



IN THE COURT OF THE MOTOR ACCIDENT CLAIMS

TRIBUNAL AT SINDHANUR

Present :- SRI. LAKSHMIKANTH JANAKIRAM MISKIN, M.A., LL.M
Senior Civil Judge & J.M.F.C.
Sindhanur

M.V.C. No.22/2021

Dated: 02nd day of June 2026

Petitioner: - Nagaraj S/o Virupanna
Age: 24 years, Occ: Auto Driver
R/o Mullur EJ village
Tq. Sindhanur, Dist. Raichur.

(Represented by: Sri. BS. Advocate)

-Versus-

- Respondents: -**
- 1) Lale Mashak S/o Bandagi Sab
Age: 30 years, Occ: Driver of Lorry bearing Reg.No.
KA-25/AA-2625, R/o Arakera J village,
Shorapur, Dist. Yadagiri
 - 2) Rudragouda S/o Kallanagouda Tippnagoudra
Age: Major, Occ: Owner of Lorry bearing No.KA-
25/AA-2625, R/o P-20, KSSIDC, 1st stage,
Humnabad road, near Masatti darga, Kappanur,
Kalaburgi.
 - 3) The Branch Manager/Manager
Universal Sompo General Insurance Com., Ltd.,
2A, 2nd floor, 84 Ramson Complex,
PB Road, Hosur, Hubli-580021



Policy No.2315/57392163/00/000
date of issue: 23.06.2017 to 22.06.2018

(R1 & 2 placed exparte)
(R3 by: Sri.PHM Advocate)

~:: **JUDGMENT** ::~

This petition filed under Section 166 of Motor Vehicle Act claiming compensation from the respondents, in connection with the Road Traffic Accident dated 13.11.2017.

2. **The brief facts of the petition:-**

On 13-11-2017 at about 02:30 Am, the one Parvathamma, Hanumanthamma and Basavaraja @ Basavarajappa were accompanying a pregnant women by name Sharanamma w/o Mahesh in an auto bearing reg No: KA-36/A-2558 driven by the claimant on Sindhanur-Maski main road to admit said pregnant women to Govt Hospital Harapur, as the said Sharanamma was under severe pregnancy pain. The said Sharanamma is a sister of aforesaid inmate Basavaraja @ Basavarajappa. The claimant was driving the auto on left side of the road following all traffic conditions in slow and cautious manner the pregnant women was in severe pain and shouting of Sharanamma. On same day at night hours respondent No.1 came driving his Lorry and lost control and due to this the said lorry was turtled on the middle of the Sindhanur -Maski main road. Thereafter the said respondent No.1 left his vehicle in the middle of the road, without putting any sign or signal, or stop sign or parking lights or parking lamps, and left the spot. While the claimant who was in hurry to admit the pregnant lady Sharnamma was came near the spot, at that



time one vehicle passed from opposite direction came with high beam light, due to said high beam light the claimant could not notice the lorry turtled on middle of the road belonging to respondent No.1. Due to this the claimant dashed his auto to the turtled lorry, as such accident occurred. The said accident occurred due to negligence of respondent No.1 who left the his lorry on the middle of the road, without putting any parking light or any signal lamps, or sign board. Due to said accident the claimant sustained Fracture of shaft femure and head injury and other parts of body and also all inmates of the auto have also sustained grievous injuries. Thereafter the said claimant and all inmates of auto were shifted to Govt Hospital, Sindhanur in 108 Ambulance. The doctors of the said Govt Hospital Sindhanur referred the said claimant and all inmates of auto to higher treatment to VIMS Ballari. That, prior the accident, the claimant Rs.25,000/- per month from driving auto and used to contribute the same to his family maintenance. Now, the claimant is not in a position to do work and earn money like prior. That, due to said grievous injuries and fracture, the claimant is having physical disability and due to said fracture the claimant is unable to lift the weight and unable to walk, drive the auto or to sit squat. Thus he 50 has lost future earnings and forced her to lead miserable life and suffer financial stringency, which all has happened only due to the rash and negligent act of the respondent No.1. The said accident had occurred only due negligent act of respondent No.1 who was left his Lorry bearing reg No: KA-25/AA-2625 on the middle of the road, without putting any parking light or any signal lamps, or sign board. Hence, respondents are liable to pay compensation of Rs.20,00,000/-. With these averments the petitioners pray for allow the above petition.



3. In pursuance of notice, the respondent No.1 and 2 have not appeared before this court and they placed exparte. The respondent No.3 has appeared through his counsel and filed written statement.

4. **The case of the respondent No.3 in brief:-**

This petition is not maintainable either in law or on facts. It is denied petition averments about accident, rash and negligent driving, injuries to the petitioner, medical expenses, loss of income etc., The rider of the offending vehicle did not posses valid and effective driving license at the time of alleged accident. There is a breach of terms and conditions of the policy. For that the respondent is not liable to pay the compensation to the petitioner. On these grounds the respondent No.3 prayed for dismissal of this petition.

5. In this back ground this tribunal has framed the following issues:-

ISSUES

1. Whether the petitioner proves that on 13.11.2017 at about 2.30 AM, on Sindhanur – Maski main road, he sustained grievous injuries in a road traffic accident due to the rash and negligent act of the driver of the lorry bearing Reg.No.KA-25/AA-2625 i.e., respondent No.1?
2. Whether the respondent No.3 proves that the respondent No.1 was not having driving license at the time of accident and respondent No.2 has violated the policy conditions?
3. Whether the petitioner is entitled for compensation claimed? If so, what amount and from whom?



4. What order or award?
6. In proof of the above issues the petitioner himself examined as PW1 and all documents got marked as ExP1 to Ex.P21 and closed his side evidence. The respondent side not lead evidence and case is posted for arguments.
7. I have heard arguments on both sides. My findings on the above issues are as follows:-

ISSUE NO.1 : In the Affirmative
ISSUE NO.2 : In the Negative
ISSUE NO.3 : In the Partly Affirmative
ISSUE NO.4 : As per final order for the following.

~::~ REASONS ::~

8. **ISSUE NO.1**:- This Court perused the material available on record. A perusal of the material available on record make it clear the that investigation officer filed charge - sheet marked at exhibit P-4 make it clear that, the investigation officer after making a thorough investigation has filed it . Thus in the considered opinion of this court, charge - sheet marked at exhibit P-4 is a prima facie proof of negligence on the part of the deceased driver of the offending north-east Karnataka road transport corporation bus . It is to be noted that the investigation officer in a case files charge - sheet marked at exhibit P-3 after scientific investigation from all angles. Thus in the considered opinion of this court, charge - sheet marked at exhibit P-4 is a prima facie proof of negligence of the deceased driver of the offending vehicle. .In this regard it is



beneficial to refer to the decision of the Hon'ble High Court of Karnataka reported in 2018 ACJ 91 = [2016 SCC ONLINE KAR 8864] in between Jacob Vs. The Managing Director, K.S.R.T.C. Depot , para No.8 reads as under.

