KAUP020002052021

IN THE COURT OF I ADDL. SENIOR CIVIL JUDGE AND ADDL. M.A.C.T. AT UDUPI

Present: **Sri. Santosh Srivastava,** B.A.Law., LL.B.,
I Addl. Senior Civil Judge, Udupi

Dated, this the 2nd day of July, 2026

M.V.C. No.83/2021

Between

1. Smt. Deepa Devendra Kotian,
Aged about 35 years,
W/o. Late Devendra Kotian,

2. Kanishka Kotian (minor)
Aged about 10 years,
D/o. Late Devendra Kotian,

3. Smt. Kusuma,
Aged about 60 years,
D/o. Monappa & W/o. Aithappa,

2nd petitioner is minor by age,
Rep. by N/F guardian / mother 1st petitioner.

All are R/o. H.No. #4-112,
Pancharathna Kotian Nivas,
Paduhithlu, Nadsal Village,
Padubidri, Kaup Taluk,
Udupi District. ...Petitioners

(P - Rep. by Sri. S.A., Adv.)

-Versus-

1. Mr. Deepak S.,
Aged about 42 years,
S/o. Shekar Poojari,
R/o. H. No. #7-107-B,
Pakkalu Perdoor Post and Village,
Udupi District.

2. The Divisional Manager,
United India Insurance Co. Ltd.,
Divisional Office, Jewel Plaza,
1st Floor, Maruthi Veethika, Udupi.

3. Mr. Jagadeesha Rathod,
S/o. Late Lataf Rathod,
R/at Naganihala Tanda,
Muddebihala Taluk, Vijayapur.

4. Abdul Jaleel,
S/o. Abdul Rahiman,
R/at D. No 19-89A 6021,
K.S. Rao Nagar, Mulki Village,
Mangaluru City. : Respondents

(R1, 4 – Exparte)
(R2 – Rep. by Sri. D.B.S., Adv.,)
(R3 – Rep. by Sri. S.S.M., Adv.,)

****

J U D G M E N T

The petitioners have filed this petition under Sec.163-A of Motor Vehicles Act seeking compensation of Rs.21,03,000/- from the respondents for the death of Devendra Ithappa Kotian, who died due to road traffic accident dated 29.02.2020.

2. **In brief, case of the petitioners is that** :

That the owner of the vehicle/ Respondent No.1, running a food canteen near Padubidri junction. The deceased by name Devendra Ithappa Kotian was a food maker in the said canteen. The said canteen was running from 5.00 pm to 2.30 am on all the days. On dated 29-02-2020, it was 11.00 pm, the owner of the said canteen directed the food maker by name Devendra Ithappa Kotian to bring Chicken masala from the house of Respondent No.1 and also advised him to go by Scooter bearing Regd. No: KA-20-EQ-9095, according to the advice of the respondent No.1/Master, the deceased Devendra Ithappa Kotian, when he was proceeding on eastern lane, at that time one Scooty rider bearing Reg.No.KA-19-ES-8725, ridden the same and all of a sudden entered the main road or eastern lane. So, the said Scooty hit the Moped rider by name Devendra Ithappa Kotian. Due to the involvement of two vehicle, the rider of Scooter bearing Reg.No: KA-20-EQ-9095 sustained severe injuries and lost his conscious. Immediately shifted to Siddivinayaka Hospital, Padubidri, for further treatment he was shifted to Adarsha Hospital, Udupi, on examination the injured had already been lost his breathe. On the date and time, the deceased Devendra Ithappa Kotian borrowed the vehicle from the respondent No.1 to bring Chicken Masala from the house of respondent No.1, at that time the accident had occurred.

3. It is further case of the petitioners that, they have spent Rs.3,000/- towards conveyance charges, Rs.25,000/- towards final ceremony expenses. Further deceased was aged only 34 years and he was having sound and good health. Further deceased was paying Rs.3,250/- per month. Out of the said income the deceased maintained his family, except this income no any other

income. The petitioner No.1 to 3 are the legal heirs of deceased. Hence they are entitled to the compensation from the respondents. The petitioners further submit that, the petitioner No.2 is still minor by age. The burden of taking care of her is on the shoulder of 1st petitioner. The 1st petitioner is a housewife, she is not having any source of income. The 1st petitioner managing the other petitioners out of the said income, earned by the deceased. Now on account of sudden accidental death, the said income also stopped.

