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.533/2021

Dated: 02nd day of June 2026

Petitioner: - Basavaraj @ Basanagouda S/o Sharanappa Gouda
Age: 38 years, Occ: Agri., & Business
R/o Sri. Amareshwar Nilaya, Ward No.10,
Nataraj colony, Sindhanur, Tq. Sindhanur,
Dist. Raichur.

(Represented by: Sri. BSB. Advocate)

-Versus-

Respondents: - 1) Mallikarjuna S/o Basavarajappa Paraddi
Age: 23 years, Occ: Agri.,
R/o Medikinal village, tq. Maski, Dist. Raichur

(Rider of motorcycle bearing No.KA-36/EU-3499)

2) Rajanna S/o Shiarudrappa Paraddi
Age: 46 years, Occ: Agri.,
R/o Medikinal village, tq. Maski, Dist. Raichur

(Owner of motorcycle bearing No.KA-36/EU-3499)

3) The Manager (TP Claims)
Navi General Insurance Com., Ltd.,

(Formerly known as DHFL General Insurance Co., Ltd.,)
IIIrd floor, Salarpura, Business center, 4th, “B” cross road
5th Block, Koramangala Industrial layout, Bengaluru-560095

Policy No.21000026273/00/000000/0
Valid from 09.10.2019 to 08.10.2024
UIN No.IRDAN155RP0049V01201819

(R1 & 2 by: Sri.AKP Advocate)
(R3 by: Sri.SNM Advocate)
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~:: <u>JUDGMENT</u> ::~

This petition filed under Section 166 of Motor Vehicle Act claiming compensation from the respondents, in connection with the Road Traffic Accident dated 20.11.2020.

2. **<u>The brief facts of the petition:-</u>**

On 20-11-2020 at about 02-00 PM, the claimant went on his motor cycle Bg Regn No. KA-36/ET-5205, from Sindhanur city PWD Camp to going to his personal work at Dollars Colony when he turned motor cycle to his Right side by following the traffic rules with care and cautious, at that time one Motor cycle Rider ie. Respondent No.1 on his Motor cycle Berg. Regn. No.KA-36/EU-3499 came from Annadaneshwara Kalyana Mantapa ie. Raichur side towards Sindhanur in a rash and negligent manner with high speed driving endangering to human life, dashed/hit to the motor cycle of claimant as a result the claimant fell down by throwing some distance on road an accident was occurred. Due to the said accident,claimant had sustained grievous injuries on (1) Extra Dural Hemato ma (EDH)at Right Fronto Parietal cortex measering 8 X 2cms of Brain, (2) Extr a Dural Hematoma at(Rt) Frontal cortex measuring 1.9 X 0.4 cms, (3)Acute subar achanoid hemorrhage at left sylvian-fissure, (4) Fracture of (Rt) Frontal Bone, (5) Fractureof (Rt) parietal bone, (6) Scalp contusion at(Rt) parietal area and other parts of the body. Thereafter the claimant was shifted to Balanku Hospital Raichur in a private Ambulance, in the said Hospital the claimant admitted asan in-patient for more than one week and he underwent to surgry by Dr.Anil Kumar Machanur, Cons ultant Neuro Surgeon surgery was conducted and gave a follow up treatment. now also claimant has been taking treatment every month. Due to the said injuries till today the claimant is feeling headache often and often on and he suffering by causing dizziness as such he is suffers from permanent partial disability. The claimant is forced to give up his normal work and leading to serious financial setback. The claimant was hale and healthy before this accident and he was doing business and agriculture and used to earn about Rs. 50,000/- per month and same is spent for his family. Due to these injuries the claimant also spent huge amount more than Rs.3,00,000/- for his treatment, and also he is unable to do work as before this accident. The claimant deprived from his business and agriculture work, due to this accident the claimant under regular treatment of said doctor. The said accident occurred due to rash and negligent, with high speed driving of the respondent No.1. Respondent No.1 is the rider, respondent No.2 is the owner and respondent No.3 is the insurer of said vehicle. Hence, respondents are liable to pay compensation of Rs.19,25,000/-. With these averments the petitioners pray for allow the above petition.

3. In pursuance of notice, the respondent No.1 to 3 have appeared through their counsels. The respondent No.1 to 3 have filed written statement.

