KARN020015812022

Presented on : 14-11-2022
Registered on : 14-11-2022
Decided on : 27-06-2026
Duration : 03 years, 07 months, 13 days

BEFORE THE ADDITIONAL MOTOR ACCIDENTS CLAIMS TRIBUNAL AND 1st ADDL. SENIOR CIVIL JUDGE & JMFC., AT RAMANAGARA.

:PRESENT:

Sri.Niveditha.T.M., .BA.L, LL.B.,
Member, Additional M.A.C.T.
1st Addl. Senior Civil Judge & JMFC.,
Ramanagara.

M.V.C.No.:419/2022

DATED : THIS THE 27th OF JUNE, 2026

Petitioners :

1. Balanaik,
   S/o Silanaik,
   Aged about 35 years,

2. Priya,
   S/o Silanaik
   Aged about 15 years

3. Puneeth,
   S/o Silanaik
   Aged about 14 years

(Since the Petitioner No.2 and 3 are Minors they are represented by their natural Guardian Sri.Balanaik Father)

All are R/at: Bhuthaiahnadoddi,
Kailancha Hobli,
Ramanagara Taluk and District.

(Rep by Sri.HS., Advocate)

- V/s -

Respondents : 1. Lakshmi,
W/o. Ramachandra,
R/at: No.12, Javalageredoddi Village,
Kailancha Hobli,
Ramanagara Taluk and District.

(Owner of the TVS Radeon Vehicle bearing Reg.No.KA-42-ED-8347)

2. The Manager,
HDFC Ergo,
O/a No.25/1, 2nd Floor,
Shankaranarayana Building No.2,
M.G.Road,
Bangalore-560 001.

(Policy No.2312204580972100000 Valid from 27.03.2022 to 26.03.2027)

(R-1 Exparte)
(R-2 Rep by Sir.SYS., Advocate)

* * *

JUDGMENT

This is the claim petition filed by the petitioners against the respondents U/s.166 of Motor Vehicles Act-1988 for compensation amount as claimed in the petition with interest at the rate of 25% per annum for the death of Smt.Geetha.K., in a Motor Vehicle Accident.

2. **The brief facts of the petitioners case is as under:**

That on 10.07.2022 at about 02:45 pm, the deceased was travelling in a TVS Radeon vehicle bearing Reg.No.KA-42-ED-8347 as a pillion. When petitioner travelling vehicle reached near Bhakthipura Village, Bidadi hobli, Ramanagara Taluk, then the rider of the two wheeler rode the same in a very rash and negligent manner and lost the control over the vehicle got skidded. As a result the deceased fell down from the two wheeler and sustained grievous injuries and on the way to Hospital deceased died.

3. Thereafter, the deceased Geetha.K., was shifted to the Bidadi Government Hospital on the way of the Hospital she died and the postmortem on the body of the deceased was conducted at Rajarajeshwari Hospital. The petitioners have spent more than Rs.2,00,000/- towards transportation of the dead body and the funeral expenses and obsequies program of the deceased Geetha.K.

4. That the deceased was hale and healthy prior to the accident and she used to earn a sum of Rs.1,000/- per day as a Collie. The deceased was the only earning member of her family. Due to the death of the deceased, the petitioners have lost their love and affection. Due to the death of Geetha.K, the petitioners are suffering severe pain and agony.

5. That the accident has occurred due to the rash and negligent riding of TVS Radeon vehicle bearing Reg.No.KA-42-ED-8347 by it's rider and the Bidadi Police have registered a

case against the rider of the said vehicle. The respondent No.1 is the owner and the respondent No.2 is the insurer of the offending vehicle. Hence, they are jointly and severally liable to pay compensation to the petitioners. Hence, the petition.

6. After service of notice, the respondent No.1 did not appeare before the Tribunal and was placed exparte. The respondent No.2 appeared before the Tribunal through their counsel and filed their written statement.