4. It is further case of the petitioners that, deceased, being the borrower of the vehicle bearing Reg.No.KA-20-EQ-9095, he step into shoes of owner of the vehicle / respondent No. 1, hence in addition to the compensation amount, awarded under 163A the LR's of deceased, they also entitled to claim the admissible benefits under personal accident risk coverage. In the schedule of the policy issued by respondent No.2, to cover the risk of vehicle and also to cover the risk of rider of vehicle (Owner - Borrower). Hence, Rs. 15,00,000/-entitled to claim from the Respondent No. 2 by the petitioners. The deceased taken care of the petitioners with more love and affection. But, he

lost the breathe due to the said accident. Hence, the LR's of deceased filed this claim petition U/S 163A to claim the fixed sum of Rs. 5,00,000/- as awarded act of M.V Act. In addition to that, the LR's of him entitled to claim Rs. 15,00,000/- under P.A. So, the LR's of deceased entitled to claim total amount of Rs. 20,00,000/- from the Respondent No.2. Hence the petitioners pray that the respondent No.1 being the owner and respondent No.2 being the insurer of the motor cycle bearing Reg.No.KA-20-EQ-9095 are jointly and severally liable to pay the compensation of Rs.21,03,000/- to the petitioners along with interest at the rate of 12% per annum from the date of petition till the realization.

5. Inspite of issuance of notice, the respondent No.1 and 4 did not appear before the Tribunal. Hence placed them exparte. In response to the notice the respondent No.2 and 3 appeared through their respective counsel and have filed separate written statement.

6. **In brief, written statement of the respondent No.2 is:**

The respondent No.2 in its written statement has denied the entire case of the petitioners as false and submits that, since the said the rider of bike bearing Reg No.KA-19-ES-8725 is sole responsible to the alleged accident, rider and owner of the said motor cycle is proper and necessary party to the adjudication of the disputes involved in the above case. It is further submits that since the alleged accident was occurred on account of wrong and reckless driving of the bike bearing Reg.No.KA-19-ES-8725. Hence, this respondent states that the bike bearing Reg. No.KA-19-ES-8725 is tortfeasor, wrongdoer and he is sole responsible to the alleged accident, on account of his negligent, the said accident occurred. Therefore, their presence are very much required to adjudication of the disputes involved in the above case. Therefore, the petition is bad for non joinder of necessary parties. It is further submits even though the police filed a charge sheet against the rider and owner of the opposite vehicle bearing Reg.No.KA-19-ES-8725 which involved in the accident, but with the collusion of the owner and driver of the said vehicle, the petitioners have deliberately has not made as a party in the above case. Such attitude and conduct of the petitioners itself disclosed that they have already received compensation from the owner of the vehicle bearing Reg. No.KA-19-ES-8725. Therefore, the petitioners cannot be entitled any compensation from this respondent No.2. It is further submits that the two wheeler bearing Reg.No.KA-20 EQ-9095 was insured with this respondent at the relevant time of the accident. The said policy issued subject to compliance of the terms and conditions incorporated in the Policy. It is admitted facts that the above petition filed under Sec.163A of MV Act for claiming compensation. The above provision is only applicable to the third parties to the vehicle involved in the accident. It is submits that the deceased himself admittedly was riding the vehicle on the alleged date of accident, his legal representatives cannot be entitled any compensation from his own vehicle or his Insurance Company as he does not comes under the preview of " Third Party". Therefore, the petition under Sec 163A is not maintainable. Hence, prays to dismiss the petition.