M.F.A. No. 534 of 2012.
M.F.A. No. 533 of 2012.
M.F.A. No. 4066 of 2012 (MV).
M.F.A. No. 4065 of 2012 (MV).
M.F.A. No. 534 of 2012 :
M.F.A. No. 533 of 2012 :
M.F.A. No. 4066 of 2012 :
M.F.A. No. 4065 of 2012 :
Dated-18.11.2016.

8. RE: NEGLIGENCE:

The case of the Corporation is that IMV Report at Exhibit.P4 shows, the front right side corner and right side bumper of the bus was damaged and front side of the auto was damaged. The bus was moving on the main road, the auto in which the deceased was traveling was coming from opposite direction and took a right turn/'u' turn towards eastern side of the road without giving any signal and as such, the negligence ought to have been fixed on the driver of the auto. This argument of the Corporation is not worthy of acceptance, the crucial witness to establish the factum of negligence would have been the driver, no driver of the offending vehicle was examined by the Corporation. In such circumstances, an adverse inference has to be drawn against the Corporation, more particularly, against the driver of the offending vehicle. Contributory negligence has to be proved on factual grounds. A mere allegation/accusation would not be suffice to



ascertain the contributory negligence on the part of the person. Contributory negligence has to be proved by leading direct and corroborating evidence which is conspicuously missing in the present case. **On the other hand, charge-sheet filed against the driver of the offending vehicle indicates negligence on the part of the driver of the offending vehicle. No case is made out by the Corporation to fix the negligence on the part of the driver of the auto.**

The ratio (underline emphasized by me) laid down by the Hon'ble High Court of Karnataka reported in 2018 ACJ 91 =[2016 SCC ONLINE KAR 8864] in between Jacob Vs K.S.R.T.C. Depot is that charge-sheet filed against the driver of the offending vehicle indicates negligence on the part of the driver of the offending vehicle . In the present case also as discussed above the investigation officer as shown at charge - sheet marked at exhibit P-3 filed it against the driver of the offending vehicle that he is solely negligence for causing the accident leading to the death of the deceased.

9. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in reported in 2025 SCC ONLINE SC 497 in between Ranjeet vs Abdul Kayam Neb, in para No.3 and para No.4 of the order of the Hon'ble Supreme Court of India reads as under.

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(Arising out of SLP(C), No. 10351/2019)
Dated-25-02-2025



3. In an accident which took place on 13.06.2006, one 'Ramkaran' was alleged to have been hit by the bus leading to his death. An FIR was lodged wherein charge sheet was submitted against the driver of the bus. On the claim being preferred to the Motor Accident Claims Tribunal¹, **since, the eye-witnesses were not produced, the Tribunal refused to grant any compensation.** The decision of the Tribunal was upheld by the High Court.

4. **It is settled in law that once a charge sheet has been filed and the driver has been hereinafter referred to as "the Tribunal". held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eye- witnesses are not examined,** that will not be fatal to prove the death of the deceased due to negligence of the bus driver.

5. In view of the aforesaid facts, we are of the opinion that the Tribunal and the High Court both manifestly erred in law in refusing to grant any compensation to the claimants.

The ratio (underline emphasized by me) laid down in the decision of the Hon'ble Supreme Court of India reported in reported in 2025 SCC ONLINE SC 497 in between Ranjeet vs Abdul Kayam Neb is that charge-sheet filed by the investigation officer is sufficient to prove negligent driving of the offending vehicle without examining eye-witnesses. More ever the petitioner herself is a witness to the accident as she has been hit by the offending vehicle. Thus there is nothing to disbelieve the version the petitioner that the offending vehicle is alone is responsible for causing accident.



10. It is made clear by this court that contents of FIR and the Chargesheet is not conclusive. This tribunal has to make an independent inquiry with regard to negligence of the deceased. A perusal of the hand-sketch map 13-11-2017 annexed with crime details form, filed along with charge-sheet marked at exhibit P-5. A perusal of the hand-sketch map 13-11-2017 annexed with crime details form, filed along with charge-sheet marked at exhibit P-5 make it clear that the respondent No.1 has parked offending truck in the middle of the road on Bidar-Srirangapatna National Highway (NH-150A) after hitting a road side bridge as shown there in. Assuming for argument sake that prior to the accident in the present case, the respondent No.1 met with accident as he dashed against the road side bridge and left the vehicle in the middle of the NH 150A Bidar – Srirangapattana national highway. This fact is clearly shown at the hand-sketch map 13-11-2017 annexed with crime details form, filed along with charge-sheet marked at exhibit P-5 by the IO of the criminal case pertaining to the accident case. . A perusal of the hand-sketch map 13-11-2017 annexed with crime details form, filed along with charge-sheet marked at exhibit P-5 make it clear that the truck parked in the middle of the road. Immediately after ramming into the road side bridge, the Respondent No.1 did not bring to the notice of the patrolling police nor he has taken any steps immediately to shift his truck to a safer side of the road on Bidar-Srirangapatna National Highway (NH-150A) . On the contrary, the Respondent No.1 left it unattended in the middle of the Bidar-Srirangapatna National Highway (NH-150A) and went away leading to the ghastly accident.

11. It is made clear by this court that the, accident taken place on busy Bidar-Srirangapattana National Highway NH-150A at night. The claimant who was



driving his Appe auto carrying a pregnant woman. He was rushing to the government Hospital at Sindhanoor carrying a pregnant woman along with her attenders in it. At midnight the claimant who was driving his vehicle was taken by surprise after the Respondent No.1 has left his truck in th middle of the road that too on without realizing that it is a Bidar-Srirangapatna National Highway (NH-150A), heavy traffic road without swittching its indicators on. The claimant was un aware of the fact that truck was laid in the middle of the Bidar-Srirangapatna National Highway (NH-150A) after it dashed against a road side bridge. the Respondent No.1 did not bring to the notice of the patrolling police nor he has taken any steps to shift his truck to a safer side of the road on Bidar-Srirangapatna National Highway (NH-150A) . On the contrary, the Respondent No.1 left it un attended in the middle of the Bidar-Srirangapatna National Highway (NH-150A) without informing police leading to the ghastly accident. At least the Respondent No.1 should have immedietly shifted his truck to safer side of Bidar-Srirangapatna National Highway (NH-150A) anticipating that other moving vehicles may ram into it if it is left un-attended.

12. It is made clear by this court that Bidar-Srirangapattana National Highway NH-150A is busy and only National High-way that connects Kalyana Karnataka to southern Karnataka. The vehicles usually in front of Arihant rice mills on Bidar-Srirangapattana National Highway move at high speed. Thus the driver of the truck who is the respondent No.1, was not expected to park his said vehicle in the middle of the road of Bidar-Srirangapatna National Highway (NH-150A) that too at night. AT night one cannot expect vehicle move at slow speed that too on Bidar-Srirangapatna National Highway (NH-150A) . At night, the Respondent No.1 is



not expected to the parked his truck in the middle of the Bidar-Srirangapatna National Highway (NH-150A) after his truck rammed into the road side bridge. The accident led to death of one Basavaraj, leaving all inmates injured including pregnant woman as shown there in. In the considered opinion of this court, it is driver of the truck alone responsible for causing accident. The deceased petitioner herein could not be held responsible for causing accident.

