dependency can be determined as **₹.7,20,000/- (12,000 x 5 x 12 = 7,20,000)**

LOSS OF CONSORTIUM, LOSS AND AFFECTION

27. The petitioners being children of the deceased Smt. Parvathamma are entitled for compensation under the head of loss of consortium, love and affection as per Judgment in *National Insurance Company Limited v. Pranay Sethi (2017) 16 SCC 680*. Further in view of the decision of the Hon'ble Apex Court in *Shri Ram General Insurance Co. Ltd., Vs. Bhagat Singh Rawat and others* rendered in *Civil Appeal Nos.2410-2412/2023* the total amount to which the petitioners in MVC.2389/2023 are entitled under the head of loss of consortium is ₹.40,000/- with 10% escalations for every three years. Further after going through the decision of the Hon'ble

Apex Court in *The New India Assurance Co. Ltd., Vs. Somwati and others* reported in *AIR Online 2020 SC 717*, and also decision rendered in *Bhagat Singh Rawat* case, this tribunal deems it fit to hold that the petitioners would be entitled for ₹.40,000/- and two escalations of 10% each. *Hence, the petitioners in MVC.2389/2023 are entitled for ₹.48,400/- for loss of consortium, love and affection.*

FUNERAL EXPENSES

28. As already observed, according to PW.1 they have spent huge amount for transportation of the body of the deceased and they have incurred expenses cremation, funeral and other incidental charges, they have not specified the amount spent by them. Though as regards the transportation charges, cremation, funeral and other incidental charges, they have not given particulars of the expenses incurred by them. Having said that this court cannot ignore the fact that that the dead body was transported from hospital to hometown of the deceased where final rites were performed at the hometown of the deceased, hence in view of the decision of the Hon'ble Apex Court in *Pranay Sethi and Bhagat Singh Rawat case*, *the petitioners in MVC.2389/2023 are entitled for a sum of ₹.18,150/- under this head.*

LOSS OF ESTATE

29. If the deceased had survived, certainly her dependents would have had the benefit of his estate, as such this court deems it fit to hold that the petitioners in MVC.2389/2023 are entitled for ₹.18,150/- *towards loss of estate.*

30. Thus, the petitioners in MVC.2389/2023 are entitled for compensation under the following heads:-

Loss of dependency	-	₹.	7,20,000
Loss of consortium	-	₹.	48,400
Transportation of dead body and final rites and cremation	-	₹.	18,150
Loss of estate	-	₹.	18,150
Total	-	₹.	8,04,700

In total, the petitioners in MVC.2389/2023 are held entitled for ₹.8,04,700/-.

PETITIONER IN MVC.2388/2023

31. Now coming to the point as to what is the compensation to which the petitioner in MVC.2388/2023 is entitled. While determining the compensation this court has to look into the pain and sufferings, medical expenses, diet, food, nourishment, attendant and conveyance charges and loss of amenities and enjoyment of life that the PW.2 has suffered, which are discussed herein below:

(A) TOWARDS PAIN AND SUFFERINGS:

The petitioner in MVC.2388/2023 has relied upon Ex.P7 to P10 which are the wound certificate, discharge summary, OP Book and medical bills which reveal that the injury sustained by her are in the nature of traumatic brain injury which is grievous in nature. According to the petitioner he has obtained treatment as an inpatient at JSS Hospital, Mysuru from 01.12.2023 to 04.12.2023 and is under follow-up treatment even to this day. The petitioner in MVC.2388/2023 has relied upon wound certificate, discharge

summary, OP record and medical bills in order to show that she had sustained injuries and underwent pain and sufferings. As already observed, the petitioner in MVC.2388/2023 had sustained grievous injuries which required him to undergo treatment as an inpatient at JSS Hospital, Mysuru from 01.12.2023 to 04.12.2023. Considering the nature of the injuries mentioned in wound certificate, it can be said that the petitioner in MVC.2388/2023 must have undergone some amount of physical pain and sufferings, for which, an amount of **₹.25,000/- can be held to be just and proper compensation under this head.**

(B) TOWARDS MEDICAL EXPENSES:

The petitioner in MVC.2388/2023 has contended that he has spent ₹.1,00,000/- towards medical expenses and treatment; and has produced medical bills for having purchased materials as prescribed by the doctor which are collectively marked as Ex.P10 which are supported by Ex.P7, P8 and P9 which are discharge summary and case sheet respectively. Hence, sum total of the medical bills after excluding the aforesaid bills is ₹.25,014/- excluding the travel expenses which can be considered under the next head. There is no serious dispute regarding the medical bills produced and got exhibited by the petitioner; and perusal of the said medical records especially the Ex.P7 to 9 which are the wound certificate, discharge summary and OP record make it clear that the petitioner in MVC.2388/2023 has incurred the medical expenses towards his treatment. Hence the total of

medical bills is ₹.25,014/- excluding the travel bills as such the medical expenses can be rounded off to ₹.25,100/-. *Accordingly, the petitioner in MVC.2388/2023 is entitled for an amount of ₹.25,100/- towards medical expenses.*