7. **In brief, written statement of the respondent No.3 is:**

The respondent No.3 in his written statement has denied the averments of the petition and submits that, the respondent no.3 neither visited the pan shop nor he dashed the vehicle of the deceased. The said incident was took only due to the rash and negligent of the deceased. The deceased skid on the road and due to the shock the deceased lost his breath. The postmortem report clearly reveals the same. Hence the respondent no.3 is not liable to pay any compensation as claimed in the petition. It is further submitted that the accident was took the negligence of the driver of the vehicle bearing No.KA20EQ9095 and he is also not having the valid driving licence and other relevant documents. The driver of the motor cycle driven in a high speed manner without wearing the helmet of both the rider. The petitioner came up with false story for illegal gain and succeeded to file a case against this respondent.

8. It is submitted that, the motor vehicle accident report speaks the contradictory statement of the witness and the motor vehicle inspection report and it is the conclusive proof of negligence on the part of the deceased. But the with active collusion of the police, the petitioners successes to registrar the criminal case against the respondent. The charge sheet filed by the police totally concordatory to the accident motor vehicle inspection report. The informant is not eye witness of the accident and moreover, he is got up person to create the story as he is

men of the petitioners. Hence, prays to dismiss the petition.

9. On the basis of the pleadings, the following issues have been framed:

1. Whether petitioners prove that, Devendra Ithappa Kotian died from the injuries sustained in the road traffic accident which was taken place on 29.02.2020 at about 11.00 p.m near NH-66, Opp. S.S. Bar & Restaurant, Padubidri, Nadsal Village, Kaup Taluk, Udupi due to involvement of Scooty bearing Reg.No.KA-20-EQ-9095 and Scooty bearing Reg.No.KA-19-ES-8725?
2. Whether the respondent No.3 proves that, the rider of the Scooty bearing Reg.No.KA-20-EQ-9095 was not having valid and effective driving licence as on the date of the accident?
3. Whether petitioners are entitled for compensation? If so, how much and from whom?
4. What award or order?

Recasted issue:

1. Whether the petitioners prove that Mr. Devendra Ithappa Kotian died due to injuries caused in the accident dated 29.02.2020?

10. On behalf of the petitioners, the petitioner No.1 got examined as P.W.1 and marked the documents as Ex.P1 to P18. On the other hand, respondent No.2 have examined one witness as R.W.1 and got marked the documents as Ex.R1 to R3.

11. Heard the arguments submitted by the respected counsel for rival parties. The above issues are answered as under:

Recasted Issue No.1 – In the affirmative;
Issue No.2 - In the negative;
Issue No.3 – Partly in the affirmative;
Issue No.4 - As per the final order
for the following:

REASONS

Recasted issue No.1 :

The petitioner No.1 stepped into the witness box and filed affidavit in lieu of examination in chief. The contents of examination in chief is nothing but the averments of the petition, hence not discussed in order to avoid the repetition of facts.

13. Now coming to the documentary evidence. Ex.P1 is a F.I.R. registered for the offense punishable under Sec.279, 337 and 304A of I.P.C. based on the complaint given by Ravi Prakash against Jagdeesh rider of KA-19-ES-8725 and the injured is Devendra who died in the accident. Ex.P2 is the complaint. Ex.P3 is the spot mahazer. Ex.P4 is the sketch. Ex.P5 is the IMV Report wherein the accident is not due to any mechanical defects of the said motor cycle. Ex.P7 is the postmortem report. Ex.P8 is the charge sheet for the offense punishable under Sec.279 and 304A of I.P.C. Ex.P9 is the notice under Sec.160 of IMV Act. Ex.P10 is the Aadhar Card of Devendra Ithappa Kotian. Ex.P11 is the Aadhar Card of Kanishka Kotian attested by

her mother and Ex.P12 is her own Aadhar Card. Ex.P13 is the Aadhar Card of Kusuma.