13. More-over there is no evidence led by the respondent insurance company that the driver of the tractor and trailer switched on indicators of the vehicle with red-tape affixed to it.. It is made clear that, Section 122 of the Motor Vehicles Act, 1988 prohibits a person in charge of a motor vehicle from causing or allowing the vehicle or any trailer to be abandoned or remain at rest on any public place in such a position or in such a condition or in such circumstances as to cause or likely to cause danger, obstruction or undue inconvenience to other users of the public place or to the passengers. Section 122 of the Motor Vehicles Act, 1988 provides that no person in charge of a motor vehicle shall cause or allow the vehicle to be abandoned or to remain at rest on any public place in such a position or in such a condition or in such circumstances as to cause or likely to cause danger, obstruction or undue inconvenience to other users of the public place or to the passengers. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka reported in ILR 2002 KAR 893 [DB] =[2001 SCC ONLINE KAR 600 [DB]] in between Kumari Jyothi and Others Vs Mohd. Usman Ali and Others para No.13 reads as under.

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AND
1013 of 2000 (MV)
Decided on 27-09-2001

13. Nothing has been elicited in their cross-examination to show that lorry had parked with any sign or indicator. Neither the driver nor the cleaner of the lorry was examined to say that any sign or indication was provided in regard to the parked vehicle. Section 122 of the Motor Vehicles Act, 1988 provides that **no person in charge of a motor vehicle shall cause or allow the vehicle to be abandoned or to remain at rest on any public place in such a position or in such a condition or in such circumstances as to cause or likely to cause danger, obstruction or undue inconvenience to other users of the public place or to the passengers.** In similar circumstances, the High Court of Gujarat in *Premlata Nilamchand Sharma v. Hirabhai Ranchhodbhai Patel*¹, the High Court of Punjab and Haryana in *Nirmal Bhutani v. Haryana State*² and the Delhi High Court in *Pushpa Rani Chopra v. Anokha Singh*³ have held that **where the place was dark and where the vehicle was parked without any sign or indication to warn other Road users, the negligence is on the driver of the parked vehicle and not the driver of any vehicle which dashes into such parked vehicle.**

The ratio (underline emphasized by me) laid down by the Hon'ble High Court of Karnataka reported in ILR 2002 KAR 893 [DB] =[2001 SCC ONLINE KAR 600 [DB]] in between Kumari Jyothi and Others Vs Mohd. Usman Ali and Others and Others is that driver of the parked vehicle is alone to be blamed as he had parked the vehicle in the middle of the road without any sign



or indications for other road users, thus the it is driver of the parked vehicle alone is responsible for causing accident and not driver of the other side vehicle

14. The precept of "negligence" means failure to observe, for the protection of the interests of another person, that degree of care, precaution and vigilance which the circumstances justly demand, whereby such other person suffers injury. The test of negligence lies in default to exercise the ordinary care and caution which is expected of a prudent man in the circumstances of a given case. The duty to exercise such a care and caution including reasonable use of his faculties of sight and intelligence to observe and appreciate danger or threatened danger of injury is undoubtedly on the driver of an automobile. If he fails to do so and such failure is the proximate cause of the injury or death, he is guilty of negligence. In otherwords, the test is whether the driver could, by exercising normal diligence and caution, avert the accident. "Negligence" is the omission to do which a reasonable man, guided upon the considerations, which ordinarily regulate the conduct of human affairs, would do or doing something which a prudent and reasonable man would not do. It is trite, the negligence is not a question of evidence; it is an inference to be drawn from proved facts. Negligence is not an absolute term, but is a relative one; it is rather a comparative term. Where there is a duty to exercise care, reasonable care must be taken to avoid acts or omission which could be reasonably foreseen to be likely to cause physical injury to persons. The degree of care required, of course, depends upon the facts in each case.



15. In the present case, also , the respondent NO.1, without any signs , indicators , red-reflectors parked his truck in the middle of the road road leading to the accident. . As could be seen from the hand-sketch map 13-11-2017 annexed with crime details form, filed along with charge-sheet marked at exhibit P-5 the truck of the Respondent No.1 was parked in the middle of the road that on the Bidar-Srirangapatna National Highway (NH-150A), a busy road without any signs , indicators or red- reflectors at night leading to petitioner , ramming into his vehicle against the the parked truck from behind .

16. As discussed above, the parked vehicle on the road, was parked without any parking light and with no reflectors and the to that the accident had occurred. Nothing is on record that any precautionary measures by putting any signal to indicate the presence of the stationary vehicle was taken by the driver of the said stationary vehicle.. As observed herein above, the stationary vehicle tractor and trailer was parked on the busy-road , when it was dark and without any indication, reflector or parking lights. Even assuming that the vehicle was driving his vehicle slightly fast, yet it cannot be said that there was no contributory negligence on his part because on a public PWD road and that too at night time .

17. It is made clear by this Court that, it cannot be expected that the vehicle should be driven at a slow speed at NH-150A. Further it cannot be expected that the driver of a vehicle should visualize that there might be some stationary vehicle which could not be seen from a distance of few paces and therefore he should drive the vehicle slowly. No person in charge of a motor vehicle shall cause or allow the vehicle or any trailer to remain at rest on any road in such a position or in



such a condition or in such circumstances as to cause or to be likely to cause danger, obstruction or undue inconvenience to other users of the road. In the present case the vehicle was parked on a national highway as stated above without any signal to indicate the presence of vehicles. Therefore, in the considered opinion of this Court parking of such vehicle on a dark night without light in rear or reflectors and without putting any signal to indicate presence of the parked vehicle, is the sole cause of the accident.

18. No person in charge of a motor vehicle shall cause or allow the vehicle or any trailer to be abandoned or to remain at rest on any public place in such a position as to cause or likely to cause danger, obstruction or undue inconvenience to other users of the public place or to the passengers. No person driving or in charge of a motor vehicle shall cause or allow the vehicle to remain stationary in any public place, unless there is in the drivers seat a person duly licensed to drive the vehicle or unless the mechanism has been stopped and a brake or brakes applied or such other measures taken as to ensure that the vehicle cannot accidentally be put in motion in the absence of the driver Sections 122 and 126 of the Motor Vehicles Act 1988, reads as follows:

122. Leaving vehicle in dangerous position.

No person in charge of a motor vehicle shall cause or allow the vehicle or any trailer to be abandoned or to remain at rest on any public place in such a position or in such a condition or in such circumstances as to cause or likely to cause danger, obstruction or undue inconvenience to other users of the public place or to the passengers.



