

KARN020007232024



Presented on : 03-06-2024  
Registered on : 03-06-2024  
Decided on : 23-03-2026  
Duration : 01 year, 09 months, 20 days

**IN THE COURT OF ADDL. SENIOR CIVIL JUDGE & JMFC.,  
RAMANAGARA**

**:PRESENT:**

**Smt.Niveditha.T.M., BA.L., LL.B.,  
Addl. Senior Civil Judge & JMFC.,  
Ramanagara.**

**ECA No.4/2024**

**DATED : THIS THE 23<sup>rd</sup> DAY OF MARCH 2026**

**Petitioner** : 1. Sri.Yousaf.T,  
S/o. Eramullan,  
Aged about 55 years,  
R/at Manalpurail, Pysy Irikkur,  
Peruvalathuparambha,  
Kannur District,  
Kerala State-670593.

2. Smt.Tahira.M.P,  
W/o. Yoosaf.T,  
Aged about 48 years,  
R/at: Pysy Irikkur,  
Peruvalathuparambha,  
Kannur District,

KARN020007232024



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ECA.No.4/2024 J

Kerala State-670593.

**(Rep by Sri.B.P.R., Advocate)**

**- V/s -**

- Respondents** : 1. K.P.Jabir Private Limited,  
No.1321/S, 132/T,  
KPJ Shopping Center,  
NR HP Petrol Pump,  
Madrassa,  
Taliparamba,  
Kannur District,  
Kerala State-670141,  
  
(Owner of Lorry No. KL-59-Z-7989)
2. The Manger,  
United India Insurance Co.Ltd.,  
Regional Office, 5<sup>th</sup> and 6<sup>th</sup> Floor  
Krishi Bhavana,  
Nrupathunga Road  
Bangalore-560 001.

Policy No.1011013123P106709041, Valid  
from 11.09.2023 to 10.09.2024)

**(R-1 Exparte)**

**(R-2 Rep by Sri.JS., Advocate)**

\* \* \* \* \*



**JUDGMENT**

**(Delivered on 23/03/2026)**

Petitioners have filed the petition under Section 10 of the Employees Compensation Act-1923 seeking compensation of Rs.1,50,00,000/-.

2. Case of the petitioners is that, petitioners No.1 and 2 are the parents of the deceased Muhammed Rashid.M.P., was working as driver under the 1<sup>st</sup> respondent. There was employer and employee relationship between the 1<sup>st</sup> respondent and the deceased Muhammed Rashid.M.P.,

That, on 30.03.2024 at about 7.00 p.m., during the course of employment, when the deceased Mohammed Rashid was proceeding the 1<sup>st</sup> respondent's Canter Lorry bearing Reg. No KL-59-Z-7989 along with one cleaner cum driver from Talipurm, Kerala towards Benglauru for shifting



fruits. When he reached near bypass B.M.Road, Mayaganahalli at that time he lost control over the said vehicle and dashed against road side divider steel grills, as a result of which deceased sustained grievous injuries all over the body and died while shifting to hospital.

The petitioners have spent around Rs.3,00,000/- towards the transportation of the dead body and funeral expenses of the deceased. Prior to the accident, the deceased was hale and healthy and worked as a driver under the 1<sup>st</sup> respondent and earned salary of Rs.2,500/- per month. He was maintaining his family. Due to the death of Muhammed Rashid.M.P, the petitioners have suffered and are facing difficulty in leading life.

That the accident had taken place during the course of employment of the deceased under the 1<sup>st</sup> respondent.



The Traffic police, Ramanagara have registered the case in Cr.No.49/2024.

3. The 1<sup>st</sup> respondent is the owner and the 2<sup>nd</sup> respondent is the insurer of the Canter Lorry bearing Reg. No KL-59-Z-7989. Hence, the respondents are jointly and severally liable to pay compensation. Hence, the petition.

4. After service of notice, the 1<sup>st</sup> respondent did not appear before the Tribunal and was placed exparte. The respondent No.2 appeared before the Tribunal through his counsel and filed the written statement.

