

KAUK610002042025



**IN THE COURT OF SENIOR CIVIL JUDGE AND JUDICIAL
MAGISTRATE OF THE FIRST CLASS AT HONNAVAR**

**PRESENT : SRI B.C. CHANDRASHEKAR B.A., LL.B.
SENIOR CIVIL JUDGE AND JMFC
HONNAVAR**

CRIMINAL CASE NO.25 OF 2025

DATED ON THIS 10TH DAY OF APRIL, 2026

COMPLAINANT : State by
Inspector of Police,
Honnavar Police Station.

(By Assistant Public Prosecutor)

VERSUS

ACCUSED : Mahammed Sadique,
S/o Afzal Khan,
Aged about 35 years,
Occ: Auto Driver,
R/o Krishnakeri, Nagarbastikeri,
Saralagi, Honnavar.

(By Sri VRN, Advocate)

Date of occurrence of offence	28-12-2024
Date of report of offence	28-12-2024

Name of the Complainant	Smt. Afrinaz W/o Hakkim Khan
Date of commencement of recording evidence	11-07-2025
Date of closing of evidence	13-03-2026
Offenses complained of	Under section 281, 125(a) and 106(1) of BNS 192(A) of MV Act
Opinion of the Judge	Accused found not guilty

J U D G M E N T

The Inspector of Police, Honnavar Police Station has filed the charge sheet against the accused for the offences punishable under section 281, 125(a), 106(1) of BNS and 192(A) of MV Act.

02. Brief facts of the case of the prosecution are that on 28-12-2024 at about 12-25 p.m., the accused being the driver of the Auto rickshaw bearing No.KA-47/A-3826 driven it in a rash and negligent manner came from Upponi towards Saralagi on National Highway-69, the CW-1 Smt. Afrinaz Hakkim Khan and her son Abdul Rehaman Hakkim Khan

were travelling in the said Auto-rickshaw, when they reached near Upponi Hanging Bridge on NH-69, at that time a small kid has come across the road, the driver of the Auto- rickshaw immediately applied the brakes and because of this, the auto turned turtle. Due to the accident the CW-1 has sustained simple injuries to her hand, leg and other parts of the body and the son of CW-1 has sustained grievous injuries over head and he was shifted to Saint Ignatius Hospital, Honnavar for treatment but the doctor of the said hospital has declared as he has already died at about 01-05 p.m. and the accused being the driver of Auto-rickshaw has went to 03 kilometer away from the Nagarbastikeri periphery for hire and he violates the permit condition, thereby the accused has committed the offences punishable under section 281, 125(a), 106(1) of BNS and 192(A) of MV Act.

03. On the basis of complaint of CW-1 this case has been registered against the accused by Honnavar PS. After investigation Investigating Officer has submitted the charge sheet against the accused for the offences punishable under section 281, 125(a), 106(1) of BNS and 192(A) of IMV Act. The cognizance taken for the alleged offences.

04. On issuance of summons the accused has appeared through his counsel and filed bail application. Accordingly he has enlarged on bail. Copies of the prosecution papers have

furnished to him. Plea for the offences punishable under section 281, 125(a), 106(1) of BNS and 192(A) of IMV Act has framed, read over and explained to the accused in the language best known to him. Accused not pleaded guilty and claims to try the matter. Hence this case taken for a trial.

05. In order to prove the guilt of the accused the prosecution has examined 07 witnesses as PW-1 to 7 out of 18 witnesses as cited in the charge sheet and 19 documents have got marked as Ex.P-1 to 19. After prosecution evidence accused has examined under section 313 of Cr.P.C. and recorded his statement. Accused has denied all the prosecution evidence as false. But he has not chosen to submit any defence evidence.

06. Heard the arguments from both sides. Perused.

07. On the basis of the above the following points are arise for my consideration.

01. Whether the prosecution proves beyond all reasonable doubt that on 28-12-2024 at about 12-25 p.m., the accused being the driver of the Auto rickshaw bearing No.KA-47/A-3826 driven it in a rash or negligent manner so as to endanger to human life came from Upponi towards Saralagi on NH-69, the CW-1 and her son Abdul Rehaman Hakkim Khan were travelling in the said Auto-rickshaw, when

they reached near Upponi Hanging Bridge on NH-69, at that time a small kid came across the road, the driver of the Auto- rickshaw immediately applied the brakes and because of this, the Auto-rickshaw turned turtle and caused the accident, thereby the accused has committed an offence punishable under section 281 of BNS?