126. Stationary vehicles. No person driving or in charge of a motor vehicle shall cause or allow the vehicle to remain stationary in any public place, unless there is in the drivers seat a person duly licensed to drive the vehicle or unless the mechanism has been stopped and a brake or brakes applied or such other measures taken as to ensure that the vehicle cannot accidentally be put in motion in the absence of the driver.

It is clear from the material on record establish the fact that the driver of the offending parked vehicle the respondent No.1, on the road has violated Sections 122 and 126 of the Motor Vehicles Act 1988 as stationed his vehicle on the road without lights and indicators and any sign-board or red-taped radium. It is also clear that there were no parking lights. It appears that even stones or red clothes were not put around the lorry to indicate that a vehicle was parked.

19. Therefore , it cannot be said that, petitioner herein was responsible for causing the accident. In the considered opinion of this court it is the driver of the parked vehicle on road on Bidar-Srirangapatna National Highway (NH-150A) alone is responsible.

20. It is not brought on record that truck was parked on road after placing sign boards, and its indicators are switched on. There is no evidence that red taped radiator was affixed to the truck. There is no material on record by the respondent insurance company that trucke visible from a considerable distance. In the absence of the indicator light switching it on, parking sign board , and red taped radium affixed to the trolley, it cannot be said that the petitioner who was riding TATA apte alone not taken precautions while parking truck on road,



Further it is important to note that truck left unattended, thus, in the considered opinion of this court it is owner and driver of , alone responsible for the accident and he is alone negligence in causing accident. .

21. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka reported in ILR 2002 KAR 893 [DB] =[2001 SCC ONLINE KAR 600 [DB]] in between Kumari Jyothi and Others Vs Mohd. Usman Ali and Others para No.13 reads as under.

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Decided on 27-09-2001

14]. We are thus satisfied that the driver of the **parked lorry was alone to be blamed as he had parked the lorry in the middle of the road without any sign or indications for other Road users.** On the facts and circumstances, we are of the view that the **Tribunal was not justified in placing the blame to an extent of 50% on the motorcyclist.** Hence, we hold that driver of the lorry was solely. First point is answered accordingly.

The ratio (underline emphasized by me) laid down by the Hon'ble High Court of Karnataka reported in ILR 2002 KAR 893 [DB] =[2001 SCC ONLINE KAR 600 [DB]] in between Kumari Jyothi and Others Vs Mohd. Usman Ali and Others is that if a vehicle crashed into an unattended Lorry parked without any sign or indication to warn the other road users and in this accident



both the Motor-Cycle driver and pillion rider died. Under such circumstances the driver of the parked vehicle alone is held responsible.

22. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka reported in 2017 AAC (AIR Accident Claims and Compensation Cases) 825 in between United India Insurance Company Limited vs. Smt. Rajamma, (Karnataka) the para No.11 reads as under.

M.F.A. No. 10292 of 2012(MV).
Dated-11.11.2016.

11. In this background of the settled legal position, it is manifestly clear that contributory negligence is different from composite negligence but the factum of contributory negligence depends on the factual investigation of the case. A direct and corroborative evidence is sine qua non to establish the factum of contributory negligence. Apparently no specific plea was taken by the appellant in the statement of objections, in much as contributory negligence, the defense was general in nature, no evidence was let in by the appellant-insurer to show that the deceased was negligent or he has not taken reasonable care to avoid the accident. It is settled legal position that the question of contributory negligence is to be decided on the same principle on which the defendants negligence is decided. The learned counsel appearing for the appellant placing much emphasis on the charge sheet filed by the police authorities against the deceased as well as driver of the parked vehicle would contend



that negligence on the part of the deceased was well established, no further evidence was required. Filing of the charge sheet by the police authorities against the deceased would not be suffice to establish the contributory negligence on the part of the deceased, particularly while considering the claim under Section 163-A of the Act. **Parking of the vehicle in a main road, in the night hours, without any sign or indicator to warn other vehicles plying on the road establishes the negligence on the driver of the parked vehicle.** It is well settled position of law by now that the criminal proceedings initiated against a driver or the outcome of the criminal proceedings would not be binding on the Civil Court or the Tribunal, more specifically, while awarding compensation under the provisions of the Act. This view is further fortified by the judgment of the Hon'ble Supreme Court in Sinitha's case (Supra). Their Lordships have categorically held that the Police documents cannot constitute as proof of negligence at the hands of the claimant and even if he was responsible for the accident, in the absence of concrete evidence, the factual jumble would remain an unresolved tangle. It is well established principle that in a claim raised under Section 163-A of the Act, claimants have neither to plead nor to establish negligence. The burden shouldered on the appellant-insurer was not discharged to establish the factum of negligence on the part of the claimant. The insurer having failed to make any efforts to establish the contributory negligence much-less the extent of contributory negligence on the part of the deceased, this



court in appeal proceedings cannot assess the same. It transpires that the insurer has not stepped into the witness box, no arguments were advanced by the insurer on this point before the Tribunal. The focus of the insurer was to escape the liability on the premise that the claimants have not impleaded the owner/insurer of the motorcycle. Addressing on this point, the Tribunal held that non-impleadment of the owner/insurer of the motorcycle would not preclude the claimants from claiming compensation under Section 163-A of the Act, which is justifiable.

The ratio (underline emphasized by me) laid down by the of the Hon'ble High Court of Karnataka reported in 2017 AAC (AIR Accident Claims and Compensation Cases) 825 United India Insurance Company Limited v. Smt. Rajamma, is that Parking of the vehicle on a main road, in the night hours, without any sign or indicator to warn other vehicles plying on the road establishes the negligence on the driver of the parked vehicle.

23. In this regard it is beneficial to refer to the Hon'ble three Judges Bench of the Hon'ble Supreme Court of India reported in AIR 2018 SC 1143 in between Archit Saini and another vs . Oriental Insurance Company Ltd., and others the para No.9 to para No.11 read as under. .

Civil Appeal Nos.7300-7309 of 2016,
D/-09-02-2018.

9. Suffice it to observe that the approach of the High Court in reversing the well considered finding recorded by the Tribunal on the



material fact, which was supported by the evidence on record, cannot be countenanced.

10. Accordingly, we have no hesitation in setting aside the said finding of the High Court. As a result, the appellants would be entitled to the enhanced compensation as determined by the High Court in its entirety without any deduction towards contributory negligence. In other words, we restore the finding of the Tribunal rendered on issue No.1 against the respondents and hold that **respondent no.1 negligently parked the Gas Tanker/offending vehicle in the middle of the road without any indicator or parking lights.**

11. Accordingly, we affirm the enhanced compensation payable to the claimants as determined by the High Court in paragraph 13 of the impugned judgment, which reads thus:

"13. In view of the above, the claimants-injured are held entitled to the enhanced compensation of L 2,80,000/- [L30,000/- (enhancement towards `pain and suffering') + L 20,000/- (enhancement towards loss of studies) + L10,000/- (enhancement towards special diet) + L 1,90,000/- (enhancement towards `loss of love and affection') + L 30,000/- (enhancement towards cremation and last rites)] as indicated above, which shall be payable within a period of 45 days from the date of receipt of a certified copy of this judgment, failing which, the claimants-appellants shall also be entitled to interest @ 7.5% per annum, from the date of filing the present appeal till its realization."



