

KAUK610002662025



**IN THE COURT OF SENIOR CIVIL JUDGE, JMFC AND  
ADDITIONAL MACT AT HONNAVAR**

**DATED THIS THE 13<sup>TH</sup> DAY OF MARCH, 2026**

**PRESENT: SRI B.C. CHANDRASHEKAR., B.A., LL.B.  
ADDITIONAL MACT, Sr.C.J. & J.M.F.C.,  
HONNAVAR.**

**M.V.C. No.242/2025**

- PETITIONERS :**
01. Soma W/o Kariya Gouda,  
Aged about 46 years,  
Occupation: Housewife,  
R/o Honnimarachitte, Haldipur,  
Tq: Honavar (U.K).
  02. Nagaratna Kariya Gouda,  
Aged about 21 years,  
Occupation: Student,  
R/o Honnimarachitte, Haldipur,  
Tq: Honavar.

**(By Sri VRN, Advocate)**

**VERSUS**

- RESPONDENTS :**
01. Ganpathi Kamath K.,  
S/o Keshav Kamath,  
M/s Sugama Tourist shop No.2,  
357/9 Opp corporation bank  
DLF New town Akshaya Nagar,  
Bangalore 560068.

02. Divisional Manager,  
National Insurance Company Ltd.,  
T. P. Hub, 2<sup>nd</sup> Floor, Arihant Plaza,  
Kusugal Road, Keshawapura,  
Hubbali – 580023.

**(R-1 is placed Ex-parte and  
R-2 by Sri MLN, Advocate)**

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

This petition is filed by the petitioners under section 166 of Motor Vehicles Act, for the grant of compensation in respect of the death of Kariya Timmappa Gouda in a road traffic accident that occurred on 11-05-2025.

02. The brief facts of the case of the petitioners are that, on 11-05-2025 at about 09-30 PM, the deceased was walking from the side of National Highway-66 from Salekeri towards Bagrani when he reached near Ganpathi Temple suddenly a driver of Sugama Bus bearing No.KA-51/AF-8212 going from Honnavar towards Kumta driven it in a rash and negligent manner and went to the extreme left side of the road and dashed to the deceased from behind. As a result the deceased has sustained grievous injuries over his head, neck, leg and

other parts of the body and he has succumbed to the injuries on the spot. The Honnavar Police have registered a case under Crime No.106/2025 under section 281, 106(1) of BNS against the bus driver.

03. Prior to the accident, the deceased was hale and healthy person and he was aged about 54 years and he was working as a Painter and he was earning more than Rs.25,000/- per month. The deceased was the only bread earner of the whole family. Due to the accident, the petitioner No.1 has lost her husband and she has suffered a loss more than Rs.30,00,000/- and also there is future loss in her income. The respondent No.1 is the owner of the Sugama Bus and the said vehicle was insured with respondent No.2. Hence respondent No.1 and 2 are jointly and severally liable to pay the compensation. Accordingly the petitioners prayed to award the compensation of Rs.30,00,000/- with interest against the respondents.

04. In spite of service of notice the respondent No.1 did not appear before the court, hence he placed ex-parte.

05. On receipt of notice, the respondent No.2 has appeared through counsel and filed written statement and contended that this petition is contrary to law and facts of the case and the same are denied by this respondent. It has

contended that it is for the petitioners to prove their age, relationship, dependency and also age, occupation and income of the deceased. It has contended that the accident was not occurred due to rash and negligent driving on the part of driver of offending vehicle and this accident was happened due to sole negligence on the part of the deceased, as he was suddenly crossed the road. It has contended that the deceased has also contributed his negligence to the alleged accident and hence the award if any against this respondent has to be slashed down substantially. It has admitted that the vehicle of respondent No.1 was insured with this respondent at the time of accident, however the liability under the policy is subject to terms, conditions, exceptions and limitations of the policy. It has specifically submitted that the driver of the insured vehicle was not holding valid and effective driving licence at the time of accident. The compensation claimed by the petitioners are grossly disproportionate and without any legal norms. Hence this respondent prayed to dismiss the petition with cost.