02. Whether the prosecution proves beyond all reasonable doubt that on the same date, time and place the accused has driven the Auto rickshaw bearing No.KA-47/A-3826 rashly or negligently so as to endanger to human life and suddenly applied the brakes, the Auto turned turtle and caused the accident and due to the accident the CW-1 has sustained simple injuries over hand, leg and other parts of the body, thereby the accused has committed an offence punishable under section 125(a) of BNS?
03. Whether the prosecution proves beyond all reasonable doubt that on the same date, time and place the accused has driven the Auto rickshaw bearing No.KA-47/A-3826 rashly or negligently so as to endanger to human life and suddenly applied the brakes, the Auto turned turtle and caused the accident and due to the accident Kumar Abdul Rehaman Hakkim Khan has sustained grievous injuries over head and he has shifted to St. Ignatius Hospital, Honnavar for treatment and the doctor has declared as he has already died at

about 01-05 p.m., thereby the accused has committed an offence punishable under section 106(1) of BNS?

04. Whether the prosecution proves beyond all reasonable doubt that on the same date, time and place the accused being the driver of Auto-rickshaw has went to 03 kilometer away from the Nagarbastikeri periphery for hire and he violates the permit condition, thereby the accused has committed an offence punishable under section 192(A) of IMV Act?

05. What order?

08. The above points are answered as under:

Point No.1 to 4 : In the negative,
Point No.5 : As per the final order
for the following:

REASONS

09. Point No.1 to 4: Since both the points have inextricably mixed up with each other, I have taken them together for common discussion in order to avoid the repetition.

10. According to the prosecution the accused has committed the offence under section 281, 125(a), 106(1) of BNS and 192(A) of IMV Act. In order to prove the guilt of the accused, the prosecution has examined the complainant as

PW-1. She has deposed that on 28-12-2024 she and her 03 years old kid have went to Upponi from Saralagi through an Auto and they were returning from the same Auto-rickshaw. The driver of the Auto-rickshaw was driving the same with high speed and when it was coming near Hanging Bridge, a baby has come across the road. Immediately accused has applied the brake and because of the brake the Auto has turned turtle. Since the Auto has turned turtle she fell out of the Auto and her kid was inside the Auto. Since the Auto has turned turtle there was a bleeding from his ears and mouth and her kid has taken to St. Ignatius Hospital. But the doctor who tested told that kid has already dead. Hence, she went to the police station and lodged the complaint as per Ex.P-8. Since the accused before the court being the driver of Auto-rickshaw applied the brake, it has turned turtle and the accident has taken place because of his mistake.

11. On careful verification of said evidence, it appears to this court that accused before the court is a driver of an Auto-rickshaw and he was driving it from Upponi to Saralagi with high speed manner. When the Auto-rickshaw was coming near Hanging Bridge, since a baby has come across the road, the accused has applied the brake and because of it, the Auto-rickshaw has turned turtle and the baby of CW-1 stuck inside the Auto-rickshaw, sustained injuries and it lost its breath. Accordingly PW-1 made an allegation against the accused that

accident has taken place because of the mistake of accused. However on careful verification of the cross-examination she admits as here under:

ನಾವು ರಿಕ್ಷಾದಲ್ಲಿ ಹೋಗುತ್ತಿದ್ದಾಗ ರಿಕ್ಷಾ ಚಾಲಕ ರಿಕ್ಷಾವನ್ನು ನಿಧಾನವಾಗಿ ಓಡಿಸಿಕೊಂಡು ಹೋಗುತ್ತಿದ್ದ ಎಂದರೆ ಸರಿ. ರಸ್ತೆಯಲ್ಲಿ ಮಗು ಏಕಾ ಏಕಿ ರಸ್ತೆಗೆ ಬಂದಿದ್ದರಿಂದ ಮಗುವಿಗೆ ಡಿಕ್ಕಿಯಾಗುವುದನ್ನು ತಪ್ಪಿಸಲು ಚಾಲಕ ಬ್ರೇಕ್ ಹಾಕಿರುತ್ತಾನೆ ಎಂದರೆ ಸರಿ. ಮಗು ರಸ್ತೆಗೆ ಅಡ್ಡ ಬರದಿದ್ದರೆ ಯಾವುದೇ ಅಪಘಾತ ಆಗುತ್ತಿರಲಿಲ್ಲ ಎಂದರೆ ಸರಿ.