4. **The case of the respondent No.1 & 2 in brief:-** The respondent No.1 and 2 in their written statement submitted that the petition filed by the petitioner is

false, vexatious, frivolous and not Maintainable either under law or on facts and liable to be dismissed. All the allegations, which are not herein expressly admitted by this respondent, shall be deemed the petition of the petitioner denied and the petitioner put to be strict proof of the same. All averments made by the claimant/petitioner in his/their petition are all absolutely false, not correct and they are specifically denied by this respondent and the petitioner are put to strict of the same. Petitioner is not entitled to claim the compensation as mentioned in the claim of the claim petition from item No.21 to the tune of Rs.19,25,000-00. There is no rash and negligent driving of the respondent No.1 to cause alleged accident. That, it is further false that the respondent No.1 has not at all dashed to the injured claimant. There is no fault of the respondent No.1 in the alleged accident. On 20-11-2020 at about 02-00 PM the Respondent No.1 and 2 coming from after attending their relations marriage ceremony at Annadaneshwara Kalyana Mantapa ie. Raichur road towards sindhanur while came near Dollars colony at that time one Car was going infront of Motor Cycle bearing Regn.No.KA36/EU 3499 at that time the claimant came on his Motor Cycle bearing Resn No.KA36/ET 5205 from PWD Camp, Sindhanur side to go to his home at Dollars Colony, after crossing the car which was going infront of cur Motor Cycle the Claimant abruptly taken his Motor Cycle to his right side to go to Dollars Colony, at that time this accident was occurred. The claimant/ petitioner have falsely shown his income of in order to claim the heavy compensation by showing his higher income. That, no documents have been filed in support of his income. As on the date and time of accident, the respondent No.1 is having the valid driving license and the vehicle involved is insured with Respondent No.3 Under Policy No. Policy No: 21000026273/00/000000/0 Valid from Dtd: 09-10-2019 to 08-10-2024 UIN No: IRDAN 155 RP 0049 V 01201819 having valid insurance, if the Hon'ble Court come to conclusion that, the accident was occurred due to negligent act of the Respondent No.1,in that way the liability be fasten against Respondent No.3. As such the respondent No.1 & 2 are not liable to pay the alleged claim of the petitioner. On these grounds the respondent No.1 & 2 prayed for dismissal of this petition.

5. **<u>The case of the respondent No.3 in brief:-</u>**

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.

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

ISSUES

1. Whether the petitioner proves that on 20.11.2020 at about 2.00 PM near Annadaneshwar Kalayan Mantap Sindhanur, he sustained grievous injuries in a road traffic accident due to the rash and negligent act of the driver of the motorcycle bearing reg. No.KA-36/EU-3499 i.e., respondent No.1?

2. Whether the respondent No.3 proves that the respondent No.1 was not having driving license on the date of accident?

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 examined one witness as PW2 and all documents got marked as ExP1 to Ex.P15 and closed his side evidence. The Senior calims manager of respondent No.3 company examined as RW1 and examined one witness as RW2 and all documents got marked as Ex.R1 to Ex.R8 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-3 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-3 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-3 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.

Civil Appeal No. OF 2025
(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 Tribunal[1], **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 disbelive the version the petitioner that the offending vehicle is alone is resposible for causing accident.

10. Above all it is important to note that the respondent-driver of the offending vehicle in the criminal case pertaining to this case has admitted his guilty and paid fine as per plea dated-22-07-2021 and and order sheet in CC NO.562-2021 pending on the file of Principal Civil Judge and JMFC at Sindhanoor both marked at exhibit P-7 and P-8 . Out of admitting guilt in plea dated-22-07-2021 and and order sheet in CC NO.562-2021 pending on the file of Principal Civil Judge and JMFC at Sindhanoor both marked at exhibit P-7 and P-8 an inference can be drawn that the accused has admitted the offence in the court of law.

11. Once the accused–respondent-driver of the offending vehicle admitted his guilt, then it can be inferred that the accused–respondent-driver of the offending vehicle is guilty of the accident and due to his own negligence the accident occurred. Thus the claimant need not prove with regard to negligence of the respondent - driver**.** In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka reported in 2010 SCC OnLine Kar 149 =[2011 ACJ 2350] Bangalore Metropolitan Transport Corporation, Bangalore Versus Pullaiah the para No.1 , para No.2 para No.4 and para No.5 read as under.