The case of the respondent No.2 is that, the 1<sup>st</sup> respondent insured the Canter Lorry bearing Reg. No KL-59-Z-7989 with the 2<sup>nd</sup> respondent. But, the liability if any is subject to the terms and conditions of the policy issued and driving license of the driver, permit and other



provisions of the Motor Vehicle Act. Further contended that, the police authorities have filed the charge sheet against the driver of the vehicle. The deceased Mohamed Rashid was not an employee under the 1<sup>st</sup> respondent. So, there is no employee and employer relationships between them. Hence, this petition is not maintainable under the EC Act. Furhter contneded that, the 1<sup>st</sup> respondent knowingly entrusted the vehicle to a person who did not have valid and effective driving license. Hence, there is breach of contract and violation of terms and conditions of the policy. Hence, the respondent No.2 by denying the petition averments prayed for dismissal of the petition.

5. The following Issues have been framed by my learned predecessor in office.

### **ISSUES**

1. Whether the petitioners prove that the deceased Mohammed Rashid was an employee



working as driver of the employment of 1<sup>st</sup> respondent in the Canter Lorry bearing Reg.No.KL-59-Z-7989?

2. Whether the petitioners further proves that on 30.03.2024 at about 7.00 p.m., during the course of employment, when the deceased Mohammed Rashid was proceeding the 1<sup>st</sup> respondent's Canter Lorry bearing Reg. No KL-59-Z-7989 along with one cleaner cum driver and his minor kids from Talipuram, Kerala towards Benglauru for shifting fruits. When he reached near bypass B.M. road, Mayaganahalli at that time he lost control over the said vehicle and dashed against road side divider steel grills, as a result of which deceased sustained grievous injuries all over the body and died while shifting to hospital?
3. Whether the petitioners prove that they are the legal heirs of the deceased Mohammed Rashid were depending on his income?
4. Whether the 2<sup>nd</sup> respondent proves that the 1<sup>st</sup> respondent has entrusted his vehicle knowingly to a person who had no valid driving license and thereby violated the terms and conditions of the policy?
5. Whether the petitioners are entitled for compensation? If so, how much and from whom?



6. What Order or Award?

6. The petitioner No.2 has examined herself as Pw-1 and got marked ExP-1 to ExP-13 documents and one supporting witness examined as Pw-2 and got marked ExP-14 to ExP-16. On the other hand, the respondents not led any evidence.

7. Heard and perused materials available on record.

8. My answer to the above said issues are as follows:

**Issue No.1** : *In the Affirmative;*

**Issue No.2** : *In the Affirmative;*

**Issue No.3** : *In the Affirmative;*

**Issue No.4** : *In the Negative;*

**Issue No.5** : *Partly in the Affirmative;*

**Issue No.6** : *As per final order for the following:*



### **REASONS**

9. **Issues No.1 to 3:** Since the reasoning for these Issues overlap with one another to prevent repetition and for convenience sake, they are taken together for consideration.

10. It is the case of the petitioners that, on 03-04-2015 at 10:00am upon the instructions oon 30.03.2024 at about 7.00 p.m., during the course of employment, when the deceased Mohammed Rashid was proceeding the 1<sup>st</sup> respondent's Canter Lorry bearing Reg. No KL-59-Z-7989 along with one cleaner cum driver from Talipuram, Kerala towards Benglauru for shifting fruits. When he reached near bypass B.M.Road, Mayaganahalli at that time he lost control over the said vehicle and dashed against road side divider steel grills, as a result of which deceased sustained



grievous injuries all over the body and died while shifting to hospital. The accident had taken place during the course of employment and the deceased had been an employee under the 1<sup>st</sup> respondent.

11. The 1<sup>st</sup> respondent after service of notice did not appear before the Tribunal and was placed exparte. The respondent No.2 who appeared before the Tribunal denied the case of the petitioners.

12. The petition being filed under Employees Compensation Act, the petitioners have to establish that there was relationship of employer and employee between the respondent No.1 and the deceased Mohammed Rashid. The petitioners to prove the case, examined the petitioner No.2 as Pw-1. She filed an affidavit in lieu of examination in chief and reiterated the petition averments. Pw-1 has



produced true copies of FIR, Complaint, Charge Sheet, Spot Panchanama, Inquest Report, Postmortem Report at ExP-1 to ExP-4, ExP-7 and ExP-8 respectively.

