

KARN020006492023



Presented on : 23-05-2023
Registered on : 23-05-2023
Decided on : 30-05-2026
Duration : 03 years, 00 months, 07 days

**IN THE COURT OF PRL.SENIOR CIVIL JUDGE & CJM.,
AND ADDL. MACT, RAMANAGARA.**

:- PRESENT :-

**Presided Over by:- Sri. Lokesha B.A., LL.B.,
Prl.Senior Civil Judge & CJM.,
and Addl.MACT,
Ramanagara.**

M.V.C.No.181/2023

DATED:- THIS THE 30th DAY OF MAY, 2026

- Petitioners** : 1. Smt. Nethravathi
W/o late Paramesh Gowda,
aged about 42 years,
2. Sri. Vithesh P.
S/o late Paramesh Gowda,
aged about 25 years,
Petitioner No.1 to 3
R/at Changegowdanahatti
Village, Muluru Post,
Saraguru Hobli,
H.Kote Taluk,
Mysore District.
3. Smt. Manasa P.
D/o late Paramesh Gowda,



aged about 23 years,

Petitioner No.1 and 3 are
present R/at Achalu Village,
Kylancha Hobli,
Ramanagara Taluk,
Ramanagara District.

(Rep. by Sri. K.B.S. Adv.,)
- V/s -

- Respondents** : 1. The Managing Director
(GSTIN:32ABCK135J2Z0),
Kerala State Road,
Transport Corporation,
Transport Bhavana, Fort,
Thiruvananthapuram-695023,
Trivandrum Kerala-695023.
- (Kerala Bus bearing Reg.No.KL-15A-1988)
2. The Manager,
Oriental Insurance Company Ltd.,
4th floor, C.P. Hub,
Liyo Complex,
Bengaluru-25.
- (Policy No.441200/31/0223/7348
Period From 23.12.2022 to 22.12.2023)
(R-1 : Exparte,)



(R-2 : R/by Sri.J.S. Adv.,)

* * *

JUDGMENT

This petition is filed by the petitioners under Section 166 of Motor Vehicle Act 1988, claiming compensation of Rs.50,00,000/- for the death of Paramesh Gowda husband of the first petitioner and father of the 2nd and 3rd petitioner.

2. The brief facts of the case of the Petitioners is as under:-

That on 29.04.2023 at about 12.15 mid night while deceased Paramesh Gowda was proceeding in motor cycle bearing Reg.No.KA-04-KL-2576 as a pillion rider with Manju Gowda, when they reached near Mudagere Gate, Bangalore Mysore Road, Channapatna, the driver of the

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Bus bearing Reg.No.KA-15-A-1988 drove the same in rash and negligent manner endangering to human life and took turn towards right side without any signal and hit to the two wheeler of the deceased, by the result of which, the deceased fell down and sustained injury and he is succumbed at the spot. After death of the deceased, the petitioners have performed rituals of the deceased by spending Rs.2,50,000/-. Before the accident, the deceased was hale and healthy and he was doing security job and working as agriculturist and dairy farming business and was earning Rs.30,000/- per month. The petitioners were dependent upon the income of the deceased. The petitioners have lost the deceased and they have suffered love and affection due to the death of deceased Paramesh Gowda. The accident occurred due to



the rash and negligent driving of the driver of the Bus bearing registration number KL-15-A-1988 and complaint has been filed with jurisdictional police. The vehicle of the 1st respondent was insured with the respondent No.2. As such, both the respondents are liable to pay the compensation to the petitioners. Hence, the petitioners filed this petition and prayed to allow this petition.

3. On the other hand, in spite of service of notice, 1st respondent has not appeared before this court and he has been placed ex-parte. In response to the notice, authorized officer of the 2nd respondent insurance company appeared before this court through its counsel and filed objection to the petition, contending that the rider of the two wheeler rode the vehicle without driving



license and rider and deceased were not wearing helmet. It is further plead that, accident is occurred due to the rash and negligent riding of the two wheeler and rider of the two wheeler was not keeping proper distance with ahead moving Bus. Hence, rider of the two wheeler was also liable to the part of his negligence. This is a clear case of volenti non fit injuria. It is further plead that the driver of the 1st respondent vehicle was not holding effective and valid driving license at the time of accident. Therefore, this respondent is not liable to pay the compensation. It is further states that petition is bad for non-joinder of necessary party i.e., owner and insurer of the motor cycle bearing Reg.No.KA-04-KL-2576. Hence, the Respondent No.2 is not liable to pay the compensation.