MFA No. 15068 of 2007 (MV)
Decided on 24-02-2010

1. Respondent, when he was standing on Old Madras Road near Ganesha Temple, K.R. Puram, Bangalore, met with an accident on account of rash and negligent driving of a BMTC Bus by its driver. He sustained grievous injuries and was taken to Dr. Shetty clinic and later shifted to Bowring Hospital. He filed a claim petition under Section 163-A of the Motor Vehicles Act, 1988 ('the Act' for short) against the appellant. The claim was contested by the appellant. He was aged about 56 years as on the date of accident and was working as a security guard
in a private company. His income could be taken at Rs. 36,000/- p.a. Tribunal after appreciating the evidence on its record, has passed the award for Rs. 6,07,000/- under 7 different heads. Aggrieved, this appeal has been filed by the BMTC.

2. Sri D. Vijayakumar, learned Counsel appearing for appellant raised 2 contentions *viz.*, (1) that there is no accident involving the vehicle in question and hence, the claim is illegal and the award passed is liable to be set aside. Alternatively, (2) that the amount awarded is contrary to Schedule II of the Act and hence, requires to be scaled down. *Per contra*, learned Counsel appearing for respondent would contend that, the driver of the offending vehicle was charge-sheeted by the police and he

has pleaded guilty before the Criminal Court and hence, the first contention addressed on behalf of appellant is untenable. Learned Counsel made submissions in support of the findings and conclusion of the Tribunal in awarding Rs. 6,07,000/-

4. There is evidence of P.W. 1 with regard to the accident. The police records pertaining to the accident in question have been marked as exhibits. The driver of the bus has deposed as D.W. 1. Ex. P. 1 is the FIR. No doubt, it was registered on 30-9-2006 though the accident occurred on 27-9-2006. **There is evidence on record which discloses that, appellant had lost consciousness and was immediately hospitalized. In the circumstances, the delay is not fatal. T**he hospital records show that, the petitioner reported at the hospital as to how he sustained injuries in the accident. Even otherwise, the police after investigation of the crime, had laid charge-sheet against the driver of the bus. **The driver has appeared before the Criminal Court and has admitted the guilt which is evident from the order sheet of the case.** Sri D. Vijayakumar, contended that, the driver has not reported about the accident. Accordingly to the learned Counsel, if the accident had taken place, it was the duty of the driver to have reported the matter to his immediate superior and ought not to have deposed falsely in the Motor Accident Claims Tribunal. Learned Counsel submits that the driver has remained

> unauthorized absent. According to the learned Counsel, since the driver is on permanent employment, if he has caused the accident and did not report the accident, he is liable to be taken up for disciplinary action. In my view, the said submissions are wholly irrelevant for consideration and disposal of this case. The non-disclosure of the accident by the driver cannot affect the case of the respondent herein. It is for the appellant to take appropriate action against its driver, depending upon the evidence.
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> **5. Since the driver of BMTC bus - offending vehicle has pleaded guilty and has paid the fine in the Criminal Court, the accident is well-established. The first contention is thus devoid of merit.**

The ratio (underline emphasized by me) laid down by the Hon'ble High Court of Karnataka reported in 2010 SCC OnLine Kar 149 =[2011 ACJ 2350] Bangalore Metropolitan Transport Corporation, Bangalore Vs Pullaiah is that once accused pleaded guilty it is to be held that driver of the offending vehicle is guilty of he accident. In view of law laid by the Hon'ble High Court of Karnataka the contention of the Respondent - Insurance Company that the claimant failed to prove the negligence of the Respondent - Insurance Company cannot be accepted.

12. Apart from it, the respondent insurance company has set-up its defense that the offending vehicle is implanted in the present case by the petitioner in collusion with the police. the respondent insurance company set-up its defense that the petitioner has played fraud and got implanted the vehicle as there is a contradiction between complaint marked at exhibit P-2 where in the date of the accident is

shown as 20-11-2020 and at the Medico-legal certificate dated of Balanku Hospital marked at exhibit P-5 where in the date of the accident is shown as 19-11-2020.