13. In the cross examination Pw-1 deposed that, her son was working as driver from the last 8 years and she denied the suggestion that the ExP-12 is created one and on the day of the accident the said deceased was not a driving instead of sitting in the said vehicle. Further, Pw-1 has produced ExP-12 document to show that, her son was working under the respondent No.1. The respondent No.2 by denying the case of the petitioners but not led any evidence to prove their contention as stated in the written statement. The respondent No.2 has not denied the coverage of insurance to the vehicle driven by the deceased Muhammed Rashid.M.P. As per ExP-12 the respondent No.1 is the owner of Lorry bearing Registration No.KL-59-Z-



7989. As per the true copies of the complaint, FIR and charge sheet the deceased Muhammed Rashid.M.P., was driver of Lorry bearing Registration No.KL-59-Z-7989. The complaint shows that, as on the date of the accident the complainant sister son i.e., Muhammed Rashid.M.P., along with some other persons was came to the Bengaluru to loading the fruits and go back Kerala and was driving of the said lorry.

14. The documents produced by the Pw-1 reveal that, Muhammed Rashid.M.P was working as a driver. As per ExR-12, the respondent No.1 was the owner of the Lorry which was driven by the deceased Muhammed Rashid.M.P. Therefore, from the documents it can be gathered that, the deceased Muhammed Rashid.M.P., was working as an employee under the 1<sup>st</sup> respondent and he died during the



course of employment. Further on careful perusal of the documents the deceased is the son of the petitioners and also they are the dependents dependents of the deceased Muhammed Rashid.M.P. Based on the above said reasoning, **Issues No.1 to 3 are answered in the Affirmative.**

15. **Issue No.4:-** The respondent No.2 had taken up the defence that, the driver of Lorry bearing Registration No.KL-59-Z-7989 had no valid driving license. Further the Pw-1 has produced at Exp-13 is the Notarized Copy of DL, it shows that, the deceased by name Mohammed Rashid.M.P., was valid DL from 10.02.2020 to 03.12.2036. Therefore, the at the time of the said accident the deceased was having valid DL to drove the same. Hence **Issue No.4 is answered in the Negative.**



16. **Issue No.5:-** In view of the findings given in Issues No.1 and 2, it is clear that, the deceased Mohammed Rashid.M. died in an accident during the course of employment.

The next question is what was the age of the deceased at the time of accident. The petitioners to support their contention have produced the notarized copies of the Aadhaar Card and DL at ExP-11 and ExP-13, which shows that at the time of his death, Muhammed ashid.M.P. was aged 28 years. Therefore, this Court is of the view that, the deceased Muhammed Rashid.M.P., at the time of his death was aged 28 years.

17. Another question arises is what was the income of the deceased at the time of his death. The petitioners have contended that, the deceased was working as a driver



earning around Rs.2,500/- per day along with other allowances. In this regard K.P.Jabeer, Owner of K.P. Jabir(P) Ltd., examined as Pw-2 and got marked ExP-14 to ExP-16 and also he reiterated the petition averments and he admitted that, he is given the ExP-12 to the petitioners and his signature marked as ExP-12(a). Further on careful perusal of the ExP-14 and ExP-15 are the notarized copy of the registration certificate and permit, it clearly shows that, the said Pw-2 is the owner of the said vehicle and he was running Firm. Further on careful perusal of the ExP-12 certificate issued by the KPJ JABIR (P) LTD., it shows that the said deceased working as a driver and was received the Rs.2,000/- as daily wages including batta. Further in his cross examination he admitted the said deceased was working as a driver at the time of the accident and he denied that, to help the deceased family he deposing falsely



before the court. In the cross examination by the respondent No.2, Pw-2 had denied that, she has denied suggestion that, created the ExP-12 and the deceased was not driver the vehicle at the time of accident. Since the deceased was driver and as per ExP-12 document is produced to show his income allowed in part, this Tribunal takes into consideration notional income of Rs.15,000/- per month as the income of the deceased.

18. The petitioners contend that, the petitioners No.1 and 2 are the parents of the deceased and are dependents of the deceased. To support their contention Pw-1 has reiterated the same in her chief examination by way of affidavit. However, the respondents have not disputed the relationship of the petitioners with the deceased. Hence, this Court is of the view that, the petitioners are dependents of the deceased.