(C) TOWARDS DIET, FOOD, NOURISHMENT, ATTENDANT AND CONVEYANCE CHARGES:

As already observed the Ex.P7 to 9 which are the wound certificate, discharge summary and OP record make it amply clear that the petitioner in MVC.2388/2023 underwent treatment as an inpatient at JSS Hospital, Mysuru from 01.12.2023 to 04.12.2023. Further during the said period the petitioner in MVC.2388/2023 might have taken assistance from others and taken diet food. Further, the petitioner in MVC.2388/2023 might have incurred expenses towards travel, which also needs to be considered by this tribunal. On consideration of the injuries sustained by the petitioner in MVC.2388/2023 and period of stay in the hospital, *this Tribunal is of the opinion that it is just and proper to award an amount of ₹.20,000/- under this head.*

(D) TOWARDS LOSS OF FUTURE EARNING CAPACITY ON ACCOUNT OF PERMANENT DISABILITY:

Though the petitioner has contended that due to accidental injuries, he has suffered disability, but he has not made any efforts to prove the disability. Even otherwise the nature of injuries are in the nature of traumatic brain injury and the very fact that the

petitioner in MVC.2588/2023 examined himself as PW.2 and withstood a probing cross examination goes to show that the said injury has not resulted in any permanent disability more particularly considering the avocation of the petitioner who is into agriculture. To top it all the PW.2 deposed that he has continued to do agricultural work and has cultivation crops even during this cultivation season, which leaves no room of any doubt that the injuries have not resulted in any functional disability to PW.2. As such, this court is of the firm opinion that the petitioner would not be entitled for any compensation under this head. *Accordingly, the petitioner is not entitled for any compensation under this head.*

(E) TOWARDS LOSS OF INCOME DURING LAID UP PERIOD:

According to the petitioner, prior to accident, he was hale and healthy and he was an agriculturist from which he was earning ₹.25,000/- per month but he has not produced any iota of document to prove the same. Under such circumstances, this Tribunal is of the opinion that the notional income of the petitioner has to be determined. Perhaps, the court will now have to consider the notional income of the injured and considering the avocation of the petitioner and the year of accident. In this regard it is relevant to note that the Principal Bench of the Hon'ble High Court of Karnataka, at Bengaluru while holding Lok-Adalath is determining the notional income at ₹.16,000/- if the accident had

occurred in the year 2023, in cases where the actual income of the deceased or injured, as the case may be, is not proved; and the same had been circulated by the Hon'ble Karnataka State Legal Services Authority, Bengaluru directing the courts, dealing with the motor vehicle compensation cases, to determine the notional income as determined therein, while holding lok-adalaths at District Courts. Hence, this Tribunal is of the opinion that it is just and proper to fix the notional income of deceased at ₹.16,000/- per month, in the absence of proof of income of the petitioner. Hence the income of petitioner can be notionally considered at the rate of ₹.16,000/- per month. Considering the nature of injuries, it is more than obvious that petitioner might not have attended his regular work at least for a period of 2 months. As such the petitioner is entitled for compensation under the head of loss of income during laid up period and this court finds it just and reasonable to award ₹.32,000/- towards loss of income during laid up period. *As such ₹.32,000/- is awarded to the petition under this head.*

(F) TOWARDS LOSS OF AMENITIES AND ENJOYMENT OF LIFE:

The petitioner in MVC.2388/2023 had sustained grievous injuries, which might certainly have deprived him of the basic comforts and enjoyment. *Therefore, it is just and proper to award him a reasonable sum of ₹.10,000/- under this head.*

32. Thus, the petitioner in MVC.2388/2023 is entitled for compensation under the following heads:-

Towards pain and sufferings	-	₹.	25,000.00
Towards Medical expenses	-	₹.	25,100.00
Towards diet, food, nourishment, attendant and conveyance charges	-	₹.	20,000.00
Loss of income during laid up period	-	₹.	32,000.00
Towards loss of amenities	-	₹.	10,000.00
Total	-	₹.	1,12,100.00

Totally, the petitioner in MVC.2388/2023 is entitled compensation of ₹.1,12,100/-.