7. In the written statement of the respondent No.2 has contended that the claim petition filed by the petitioners are not maintainable and admitted the policy coverage subject to terms and condition of the policy. It is further contended that, the insured vehicle is not involved in any accident as alleged by the petitioners and driver was not having any relation with regard to the accident and also the petitioners are colluded with police and fix the insured vehicle falsely for the purpose

to file the above petition and to get the compensation and there is inordinate delay in lodging the complaint to the jurisdictional police and there is meeting of mind to fix the insured vehicle in this petition. Further the alleged accident occurred due to the sole negligence on the part of the deceased. Further the driver of the respondent No.1 was not having valid and effective driving license at the time of the accident. Further, the respondent No.2 has denied the petition averments and prayed to dismiss the claim petition with costs.

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

ISSUES

1) Whether the petitioner proves that, on 10.07.2022 at about 02:45 pm, the deceased was travelling in a TVS Radeon vehicle bearing Reg.No.KA-42-ED-8347 as a pillion. When petitioner travelling vehicle reached near Bhakthipura Village, Bidadi hobli,

Ramanagara Taluk, then the rider of the two wheeler rode the same in a very rash and negligent manner and lost the control over the vehicle got skidded. As a result the deceased fell down from the two wheeler and sustained grievous injuries and on the way to Hospital deceased died?

2) Whether the respondent No.2 proves that, the rider of the offending vehicle on the date of the accident did not have valid and effective driving license?

3) Whether the petitioner is entitled for compensation? If so from whom?

4) What Order or Award?

9. The petitioners to substantiate their contention, the petitioner No.1 has examined himself as Pw-1 and got marked ExP-1 to ExP-11. On the other hand, the respondent No.2 examined the Deputy Manger of the Insurance Company and got marked ExR-1 and ExR-2.

10. Heard the arguments and perused materials on record.

11. My answer to the above said issues is as follows:

Issue No.1 : *In the Affirmative;*

Issue No.2 : *In the Affirmative;*

Issue No.3 : *Partly in the Affirmative;*

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

REASONS

12. **Issue No.1:** The admitted fact is that, the TVS Radeon vehicle bearing Reg.No.KA-42-ED-8347 i.e., the offending vehicle was covered by insurance policy of the respondent No.2 company during the period of accident.

13. To prove the case of the petitioners, the petitioner No.1 has examined himself as Pw-1 by filing an affidavit in lieu of his examination in chief. He produced ExP-1 True Copy of FIR, ExP-2 True Copy of Complaint, ExP-3 True Copy of Charge Sheet, ExP-4 Spot Mahazar, ExP-5 True Inquest Report and Ex.P-6 True Copy of Postmortem Report.

14. As per the documents, Geetha.K., met with an accident and succumbed to the injuries sustained in the said accident

due to the rash and negligent driving of the offending vehicle by it's rider. In the cross examination of Pw-1 admitted that, he has not an eye witness to the said accident and further he denied the suggestion that she colluding with the police false case registered against the said vehicle. The respondent No.1 is the owner of the offending vehicle did not appear before the Tribunal and was placed exparte. The respondent No.2 has attributed negligence to the deceased in the occurrence of the accident. But, the said contention of the respondent No.2 is not proved. Because, the documents produced by the Pw-1 support the version of the petitioners. Such being the case, this Tribunal is of view that, the alleged accident had taken place due to the negligent driving of the offending vehicle by its driver. Hence, I answer **Issue No.1 in the Affirmative**.

15. **Issue No.2**: As per the case of the respondent No.2, as on the date of accident, the rider of the TVS Radeon vehicle

bearing Reg.No.KA-42-ED-8347 did not have valid and effective driving license as on the date of the accident. The respondent No.2 examined Manager as Rw-1 and got marked ExR-1 and ExR-2. In her chief examination he stated that, the owner of the motor cycle bearing TVS Radeon vehicle bearing Reg.No.KA-42-ED-8347 was not having valid and effective DL to rode the same at the time of the accident. To disprove the contention of the respondent No.2, it is the duty of the respondent No.1 if having DL then appear before the court and contested the case to disprove the same aspect. But, the respondent No.1 did not appear before the Tribunal and was placed exparte. Further on careful perusal of the ExP-3, it clearly reveals that as on the date of the accident the rider of the offending vehicle did not having valid DL. Therefore, the police have filed Section 181 of IMV Act against the rider of the offending vehicle. Such being the case, it can be safely said that as on the date of the accident the rider did not possess DL to rode the offending Vehicle. Hence, I answer **Issue No.2 in the Affirmative**.