19. As far as quantum of compensation to be awarded to the petitioners is concerned, this Court has to fall back on Section 4 of Employees Compensation Act-1923 and also Schedule IV of the Act. The said provision deals with the facts which are applicable for determining the compensation amount in the case of death. It is stated that, in the case of death an amount equal to 50% of the monthly wages of the deceased multiplied by the relevant factor is to be considered as compensation that has to be awarded. By applying the said provision to the case on hand, as per Schedule IV of the Act, as per the ExP-11 and ExP-13 the deceased at the time of his death being aged 28 years the relevant factor applicable to the present case is 211.79. Hence, by applying the said factor since, the notional income is taken as Rs.15,000/- per month, the 50% monthly wages of the deceased is Rs7,500/- and



Rs.7,500/- is multiplied by the relevant factor it amounts to Rs.7,500/- x 211.79 =15,88,425/-. Therefore, this Tribunal is of the view that, the petitioners are entitled for compensation of **Rs.15,88,425/-**.

20. Apart from that, the petitioners are also entitled for compensation of **Rs.15,000/-** towards funeral expenses. The petitioners in total entitled for compensation of **Rs.16,03,425/-** which is rounded off **Rs.16,04,000/- (Rupees Sixteen Lakh Four Thousand Only)**.

21. As far as awarding interest and date from which the interest has to be awarded are concerned, this Tribunal refers to the decision of the ***Hon'ble Apex Court reported in 2019 (11) SCC 514 in North East Karnataka Road Transport Corporation Vs Sujatha***, wherein, the Hon'ble Apex Court has awarded interest at the rate of 12% from



the date of accident. By relying on the principle laid down in the said case, in this case, the petitioners are entitled for interest at the rate of 12% from the date of accident i.e., 31.03.2024.

22. Now, I will consider who has to pay compensation amount to the petitioner. In the petition undisputedly the respondent No.2 is the insurer of the respondent No.1 vehicle. It is also not in dispute the policy was in force at the time of accident. Hence, this Tribunal views that, respondents No.1 & 2 are jointly and severally liable to pay compensation to the petitioner. The respondent No.2 being the insurer has to indemnify the owner of the vehicle and the respondent No.2 is liable to pay compensation to the petitioner. With this observation, **Issue No.5 is answered partly in the Affirmative.**



23. **Issue No.6:** Based on the above said reasoning, I proceed to pass the following:

**ORDER**

The petition filed by the petitioners under Section 10 of Employee Compensation Act-1923 is partly allowed with cost.

The petitioners are awarded compensation amount of **Rs.16,04,000/- (Rupees Sixteen Lakh Four Thousand Only)** together with interest thereon at the rate of 12% per annum from the date of accident i.e., 31.03.2024 till the date of realization.

The respondent No.2 being the insurer is directed to deposit the said compensation amount in this case within 90 days from the date of this judgment.



After such deposit of the compensation amount and interest, the petitioners No.1 and 2 each equally entitled for release of 50% of the amount and the remaining 50% of the amount shall be kept in F.D., in the name of petitioners for a period of 3 years in any nationalized or schedule bank with the liberty to withdraw the periodical interest as per Bank Rules.

Advocate fee is fixed at Rs.1,000/-.

Draw award accordingly.

*(Dictated to the Stenographer directly on the computer and computerized by him, corrected, signed and then pronounced by me in the Open Court on this the 23<sup>rd</sup> day of March 2026)*

**(Smt.Niveditha.T.M)**  
**I Addl. Senior Civil Judge & JMFC.**  
**Ramanagara.**

**ANNEXURE**

**1. List of witnesses examined on behalf of the petitioners :**

Pw-1 : Smt.Tahir.M.P;  
Pw-2 : Sri.K.P.Jabir.



**2. List of documents marked on behalf of the petitioners:**

- ExP-1 : True Copy of FIR;
- ExP-2 : True Copy of Complaint;
- ExP-3 : True Copy of Charge Sheet
- ExP-4 : True Copy of Spot Mahazar;
- ExP-5 : True Copy of 133 Police Notice;
- ExP-6 : True Copy of Reply fro 133 Police Notice;
- ExP-7 : True Copy of Inquest Report;
- ExP-8 : True Copy of Postmortem Report;
- ExP-9 to 11 : Notarized Copies of Aadhaar Card;
- ExP-12 : Salary Certificate;
- ExP-13 : Notarized Copy of DL of deceased  
Muhammed Rashid.M.P;
- ExP-14 to 16 : Notarized Copies of Permit, RC and  
Aadhaar Card of the Pw-2.

**3. List of witnesses examined on behalf of the respondents:**

-Nil-

**4. List of documents marked on behalf of the respondents:**

-Nil-

**I Addl. Senior Civil Judge & JMFC.  
Ramanagara.**