13. In view of allegation of the fraud and fabrication of the documents by the respondent insurance company, this court perused the Medico-legal certificate dated of Balanku Hospital marked at exhibit P-5 where in there is over-writing is made. T this court would take judicial notice of the fact that usuall Medico-legal certificate dated of Balanku Hospital marked at exhibit P-5 would be prepared by the nurse of the said hospital. This court would take judicial notice of the fact that Medico-legal certificate dated of Balanku Hospital marked at exhibit P-5 would be prepared by the nurse and not the doctor. There is some correction made at Medico-legal certificate dated of Balanku Hospital marked at exhibit P-5 it does not mean that there is no accident has taken place. There is some correction made at Medico-legal certificate dated of Balanku Hospital marked at exhibit P-5 it does not mean that the entire document is fabricated.

14. It is made clear by this court that when a collusion between the claimants and insured, is has alleged to attribute fraud and deceit to the claimants, it is incumbent upon the person who alleges so to prove it by acceptable evidence. The allegation of fraud is a serious criminal charge. It needs to be established to vitiate any proceedings. Mere statement in the defense is not sufficient. . If really fraud is played the insurance company must challenge the charge-sheet. In this regard it is beneficial to refer to the decision of the Hon ‘ble High Court of Karnataka reported in ILR 2007 KAR 2338 (DB) =[2006 SCC ONLINE KAR 269 (DB) in between Leelavathi @ Leelamma and Another Vs Chandra Mouli and Another the para No.41 reads as under.

Misc First Appeal No. 11578/05 (MV)
C/W
MFA 10166/05
Decided on 12-04, 2006

41. The very fact that the driver was charged for rash and negligent driving resulting in injuries to deceased Chetan Kumar after detailed investigation by the jurisdictional Police Officers, is admittedly not questioned by the insurance company till now. Therefore, we must observe that when a collusion between the claimants and insured, is has alleged to attribute fraud and deceit to the claimants, it is incumbent upon the person who alleges so to prove it by acceptable evidence. The allegation of fraud is a serious criminal charge. It needs to be established to vitiate any proceedings. Mere statement In the defense is not sufficient. It is important that the ingredients constituting fraud must be established through evidence and evidence must be cogent and clinching._Such proved facts must establish firstly, mense rea and criminality in the conduct of the person who is alleged to have involved in such act. May be a person presumesfraud has been played upon him or her, but to succeed there is no escape but to establish beyond all reasonable doubt, This is because if proved not only the proceedings will be vitiated but the person accused of such conduct will also be liable for consequential penal actions. The evidence, we have discussed above brings to surface the involvement of lorry bearing registration No. KA-06 8818 in the accident in question and dis-spellsall doubts. The defense put up by the Insurance company is so feable and Its conduct

> in not establishing the alleged collusion of fraud virtually defeats the very defense. We are, therefore, satisfied that the insurer-appellant has failed to establish the collusion between the owner of the vehicle and the claimants or that there was any fraud.

The ratio (underline emphasized by me) laid down by the Hon ‘ble High Court of Karnataka reported in ILR 2007 KAR 2338 (DB) =[2006 SCC ONLINE KAR 269 (DB) Leelavathi @ Leelamma and Another Vs Chandra Mouli and Another is that when a collusion between the claimants and insured, is has alleged to attribute fraud and deceit to the claimants, it is incumbent upon the person who alleges so to prove it by acceptable evidence and the charge-sheet shall be questioned by the respondent insurance company in order to prove fraud.

15. If really the vehicle was not involved, if a false case has been lodged and if the owner has colluded with the claimants, it was for the Insurance Company to challenge the same to quash the charge-sheet and to direct the police to investigate properly and file an appropriate case for having lodged a false case when there was no accident and vehicle in question had not been involved. There has been no effort on behalf of the respondent insurance company to question and seek for quashing of the charge sheet or seeking for fresh investigation into the matter for filing an appropriate charge sheet for having implanted a false vehicle. If really the vehicle was not involved, if a false case has been lodged and if the owner has colluded with the claimants, it was for the Insurance Company to challenge the same to quash the charge-sheet and to direct the police to investigate properly and file an appropriate case for having lodged a false case when there was no accident and vehicle in question had not been involved. In that view, the contention urged herein by the respondent insurance company without resorting to such procedure

cannot be accepted. In this regard it is beneficial to refer to the un-reported decision of the Hon ble High Court of Karnataka (CIRCUIT BENCH AT DHARWAD) in M.F.A. No.22778/2009 C/W M.F.A.NO.22780/2009 (MV), Dated-21-06-2013, in between the Divisional Manager, The Oriental Insurance Co Ltd, Divisional office VS Sangappa the para No.5 and para No.6 read as under.