We set aside the direction given by the High Court in paragraph 16 of the impugned judgment regarding deduction of 50% of the total compensation awarded to the claimants towards contributory negligence.

The ratio (underline emphasized by me) laid down by the Hon'ble three Judges Bench of the Hon'ble Supreme Court of India reported in AIR 2018 SC 1143 in between Archit Saini and another vs. Oriental Insurance Company Ltd., and others is that if a vehicle is parked on the road without indicators and parking signals then the driver of the parked vehicle alone responsible for the accident.

24. In view of law laid down by th the Hon'ble High Court of Karnataka reported in ILR 2002 KAR 893 [D B] =[2001 SCC OnLine Kar 600 [DB]] IN BETWEEN Kumari Jyothi and Others Versus Mohd. Usman Ali and Others and also the Hon'ble High Court of Karnataka reported in 2013 AAC (AIR Accident Claims and Compensation Cases) 825 United India Insurance Company Limited v. Smt. Rajamma, and also laid down by the Hon'ble three Judges Bench of the Hon'ble Supreme Court of India reported in AIR 2018 SUPREME COURT 1143 in between Archit Saini and another v. Oriental Insurance Company Ltd., and others , it cannot be said that, rider of motor bike deceased Santosh , who was on tar Maski- Balagaanoor main is liable. Since the trailer parked on the Maski- Balagaanoor main road , in contravention of the Section Sections 122 and 126 of the Motor Vehicles Act 1988, it is the respondent No.1 driver and the respondent No.2 owner of the trailer jointly liable for causing accident. Thus no fault can be found fault with.



25. The respondent No.1 the driver of the truck parked his offending vehicle, in contravention of Section 122 of the Motor Vehicles Act, 1988, its owner the respondent No.2 is alone responsible for the accident. Therefore, the driver as well as the owner of the Trailer have parked on the Maski- main road, unattended without any indicators, sign-boards, red taped – radiators on it, causing inconvenience to the rider of motor bike deceased Santosh, thus, owner of the trolley and its driver alone responsible for the accident. Further in view of law laid down by the Hon'ble High Court of Karnataka reported in ILR 2002 KAR 893 [D B] = [2001 SCC OnLine Kar 600 [D B]] IN BETWEEN Kumari Jyothi and Others Versus Mohd. Usman Ali and Others and also law laid down by the Hon'ble High Court of Gujarat in the 1982 AIR GUJARAT 243 [DB] = [1983 ACJ 290 [DB]] = [1982 (2) GLR 203 [DB]] in between Premalata Nilamchand Sharma v. Hirabhai Ranchhodbhai Patel and others Vs Hirabhai Ranchhodbhai Patel and others the respondent No.1 and the respondent No.2 are to be held responsible. Hence the Respondent – Insurance company, cannot escape from its liability.

26. It is made clear by this that in cases of compensation of motor vehicle cases, strict proof of an accident caused by a particular vehicle in a particular manner may not be possible to be proved by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. It is made clear by this Court that in a motor accident claim cases no strict of proof is required like criminal case. The claimant need not prove the case beyond reasonable doubt. . If the claimant is able to show the preponderance of



probabilities, it is sufficient to prove the fact. It need not be assessed at touch-stone manner as to how accident taken place.

27. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in 2011 AIR SC 1504 = [2011 (11) SCC 635] in between Parmeshwari vs. Amir Chand and Ors ., AIR 2011 SC 1504, in between Parmeshwari vs Amir Chand & Ors the para No.12 reads as under.

Civil Appeal No. 1082 of 2011
Dated-28-01-2011

12]. We are constrained to repeat our observation that the total approach of the High Court, unfortunately, was not sensitized enough to appreciate the plight of the victim. The other so-called reason in the High Court's order was that as the claim petition was filed after four months of the accident, the same is "a device to grab money from the insurance company". This finding in the absence of any material is certainly perverse. The High Court appears to be not cognizant of the principle that in a road accident claim, the strict principles of proof in a criminal case are not attracted. The following observations of this Court in [Bimla Devi and others vs. Himachal Road Transport Corporation and others](#) 2009 AIR SC 2819 = [(2009) 13 SCC 530] are very pertinent.

"In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. **It was 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 were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied."

The ratio (underline emphasized by me) laid down by the Hon'ble Supreme Court of India reported in 2011 AIR SC 1504 =[2011 (11) SCC 635] in between Parmeshwari vs. Amir Chand and Ors is that the claimants are merely to establish their case on the touchstone of preponderance of probability

28. Motor vehicles whether driver of vehicle was negligent or not, there cannot be any straitjacket formula - Each case is judged having regard to facts of case and evidence on record. Further it is made clear by this court that if any evidence before the Tribunal runs contrary to the contents in the First Information Report, and charge-sheet, the evidence which is recorded before the Tribunal has to be given weight age over the contents of the First Information Report. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in reported in (2021) 18 SCC 596 =[SCC ONLINE SC 849] in between National Insurance Company Ltd. VS Chamundeswari the para No.8 reads as under.

Civil Appeal No.6151 of 2021
(Arising out of Special Leave
Petition (C) No.4705 of 2019).
Dated-01.10.2021.

8. It is clear from the evidence on record of PW-1 as well as PW-3 that the Eicher van which was going in front of the car, has taken a sudden right turn without giving any signal or



indicator. The evidence of PW-1 & PW-3 is categorical and in absence of any rebuttal evidence by examining the driver of Eicher van, the High Court has rightly held that the accident occurred only due to the negligence of the driver of Eicher van. It is to be noted that PW-1 herself traveled in the very car and PW-3, who has given statement before the police, was examined as eye-witness. In view of such evidence on record, there is no reason to give weightage to the contents of the First Information Report. **If any evidence before the Tribunal runs contrary to the contents in the First Information Report, the evidence which is recorded before the Tribunal has to be given weightage over the contents of the First Information Report.** In the judgment, relied on by the appellant's counsel in the case of *Oriental Insurance Company Limited v. Premalata Shukla*¹, this Court has held that proof of rashness and negligence on the part of the driver of the vehicle, is therefore, *sine qua non* for maintaining an application under Section 166 of the Act. In the said judgment, it is held that the factum of an accident could also be proved from the First Information Report. In the judgment in the case of *Nishan Singh vs. Oriental Insurance Company Limited*², this Court has held, on facts, that the car of the appellant therein, which crashed into truck which was proceeding in front of the same, was driven negligently by not maintaining sufficient distance as contemplated under Road Regulations, framed under Motor Vehicles Act, 1988. Whether driver of the vehicle was negligent or not, there cannot be any straitjacket formula. Each case is judged having



regard to facts of the case and evidence on record. Having regard to evidence in the present case on hand, we are of the view that both the judgments relied on by the learned counsel for the appellant, would not render any assistance in support of his case.