16. **Issue No.3:** In this case the petitioners have claimed compensation of Rs.40,00,000/- for the death of Smt.Geetha.K., in a Motor Vehicle Accident case. The counsel of the respondent No.2 cross examined the Pw-1 and in the cross examination he has admitted that, she has not an eye witness to the accident, but, he seen the said place. Further according to the petitioners, the deceased was Collie and she was use to earn Rs.1,000/- per day. In this regard, the petitioners have not produced any income proof. Therefore, to calculate compensation under the head loss of dependency notional income of the deceased has to be taken into consideration. The accident had taken place on 10.07.2022. Therefore, this Tribunal takes into consideration the notional

income of the deceased as **Rs.15,500/-** per month and the annual income comes to Rs.1,86,000/-.

17. The next question would be, whether the future prospectus has to be taken into account in addition to the income of the deceased. This Tribunal would like to rely on the decision of **the Hon'ble *Apex Court in JT 2017(10) SC 450 in National Insurance Company Ltd., -V/s- Pranay Sethi and others, wherein:***

> *While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was 48 between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*
>
> *(iv) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established*

income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

(v) For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paragraphs 30 to 32 of Sarla Verma which we have reproduced herein before.

(vi) The selection of multiplier shall be as indicated in the Table in Sarla Verma read with paragraph 42 of that judgment.

(vii) The age of the deceased should be the basis for applying the multiplier.

(viii) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs. 15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts

should be enhanced at the rate of 10% in every three years.

18. In the present case, the deceased is said to be Collie. But no document is produced to show the income and avocation of the deceased Geetha.K. Therefore, there is no fixed income for the deceased and it is not said that, he is a salaried employee.

19. As regards, the age of the deceased is concerned, in the petition the mentioned the age of the deceased 35 years and also as per true copies of the Inquest and Postmortem Report at ExP-4 and ExP-6 the aged of the deceased mentioned as 32 years. Therefore, at the time of death of Geetha.K., was aged about **32** years. But, as per the above said decision future prospectus has to be awarded in the present case. Since, the deceased was aged around 32 years, 40% of the actual income

has to be added to the income of the deceased and it amounts to **Rs.21,700/-** (15,500x40%/100)=6,200+15,500) per month.

20. As per Sarala Verma's case, the applicable multiplier is **16** since the deceased was aged 32 years at the time of the death. The deceased had three dependents, who are his husband and 2 children. Hence, as per Sarala Verma's case, **1/3rd deduction** has to be made towards his personal expenses and that amounts **Rs.14,467/- (**(21,700/3)=**7,233** (21,700-7,233)**)** (per month after deducting 1/3rd in the income of the deceased. Therefore, the compensation under the head loss of dependancy amounts to **Rs.27,77,664/-** (Rs.14,467X12X16).

21. As such, as per the observation made by the Hon'ble *Apex Court in National Insurance Co. Ltd., -V/s- Pranay Sethi and others*, the compensation of **Rs.16,500/- is awarded**

towards loss of estate. Further compensation of **Rs.16,500/- is awarded towards funeral expenses and *obsequies ceremony expenses*. Loss of Consortium Rs.40,000/- each** to the petitioners No.1 to 3 *(as per the decision of the Hon'ble Apex Court in the case of Magma General Insurance Co., Ltd., Nanu Ram reported in 2018 ACJ 2782 and 10% added to Rs.40,000/- as per the judgment of Pranay Sethi, towards loss of consortium (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 07-09-2020)* and **Rs.10,000/- towards transportation charges** for having shifted the dead body from the hospital to the native place of the deceased. In all the petitioners are entitled for compensation as under:

1.	*Compensation towards loss of dependency*	Rs.27,77,664 -00
2.	*Compensation towards loss to estate*	Rs.16,500-00
3.	*Compensation towards funeral*	Rs.16,500-00

	and obsequies ceremony expenses	
4.	Loss of Consortium Spouse, Children	Rs.1,20,000-00
5.	Transportation Charges	Rs.10,000-00
	Total	**Rs.29,40,664-00**

22. Therefore the petitioners are entitled for compensation amount of **Rs.29,40,664/-** which is rounded off **Rs.29,41,000/- (Rupees Twenty Nine Lakh Forty One Thousand Only)** for the death of Geetha.K, with a reasonable interest at the rate of 6% per annum which in my opinion, is just, fair and proper compensation in the facts and circumstances of the case.