M.F.A. No.22778/2009
C/W
M.F.A.NO.22780/2009 (MV)
Dated-21-06-2013,

5. Be that as it may, apart from contending so in the written statement and taking up such contention in the instant appeal **there has been no effort on behalf of the appellant to question and seek for quashing of the charge sheet or seeking for fresh investigation into the matter for filing an appropriate charge sheet.** In that regard, it would be appropriate to extract para 6 of the judgment cited supra which reads as hereunder: "6. Then coming to the question of involvement of the vehicle, admittedly charge- sheet is filed against the driver of the vehicle, the owner has not denied the accident. FIR is registered in Crime No.10/05 by the Malur Police. **If really the vehicle was not involved, if a false case has been lodged and if the owner has colluded with the claimants, it was for the Insurance Company to challenge the same to quash the charge-sheet and to direct the police to investigate properly and file an appropriate case for having lodged a false case when there was no accident and vehicle in question had not been involved.** The learned counsel for the

> appellant submits that after case was filed, the matter was entrusted to a private agency for investigation and according to the report of the investigation of a private agency, the vehicle in question had not been involved in the accident. But, we cannot place reliance on a report submitted by a private agency when a charge sheet is filed by the police after a detailed Investigation and when the driver and owner of the vehicle have not disputed about the involvement of the vehicle in question. Therefore, this point is also answered against the appellant."
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> 6. **<u>In that view, the contention urged herein without resorting to such procedure cannot be accepted</u>**. Hence, the grounds raised in the instant appeal to assail the judgment and award on the question of liability is without merit and the same is liable to be rejected.

The ratio [underline emphasized by me] laid down the the Hon ble High Court of Karnataka (CIRCUIT BENCH AT DHARWAD) in un-reported decision of the Hon ble High Court of Karnataka (CIRCUIT BENCH AT DHARWAD) in M.F.A. No.22778/2009 C/W M.F.A.NO.22780/2009 (MV), Dated-21-06-2013, in between the Divisional Manager, the Oriental Insurance Co Ltd, Divisional office VS Sangappa is that . If really false case has been lodged and if the owner has colluded with the claimants, it was for the Insurance Company to challenge the same to quash the charge-sheet and to direct the police to investigate properly. If, there is some correction made at Medico-legal certificate dated of Balanku Hospital marked at exhibit P-5 it does not mean that the entire document is fabricated. Assuming that the vehicle is implanted the respondent insurance company must question and challenge the charge sheet marked at exhibit P-3 in the court of law. Thus self serving statement of the respondent insurance company that the vehicle is implanted in the present case cannot be accepted. Hence issue No.1 is answered in affirmative

16. **ISSUE NO.2:-**It is the specific defense of the Respondent Insurance company that the rider of the offending bike did not possess driving license hence there is a breach of policy. Therefore the petition is not maintainable. But a perusal of the charge-sheet make it clear that IO did not file charge-sheet for violating 3 R/W Section 181 of the Motor Vehicles Act, 1988 for driving the offending bike without driving license for driving vehicles in contravention of section 3 or section 4 of the said Motor Vehicles Act, 1988 rider of the offending bike. If at there rider of the offending bike did not possess the DL, the IO would have filed charge-sheet for violating 3 R/W Section 181 of the Motor Vehicles Act, 1988 the IO would have filed the charge-sheet against the rider of the offending vehicle . The entire burden of proving driving license is on the Respondent Insurance company and not on the claimants. In this regard it is beneficial to refer to the decision of the Hon'ble High Court of Karnataka (DHARWAD BENCH) reported in 2011 ACJ 1464 in between Shivarama Parameshwara Hegde vs. Subray Honnappa Naik para No.14 and para No15 read as under.