06. On the basis of the above, the following issues have arisen for my consideration:

### **ISSUES**

01. Whether the petitioners prove that the accident in question occurred on 11-05-2025 at about 09-30 PM near Ganapathi Temple, Salekeri,

Honnavar on National Highway-66 on account of rash and negligent driving of the driver of Sugama Bus bearing registration No.KA-51/AF-8212 and caused the death of Kariya Timmappa Gouda while he was walking from the side of National Highway-66?

02. Whether the respondent No.2-Insurance Company proves the violation of material terms and conditions of Insurance Policy of Sugama Bus bearing registration No.KA-51/AF-8212 which exonerate it from liability?
03. Whether the petitioners are entitled for the compensation? If so, to what extent and from whom?
04. What order or award?

07. In order to prove the above issues, the petitioner No.1 herself has examined as PW-1 and produced 07 documents as Ex.P-1 to 7. The respondents have not adduced any oral evidence and produced true copy of Insurance Policy of offending vehicle marked with consent as Ex.R-1.

08. Heard the arguments of both sides on merits of the case and perused the record.

09. Now my answers to the above issues are as follows:

Issue No.1	:	In the affirmative,
Issue No.2	:	In the negative,
Issue No.3	:	As per observation,

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

### **REASONS**

**10. Issue No.1:** The petitioner No.1 is the wife and petitioner No.2 is the daughter of deceased who died in the road traffic accident. They are contending that on 11-05-2025 at about 09-30 PM while the deceased was walking from the side of National Highway-66, a Sugama Bus has going from Honnavar towards Kumta in a rash and negligent manner and dashed to the deceased from behind. Due to the accident Sri Kariya Timmappa Gouda has died on the spot i.e., on 11-05-2025. In order to prove the petition averments, the petitioner No.1 herself has examined as PW-1 and she got marked certified copies of FIR, complaint, spot mahazar, rough sketch, I.M.V report, charge sheet and P.M report as Ex.P-1 to 7. The PW-1 has submits her affidavit evidence by reiterating all the petition averments in her affidavit. In spite of cross examination of PW-1, nothing has been elicited from her mouth to disbelieve her evidence.

11. The documents referred above makes out that the driver of the Sugama Bus was charge sheeted for the offence punishable under section 281 and 106(1) of BNS. Ex.P-7 is the Post Mortem report given by the Medical Officer of Govt. Taluka Hospital, Honavar makes out that the cause of death of

deceased was due to severe head injury. Even though the respondent No.2 has denied the cause of accident as there is no rash and negligent driving of driver of the Sugama Bus but they have not disputed the involvement of Sugama Bus in the accident. The police documents which evidences that the accident occurred due to the rash and negligent driving of the offending vehicle. Further, they have not produced any contra evidence to disbelieve the oral and documentary evidence placed by the petitioner No.1. Hence, this tribunal of the view that the said accident occurred only due to rash and negligent driving of the driver of the Sugama Bus. Hence, this tribunal holds the **Issue No.1 in the affirmative.**

**12. Issue No.2:** The respondent No.2 has contended that the driver of the Sugama Bus was not possess valid and effective driving license. But the Insurance Company has not adduced any evidence to prove their contention. It is significant to note that as per the police investigation the driver of the offending vehicle was holding the valid and effective driving license that is the reason they have not charge sheeted against the driver for the offences punishable under section 181 of I.M.V Act. Thus the driver of the offending vehicle was possessed valid and effective driving license as on the date of accident. Hence, I answered the **Issue No.2 in the negative.**

**13. Issue No.3:** After considering the materials placed on record and the submission made by the learned respective counsels, it is not in dispute that the deceased died in the road traffic accident. To show that age of the deceased the petitioners have produced the Post Mortem report which marked as Ex.P-7 and it evidencing that the age of deceased is 54 years. Therefore the age of the deceased at the time of his death is 54 years and the multiplication for the age group of 51 to 55 is 11. So the age of the deceased is determined as 54 years at the time of his death.