23. As far as, the liability is concerned, who has to pay compensation amount to the petitioner. The respondent No.2 who is the insurer of the offending vehicle has admitted the policy. Hence, the respondents No.1 and 2 are jointly and severely liable to pay the compensation to the petitioner. Since, the policy was valid on the date of accident, the

respondent No.2 is to indemnify the respondent No.1 i.e., the owner of the insured vehicle. Further the respondent No.2 has proved the Issue No.2 at the time of the accident rider of the offending vehicle has not valid DL and respondent No.2 is to be directed to pay the entire compensation together with interest at the rate of 6% per annum and cost to the petitioners and insurer i.e., the respondent No.2 is also given right of recovery the amount of compensation paid to the petitioners from the owner of the vehicle i.e., respondent No.1.

24. Looking to the facts and circumstances of the case, it is just and proper to award interest at the rate of 6% p.a., on the above said compensation amount awarded from the date of petition till the date of deposit. Hence, with this observation **Issue No.4 is answered Partly in the Affirmative**.

25. **Issue No.3**: - In view of my findings on the above issues, I proceed to pass the following:

ORDER

The petition is allowed in part with the costs.

The petitioner is awarded compensation amount of **Rs.29,41,000/-(Rupees Twenty Nine Lakh Forty One Thousand Only)** together with interest thereon at the rate of 6% per annum from the date of petition till the date of realization.

The respondent No.2 being the insurer is directed to deposit the said compensation amount in this case in the Tribunal within 90 days from the date of this order. Further the respondent No.2 is also given right of recovery the compensation amount paid to the petitioners from the owner of the vehicle i.e., respondent No.1.

The compensation amount is apportioned as under with proportionate interest:

Petitioner No.1	:	(28%)
Petitioner No.2	:	(36%)
Petitioner No.3	:	(36%)

On deposit of the said amount, 50% is ordered to be deposited in any nationalized bank of the choice of petitioners No.1, remaining 50% amount is ordered to be released to the petitioners No.1 on proper identification.

The entire compensation amount awarded in favour of minor of the petitioners No.2 and 3 shall be deposited in any nationalized bank of the choice of the petitioner No.1, till the said petitioners attains the age of majority with liberty to withdraw the interest once in a 3 month.

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

Draw award accordingly.

(Dictated to the Stenographer in-part and dictated directly on the computer and computerized by him, corrected, signed and then pronounced by me in the Open Court on this the 27th day of June, 2025).

(Niveditha.T.M)
1st Addl. Senior Civil Judge & JMFC.,
Member, Additional M.A.C.T.,
Ramanagara.

ANNEXURE

1. List of witnesses examined on behalf of the petitioner:

Pw-1 : Sri.Balanaik.

2. List of documents marked on behalf of the petitioner:

Ex.P-1	: True Copy of FIR;
Ex.P-2	: True Copy of Complaint;
Ex.P-3	: True Copy of Charge Sheet;
Ex.P-4	: True Copy of Spot Mahazar;
Ex.P-5	: True Copy of Inquest Report;
Ex.P-6	: True Copy of Postmortem Report;
Ex.P-7 to 9	: Notarized Aadhaar Cards of the Petitioner No.1 to 3;
Ex.P-10	: Notarized Aadhaar Cards of the Deceased Geetha.K;
Ex.P-11	: Notarized Ration Card.

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

Rw- : Sri.Bangar Girish.V.C.

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

ExR-1 : Authorization Letter;
ExR-2 : Insurance Policy.

1st Addl. Senior Civil Judge & JMFC.,
Member, Additional M.A.C.T.
Ramanagara.