M.F.A. No. 2623 of 2004 (MV);
Dated-01.04.2009

14]. The endorsement we have referred above spells out clearly that permanent licence issued was valid from 28.1.2000 to 27.1.2020 and it is undoubtedly issued to the claimant much prior to the occurrence of the accident in this case. This document also substantiates undoubtedly that the respondent No. 1 is authorized to drive transport vehicle up to 5.1.2004. This is only a condition on which license with a validity from28.1.2000 to 27.1.2020 is issued, which means that the respondent No. 1 was duly authorised to drive a transport vehicle for the period indicated above. The accident in this case has occurred on 31.12.2000 which is certainly after the issuance of the driving licence to respondent No. 1. Therefore, the contention of the insurer that 6.1.2001 should be taken as the date to reckon the validity of licence is untenable and we reject the same.

15]. We also reject the contention of the insurer that as per the regulations of the Motor Vehicles Act, licences are issued initially for a period of three years, after which the licence expires. This is because the insurance company has on its own produced Exh. R3 in its evidence for placing reliance on it. It is, therefore, bound by the documentary evidence which it has produced**. Since the same is not brought into question and as no official from the Motor Vehicles Department has been examined by the insurance company to elicit as to whether suchan issuance is legally permissible or not, we reject the arguments to the contrary advanced in this case and hold that there was a valid driving** licence possessed by respondent No. 1 effective as on the date of accident, i.e., 31.12.2000. This point is, therefore, answered in favour of the appellant and against the insurer.

The ratio (underline emphasized by me) laid down by the Hon'ble High Court of Karnataka (DHARWAD BENCH) reported in 2011 ACJ 1464 in between Shivarama Parameshwara Hegde vs. Subray Honnappa Naik is that where in it is held that, in order prove that the driver of the vehicle did not possess the driving lisence the Respondent Insurance Company has to examine

RTO official to substantiate its defense of not posssessing the driving license. Thus self serving statements of the Respondent Insurance company that the rider of the vehicle did not possess the driving license without any concrete documentary evidence from the jurisdictional RTO office cannot be accepted as proving of possessing of driving license is on the Respondent Insurance company and not on the petitioner . Hence Issue No.2 answered in negative.

17. **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.

18. 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.

19. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of ' just' compensation which is the pivotal consideration. Though by use of the expression ' which appears to it to be just' a wide discretion is vested in the court. The determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression ' just' denotes equitability, fairness and reasonableness, and non-arbitrary. If it is not so it cannot be just. In this regard it is beneficial to refer to the decision of the Hon'ble Supreme Court of India reported in (2012) 12 SCC 274 in between K. Suresh vs New India Assurance Company Ltd. and Ors the para NO.2, para NO.7 to para No.10 read as under.

Civil Appeal No. 7603 of 2012[‡],
Dated-19-10-2012

2. Despite many a pronouncement in the field, it still remains a challenging situation warranting sensitive as well as dispassionate exercise how to determine the incalculable sum in calculable terms of money in cases of personal injuries. In such assessment neither sentiments nor emotions have any role. It has been stated in *Davies* v. *Powell Duffryn*

Associated Collieries Ltd. (No. 2)[1] that it is a matter of pounds, shillings and pence. There cannot be actual compensation for anguish of the heart or for mental tribulations. The quintessentiality lies in the pragmatic computation of the loss sustained which has to be in the realm of realistic approximation. **Therefore, Section 168 of the Motor Vehicles Act, 1988 (for brevity "the Act") stipulates that there should be grant of "just compensation". Thus, it becomes a challenge for a court of law to determine "just compensation" which is neither a bonanza nor a windfall, and simultaneously, should not be a pittance**.

7. While assessing the damages there is a command to exclude considerations which are in the realm of speculation or fancy though some guesswork or some conjecture to a limited extent is inevitable. That is what has been stated in *C.K. Subramania Iyer* v. *T. Kunhikuttan Nair*[8]. Thus, some guesswork, some hypothetical considerations and some sympathy come into play but, a significant one, the ultimate determination is to be viewed with some objective standards. To elaborate, neither the Tribunal nor a court can take a flight in fancy and award an exorbitant sum, for the concept of conventional sum, fall of money value and reasonableness are to be kept in view. Ergo, in conceptual eventuality "just compensation" plays a dominant role.