12. As per the above admission when they were going in the Rikshaw the accused was driving it in a slow manner. She further admits that since a kid has all of a sudden enter the road in order to avoid hitting to the baby, the accused has applied the brake. She further admits that if at all the kid would have not came across the road, no accident would have occurred. Thus she unequivocally admits that accused has applied the brake only to avoid hitting of a kid which came across the road and that would be the reason the Auto has turned turtle. Accordingly if the evidence of PW-1 is considered absolutely there is no any rash or negligent driving on the part of the accused. But since a baby has came across the road, accused has just applied the brake and that is the reason the Auto has turned turtle. Hence the evidence of PW-1 not at all figuring out any rash or negligent driving on the part of the accused. Hence the prosecution is required to place some other materials to prove the guilt of the accused.

13. The prosecution has examined one of the mahazar witnesses as PW-2. He has deposed that on 28-12-2024 an accident has taken place at Honnavar-Gerusoppa National Highway near Upponi Bridge. That on 03-01-2025 at about 05.30 p.m. the police have come there to conduct the mahazar about the said accident and CW-7 has shown the place of accident and the police have prepared the rough sketch and mahazar and took the photo snaps in his presence. Thus PW-2 being one of the spot mahazar witness has deposed about drawing up of the mahazar by the police at the place of accident as shown by CW-7 one of the eyewitness. Though PW-2 has deposed about drawing up of the mahazar it is not an incriminating evidence against the accused to believe the accusation made against him. Hence it is just and necessary to look over other material evidence to figure out the guilt of the accused.

14. The prosecution has examined one of the eyewitness to the accident who stood beside the National Highway as PW-3. He has deposed that on 28-12-2024 in between 12.00 to 01.00 p.m. he was standing beside the National Highway near Upponi Hanging Bridge. By the time the accused before the court was coming from Honnavar towards Gerusoppa by driving an Auto-rickshaw. When he was driving the Auto-rickshaw near Upponi Bridge, a small kid has come across the National Highway. Hence, the accused has applied the brake,

but immediately Auto has turned turtle. He and others who were there went and lifted the Auto which turned turtle they found that the Auto has fallen on the kid and there was a bleeding near the ears, forehead and the kid has sustained injuries over the body. The said baby has sent to the hospital. But later on he came to know that the said baby has died. Since the driver of the Auto driven the same with high speed and applied the brake the accident has taken place.

15. The PW-3 further deposed that on 03-01-2025 at about 05.30 p.m. the police have come at the spot and he has shown the place of accident. The police have drew-up a mahazar and prepared the rough sketch and taken the photo snaps. Accordingly on verification of evidence of PW-3, it appears that the accused being the driver of an Auto when he was driving it near Upponi Bridge, he has driven the Auto with high speed. But by the time since a baby has come across the National Highway, he applied the road brake and Auto has turned turtle. According to PW-3 because he was driving the Auto-rickshaw with a high speed manner and when a baby has come across the road the accused has applied the brake and it has turned turtle. However during the course of cross-examination he admits as here under:

ಆಟೋ ಚಾಲಕ ತನ್ನ ರಸ್ತೆಯ ಎಡಭಾಗದಲ್ಲಿ ಹೋಗುತ್ತಿದ್ದರು ಎಂದರೆ ಸರಿ. ಮಗು ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿಗೆ ಏಕಾ ಏಕೆ ಅಡ್ಡ ಬಂದಿರುತ್ತದೆ ಎಂದರೆ ಸರಿ. ಮಗುವಿಗೆ ಅಪಘಾತ

ಆಗುವುದನ್ನು ತಪ್ಪಿಸಲು ಆರೋಪಿ ಬ್ರೇಕ್ ಹಾಕಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿ. ರಸ್ತೆಗೆ ಮಗು ಅಡ್ಡ ಬರದಿದ್ದರೆ ಸದರಿ ಅಪಘಾತ ಆಗುತ್ತಿರಲಿಲ್ಲ.