The ratio laid down by the Hon'ble Supreme Court of India reported in the Hon'ble Supreme Court of India reported in reported in (2021) 18 SCC 596 =[SCC ONLINE SC 849] in between National Insurance Company Ltd. VS Chamundeswari is that If any evidence before the Tribunal runs contrary to the contents in the First Information Report, the evidence which is recorded before the Tribunal has to be given weightage over the contents of the first information report. In view of law laid down by the in the Hon'ble Supreme Court of India reported in reported in (2021) 18 SCC 596 =[SCC ONLINE SC 849] in between National Insurance Company Ltd. VS Chamundeswari coupled with the hand-sketch map 13-11-2017 annexed with crime details form, filed along with charge-sheet marked at exhibit P-5, in the considered opinion of this court it is the driver of the offending truck alone responsible for causing accident. Hence issue No.1 is answered in affirmative and issue No.2 answered in Negative.

29. **ISSUE No.3:-** For assessment of compensation, life cannot be valued. Similarly, no human being can put any monetary value of his limb or of any other human being. How does one assess the value of the loss of all faculties when some victim of an accident loses his moving mental faculties and lives in no motion, vegetative state. The courts can only grant compensation for the pecuniary and monetary loss caused and some other expenses, but no court can even attempt to grant compensation for loss of life or limb. Mainly pecuniary loss has to be



assessed. Nominal damages for expenses, loss of consortium and conventional damages. Long expectation of life is connected with earning capacity. In its very nature whenever a Tribunal or a Court is required to fix the amount of compensation in cases of accident, it involves some guess work, some hypothetical consideration, some amount of sympathy linked with the nature of the disability caused.

30. It is made clear by this court that while determining the amount of compensation which is to be in the real sense 'damages' which in turn appears to it to be 'just and reasonable'. It has to be borne in mind that compensation for loss of limb or life can hardly be weighed in golden scales. But at the it is made clear by this court that that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be 'just' and it cannot be a bonanza not a source of profit but the same should not be a pittance. This court has a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be 'just' compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations.

31. It is made clear by this court that the Motor Vehicles Act, 1988 is a socio welfare legislation. This court has to be liberal while considering petition seeking compensation under Motor Vehicles Act, 1988. It has to be kept in mind that the Motor Vehicles Act, 1988 is a piece of welfare legislation and its purpose is to provide prompt compensation to the persons suffering injuries in a motor vehicular



accident or to family members of such persons unfortunately dying in such road mishaps,. The Motor Vehicles Act, 1988 is a beneficial and welfare piece of legislation and, hence, it deserves liberal construction with a view to implementing the said legislative intent. In this regard it is beneficial to refer to the decision of the three judges Bench decision of the Hon'ble Supreme Court of India reported in AIR 2004 SC 2107 =[2004 AIR SCW 1864] in between Deepal Girishbhai Soni and others VS United Insurance Co. Ltd., Baroda para No.53 of the judgment reads as under.

C. A. No. 3126 of 2002
with C. A. No. 3127 of 2002,
R. P. (C) No. 160 of 2002 in
C. A. No. 2573 of 2001,
R. P. (C) No. 161 of 2002
in C. A. No. 2572 of 2001
and C. A. No. 1680 of 2004
(arising out of SLP (C) No. 708 of 2003),
decided on 18/03/2004

53. **Although the Act is a beneficial one and, thus, deserves liberal construction with a view to implementing the legislative intent** but it is trite that where such beneficial legislation has a scheme of its own and there is no vagueness or doubt therein, the Court would not travel beyond the same and extend the scope of the statute on the pretext of extending the statutory benefit to those who are not covered thereby.

The ratio (underline emphasized by me) laid down by the Hon'ble Supreme Court of India reported in AIR 2004 SC 2107 =[2004 AIR SCW 1864] in between Deepal Girishbhai Soni and others VS United Insurance Co. Ltd.,



Baroda is that the Motor Vehicles Act, 1988 is a is a beneficial one and, thus, deserves liberal construction.

32. The court shall while estimation of Pecuniary and Non-Pecuniary damages, due to the bodily injuries, sustained by the injured. Further the court taking into account, as to how, the bodily injury has affected the Loss of Earning Capacity of the petitioner Further court while granting compensation for personal injury, the injured has to be compensated for pain and suffering, for loss of amenities, shortened expectation of life if any, loss of earnings or loss of earning capacity or in some cases for both; and medical treatment and other special damages, besides in capacity to earn future income. that intention behind awarding of compensation is to put the claimant in the same position as he was in so far as money can.

33. Further the Hon'ble Supreme Court of India held that the court must take care to give him full and fair compensation for that he or she had suffered. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in reported in 2010 (10) SCC 254 =[AIR AIR SCW 6085] in between Arvind Kumar Mishra VS. New India Assurance Co. Ltd, the para No.7 reads as under.

Civil Appeal No. 5510 of 2005.
Dated-29.09.2010.

7. We do not intend to review in detail state of authorities in relation to assessment of all



damages for personal injury. Suffice it to say that the basis of assessment of all damages for personal injury is compensation. The whole idea is to put the claimant in the same position as he was in so far as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the hands of the wrongdoer and the court must take care to give him full and fair compensation for that he had suffered. In some cases for personal injury, the claim could be in respect of life time's earnings lost because, though he will live, he cannot earn his living. In others, the claim may be made for partial loss of earnings. Each case has to be considered in the light of its own facts and at the end, one must ask whether the sum awarded is a fair and reasonable sum. The conventional basis of assessing compensation in personal injury cases - and that is now recognised mode as to the proper measure of compensation - is taking an appropriate multiplier of an appropriate multiplicand.

The ratio (underline emphasized by me) laid down by the decision of the Hon'ble Supreme Court of India reported in reported in 2010(10) SCC 254 = [AIR AIR SCW 6085] in between Arvind Kumar Mishra VS. New India Assurance Co. Ltd is that intention behind awarding of compensation is to put the claimant in the same position as he was in so far as money can. Further the Hon'ble Supreme Court of India held that the court must take care to give him full and fair compensation for that he or she had suffered.



34. The Hon'ble Supreme Court of India held in between sidram Vs. Divisional manager, United India Insurance Co. Ltd and another] held that the process of determining the compensation involves approximation and in any case, disability can never be assessed in terms of money since the 'money cannot renew a physical frame that has been battered. .The Hon'be Supreme Court in its verdict reported in 2022 Live Law (SC) 968 in between Sidram vs. The Divisional Manager, United India Insurance Co.Ltd., and Anr has held that the process of determining compensation by the Court is essentially a very difficult task and can never be an exact science. Perfect compensation is hardly possible, more so claims of injury and disability point out that 'money cannot renew a physical frame that has been battered. In this regard it is beneficial to refer a decision of Hon'ble Supreme Court in reported in (2023) 3 SCC 439 =[AIRONLINE 2022 SC 890] =[2022 LIVE LAW (SC) 968] in between Sidram vs. Divisional Manager, United India Insurance Co. Ltd the para No.29 reads as under.

