

**IN THE COURT OF THE ADDL. SENIOR CIVIL JUDGE &****MACT, AT SIRA**

PRESENT: **Sri.VINOD KUMAR.M** BAL.,LLB,LLM.,  
ADDL. SENIOR CIVIL JUDGE & MACT  
AT SIRA

**MVC.No.921/2022****Dated this the 25<sup>th</sup> day July - 2026****1. Sanjivamma,**

W/o Madditi Hanumantharayappa,  
Aged about 62 years,

**2. J.Madhusree,**

D/o Jayaram,  
Aged about 10 years,

**3. J.Tarun,**

S/o Jayaramappa,  
Aged about 6 years,  
All are R/at P.C.Colony,  
Upparahalli, Gunemorabagilu Post,  
Gudibande Mandal, Madakasira Taluk,  
Ananthapura District, Andra Pradesh.

Now all are R/at Colony, Sira Town,  
Tumakuru District.

Petitioner No.2 & 3 are Minors  
R/by their grand mother of  
Petitioner No.1 as Natural guardian.

-----**Petitioner/s**  
(By **Sri.S.C.**, Adv.)

**V/s****1. Murali,**

S/o Hanumantharayappa,  
Aged about 38 years,  
R/at Santhepete, Sira Town,  
Tumakuru District.



(Owner of the Motor Cycle  
bearing Reg. No.KA.06.HG.9436)

**2. The Vinod Samaji, Divisional Manager,**  
Cholamandalam MS General  
Assurance Co.Ltd., (IRDAI Reg. No.123 Plan,  
AABCC663KCIN: U66030TN2001PLCO 47977)  
Unit No.4, 9<sup>th</sup> Floor, Level – 05,  
Golden Heights Complex, 59<sup>th</sup> C Cross,  
Rajajinagar, Bangalore.  
(Policy No.3397/00831494/000/00,  
Valid From: 16.12.2019 to 15.12.2024)

**3. Jayanna @ Jayaramu,**  
S/o Hanumantharayappa,  
Aged about 40 years,  
R/at Upparahalli, Gunemorabagilu Post,  
Gudibande Mandal, Madakasira Taluk,  
Ananthapura District, Andra Pradesh.

----- **Respondents**  
(R.1 & 3 Placed Exparte)  
(R.2 By **Sri.N.V.N.** Adv)

### **:: J U D G M E N T ::**

This petition filed by petitioners U/sec.166 of MV Act against respondents claiming the death compensation of deceased Shruthi of Rs.30,00,000/- with interest at the rate of 12% p.a. from the date of petition till realization of entire amount.

#### **2. The brief facts of the petition is as hereunder:**

That on dated 07.04.2022 at about 12.30 p.m., the respondent No.3 and his wife/Shruthi as pillion rider were going in two wheeler bearing No.KA.06.HG.9436 from Chikkanayakanahalli to Tiptur side. AT the time, the



respondent No.3 drove his vehicle in rash or negligently manner and dashed to left side of footpath. Due to the accident, the said Shruthi was sustained injuries on chest and other part of the body. Immediately, the said Shruthi was shifted to Tipaturu General Hospital and died while treatment in the Hospital. Thereafter the dead body of Shruthi was shifted to the Govt., Hospital of Tipaturu for conducting Post Mortem. It is further that, the said Shruthi was hale and healthy and doing agricultural as well as labor work by earning Rs.30,000/- per month. The said Shruthi was contributing her income to petitioners as dependents for maintenance. They have lost love & affection includes lost only earning member in the family and now they are facing financial problems from the death of Shruthi. They have spent funeral charges and transportation of body a sum Rs.50,000/- and Rs.10,000/-. The respondents No.1 & 2 are owner and insurer of the Motor cycle and jointly liable to pay the compensation as claimed by petitioners. On these grounds, they prays to allow the petition.

**3.** After service of notice on respondents appeared through their counsel and respondent No.2 only filed their objection statement to the petition by denied the contents of claim petition. The respondent No.1 & 3 called out absent and placed exparte.