4. On the basis of the rival pleadings of the parties, my learned predecessor-in-office has framed the following

Issues :-

ISSUES

1. Whether the Petitioners prove that, on 29.01.2023, while the deceased was Paramesh Gowda was traveling to Mysuru along with Manjugowda as a pillion rider on the two wheeler bearing Reg.No.KA-04-KL-2576 and their vehicle reached near Mudugere Gate, Channapatna on the Bangalore-Mysore Main Road, at the same time, the driver of the Kerala State Bus No.KL-15-A-1988 drove the same in a very rash and negligent manner endangering human life and and came towards the left side of the road without giving any signal and hit the vehicle of the deceased, as a result of which, he fell down and sustained grievous injuries and succumbed to the said injuries in the hospital?

2. Whether the Respondent No.2 proves that the rider of the motor cycle bearing Reg.No.KA 04 KL 2576 did not have the



valid and effective driving license to ride the same at the time of the accident?

3. Whether the Petitioners are entitled for compensation? If so, for how much and from whom?

4. What Order or Award?

5. In order to prove the case of the petitioners, 1st petitioner, Smt. Nethravathi examined herself as PW.1 and Ex.P1 to 14 are marked on behalf of the Petitioners. On the other hand one Sri. C.s. Venugopal, Assistant Manager of the 2nd Respondent Insurance Company examined as RW.1. Ex.R1 and 2 are marked.

6. I have heard the arguments from both sides and perused the records.

7. My findings to the above Issues are as under:-



Issue No.1 : In the Affirmative;

Issue No.2 : In the Negative;

Issue No.3 : Partly in the Affirmative;

Issue No.4 : As per the final order
for the following:-

REASONS

8. Issue No.1:- In order to prove the case of the petitioners, 1st petitioner Smt.Nethravathi examined herself as PW1. This PW.1 files her affidavit by way of examination chief by reiterating the averments of the petition. This Petitioners have produced in all 14 documents in support of their contention. It is not in dispute that on 29.04.2023 at about 12.15 mid night while deceased Paramesh Gowda was proceeding in motor cycle bearing Reg.No.KA-04-KL-2576 as a pillion rider with Manju Gowda, near Mudagere Gate, Bangalore Mysore Road, Channapatna and offending vehicle was



proceeding in front of the deceased two wheeler. It is not in dispute that deceased Paramesh Gowda died in the accident occurred on 29.04.2023 near Mudagere Gate, Channapatna. The second respondent insurance company taken up a defense that accident is occurred due to the rash and negligence riding of the two-wheeler by the rider of two-wheeler number KA-04-KL-2576. It is not in dispute as per Ex.P1, one Manjunath lodged complaint against the driver of the offending vehicle KL-15-A-1988 alleging that he has caused accident by the result of which deceased Paramesh Gowda died due to the injury sustained by him in the accident. Ex.P1 discloses the fact that immediately after the accident complaint has been lodged by the complainant before jurisdictional police. Ex.P2 is the true copy of the FIR. Ex.P3 is the true



copy of the charge sheet. Ex.P4 is the true copy of the Inquest Report. Ex.P5 is the true copy of PM Report. Ex.P6 is the true copy of spot mahazar. Ex.P7 is the true copy of the spot sketch. Ex.P8 is the true copy of the seizure mahazar. Ex.P9 and 10 are RTC extracts. As per Ex.P3, the jurisdictional police have filed a charge against the driver of the Bus bearing registration number KL-15-1988 alleging that accident has occurred due to rash and negligent driving of the Bus by its driver by name Shajil T. for an offense punishable under section 279 and 304A of IPC. It is to be noted that during the course of cross-examination of PW1, it has been suggested by the learned counsel for the respondent No.2 that due to the negligence on the part of the rider of the two wheeler accident has been occurred. It has been denied by PW.1.



9. The learned counsel for the Respondent No.2 would submit that the rider of the two wheeler himself has hit the Bus bearing registration number KL-15-1988. He further submits that the rider of the two wheeler was not maintained proper distance between his two wheeler and bus and due to the negligence on the part of the rider of the two wheeler accident is occurred. Undisputedly, as per Ex.P3 charge sheet has been filed by the Investigating Officer alleging that accident is occurred due to dash and negligent driving of the Bus bearing registration number KL-15-1988 by its driver.

10. The learned counsel for the Respondent No.2 would submit that liability cannot be fixed on the Respondent No.2 Insurance Company for the reason that rider of the two wheeler also contributed to the accident.