14. The claimants are none other than the wife and unmarried daughter of the deceased who have lost their future security due to untimely death of their beloved. Since the petitioner No.1 is a wife and petitioner No.2 is unmarried daughter no doubt absolutely they are dependants of deceased. As per the case of petitioners, the deceased was working as a Painter and they have claimed that the deceased was earning a sum of Rs.25,000/- per month. In support of the same the petitioners have not produced any documents with regard to income of the deceased and the accident has occurred in the year 2025. At this juncture it is benefit to refer the decision of ***Division Bench Hon'ble High Court in between Yashodamma V/s The Managing Director in MFA No.4893 OF 2016 (MV)*** the lordship of Hon'ble High Court of Karnataka was pleased to held that when there is no exact

income, the guidelines issued by the Karnataka Legal State Authorities can be considered. Thus as per the guidelines of Karnataka Legal State Authorities dated 26-02-2022 the notional income for the year 2020 is Rs.13,750/-; 2021 is Rs.14,250/- and 2022 is Rs.14,750/-. Since the accident is for the year 2025 by considering the guidelines this tribunal assessed notional income of Rs.16,250/-. Under such circumstances this tribunal inclined to assess the notional income of the deceased at Rs.16,250/- p.m. though there is no any documentary evidence to know the exact income of the deceased.

15. In the decision rendered by the ***Hon'ble Supreme Court of India between National Insurance Company Limited V/s Pranay Sethi and others decided on 31-10-2017***, it is held that in case of self employed persons or persons with fixed wages, the actual income of the deceased must be enhanced for purpose of computation of compensation (i) by 40% where his age was below 40 years, (ii) by 25% where he belonged to age group of 40 to 50 years and (iii) by 10% where he was between age group of 50 to 60 years. As such, in the case on hand in view of the above referred decision it is proper to add 10% of the income of the deceased as loss of future prospect as the age of the deceased is 54 years.

16. So far as the deduction of personal expenses of the deceased is concerned as per the decision of Hon'ble Supreme Court reported in *Sarla Verma* case in para-14 held as here under:

*Para-14: ..... where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependant family members is 4 to 6, and one-fifth (1/5th) where the number of dependant family members exceed six.*

17. As per the dictum of Hon'ble Supreme Court since the deceased is married and having two dependants, this tribunal of the view that 1/3<sup>rd</sup> should be deducted towards his personal and living expenses.

18. Now the court has to assess and quantify the compensation which the petitioners are entitled to under different heads. By assessing the income of deceased as Rs.16,250/- per month, 10% is added towards the future prospectus which comes to Rs.17,875/- (Rs.16,250 × 10% = Rs.1,625) (Rs.16,250 + Rs.1,625 = Rs.17,875). Out of it, if 1/3<sup>rd</sup> is deducted towards the personal expenses of the deceased it comes around Rs.5,958/- (Rs.17,875 × 1/3 = Rs.5,958). After deduction of personal expenses, the income of the deceased is Rs.11,917/- (Rs.17,875 – Rs.5,958). The

appropriate multiplier applicable is 11 for the age of the deceased. Accordingly the petitioners are entitled towards loss of dependency is at Rs.11,917 × 12 × 11 = **Rs.15,73,044/-**.

19. The petitioners are also entitle for Rs.15,000/- and Rs.15,000/- under the conventional heads of loss of estate and funeral expenses respectively as held by the Constitution Bench of Hon'ble Supreme Court of India in the decision reported in **2017 ACJ 2700 Supreme Court in between National Insurance Company Limited versus Pranay Sethi and others**. Since the petitioner No.1 is the wife of the deceased, because of sudden and unexpected death she has lost her husband. Hence, she is entitled to get sum of Rs.40,000/- under the head spousal consortium as held in the decision reported in **2020 SCC Online 418 in between United India Insurance Company Limited versus Satinder Kaur @ Satwinder Kaur and other** rendered by the Hon'ble Apex Court. The petitioner No.2 being the unmarried daughter is entitle the parental consortium of Rs.40,000/- as per the decision reported in **AIR ONLINE 2018 SC 1249 in between Magma General Insurance Co. Ltd V/s Nanu Ram Alias Chuhru Ram and others**. The Hon'ble Apex Court held in **Pranay Sethi case** stated supra that the compensation awarded under the conventional heads i.e. loss of estate, loss of consortium and funeral expenses has to be enhanced at the rate of 10% once in every three years. The decision of Hon'ble