14. Now coming to the cross – examination of P.W.1. It is elicited that their marriage taken place in the year 2011 and her husband had Fried rice shop and also engaged in preparing food and she was not doing any work prior to the marriage. And it is admitted that since the husband of the present petitioner was economical sound their marriage had taken place and he taken care of the family and at the time of marriage he used to earn Rs.10,000/- and gradually it is increased. It is elicited that she engaged in Beedi work. It is elicited that per day she ties 1000 beedies. And It is elicited that her husband used to do the work in the canteen from 5.30 to 2.00 p.m. on the highway and approximately he used to earn Rs.200/- per day and she is studied upto 10th standard and her husband at the time of death was aged of 32 years. And at the time of death of her husband, her husband was in good state of health. It is elicited that her husband spends Rs.3,250/- monthly. The witness admits that there is an accident between KA-19-ES-8725 which dashed her husband's vehicle and based upon the complaint given by

Ravi the F.I.R. is registered on KA-19-ES-8725 and also admits that after carrying out investigation the Police has filed final report. But unfortunately the driver of the vehicle and owner of the vehicle did not made as party. It is elicited that her husband while driving Echo car met with an accident and she trying to claim insurance from the said vehicle. It is elicited that the driver of the offending vehicle did not give any amount to the petitioner. It is elicited that her husband possessed driving license. It is elicited that during and after marriage her husband drove the vehicle. It is elicited that he used to use the vehicle wherever he wants to go. And he used to use the vehicle for the purpose of works of the shop. It is elicited that owner of the said vehicle KA-20-ECO-9095 his name is Deepak. And no compensation is claimed individually against the owner. The witness admits that the owner is under the obligation to compensate the petitioner. It is elicited that the shop in which her husband used to work was open till 10.30 p.m. It is elicited that he acted as per the say of the owner and be used to bring the essentials to help the owner to run the business. It is elicited that Dharmendra Kotian is the relative of her husband and Manoj Kumar belongs to their village. The witness denies the suggestion that after finishing the work at 11.00 p.m. the accident has taken place. It is elicited that she requires Rs.15,00,000/-. It is elicited that under the personal accident and benefits she claims Rs.15,00,000/- . It is elicited that she can submit the policy. It is elicited that her husband succumbed to the injuries in the vehicle which was insured. It is denied that out of the record the petitioner has obtained the compensation amount from the owner of KA-19-ES-8725. It is elicited that her husband's account is at Padubidri Corporation Bank.

15. The respondent No.2 examined one Pushpavalli K. who is the administrative officer of respondent No.2 insurance company. She deposes that, though the vehicle is insured with this respondent at the relevant time of accident the said provision stands only applicable to the third party to the vehicle involved in the accident and deceased himself was riding the vehicle on the alleged date of accident. His legal representatives are not entitled to any compensation from his own vehicle or his insurance company as he does not come under the purview of third party. It is further deposes that borrower of the motor cycle from the owner steps into the shoes of the owner. And

therefore, either the rider or his legal representatives are not entitled for any compensation under the IMV Act. The personal accident benefits covers only to the driver cum owner of the vehicle. And this Tribunal does not have jurisdiction to provide personal accident benefits as the said claim does not come under the purview of third party and the same is contractual liability between the insured and the insurer of the vehicle. It is further contended by this respondent that there is no mistake of the deceased riding the motor cycle bearing Reg.No.KA-20-EQ-9095. It is only the mistake of the rider of the motor cycle bearing Reg.No.KA-19-ES-8725 and he came in a reckless manner and dashed to the motor cycle of the deceased. Hence the rider of the motor cycle bearing Reg.No.KA-19-ES-8725 is sole responsible. And the presence of the said driver is very much necessary and the police had filed the charge sheet against the driver of the vehicle bearing Reg.No.KA-19-ES-8725. Therefore prays to dismiss the petition.

16. Now coming to the cross – examination, wherein It is elicited that the policy pertaining to the vehicle KA-20-EQ -9095 is a bundle of policy. The learned counsel for the respondent No.2 invited the attention of this court to TATA

EIG General Vs. Priya, wherein it is held that, the claim for personal accident cover cannot be claimed before claim Tribunal as the deceased is not a third party. And the claimant can approach consumer forum or any other appropriate forum.