CIVIL APPEAL - 8510 of 2022,
decided on 16/11/2022

29.The **process of determining the compensation by the court is essentially a very difficult task and can never be an exact science. Perfect compensation is hardly possible,** more so in claims of injury and disability. As rightly pointed out in H. West and Son Ltd. v. Shephard, (1958) 65 ACJ 504 (HL, England):
"**...money cannot renew a physical frame** that has been battered."

The ratio laid down by the Hon'ble Supreme Court in reported in (2023) 3 SCC 439 =[AIRONLINE 2022 SC 890] =[2022 LIVE LAW (SC) 968] in



between Sidram vs. Divisional Manager, United India Insurance Co. Ltd is that the process of determining compensation by the Court is essentially a very difficult task and can never be an exact science. Perfect compensation is hardly possible, more so claims of injury and disability point out that 'money cannot renew a physical frame that has been battered.

35. Future prospects is not restricted only to death case of MACT. IT can be extended to injury cases of permanent disability. It can be extended to injured having permanent disability. In a decision of the Hon'ble three Judges Bench decision of the Hon'ble Supreme Court of India reported in reported in AIR 2020 SC 4284 in between Erudhaya Priya Vs State Express Transport Corporation Ltd, 'future prospects' was added even where physical disability was as low as 31.1% In this regard it is beneficial to refer to the decision of the Hon'ble three Judges Bench decision of the Hon'ble Supreme Court of India reported in reported in AIR 2020 SC 4284 in between Erudhaya Priya VS State Express Transport Corporation Ltd., the para No.7 and 8 read as under;

Civil Appeal Nos. 2811-2812 of 2020
(Arising out of SLP (C) Nos.8495-8496 of 2018),,
Dated- 27/07/2020

7. There are three aspects which are required to be examined by us:

(a) the application of multiplier of '17' instead of '18';

The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others.



In para 42 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others. v. Delhi Transport Corporation and Another. In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.

The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

(b) Loss of earning capacity of the appellant with permanent disability of 31.1%

In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in Jagdish v. Mohan and Others³ and Sandeep Khanuja v. Atul Dande and Another⁴. We extract below the principle set out in the Jagdish case (supra) in para 8:

"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:

(i) Pain, suffering and trauma resulting from the accident;

(ii) Loss of income including future income;



- (iii) The inability of the victim to lead a normal life together with its amenities;
 - (iv) Medical expenses including those that the victim may be required to undertake in future; and
 - (v) Loss of expectation of life."
- [emphasis supplied]

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well-established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August 2011 to January 2013. The nature of injuries had been set out as under:-

"Nature of injury:

- (i) compound fracture shaft left humerus
- (ii) fracture both bones left forearm
- (iii) compound fracture both bones right forearm
- (iv) fracture 3rd , 4th and 5th metacarpals right hand
- (v) subtrochanteric fracture right femur
- (vi) fracture shaft left femur
- (vii) fracture both bones left leg"

We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in



the trial court. Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 12 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.

We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 59.3, considering the age of the appellant, would be 50% of the actual salary in the present case.

(c)The third and the last aspect is the interest rate claimed as 12%

In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the Jagdish case (supra). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court. **CONCLUSION**

8.The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in



para 5 of the synopsis, would have to be adopted as follows:

HEADS	AMOUNT (INR.)
LOSS OF EARNING POWER (14648*12*18*31.1/100)	9,81,978.76
TOWARDS FUTURE PROSPECTS (50% ADDITION)	4,90,989
MEDICAL EXPENSES INCLUDING TRANSPORT CHARGES, NOURISHMENT ETC.	18,46,864
LOSS OF MATRIMONIAL ASPECTS	5,00,000
LOSS OF COMFORT, AMENITIES AND MENTAL AGONY	1,50,000
PAIN AND SUFFERING	2,00,000
TOTAL	41,69,831

The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

The ratio (underline emphasized by me) laid down in the decision of the Hon'ble Supreme Court of India reported in reported in AIR 2020 SC 4284 in between Erudhaya Priya VS State Express Transport Corporation Ltd that, 'future prospects' can be added even where physical disability was as low as 31.1% .

36. In this regard it is beneficial to refer to the Division decision of the Hon'ble High Court of Karnataka (DHARWAD BENCH) reproted in AIRONLINE 2022 KAR 3415 (DB) [2022 AAC 1139 KAR (DB)) in between New India Assurance Company Limited, Hubballi Vs. Abdul Mehaboob Tahasildar, Hubballi the para No.31 reads as under.

MFA No. 103807 of 2016,,
Dated-27-05-2022



31. Resultantly we are constrained to reject the contention of Sri. G. N. Raichur, learned counsel for the Insurance Company. 'Loss of future prospects' also has to be factored in notwithstanding the fact that this is not a case of death but **a case of injury without amputation resulting in whole body disability to the extent of 20% which ultimately has a bearing on the reduced earning capacity.** It is essentially on account of the fact that money value does not remain constant over a long spell of years and thus claimant being aged only 40 years, he has long years ahead of him to look forward to, the sliding value of the money will have adverse impact on his future prospects. **Accordingly, having due regard to the fact that he was aged about 40 years at the time of the accident, 25% of his established income will have to be factored in towards compensation for 'loss of future prospects'.** Therefore, 'loss of earning capacity' is recomputed as follows:

Rs.6,000/- + 25% (Rs.1,500/-)

= Rs.7,500/-

Rs.7,500 x 12 x 15 x 20% =Rs.2,70,000/-.

The ratio laid down by the Hon'ble High Court of Karnataka (DHARWAD BENCH) reported in AIR ONLINE 2022 KAR 3415 (DB) [2022 AAC 1139 KAR (DB)] in between New India Assurance Company Limited, Hubballi Vs. Abdul Mehaboob Tahasildar, Hubballi is that loss of future prospects to be awarded in spite of fact that case is not of a death claim but of injury without amputation resulting in whole body disability to extent of 20% which ultimately has a bearing on reduced earning capacity.



37. In the present case disability is assessed at 28 to 30% of permanent disability to the particular affected part as shown at the disability certificate dated 29-06-2024 issued by orthopaedic surgeon, Dr.Mallikarjuna Kunachagi at Gangavati marked at exhibit P-19 for shaft of femar right. In the considered opinoin of this court the disability is excessive. This court opined that it is just and proper to assess the disability at 20%. . In view of law laid down by the Hon'ble Supreme Court of India reported in reported in AIR 2020 SC 4284 in between Erudhaya Priya VS State Express Transport Corporation Ltd, and also the Division decision of the Hon'ble High Court of Karnataka (DHARWAD BENCH) reported in AIRONLINE 2022 KAR 3415 (DB) [2022 AAC 1139 KAR (DB)) in between New India Assurance Company Limited, Hubballi Vs. Abdul Mehaboob Tahasildar, Hubballi in the present case also the petitioner is entitled for 40% future prospectus.