In support of his submission the learned counsel for the Respondent No.2 cited following decisions:

i. 1994 ACJ 130, Matajidewa and Ors., Vs. Hemanta Kumar Jena and Anr., I have carefully gone through this decision in detail. *In this decision “the deceased was pedestrian and tribunal was wrongly held that deceased was a passenger in offending vehicle i.e., Truck.” In this decision “there was a positive evidence of the claimants that deceased was pedestrian and Truck came and knocked him down and this evidence has not been impeached in any manner by way of cross-examination.”*

But, in the case on hand, from perusal of the prosecution papers and materials on record it is clear that the driver of the Bus bearing registration number KL-15-1988 took the vehicle to the left side of the road suddenly without



any signal. Hence, with due respect to the dictum of this decision I am of the humble opinion that this decision may not helpful for the case of the 2nd Respondent.

ii. AIR 2018 SC, 2118 Nishan Singh and Ors., Vs. Oriental Insurance Company Ltd., through Regional Manager and Ors., I have carefully gone through this decision in detail. In this decision “The vehicle was not driven maintaining proper distance from the Truck. *In this decision it was observed that the speed of the Car would have been fast where by the Car in question collided with the rear part of the Truck in question being uncontrolled and said accident took place. There was no rash and negligence on the part of the driver of the Truck.*” But in the case on hand as evident from Ex.P3 charge sheet accident



is occurred due to rash and negligent driving of the Bus bearing registration number KL-15-1988. Hence, with due respect to the dictum of this decision I am of the humble opinion that this decision may not helpful for the case of the 2nd Respondent.

iii. MFA 7072/2018 clubbed with MFA 7071/2018 and 8491/2018 between MANAGEP National Insurance Company Lttd., Vs. T.S. Manjunath. In this decision “*there was clear evidence to show that goods tempo was proceeding in the same direction as was the ill fated motor cycle and the very fact of the motor cycle dashing against the rear side of the goods tempo tells its own tale of the rider either not maintaining sufficient distance or the rider throwing all the caution a rider should take to the winds.*”



But in the case on hand, the Respondent No.2 Insurance Company has failed to prove the rash and negligence on the part of the rider of the two wheeler. Hence, with due respect to the dictum of this decision I am of the humble opinion that this decision may not helpful for the case of the 2nd Respondent.

11. On the other hand the learned counsel for the Petitioners cited following decisions:-

i. M.F.A.No.917/2015(MV-D) C/w M.F.A.No.2087/2015 (MV-D), New India Assurance Co.Ltd., and Ors., Vs. Sri. Shivam K. and Ors;

ii. M.F.A.No.7663/2014, The Brancha Manager, Oriental Insurance Co.Ltd., Vs. Smt. Girija and Ors., and M.F.Ano.7662/2014, The Manager Oriental Insurance Co.Ltd., Vs. Bharathi and Ors.,, M.F.A.No.85096/2014 Kum. Bharathi Vs. Smt. Roopa Shree and Ors.,



***iii. Miscel.First Appeal No.201519/2017 (MV-D),
General Manager, HDFC Ergo General Insurance
Co.Ltd., Vs. Nagamma and Anr.,***

***iv. MFA No.6126/2016(MV-D) C/w MFA No.5438/2016
(MV-D), Smt. Kamalamma and Ors., Vs. TMA
Hospitality Services Pvt.Ltd., and Ors.,***

***v. M.F.A.No.3887/2012 (MV), Sri. K.P. Nagaraja Vs.
Manjuanth N. Sithal and Ors.,***

***vi. MFA No.3373/2017, Managing Director, KSRTC
Central Office, Bangalore Vs. B.N. Nagaraj.***

In the case on hand the Respondent No.2 Insurance Company has not challenged the charge sheet filed as against the driver of the Bus bearing registration number KL-15-1988. Ex.P3 Charge sheet has establishes the fact that alleged accident has been occurred due to the rash and negligent driving of the Bus bearing registration number KL-15-1988 by its driver. The police papers



produced by the petitioners are sufficient to hold that accident is occurred due to the rash and negligence driving of the Bus bearing registration number KL-15-1988 by its driver. For the foregoing reasons **I answer Issue No.1 in the “Affirmative”**.