17. At this stage, this court likes to place reliance upon the reported judgment of Hon'ble Supreme Court, ***Anita Sharma vs the New India Assurance Co. Ltd. 2020 SCC Online SC 1002***, wherein it is held that, *the standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eye-witnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true.*

18. After going through the records of the case, it can be seen from the records that, F.I.R. is registered against Jagadeesh and admittedly he is not arrayed as

parties in this case. The respondents who have entered into the witness box and lead the evidence also find fault with the rider of the Scooty KA-19-ES-8725 and the police records confirmed the fact that, the accident had been taken place due to the rash and negligence riding of Mr. Jagadeesh which can also be seen from the perusal of Ex.P8 which is the charge sheet filed against Jagadish Rathod and Abdul Jalil. So therefore the petitioner is able to prove that the accident has been taken place by the rider of KA-19-ES-8725. Hence, **recasted issue No.1 answered in the affirmative.**

Issue No.2 :

19. The respondent No.2 has averred that the rider of the Scooty bearing Reg.No.KA-20-EQ-9095 did not had effective driving license. But in the evidence which is lead by the R.W.1 their bone of contention is that, the deceased drove the motor cycle bearing Reg.No.KA-20-EQ-9095 in a slow and careful manner observing all traffic rules at that time he met with an accident with another motor cycle bearing Reg.No.KA-19-ES-8725 and the responsibility for the said accident is put upon the rider of vehicle bearing Reg.No.KA-19-ES-8725 and also admits that charge sheet

is also being filed against the rider of the vehicle bearing Reg.No.KA-19-ES-8725. So according to the respondent No.3 the vehicle driven by the deceased had no fault and by the evidence itself they submits that the deceased had observed and obeyed all the traffic rules and this court has also gone through the notes of arguments wherein there is no focus upon the non possessing of license of the deceased. So except taking a contention that deceased did not possess driving license the respondent No.3 has not moved further and able to establish that respondent No.3 did not had license. This court has detail examined the charge-sheet i.e. Ex.P8 wherein admittedly the accident is being taken place due to the rash and negligent riding of Jagdeesh Rathod. So therefore, in the absence of proof regarding the non-possessing of driving license this Tribunal cannot assume that the deceased did not had driving license. So therefore the respondent No.2 has failed to show that the deceased did not had driving license. Hence, I answer **issue No.2 in the negative**.

Issue No.3 :

20. At this stage of discussion Sec.163A need to be extracted for better appreciation. :

Section 163A – Special provisions as to payment of compensation on structured formula basis

1. Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation : For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

2. In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

3. The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

21. At this stage admittedly the owner name is Deepak and he directed deceased to bring Chicken Masala from the house of respondent No.1 and advised him to go by the scooter KA-20-EQ*9095 and he met with an accident and it can be seen from the police records that the accident is caused by Jagadeesh Rathod. It is not the case of respondent No.2 that accident has been taken place due to the rash and negligent of the rider of the scooter i.e. KA-20-EQ-9095 which can be seen from the perusal of her evidence para No.6 and 7 of affidavit in lieu of examination – in – chief, wherein the respondent No.2 has clearly mentioned that, "*6. I say that the petitioners have suppressed true and correct version and as well as material facts regarding the alleged accident in order to get unlawful gains. I say that the alleged date, time and place the deceased himself was riding his Motor cycle bearing Reg.No. KA-20-EQ-9095 in a slow and careful manner and observing all traffic rules at that time Motor cycle bearing Reg.No. KA -19-ES-8725 ridden the same and all of a sudden entered the main road with rash and reckless manner without observing on coming vehicle and dashed to the deceased vehicle, which is clearly reflected in the police records. I say that to the said accident and death of the deceased, rider of the the Motor*

cycle bearing Reg.No. KA -19-ES-8725 was sole responsible. 7. I say that since the said the rider of bike bearing Regn No. KA -19-ES-8725 is sole responsible to the alleged accident, rider and owner of the said motor cycle is proper and necessary party to the adjudication of the disputes involved in the above case. I say that since the alleged accident was occurred on account of wrong and reckless driving of the vehicle bearing Regn No. KA -19-ES-8725, their presence to be very much required before this court".