**4.** The respondent No.2 specifically contended that, the present claim petition is barred by limitation U/sec. 166(3) of Central Motor vehicle act 2009. This respondent has issued policy to



motor vehicle bearing No.KA.06.HG.9436 in respect of own damage nothing but bundled policy. The liability of these respondent is subject to terms of conditions policy U/sec. 64 of Insurance Act. The alleged accident was took place on 07.04.2022 and the policy issued only third party coverage. But the pillion rider is not third party to the proceedings. There was no coverage of pillion rider risk. The husband of deceased/Jayamma was riding the insured vehicle along with deceased/Shruthi without following traffic rules, DL and helmet and lost the control over the vehicle. The petitioners colluded with respondent No.1 with help of jurisdiction police have falsely claim the relief before this court. The driver of the insured vehicle bearing No.KA.06.HG.9436 was not holding driving license, permit and FC at the time of accident. The police have also filed charge sheet against respondent No.3 for the offence U/sec. 279, 304(a) of IPC R/w 181 of MV Act. The respondent No.1 knowing fully and will fully handed over the insured vehicle to unauthorized person to drive without DL and violated the terms and conditions of the policy. The age, income and occupation of the deceased Shruthi are denied as false without strict proof of the same. The insured has not complied U/sec. 170, 149(2) of MV act. On these grounds, they prays to dismissal the petition with heavy cost.

**5.** On the basis of both pleadings by petitioners and respondent No. 2, this tribunal framed the following issues:-



## I S S U E S

- 1. Whether the petitioners prove that, the accident in question was occurred on 07.04.2022 at about 12.30 p.m. near Annamallaenhalli Gate, on Chikkanyanakanahalli – Tiptur Road, Kibbanahalli Hobli, Tiptur Taluk, Tumakuru District, due to rash or negligent riding of irder of the motorcycle bearing Reg.No.KA.05.HG.9436 by its driver resulting in the death of Shruthi?*
- 2. Whether the petitioners are entitled for compensation? If so, at what rate and from whom?*
- 3. What Order or Award?*

6. In Order to prove the petition, the petitioner No.1 examined as PW.1 and got marked as many as 8 documents at Ex.P.1 to 8. On other hand, the administrative officer of respondent No.2 examined as RW.1 and got marked as many as 2 documents.

7. Heard the arguments by learned counsel for petitioners and that of learned counsel for respondent No.2 company in detail.

8. On considering the oral and documentary evidence placed on record, perused the materials available on record, my findings on the above said issues are as under:

- |            |   |                                               |
|------------|---|-----------------------------------------------|
| Issue No.1 | : | In the <b>Affirmative</b>                     |
| Issue No.2 | : | In the <b>Partly Affirmative</b>              |
| Issue No.3 | : | As per the final order,<br>for the following. |



### **:: R E A S O N S ::**

**9. Issue No.1 :** It is specific contention of petitioners that, the accident occurred due to rash and negligent driving of the driver of the offending vehicle. In support of contention, petitioner No.1 examined as PW.1 by filed affidavit to reiterate the contention of petition. To substantiate the oral evidence, PW.1 relied Ex.P.1/FIR, Ex.P.2/Complaint, Ex.P.3/Charge sheet, Ex.P.4/mahazar, wherein First Information Report lodged by Saraswathi none other than wife of respondent No.1 stating that, her brother in law respondent No.3 and co-sister Shruthi were going in two wheeler bearing No.KA.06.HG.9426 from village to Tipaturu road and the driver of two wheeler drove in High speed and rash or negligently manner only dashed to footpath. Due to the accident the said pillion rider/Shruthi sustained injuries on head, right leg and other body. Immediately, the said Shruthi was shifted to Govt., Hospital of Tipaturu through Ambulance and declared as death of Shruthi in the Hospital. Upon FIR, the police have conducted spot mahazar clearly establish that, accident occurred at Annamalenahalli gate towards Tipaturu - Chikkanayakanahalli. It is further alleged that, the driver of the offending vehicle drove his Two wheeler bearing No.KA.06.HG.9426 towards Chikkanayakanahalli to Tipaturu and dashed to footpath only caused injuries to pillion rider/Shruthi, who died in the hospital due to failure of treatment. From the perusal of Ex.P3/Charge Sheet clearly establish the, the offending vehicle driver drove in rash and negligently and caused death of



Shruthi. On other hand, the respondent No.2 company have filed objection by denied the negligence on the part of each other and shown their finger one to others for rash or negligently drove the vehicle without wearing helmet and follow the traffic rules. But during the cross examination of PW.1 categorically admits that, alleged accident was occurred by offending vehicle drove by respondent No.3 vehicle driver and caused injuries to Shruthi, who died in the accident after shifting to hospital. In order to prove the contention of respondent No.2 has not been produced any documents to show the negligence was not part on the side respondent No.1's vehicle driver. Except denying the accident from the negligence of respondent No.1's vehicle driver, they never disputed the alleged accident took place and died Shruthi from the accident. There is no serious dispute on the part of respondent No.2 regarding alleged accident occurred due to rash and negligent driving of the driver for death of Shruthi.