33. The petitioners in MVC.2389/2023 and petitioner in MVC.2388/2023 have claimed the interest at the rate of 12% per annum per contra the respondent No.2 has prayed to restrict the interest claimed by the petitioners to 6% per annum. The Hon'ble High Court of Karnataka in the decision reported in *Shriram General Insurance Co. Ltd v. Smt. Laxmi and others* rendered in MFA No.103557/2016 rendered on 20.03.2018 awarded interest at the rate of 6% per annum by considering the relevant provisions. Hence, by applying the ratio laid down in the decision cited above, it is held that the petitioners are entitled for interest on the future prospectus as well. Considering the aforesaid decision and also prevailing Bank rate of interest, this Court also deem it proper to award interest at the rate of 6% per annum. Hence Issue No.III in MVC.2388/2023 and MVC.2389/2023 are held partly in the affirmative and it is held that the petitioners in MVC.2389/2023

are entitled for compensation of ₹.8,04,700/- alongwith interest at the rate of 6 % per annum from the date of petition till the realization including the interim compensation if any awarded; and the petitioner in MVC 2388/2023 is entitled for compensation of ₹.1,12,100/- alongwith interest at the rate of 6 % per annum from the date of petition till the realization including the interim compensation if any awarded.

34. Issue No.(II) in M.V.C. No. 2388/2023 and M.V.C. No.2389/2023:

It would be incumbent upon this tribunal to clarify that the necessity to frame these issues arose in view of the specific contention taken by the respondent No.2 that the respondent No.1 has violated the policy conditions. Needless to state, the answer to this issue will determine whether the respondent No.1 must be made personally liable to pay compensation or whether it is the respondent No.2 who is liable to compensate the petitioner by indemnifying the respondent No.1 in paying compensation to the petitioner.

35. Now that this court has ascertained the compensation amount, the last aspect of the matter is regarding fixation of liability i.e., *who should be made liable to pay the compensation to the petitioners in both the petition?*. Though the respondent No.2 has not disputed the fact that the offending vehicle i.e., Car bearing No.KL-01/U-6260 was insured with it at the time of accident but it took up a contention of contributory negligence on the part of PW.2. But this tribunal while answering issue No.I has touched upon the said point and concluded that the said contention is not substantiated by the respondent No.2; and since the respondent

No.2 has not proved that there was any violation of policy conditions and has not been able to prove anything which could move this court to exonerate the respondent No.2 company from paying the compensation to the petitioners, the respondent No.2 has to be made liable to pay the compensation.

36. It is necessary to note that one of the points emphasized by the learned counsel for respondent No.2 company is that in the initial medical records the name of the PW.2 is shown as *Kumara* and the same is subsequently rectified and in that record the respondent No.2 company even examined the CMO, JSS Hospital, who deposed that the rectification was carried out on the basis of the letter given by the PW.2 and the RW.2 even produced the documents including the letter at Ex.R4 to R7. From the perusal of the deposition of RW.2 it can be gathered that the rectification was carried out by following due process. Hence no ambiguity arises in that regard. The other aspect forthcoming from the deposition of RW.2 is that the PW.2's condition as it is noted that PW.2 was in inebriated condition, but, as already discussed, as the motorcycle was parked when the accident occurred the fact that PW.2 was under the influence of alcohol assumes little importance.

37. As regards the contention of the respondent No.2, that driver of the offending car did not possess a valid driving license to drive the car at the time of accident, the respondent No.2 company seems to have given a go-by to the said contention, as the respondent No.2 company has made any efforts to substantiate the said contention, instead has

focused on the contention of contributory negligence. This apart, the respondent No.2 company in its objections admitted that the Car bearing No.KL-01/U-6260 belonging to respondent No.1 was duly insured with respondent No.2 company at the time of accident and the same is clear from the evidence of RW.1 through whom policy is marked as Ex.R2. As such this tribunal finds no hesitation in concluding that Car bearing No.KL-01/U-6260 was insured with the respondent No.2 company at the time of accident and since the respondent No.2 has not proved violation of any policy conditions, the respondent No.2 has to be made liable to pay the compensation.

38. As already observed, the necessity to cast this issue arose in view of the specific contention taken by the respondent No.2 regarding violation of policy conditions and the burden was on the respondent No.2 to prove the said contention. However, except for having taken up the contention the respondent No.2 has not put in any efforts to prove the said contention. For the foregoing reasons this court finds no hesitation in holding that the respondent No.2 has failed to discharge the burden cast on it in issue No.II in both the petitions as it has miserably failed to prove violation of policy condition by respondent No.1.