12. Issue No.2:- The Respondent No.2 has taken up a defence in the written statement that at the time of accident the rider of the two wheeler was not holding valid and effective driving license. It is to be noted that after completion of investigation, the investigating officer filed a charge against the rider of the two wheeler for the offense punishable under section 279, 338, 304(A) of IPC. The investigating officer have not invoked any of the provision of the Motor Vehicle Act to infer that the rider of the offending vehicle had not possessed valid and effective



driving license at the time of accident. If the rider of the offending vehicle had not possessed valid and effective driving license, it should have been mentioned in the charge sheet by the investigating officer. Under such circumstances, it cannot be said that the rider of the offending vehicle did not possess the effective valid driving license at the time of accident. This plea of the 2nd respondent remains as plea only without there being any evidence. It is for the respondent No.2 company to prove the fact that the rider of the offending vehicle did not possess valid and effective driving license at the time of accident but same has not been proved by the respondent No.2. This initial burden has not been discharged by the respondent No.2. **Therefore this Issue is answered in the Negative.**



13. Issue No.3:- It is to be noted that it is not in dispute that the 1st petitioner is the wife of the deceased and the 2nd and 3rd petitioners are the children of deceased Paramesh Gowda. The petitioners have produced the Aadhar Card of the deceased Paramesh Gowda marked at Ex.P11. This Ex.P11 establishes the fact that deceased Paramesh Gowda was born on 11.02.1975. This Ex.P11 is authenticated document to prove the date of birth of the deceased. This Ex.P11 has not been disputed by the respondent No.2. As per this Ex.P11, the deceased was completed 48 years as on the date of accident. Therefore, as per Ex.P11, age of the deceased to be taken as 48 years as on the date of his death. As I have already discussed above, as per the PM report, deceased Paramesh Gowda died due to the injury



sustained in the accident. 1st petitioner, being the wife of deceased, has lost her husband. 2nd and 3rd petitioners lost their father in their childhood. Undisputedly, So, they were depending upon the income of the deceased Paramesh Gowda. The petitioners have suffered loss of love and affection towards the deceased.

14. In the present case, the Petitioners are claiming the compensation on account of the death of Sri. Paramesh Gowda in the Road Traffic Accident. It is claimed in the claim petition as well as in the evidence of P.W.1 that, as on the date of the accident, the deceased Sri. Paramesh Gowda was aged about 48 years and that he was working as a security guard, agriculturist and dairy farming and he had monthly income of Rs.30,000/-.



According to the Petitioners, the deceased was the sole bread earning member in their family and due to his untimely death, their life has become miserable and they are suffering from severe pain and mental agony even to this day. However, there is absolutely no proof regarding the income of the deceased. Moreover P.W.1 has also clearly admitted that, there is no proof regarding the income of the deceased. In such circumstance, in the absence of proof regarding the actual income of the deceased, it is just and proper to take the notional income of the deceased as on the date of the accident as per the KSLSA Chart.

15. So far as the future prospects is concerned, the deceased was doing security guard, agricultural work and



dair farming and as per the notional income chart of KSLSA, his monthly income is considered as Rs.16,000/- and as per the Aadhar card and medical reports of the deceased, as on the date of accident, he was aged about 48 years.

16. In respect of the future prospect the learned counsel for the Petitioners has cited decision of ***Hon'ble Apex Court in National Insurance Co., Ltd., Vs Pranay Sethi and Others.***, Therefore, as per the principles laid down by the said decision 25% of the established income to the income of the deceased should be added towards his future prospects. At the time of accident the age of the deceased was 48 years and he was self employed, 25% of the established income to the income of the deceased



should be added towards his future prospects. So, by applying the same to the case on hand, the age of the deceased was 48 years as on the date of death and as such, **25% income is added towards future prospects.**

So, in the present case, as on the date of accident, the monthly income of the deceased should be taken as Rs.16,000/- and therefore if 25% is added to this, the **future prospects income would amount to Rs.20,000/-.**

17. As the deceased was married and he died leaving behind three dependents i.e., wife, and children (Petitioners No.1 to 3 herein), to calculate the loss of dependency, as per Pranay Sethi's case, 1/3rd of the income of the deceased has to be deducted towards his personal and living expenses and the remaining 2/3rd



income is to be taken as his contribution to the family. Therefore, when the monthly income of the deceased is considered by this court, after the deduction of 1/3rd of his income, it comes to **Rs.13,333/-** (by deducting 1/3rd of his monthly income towards his personal expenses (Rs.20,000-6667/-). Then **as per the decision of Sarala Verma's case**, considering the age of the deceased as per his Aadhar card, being 48 years as on the date of the accident, the appropriate multiplier is **13**. Therefore, the loss of dependency works out to **Rs.13,333 X 12 x 13 = Rs.19,19,952/-**. **Thus, the Petitioners No.1 to 3 are entitled for compensation of Rs.19,19,952/- towards loss of dependency.**

18. It is the case of the Petitioners that, they have spent around Rs.2,50,000/- towards medical expenses,



transportation of the dead body, funeral expenses and etc., There is no documentary evidence proof, so as to substantiate their claim that they have spent Rs.2,50,000/- towards transportation charges, funeral expenses etc., However, the Petitioners must have really spent money for the transportation of the dead body from the hospital to the residence and then to the burial ground and they would have definitely spent money towards the funeral ceremony of the deceased.