**10.** On perusal of Ex.P.3/Charge sheet clearly establish that, the I.O., has investigating the offence and filed charge sheet against offending vehicle driver/respondent No.3 for the offence U/sec.279, 337, 304(a) of IPC R/w 181 of IMV Act. The respondent No.2 never disputed and challenged the Ex.P.3/Charge sheet in any manner. In view of discussed supra, the petitioners/PW.1 led his evidence along with Ex.P.1 to 4/Documents clearly establish that, the alleged accident was occurred from the negligence of the respondent No.3/driver



nothing but offending vehicle. **Accordingly, I answered to Issue No.1 in the Affirmative.**

**11. Issue No.2 :** It is not in dispute that, the daughter in law and mother of petitioners by name Shruthi died in the hospital from several injuries in the road traffic accident to the negligent act of respondents No.3 vehicle driver. Admittedly, the petitioners No.2 & 3 are children as well as dependents on the income of deceased Shruthi. As such, the petitioners No.2 & 3 being children are to be consider as dependents of the deceased Shruthi, but petitioner No.1 being mother in law could not be consider as dependent. On other hand respondent No.2 company officer examined as RW.1 and reiterated the contents of written statement. In the cross-examination of RW.1 admits the validity of Insurance to the respondent No.1's vehicle nothing but offending vehicle and RW.1 admits they never challenged the charge sheet filed by Police.

**12.** Now coming to the age of deceased/Shruthi, the petitioners No.2 & 3 shown age of Shruthi about 27 years. But no documents is produced to show the exact age of deceased/Shruthi. The said age of deceased/Shruthi has been disclosed in Ex.P.5 & 6/Inquest and post mortem report. As such, the age of deceased/Shruthi was 27 year as on the date of accident in the year of 2022 for consider all aspects into account.



**13.** In order to pass the just compensation U/sec.166 of Motor vehicle act to petitioners No.2 & 3, this tribunal has followed the guidelines issued by **Hon'ble Apex Court in Saralavarma & others V/s Delhi transport Corp., reported in 2009(6) SCC 121 and National Insurance Com., ltd., V/s Pranay sethi and others, reported in 2017(16) SCC 680.** Now this tribunal has to asses the compensation to be awarded on the basis of yardstick given in the above decisions of Apex court.

**14. Loss of dependents with future prospects:** The petitioners/PW.1 specifically claimed that, her daughter in law was hale and healthy & doing agricultural as well as labor work by earning Rs.30,000/- per month. In order to prove the income, PW.1 never produced any proof of income to the deceased/Shruthi as earning Rs.30,000/- per month. In the absence of exact income documents, the contention of petitioner/PW.1 cannot be accepted. Such being, this tribunal has to be adjudicate the quantum of income by considering the notional income. For the fixation of notional income of deceased/Shruthi this tribunal recourse to the revised notional income chart preferred by Karnataka legal service authority dated 30.06.2026. As per the said chart, all the districts coming under the Hon'ble Prl. Bench of High Court of Karnataka/Bangalore, the notional income has been suggested for the year of 2022 nothing but year of accident a sum of Rs.15,500/-. Thereby, this tribunal has consider the notional



income of deceased Shruthi to be Rs.15,500/- per month for all aspects.

**15.** It is well settled principal of law in Pranay sethi case by Hon'ble Apex Court, the additional income of 40% should be the warrant where the deceased was in the age group of upto 40 years. For the monthly income of deceased Shruthi for Rs.15,500/- with additional 40% is to be added. 40% of Rs.15,500/- + Rs.6,200/- is Rs.21,700/-. Thus, the total monthly income of the deceased Shruthi would be Rs.21,700/-.

**16.** As discussed supra, the deceased Shruthi was having petitioners No.2 & 3 as children. In case of 1 to 3 dependents, the deduction of 1/3rd is to be deducted towards her personal expenses. 1/3rd of Rs.21,700/- is Rs.7,233/-. Hence, Rs.7,233/- is to be deducted towards the personal expenses of the deceased. Thus, the contribution of the deceased towards her family of each month would Rs.7,233/-. Therefore, the total income of Rs.21,700/- minus Rs.7,233/-, which comes to a sum of Rs.14,467/- per month.

**17.** As per discussed supra, the age of deceased was 27 years. Hence, the multiplier of 17 is to be applied to the age group of 26 to 30 years. Hence, the loss of dependency would be Rs.14,467/- X 17 X 12 = Rs.29,51,268/-.