8. The conception of "just compensation" is fundamentally concretised on certain well-established principles and accepted legal parameters as well as principles of equity and good conscience. In *Yadava Kumar* v. *National Insurance Co. Ltd.*[9], a two-Judge Bench, while dealing with the facet of "just compensation", has stated thus: (SCC p. 345, para 15)

"*15.* It goes without saying that in matters of determination of compensation both the Tribunal and the court are statutorily charged with a responsibility of fixing a 'just compensation'. It is obviously true that determination of a just compensation cannot be equated to a bonanza. At the same time the concept of 'just compensation' obviously suggests application of fair and equitable principles and a reasonable approach on the part of the Tribunals and the courts. This reasonableness on the part of the Tribunal and the court must be on a large peripheral field."

In *Concord of India Insurance Co. Ltd.* v. *Nirmala Devi*[10] this Court has expressed thus: (SCC p. 366, para 2)

"*2.* … **the determination of the quantum must be liberal, not niggardly since the law values life and limb in a free country in generous scales**."

9. In *Helen C. Rebello* v. *Maharashtra SRTC*[11], while dealing with concept of "just compensation", it has been ruled that: (SCC p. 108, para 28)

"*28.* … The word 'just', as its nomenclature, denotes equitability, fairness and reasonableness having a large peripheral field. The largeness is, of course, not arbitrary; it is restricted by the conscience which is fair, reasonable and equitable, if it exceeds; it is termed as unfair, unreasonable, unequitable, not just."

> The field of wider discretion of the Tribunal has to be within the said limitations. It is required to make an award determining the amount of compensation which in turn appears to be "just and reasonable", for compensation for loss of limbs or life can hardly be weighed in golden scales as has been stated in *State of Haryana* v. *Jasbir Kaur*.
>
> **10.** It is noteworthy to state that an adjudicating authority**, while determining the quantum of compensation, has to keep in view the sufferings of the injured person which would include his inability to lead a full life, his incapacity to enjoy the normal amenities which he would have enjoyed but for the injuries and his ability to earn as much as he used to earn or could have earned. Hence, while computing compensation the approach of the Tribunal or a court has to be broad based.** Needless to say, it would involve some guesswork as there cannot be any mathematical exactitude or a precise formula to determine the quantum of compensation. In determination of compensation the fundamental criterion of "just compensation" should be inhered.

The ratio (underline emphasized by me) laid down by the Hon'ble Supreme Court of India reported in (2012) 12 SCC 274 in between K. Suresh vs New India Assurance Company Ltd. and Ors is that while determining the quantum of compensation, the approach of the Tribunal or a court has to be broad based and court shall award just compensation.

20. It is admitted fact that the petitioner sustained injuries referred to above due to accident . No amount of money can compensate for the injuries suffered. Claimant can never be put back in the same position. However, compensation has

to be determined in terms of the provisions of Motor Vehicles Act, 1988. The Motor Vehicles Act, 1988 requires determination of payment of just compensation and it is the duty of the court to ensure that she is paid compensation which is just. By making a payment of compensation for the damages, the court cannot put back again the claimant into his original position. On the date of determination of the compensation, he is being compensated but he cannot sue again, therefore, the compensation must be full and final while determining the same.

21. It is not out of place to observe by this court that, by making the payment of compensation for damages, this court would not revive the claimant into his original position. The compensation towards wrongful act in terms of money though cannot be decided by the court but it may be determined as per the recognized principles of Hon'ble Supreme Court of India. . In the said context, for determination of compensation, comparable to the injuries, thereby a person can lead his life, though his physical frame cannot be reversed.

22. 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.

23. 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.

24. In view of the said legal position, the compensation can be assessed in pecuniary heads i.e. the loss of future earning, medical expenses including future medical expenses, attendant charges and also in the head of transportation including future transportation. In the non-pecuniary heads, the compensation can be computed for the mental and physical pain and sufferings in the present and in future, loss of amenities of life , loss of expectancy in life, inconvenience, hardship, discomfort, disappointment, frustration, mental agony in life, etc.