19. Therefore, as per the ratio reported in Pranay Sethi's case, a conventional amount of Rs.16,500/- is awarded under the head loss of Estate, Rs.16,500/- towards funeral expenses (10% added to Rs.15,000/- as per the judgment of Pranay Sethi) and Rs.10,000/-



towards transportation charges for having shifted the dead body from the hospital to the native place of the deceased.

20. Thus, the Petitioners are entitled for compensation as under:-

1.	Loss of Dependency	Rs.19,19,952-00
2.	Loss of Estate	Rs.16,500-00
3.	Funeral Expenses	Rs.16,500-00
4.	Transportation charges	Rs.10,000-00
	Total	Rs.19,62,952-00

21. Therefore, the Petitioners No. 1 to 3 are entitled for the compensation amount of **Rs.19,62,952/- rounded off Rs.19,63,000/- (Rupees Nineteen Lakhs Sixty Three Thousand Only)** for the



death of the deceased Sri. Prakash Gowda. In my opinion, the above said compensation awarded to the Petitioners No.1 to 3 is just, fair and proper in the facts and circumstances of the case.

22. As per the decision of the **Hon'ble Apex Court in the New India Assurance Co., Ltd., Vs., Smt. Somawathi and Others in Civil Appeal No. 3093/2020 decided on 7-9-2020**, there is no compensation awarded under the head of loss of love and affection.

23. Un-disputedly the Respondent No.1 is the RC owner of the Motor Cycle in question and the Respondent No.2 is the Insurer of the said vehicle. In such circumstance, the Respondent No.2, being the Insurer of



the insured vehicle of the Respondent No.1 is liable to compensate the family of the deceased for the wrong committed by the driver of the Respondent No.1, who was the RC owner of the offending Bus at the time of the accident. **Accordingly, this Issue is answered partly in the Affirmative, by holding that, the Respondent No.2 is held liable to pay compensation to the Petitioners.**

24. Issue No.4:- In view of my aforesaid reasons and discussions and my findings to Issue No.1 to 3, I proceed to pass the following:-

ORDER

The petition filed by the Petitioners under Sec.166 of the Motor Vehicles Act is allowed in part.

The Petitioners No.1 to 3 are held entitled for compensation of



Rs.19,63,000/- (Rupees Ninteen Lakhs Sixty Three Thousand Only)

Only together with interest at the rate of 6% per annum from the date of the petition till the date of deposit at ratio 70:15:15 respectively.

The Respondent No.1 and 2 are held jointly and severally liable to pay the compensation to the Petitioners.

The Respondent No.2 is directed to deposit the compensation amount in the Tribunal within 60 days from the date of this order.

On deposit of compensation amount, entire share of the compensation amount of the Petitioners No.2 and 3 shall be released on proper identification.

The 50% of the amount awarded in favour of the Petitioner No.1 shall be released and the remaining



50% shall be kept in FD for a period of 3 years in any nationalized bank.

Advocate fee is fixed at Rs.2,000/-.

Draw award accordingly.

(The Judgment is dictated to the Stenographer directly on the computer, corrected by me and then pronounced by me in the Open Court on this the 30th day of May 2026).

(Loksha),
Prl. Senior Civil & CJM,
Addl.MACT, Ramanagara.

ANNEXURE

1. List of Witness/s examined on behalf of the Petitioners:-

P.W.1 : Smt. Nethravathi.

2. List of Documents marked on behalf of the Petitioners:-

Ex.P.1 : True copy of the complaint;
Ex.P.2 : True copy of FIR;
Ex.P.3 : True copy of the Charge Sheet;
Ex.P.4 : True copy of the Inquest Report;
Ex.P.5 : True copy of P.M. Report;
Ex.P.6 : True copy of the Spot Mahazar;
Ex.P.7 : True copy of the Spot Sketch;
Ex.P.8 : True copy of the Seizure Mahazar;



- Ex.P.9 & 10 : Computerized RTC extracts;
Ex.P.11 to 14 : Notarized copy of Aadhar Card;
Ex.P.15 : Reply.

3. List of Witness/s examined on behalf of the Respondents:-

- RW.1 : Smt. Shobha;
RW.1 : Sri. C.S. Venugopal.

4.List of documents marked on behalf of the Respondents:-

- Ex.R.1 : Authorization Letter;
Ex.R.2 : Certified copy of Insurance Policy.

(Loksha)
Prl. Senior Civil & CJM,
Addl.MACT, Ramanagara.