**18. Loss of consortium, loss of love and affection and funeral expenses:** In so far as concerned to loss of consortium, loss of love and affection and funeral expenses, as per decision



of Hon'ble Apex Court in Pranay Sethi case, the petitioners No.2 & 3 are entitle for consortium a sum of Rs.40,000/- each, Rs.15,000/- towards loss of love and affection each and Rs.15,000/- towards funeral expenses.

**19. Thus, the petitioners are entitle for compensation under the following heads:**

| Sl.No. | Head                                     | Amount in Rs.         |
|--------|------------------------------------------|-----------------------|
| 1.     | Loss of dependency with future prospects | Rs.29,51,268/-        |
| 2.     | Loss of consortium (Rs.40,000/- X 2)     | Rs.80,000/-           |
| 3.     | Loss of love & affection (Rs.15,000 X2)  | Rs.30,000/-           |
| 4.     | Funeral Expenses                         | Rs.15,000/-           |
|        | <b>Total</b>                             | <b>Rs.30,76,268/-</b> |

Thus, the petitioners are entitled for total compensation awarded a sum of Rs.30,76,268/-. **Accordingly, I answered to Issue No.2 in the Partly Affirmative.**

**20. Interest:** In so far as concerned to award interest, the petitioners claimed an interest at the rate of 12% p.a. in petition from the date of petition. On other hand, the respondent No.2 filed their objection by contended that, the interest claimed by the petitioners in petition at the rate of 12% p.a. are highly excess and exorbitant. In order to pass the interest on award amount, I am relying decision laid down by **Hon'ble High court of Karnataka in Vijay Eshawar Jadav V/s Ulrich Belchior Fernodis & others** in MFA.No.100090/2024 dated 17.03.2018, wherein held that, in



the absence of any law relating to interest on judgment, the MACT has to follow the provision of Sec.34 of CPC. Thus, this tribunal deems it to award interest at the rate of 6% p.a. on the aforesaid compensation award amount in petition from the date of petition to till realization.

**21. Liability:** It is not in dispute by both sides that, the respondent No.1's vehicle bearing Reg.No.KA.06.HG.9436 was insured under respondent No.2/Insurance company. As per Ex.P.3/Charge sheet clearly establish that, the accident occurred from the negligence of respondent No.1's vehicle and vehicle was involved in the accident for death of petitioners No.2 & 3 mother by name Shruthi.

**22.** It is specific contention of respondent No.2/Company that, driver of offending vehicle by name respondent No.3 was not holding driving license to drive the said vehicle. On other hand, the police have filed Ex.P.3/Charge sheet against respondent No.3 for the offence U/sec. 181 of MV Act apart from other sections regarding no driving license to drive the offending vehicle at the time of accident. During the cross-examination of PW.1 clearly admits that, his son/respondent No.3 did not possess valid driving license to drive the two wheeler bearing No.KA.06.HG.9426 nothing but offending vehicle. In order to disprove the contention of respondent No.2 and Ex.P.3/Charge sheet, PW.1 and respondent No.3 have not produced any document of driving license to drive the offending vehicle at the time of vehicle accident.



**23.** In order to prove the contention, the legal advisor of respondent No.2's company examined as RW.1 and got marked Ex.R.1/Authorization letter and Ex.R.2/Insurance policy by admits the policy was in force at the time of accident to the offending vehicle. In the cross-examination of RW.1 admits that, respondent No.1 insured his vehicle bearing No.KA.06.HG.9436 under insurer nothing but bundled policy. But RW.1 denied that pillion rider is not consider as third party coverage policy under Ex.R.2.

**24.** The respondent No.2 and counsel specifically argued that, the respondent No.1 insured his vehicle under insurer as per Ex.R.2. But the driver of offending vehicle/respondent No.3 did not possess valid driving license to drive the vehicle by violation the terms of conditions of policy and not liable to pay the any compensation as claimed by petitioners. On other hand, the counsel for petitioners argued that, the deceased/Shruthi was pillion rider of the offending vehicle drove by respondent No.3 and consider as third party and also Ex.R.2/Insurance policy is contractual liability to respondent No.2 on payment of compensation for vehicle accident, if any violation of policy, the respondent No.2 ought to have pay the compensation to the petitioners under the doctrine of pay and recovery.