16. As admitted by PW-3 the accused was driving his Auto-rickshaw in a left lane. When he was driving all of a sudden a baby has come across the National Highway. He further admits that in order to avoid the accident to the baby the accused has applied the brake. Further admits that if the baby has not at all come across, no accident would occurred. Thus this admission clearly goes to show that accused before the court was driving the Auto in a normal lane of left side. But unexpectedly a baby has all of a sudden came across the road and the accused wants to avoid the accident and hitting to the baby he just applied the brake. Under such circumstances, Auto has turned turtle, but absolutely there is no rash or negligent driving on the part of the accused in causing the accident. The intention of the accused can be gathered that he wanted to avoid accident to the baby and that is the reason he has applied the break. Accordingly on perusal of the evidence of PW-3 absolutely there is no any material allegation about his rash or negligent driving in causing the accident. Hence the prosecution is required to place some other materials to prove the guilt of the accused.

17. The prosecution further examined one of the Investigating Officer who registered the crime as PW-4 and he has deposed that on 28-12-2024 at about 03.15 p.m. when he

was on SHO duty, the CW-1 has come and lodged the complaint. Hence he has registered the crime and he has handed over the case papers to CW-17.

18. The CW-17 one more Investigating Officer has examined as PW-6 and he has deposed that on 28-12-2024 he has received the case papers from CW-14. On that day he has asked the CW-16 to conduct the inquest mahazar. Thus CW-16 has went to the Government Hospital and prepared the inquest mahazar and produced it before him. On 01-01-2025 he has issued a memo to CW-15 to conduct the spot mahazar thereby he has visited at the spot and conducted the spot mahazar and prepared the mahazar and rough sketch by taking photos and produced the same. On 17-01-2025 he has handed over the case papers to CW-18.

19. The CW-18 has examined as PW-5 and he has deposed that on 17-01-2025 he has received the case papers from CW-17 and on 22-01-2025 he has caused the notice to the accused under section 35 of BNSS. On 23-01-2025 he has caused the notice to CW-8 under section 133 and collected the answer. On the same day, since the owner of the Auto has produced the documents and accused has appeared before him, he has arrested him and released the accused on bail and after taking indemnity bond, he has released the Auto. He has collected the Post Mortem report from the hospital as per

Ex.P-12 and wound certificates as per Ex.P-13 and 14. He has collected the I.M.V report and opinion from the doctor and after investigation he has submitted the charge sheet.

20. One more Investigating Officer has examined as PW-7 and she has deposed that on 01-01-2025 the CW-18 has issued a memo to her to conduct the spot mahazar thereby on 03-01-2025 in between 05.30 to 07.00 p.m. she has visited at the spot and conducted the mahazar at the place shown by CW-7 and she prepared the mahazar and rough sketch and seized the Auto-rickshaw at the spot and taken the photo snaps. She has recorded the statement of CW-7 and handed over the entire documents to the SHO. Thus PW-4 to 7 being the Investigating Officers have deposed about their investigation.

21. Apart from the oral evidence, the prosecution have produced the documentary evidence such as Ex.P-1 is the spot mahazar, Ex.P-2 is the rough sketch, Ex.P-3 to 7 are the photos, Ex.P-8 is the complaint, Ex.P-9 is the FIR, Ex.P-10 is the notice, Ex.P-11 is the answer, Ex.P-12 is the Post Mortem report, Ex.P-13 and 14 are the wound certificates, Ex.P-15 is the I.M.V report, Ex.P-16 is the letter, Ex.P-17 is the report, Ex.P-18 is the inquest mahazar and Ex.P-19 is the DVD.