39. Before parting with the case it is necessary to apportion the compensation amongst the petitioners. Since the petitioners are the children of the deceased and it is already held that the petitioners are entitled to the compensation, and this tribunal deems it fit to apportion their shares at the ratio of 20:20:20:20:20 respectively. *Accordingly, Issue No. II in MVC.2388/2023 and MVC.2389/2023 are held in the negative and*

it is held that MVC.2389/2023 are entitled for compensation of ₹.8,04,700/- alongwith interest at the rate of 6 % per annum from the date of petition till the realization including the interim compensation if any awarded; and the petitioner in MVC 2388/2023 is entitled for compensation of ₹.1,12,100/- alongwith interest at the rate of 6 % per annum from the date of petition till the realization including the interim compensation if any awarded; and it is also held that the respondents are jointly and severally liable to pay the compensation to the petitioners and the respondent No.2 being the insurer is liable to indemnify the respondent No.1 in paying compensation to the petitioners in MVC.2389/2023 and MVC.2388/2023; and 20% each in the apportioned amount are apportioned towards the share of petitioner No.1 to 5 in MVC.2389/2023 respectively.

40. Issue No.IV in M.V.C. No. 2388/2023 and M.V.C. No.2389/2023:

In view of the reasons assigned in the foregoing paragraphs of this judgment and in view of the finding given on Issue No.I to III in both M.V.C. No. 2388/2023 and M.V.C. No.2389/2023, this court finds no hesitation to pass the following:

ORDER

“The claim petitions in MVC No.2388/2023 and MVC No.2389/2023 are allowed in part with costs.

It is hereby ordered and decreed that the Petitioners in MVC No.2389/2023 are entitled for

compensation of ₹.8,04,700/- (Rupees Eight Lakhs Four Thousand and Seven Hundred only) with interest at the rate of 6% per annum from the date of petition till its realization including interim compensation if any awarded.

Further, the petitioner in MVC No.2388/2023 is entitled for compensation of ₹.1,12,100/- (Rupees One Lakh Twelve Thousand One Hundred only), along with interest at the rate of 6% per annum from the date of petition till its realization.

The respondent No.1 and 2 are jointly and severally liable to pay compensation to the petitioners in MVC No. 2389/2023 and petitioner in MVC No.2389/2023 within one month from the date of this judgment.

Further the Respondent No.2 shall indemnify the respondent No.1 in payment of compensation to the petitioners.

Further it is held that the petitioners No.1 to 5 in MVC No. 2389/2023 are entitled for compensation at the ratio of 20:20:20:20:20 respectively.

Further once the compensation amount is deposited, considering that the award amount

apportioned towards the petitioners in MVC.2389/2023 as well as petitioner in MVC.2388/2023 is meager, the scheme of keeping portion of amount apportioned towards the petitioners in MVC.2388/2023 and petitioner in MVC.2388/2023 in fixed deposit is dispensed with.

Advocate's fee is fixed at ₹.1,000/-.

Draw award accordingly.

The original judgment shall be kept in MVC No.2389/2023 and the copy of the same shall be kept in MVC No.2388/2023."

(Dictated to the stenographer, computerized by her, corrected and then pronounced by me in the open court, this the 24th day of June, 2026)

(AFTHAB.K)

Prl. Judge, Court of Small Causes
& MACT, Mysuru

ANNEXURE

Witnesses examined for the petitioners in MVC.2388/2023 and MVC.2389/2023		
PW.1	-	Sri. M. Shivaraju
PW.2	-	Sri. Siddaraju N.

Documents marked for the petitioner in MVC. 2388/2023 and MVC.2389/2023		
Ex.P1	-	FIR

Ex.P2	-	Complaint
Ex.P3	-	Charge-sheet along with inquest and seizure mahazar
Ex.P4	-	Spot mahazar
Ex.P5	-	Rough sketch
Ex.P6	-	IMV report
Ex.P7	-	Wound certificate of PW.2
Ex.P8	-	Discharge summary of PW.2
Ex.P9	-	OPD book
Ex.P10	-	Medical bills
Ex.P11	-	Copy of aadhar card of PW.2
Ex.P12	-	PME report
Ex.P13	-	Copy of aadhar card of petitioner No.1 in MVC.2389/2023
Ex.P14	-	Copy of aadhar card of petitioner No.2 in MVC.2389/2023
Ex.P15	-	Copy of aadhar card of petitioner No.3 in MVC.2389/2023
Ex.P16	-	Copy of aadhar card of petitioner No.4 in MVC.2389/2023
Ex.P17	-	Copy of aadhar card of PW.1
Ex.P18	-	Copy of aadhar card of deceased

Witnesses examined for the respondents		
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RW.1	-	Sri. Jayatheertha H.G.
RW.2	-	Sri. K.S. Sandeep

Documents marked for the respondents		
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Ex.R1	-	Authorization letter
Ex.R2	-	Copy of policy
Ex.R3	-	Police intimation
Ex.R4	-	MLC register
Ex.R5	-	MLC register
Ex.R6	-	Case sheet of PW.2
Ex.R7	-	Copy of letter dated 04.12.2023 addressed to RMO, JSS Hospital, Mysuru

(AFTHAB.K)

Prl. Judge, Court of Small Causes
& MACT, Mysuru