**25.** In support of arguments by counsel for petitioners relied two ratio laid down by Apex Court in National Insurance Company ltd., V/s Swaran Sing, wherein held in para No.110 that,



***Although, as noticed hereinbefore, there are certain special leave petitions wherein the persons having the vehicles at the time when the accidents took place did not hold any licence at all, in the facts and circumstances of the case, we do not intend to set aside the said awards. Such awards may also be satisfied by the petitioners herein subject to their right to recover the same from the owners of the vehicles in the manner laid down therein.***

On other ratio laid in Smt.Shobha V/s Suraj Kumar, in MFA.No.5705/2022, wherein Hon'ble High Court held that,

***12. Keeping in mind the enunciation of law laid down by the Hon'ble Supreme Court referred supra, we are of the considered view that the Tribunal is justified in saddling the liability on respondent No.1 owner of the vehicle. However, it ought to have directed respondent No.2 - Insurance Company to pay the compensation and recover the same from the owner of the vehicle in question. Considering the settled position of law, we uphold saddling of liability on the owner of the vehicle by directing respondent No.21 - insurer to pay the compensation and recover the same from the owner of the vehicle.***

By close reading of ratio laid down by Hon'ble Apex Court and High Court of Karnataka clarifies that, insurance company ought to have pay the compensation and recover the same from owner of the vehicle in case of driver of the vehicle not possess the driving license to drive the offending vehicle. In the instant case, the respondent No.3 did not possess valid driving license of respondent No.1's vehicle to drive at the time of vehicle



accident. As such, the liability of respondent No.2 cannot be taken away subject to doctrine of pay and recovery as dictum laid down by Hon'ble Apex Court in Swaran Sing case supra. The counsel for petitioners has rightly pointed over the liability of respondent No.2/Insurance company on the doctrine of pay and recovery from owner of the offending vehicle i.e., respondent No.1. As such, the respondents No.1 & 2 are being owner of the vehicle and insurance under respondent No.2's company. Admittedly, the policy to offending vehicle was in force as on the date of accident. As such, the respondent No.2 being insurer and liable to indemnify the respondent No.1. Thereby, the respondents No.2's company is liable to pay the compensation amount to petitioners.

**26. Issue No.3:** As aforesaid, the petitioners No.2 & 3 are children of deceased Shruthi. By considering the age of petitioners No.2 & 3 being minor, the total compensation of amount of Rs.30,76,268/- is apportioned at the 50% each share of petitioners No.2 & 3 to cause of justice. In view of above discussion, this tribunal proceed to pass the following:

### **ORDER**

The petition U/Sec.166 of Motor Vehicle Act filed by the petitioners is hereby partly allowed.

The petitioners No.2 & 3 are entitle for total compensation amount of **Rs.30,76,268/-** along with interest at the rate of 6% p.a. from the date of petition till its realization.



The total compensation amount are hereby apportioned between the petitioners No.2 & 3 in the ratio of 50% each.

The respondent No.1/Insurer shall liable to pay the compensation amount to the petitioners No.2 & 3 within 30 days from the date of this order with liberty to recover the compensation amount from respondent No.1 under the **Doctrine of Pay and Recovery.**

Out of the total compensation amount, the petitioner No.1/Guardian is order to be release 60% of the compensation as per apportion and proper identity and verification on behalf of petitioners No.2 & 3 remaining 40% shall be deposited in the joint names of petitioners No.2 & 3 in any nationalized bank of their choice for the period of 3 years with draw the accrued interest on the said deposit amount.

The advocate fees is fixed at Rs.1,000/- in case.

Draw award accordingly.

(Dictated to the stenographer by directly on Computer, script corrected, signed by me & then pronounced in the open Court on this the **25<sup>th</sup> day July - 2026**)

**Sd/-**  
**(VINOD KUMAR. M)**  
Addl. Senior Civil Judge &  
MACT., Sira



**:: A N N E X U R E S ::**

**List of witnesses examined on behalf of Petitioners:**

PW1 : Sanjivamma

**List of documents marked for Petitioners:**

Ex.P1 : FIR  
Ex.P2 : Complaint  
Ex.P3 : Charge Sheet  
Ex.P4 : Spot Mahazar  
Ex.P5 & 6 : PM reports  
Ex.P7 & 8 : Adhar Cards

**List of witnesses examined on behalf of Respondents:**

RW1 : G.M.Mothinatha

**List of documents marked for Respondents:**

Ex.R1 : Letter of Authorization  
Ex.R2 : Policy

**Sd/-**  
**(VINOD KUMAR. M)**  
Addl. Senior Civil Judge &  
MACT., Sira