38. In the absence of income proof, the notional income as per the notional income chart fixed by the Karnataka State Legal Services Authority shall be taken . In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka (KALABURAGI BENCH) reported in AIRONLINE 2022 KAR 921 (DB) in between Managing Director NEKRTC, Sarige Sadan, Central Office, Kalaburagi. VS Rachamma Subash Jaishetty Since Deceased By Her LR's the para No.13 reads as under.

Miscellaneous First Appeal - 201591 of 2021,
Dated-08/12/2022



13. It is not in dispute that Smt. Rachamma met with an accident on 11.04.2018 and sustained grievous injuries and she succumbed to the injuries. The legal representatives filed a claim petition contending that the deceased was aged about 60 years at the time of accident and was doing agriculture and getting income of Rs.9,000/- per month. In order to substantiate the contention of the petitioners, the petitioners have not produced any income proof of the deceased Rachamma. **In the absence of income proof, the Tribunal, taking into consideration the notional income of the year 2018, as per the chart fixed by the Karnataka State Legal Services Authority** and also considering the age of deceased Rachamma has considered the notional income of the deceased as Rs.9,000/- per month and further considering the age of the deceased as 65 years, awarded a compensation under the head of loss of dependency at Rs.6,04,800/- and also awarded compensation under the head of loss of consortium and loss of estate and funeral expenses and medical expenses and nursing charges. The petitioners have not placed any material to show the income of the deceased. On the contrary, the petitioners themselves have admitted that deceased Rachamma was getting income of Rs.9,000/- per month. Considering the admission of the petitioners, the Tribunal was justified in considering the notional income of the deceased Rachamma at Rs.9,000/- p.m. Hence, in view of the above discussion, the petitioners have not made out any ground for enhancement of compensation.



Accordingly, we answer point No.1 in negative.

The ratio (Under line emphasized by me) the Hon'ble High Court of Karnataka (KALABURAGI BENCH) reported in AIR ONLINE 2022 KAR 921 (DB) in between Managing Director NEKRTC, Sarige Sadan, Central Offices, Kalaburagi VS Rachamma Subash Jaishetty Since Deceased By Her LR's is that In the absence of income proof, the notional income as per the chart fixed by the Karnataka State Legal Services Authority shall be taken.

39. There is no material to show the exact income of injured. Thus this court would have to rely on notional income fixed by the KSLSA vide direction letter dated 26-02-2022 at Bangalore . Admittedly the accident took place in the year of 2020. The notional income for the year 2020 fixed by the KSLSA vide direction letter dated 26-02-2022 at Bangalore is Rs. 10,250/- for the districts coming under the jurisdiction of the Hon'ble High Court of Karnataka, (KALABURGI), Bench . IN the present case disability is assessed at 28 to 30% of permanent disability to the particular affected part as shown at the disability certificate dated 29-06-2024 issued by orthopaedic surgeon, Dr.Mallikarjuna Kunachagi at Gangavati marked at exhibit P-19 for shaft of femar right. In the considered opinoin of this court the disability is excessive. This court opined that it is just and proper to assess the disability at 20%.

40. In view of law laid down by the Hon'ble Supreme Court of India reported in 2009 AIR SC 3104 = [2009 SCC (6) 121] Smt. Sarla Verma vs. Delhi Transport Corporation, for age group of 26-30 years, multiplier of 17 should be applied,



The proper multiplier is as under.

$$\frac{\text{Rs.10,250} \times 40}{100} = \text{Rs.4,100/- (40\% future prospects added)}$$

$$\begin{aligned} &\text{Rs.10,250/-} \\ &+\text{Rs. 4,100/-} \\ &\underline{\text{Rs.14,350/-}} \quad (\text{ after adding 40\% future prospectus}) \end{aligned}$$

$$\frac{\text{Rs.14,350} \times 12 \times 17 \times 20}{100} = \text{Rs.5,85,480/- (loss of future income)}$$

HEADS

Sl. No.	Particulars	Amount of compensation
1	Loss of future income due to disability	Rs.5,85,480 =00
2	Loss of income during period of treatment	Rs. 40,000=00
3	Pain and suffering	Rs. 80,000=00
4	Loss of amenities	Rs. 60,000=00
5	Attendant charges , rest , and nourishment.	Rs.30,000=00
6	Transportation charges during the period of treatment	Rs.30,000=00
7	Medical Expenses	Rs 6860=00
	TOTAL	Rs. 8,32,340=00



41. This court opined that the claimants entitled for 6% interest on the compensation amount **Rs.8,32,340/-** to be awarded. Hence Issue No.3 answered in Partly affirmative.

42. **ISSUE NO.4:-** In view of the findings on issue No.1 to 3 , I proceed to pass the following order:-

~:: O R D E R ::~

The petition filed under Section 166 of the Indian Motor Vehicle Act is partly allowed in following terms:-

The petitioner is awarded with the compensation of **Rs. 8,32,340/- (Rupees Eight Lakhs Thirty Two Thousand Three Hundred Forty only)** to the petitioner with interest at the rate of 6% per annum from the date of petition till realization.

The respondent No.3 liable to pay compensation amount and he directed to deposit the compensation amount with in 30 days from the date of this Judgment to this tribunal.

Out of compensation 50% of the amount with proportionate interest of petitioner shall be deposited in any nationalized bank in his name for a period of 03 years free from all encumbrances. The remaining amount with proportionate interest shall be disbursed to the petitioner by preparing K-II bill on his proper identification.



Advocate fee fixed at Rs.1000/- only

Draw award accordingly.

(Dictated to the Stenographer directly on computer, computerized by him and corrected and then pronounced by me in the open court on 02nd day of June 2026)

(Lakshmikant Janakiram Miskin)

Senior Civil Judge & M.A.C.T
Sindhanur

ANNEXURE

I) Witnesses examined on behalf of Petitioner.

PW-1 : Nagaraj

II) Documents exhibited on behalf of Petitioner:

Ex.P1	:	Certified copy of FIR
Ex.P2	:	Certificate copy of Statement
Ex.P3	:	Certified copy of Wound certificate
Ex.P4	:	Certified copy of Charge sheet
Ex.P5	:	Certified copy of Spot panchanama,
Ex.P6	:	Certified copy of IMV report
Ex.P7 to 18	:	Certified copies of statements
Ex.P19	:	Disability certificate
Ex.P20	:	27 Medical bills
Ex.P21	:	4 X-ray films

III) Witnesses examined on behalf of Respondents:

---NIL---

IV) Documents exhibited on behalf of Respondents:

---NIL---

(Lakshmikant Janakiram Miskin)

Senior Civil Judge & M.A.C.T
Sindhanur.