22. I carefully gone through the entire evidence placed by the prosecution. As already discussed above the PW-1 is a

complainant and mother of deceased and according to her when she was going in the Auto-rickshaw of accused, since a child has come across the National Highway, the accused has applied the brake and that is the reason the Auto has turned turtle. Similarly as already discussed above PW-3 is one of the material eye witness he has also deposed the very same fact. Thus one thing is clear when the accused was driving the Auto-rickshaw on National Highway unexpectedly all of a sudden a unknown kid has come across the National Highway and that is the reason in order to avoid the accident to the baby the accused has applied the brake and that is the reason the Auto has turned turtle. Under such circumstances in causing the accident absolutely there is no negligence or rash driving on the part of the accused. But because a baby has come across the road he applied the brake and auto has turned turtle. Accordingly on meticulous verification of entire evidence placed by eyewitnesses as well as the complainant absolutely there is no any acceptable materials to believe that accused has driven the Auto with rash or negligent manner and it is the root cause for the accident. Even on perusal of the evidence of Investigating Officers absolutely there is no any materials to hold that because of the rash or negligent driving on the part of the accused the accident has taken place. Accordingly the evidence of PW-1 to 3 clearly creates strong doubt in the mind of the court about rash or negligent driving on the part of the accused. Thus the evidence placed by the

prosecution are not at all sufficient to hold that the accused has committed the alleged offence as alleged in the charge sheet. Since the evidence placed by the prosecution are insufficient and no one is deposing about rash and negligent driving on the part of the accused the strong doubt has accrued in the mind of the court on the guilt of the accused.

23. It is an also allegation against the accused that he has violated the permit condition by leaving the Nagarbastikeri periphery at the time of accident. But on perusal of the evidence of PW-1 to 3 no one have deposed the said facts. Further on perusal of the evidence of Investigating Officers it appears that absolutely the Investigating Officer who filed the charge sheet has not whispered anything about violation of permit condition and they have not collected any permit of the Auto-rickshaw to believe that the accused has violates the permit condition as contended in the charge sheet and committed an offence under section 192(A) of MV Act. Under such circumstances without further discussion the prosecution has failed to prove the accusation against the accused that he has violated the permit condition and committed the said offence. Invariably in a criminal justice system, the prosecution is required to prove the guilt of the accused beyond all reasonable doubt. But here not only small doubt but the evidence placed by the prosecution is totally insufficient and absolutely there is no materials to believe the

guilt of the accused and it creates strong doubt. Hence the prosecution has utterly failed to prove the guilt of the accused beyond all reasonable doubt. Hence, I answered the **Point No.1 to 4 in the negative.**

24. Point No.5: In view of the detail discussion made above, I proceed to pass the following:

ORDER

Acting under section 255 (1) of Cr.P.C. the accused is hereby acquitted for the offences punishable under section 281, 125(a), 106(1) of BNS and 192(A) of MV Act.

The bail bond executed by the accused shall stand cancelled. However the bail bond executed by the accused and surety by undertaking to appear before the Appellate Court, if any appeal is filed shall continue for a period of 06 months under section 437(A) of Cr.P.C.

By considering the facts and circumstances of the case it is not a fit case to award any victim compensation under section 357(1) of Cr.P.C.

(Dictated to the stenographer directly on the computer, typed by her, corrected, then signed and pronounced in the open court on this 10th day of April, 2026)

ANNEXURE**Witnesses examined for the Prosecution:**

PW-1	:	Smt. Afrinaz Hakim Khan
PW-2	:	Sri Davud Khan Abdul Rehman
PW-3	:	Sri Mahammed Yasin Jakriya Sheikh
PW-4	:	Sri Manjunath Timma Reddappa
PW-5	:	Sri Siddarameshwar S.
PW-6	:	Sri K. M. Yogish
PW-7	:	Smt. Mamata Shankar Naik

Documents marked for the Prosecution:

Ex.P-1	:	Spot mahazar
Ex.P-2	:	Rough sketch
Ex.P-3 to 7	:	Photos of place of accident
Ex.P-8	:	Complaint
Ex.P-9	:	First Information Report
Ex.P-10	:	Notice U/s 133 of MV Act
Ex.P-11	:	Answer to notice
Ex.P-12	:	Post-mortem report
Ex.P-13 and 14	:	Wound certificates
Ex.P-15	:	I.M.V report
Ex.P-16	:	Letter
Ex.P-17	:	Report
Ex.P-18	:	Inquest Mahazar
Ex.P-19	:	D.V.D

Witnesses examined for the Accused:

-NIL-

Documents marked for the Accused:

-NIL-