25. 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 **<u>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</u>**, 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):
> "...**<u>money cannot renew a physical frame</u>** 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.

26. 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% .

27. 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) 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 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.

28. In the present case disability is assessed at 30% as per the disability certificate issued by the Raichur institute of medical science at Raichur dated 05-12-2024 marked at exhibit P-15 . 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) 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 in the present case also the petitioner is entitled for future prospectus of 40%.

29. 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 AIRONLINE 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.

30. A perusal of the disability certificate issued by the Raichur institute of medical science at Raichur dated 05-12-2024 marked at exhibit P-15 make it clear that the petitioner sustained injuries extra dural hematoma (EDH) at right fronto parietal C ortex measuring 8 x 2 cms of brain, extra dural hematoma at right frontal cortex measuring 1.9x0.4 cm, acute subarach anoid hemorrhage at left sylvion fissure, fracture of right frontal bone, fracture of right parietal bone, scalp contusion at right parietal area and other parts of the body.

31. 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. 13750/-/- for the districts coming under the jurisdiction of the Hon'ble High Court of Karnataka, (KALABURGI), Bench . Hence income of the petitioner can be assessed at Rs. 13750/-/-. A the disability certificate issued by the Raichur institute of medical science at Raichur dated 05-12-2024 marked at exhibit P-15 the disability of the claimant is assessed at 30% Hence it is just and proper to take disability of injured claimant at 30%.

32. 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 36-40 years, multiplier of 15 should be applied,

The proper multiplier is as under.

$$\frac{\text{Rs.13,750 x 40}}{100} = \text{Rs.5,500/- (40\% future prospects added)}$$

Rs.13,750/-
+Rs. 5,500/-
Rs.19,250/- (after adding 40% future prospects)

$$\frac{\text{Rs.}19{,}250 \times 12 \times 15 \times 30}{100} = \text{Rs.}10{,}39{,}500/-$$

HEADS

Sl. No.	Particulars	Amount of compensation
1	Loss of future income due to disability	**Rs** 10,39,500=00
2	Loss of income during period of treatment	**Rs.** 50,000=00
3	Pain and suffering	**Rs. 60**,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.20**,000=00
7	Medical Expenses	**Rs.1,33,035=00**
	TOTAL	**Rs.14,46,535=00**

33. This court opined that the claimants entitled for 6% interest on the compensation amount **Rs.14,46,535/-** to be awarded. Hence Issue No.3 answered in Partly affirmative.

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

~:: <u>O R D E R</u> ::~

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. 14,46,535/- (Rupees Forteen Lakhs Forty Six Thousand Five Hundred Thirty Five 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 50% 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

A N N E X U R E

I) **Witnesses examined on behalf of Petitioner.**

PW-1 : Basavaraj @ Basanagouda

II) **Documents exhibited on behalf of Petitioner:**

Ex.P1	:	Certified copy of FIR
Ex.P2	:	Certificate copy of Complaint
Ex.P3	:	Certified copy of Charge sheet
Ex.P4	:	Certified copy of Spot panchanama
Ex.P5	:	Certified copy of Wound certificate
Ex.P6	:	Certified copy of IMV report
Ex.P7	:	Certified copy of plea guilty in CC No.562/2021
Ex.P8	:	Certified copy of order sheet in CC No.562/2021
Ex.P9	:	Discharge summary
Ex.P10	:	Medical bills
Ex.P11	:	11 Medical prescriptions
Ex.P12	:	Insurance policy of motorcycle
Ex.P13	:	Notarized copy of DL
Ex.P14	:	CT scanning pictures
Ex.P15	:	Disability certificate

III) **Witnesses examined on behalf of Respondents:**

RW1	:	Kalpit Sharma
RW2	:	Dr. Bandenawaz

IV) **Documents exhibited on behalf of Respondents:**

Ex.R1	:	Authorization letter
Ex.R2	:	Insurance policy
Ex.R3	:	Legal notice
Ex.R4	:	Postal receipt
Ex.R5	:	Legal notice
Ex.R6	:	Postal receipt
Ex.R7	:	Postal acknowledgment

(Lakshmikant Janakiram Miskin)
Senior Civil Judge & M.A.C.T
Sindhanur.