Supreme Court is for the year 2017 and this petition is in the year 2025. Hence 20% is required to be enhanced on the conventional heads. Thus, the petitioners in all entitled for just compensation under the following heads:

20. In the circumstances, the loss assessed by the petitioners due to death of deceased is calculated as follows:

01.	Loss of Dependency	Rs.15,73,044/-
02.	Funeral Expenses	Rs. 18,000/-
03.	Loss of Estate	Rs. 18,000/-
04.	Towards loss of spousal consortium to Petitioner No.1	Rs. 48,000/-
	Towards loss of parental consortium to Petitioner No.2	Rs. 48,000/-
	<b>Total</b>	<b>Rs.17,05,044/-</b>

Thus, in all the petitioners are entitled to Rs.17,05,044/-. It is just and adequate compensation under the facts and circumstances of the case.

21. As regards the liability is concerned the respondent No.2 has admits the insurance to the offending vehicle and also contended that the driver was not having valid and effective driving license. But they have not adduced any evidence to prove their contention. On the other hand the respondent No.2 has produced the copy of the Insurance Policy as Ex.R-1. On perusal of the same it is crystal clear that

the offending vehicle was insured with the respondent No.2 as on the date of alleged accident. Since the respondent No.1 is the owner and respondent No.2 is the insurer of the offending Sugama Bus. As such the respondents are jointly and severally liable to pay the compensation to the petitioners with interest at 6% p.a. from the date of filing of this petition till the date of deposit. The respondent No.2 is liable to indemnify the respondent No.1 in making the payment. In the result Issue No.3 is answered accordingly.

**22. Issue No.4:** For the foregoing reasons and my findings on Issue No.1 to 3, I proceed to pass the following:

### **ORDER**

The claim petition filed by the petitioners under section 166 of Motor Vehicles Act is hereby allowed in part with costs.

The petitioners are entitled for total compensation of **Rs.17,05,044/-** together with interest at 6% per annum from the date of petition till realization.

The respondent No.1 and 2 are held liable to pay the compensation. However respondent No.2 shall deposit the compensation amount with

interest within 60 days from the date of this order.

On deposit of the award amount, since the petitioner No.1 is the wife and petitioner No.2 is the daughter of deceased, they are entitle the compensation amount in the ratio of 50:50.

Out of the amount awarded in favour of the petitioner No.1 and 2, 40% of compensation shall be deposited in their names in any Nationalized Bank of their choice for a period of 05 years and the remaining 60% shall be transferred to their bank account through approved mode of transfer on proper identification and acknowledgement after deposit by respondent No.2.

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

Draw the award accordingly.

**(Dictated to the stenographer directly on the computer, typed by her, corrected, then signed and pronounced in the open court on this 13<sup>th</sup> day of March, 2026)**

**ANNEXURE****List of witnesses examined by the Petitioner:**

PW-1 : Smt. Soma W/o Kariya Gouda

**List of documents exhibited by the Petitioner:**

Ex.P-1 : FIR  
Ex.P-2 : Complaint  
Ex.P-3 : Spot mahazar  
Ex.P-4 : Rough sketch  
Ex.P-5 : I.M.V report  
Ex.P-6 : Charge Sheet  
Ex.P-7 : Post Mortem report

**List of witnesses examined for the Respondents:**

-NIL-

**List of exhibits marked for the Respondents:**

Ex.R-1 : Insurance Policy (by consent)