22. So admittedly as on this day there is no mistake on the part of deceased. And he drove the vehicle in proper manner. Even for the sake of arguments if the provision 163A is perused it is crystal clear that, the owner or the insurer is liable to compensate the victim or their legal heirs as the case may be. So here admittedly Deeapak was the owner of the vehicle and deceased drove his vehicle. It is not material that whether Deepak had sent the deceased for his work. It is not the facts of this case that, due to the mistake of deceased the said accident has been taken place. It is on the record by the written statement of respondent No.2 and their evidence more particularly relying upon para No.6 and 7 of the evidence and also from the police records that the accident occurred due to

mistake of Jageesh Rathod and against him the F.I.R. as well as charge-sheet is filed. So therefore, when there is no mistake on the part of rider of motor cycle i.e. to say deceased the legal heirs of the deceased can claim compensation from the insurer under which the vehicle is registered.

23. At this stage of discussion, this court likes to place reliance upon relied R**am Kiladi and another Vs. United India Insurance Co. Ltd and another**, wherein it is held that *the insurance company is liable to pay compensation to the 3rd party and not to the owner and deceased stepped into the shoes of the owner and he was not a third party*.

24. Further on perusal of this judgment in detail it is held that, the Tribunal cannot blindly reject the claim petition filed under Sec.163A of IMV Act solely on the ground that the borrower stepped into the shoes of the owner. The petition is still maintainable and helps the petitioner if the additional premium has been paid towards personal accident cover to owner cum driver. And held that, if the additional premium is being paid the insurance

company is liable to pay to the heirs of borrower of the vehicle.

25. After relying upon the said judgment it is admitted in the cross - examination of respondent No.2 that the said policy is a bundle policy which is to say comprehensive policy. Now the learned counsel for the respondents had relied upon the judgment as already stated above that, claim for the said premium is maintainable before consumer forum not before the Tribunal. On the other hand the learned counsel for the petitioner relied upon reported judgment of Hon'ble High Court of Karnataka, i.e. National Insurance Co. Ltd. Vs. P. Ramanna Reddy, IFFCO Tokio General Insurance Vs. Dhanpath Kevad. Further relied upon Krishna Kumar Vs. Mahadev Krishnakant, further Oriental Insurance CO. Ltd., Vs. Varalakshmi. Further relied upon Vaibhav Jain Vs. Hindustan Motors. Further relied upon Ram Khilad Vs. United India Ins. Co, wherein it is held that if additional premium is paid personal accident covers and insurance company is liable to pay Rs.1,00,000/-. Now as per the contention of the petitioners Rs.15,00,000/-. Further relied upon Oriental Insurance Co. Ltd. Vs. K.S.

Prakash and also relied upon Rama Bommayya Naik Vs. Anil Kumar Ayyappa Pillai, also relied upon the judgment of Hon'ble High Court of Karnataka Bengaluru Manager of United Insurance Company Vs. P. Susheela. Further relied upon New India Insurance Company Ltd., Vs. Umesh Kumari.

26. After having gone through the all the judgments relied by the petitioners are applicable to the facts of the case and this Tribunal is also of the opinion that in this accident there was no fault on the part of deceased which is also the contention of respondent No.2. But the prayer made by the petitioner that to grant Rs.15,00,000/- as compensation cannot be given for the reason that Sec.163A explicitly contemplates that in the case of death Rs.5,00,000/- compensation is granted. So the Tribunal cannot rely upon the policy conditions and override Sec.163A of IMV Act. So therefore, since the deceased succumbed to the injuries in the accident their legal heirs **are liable to get compensation of Rs.5,00,000**/-.

27. Liability:

The respondent No.2 has admitted that the offending vehicle was covered with valid policy as on the date of the accident. The respondent No.1 being the owner and respondent No.2 being the insurer of the offending vehicle are jointly and severally liable to pay the compensation. Liability is not fixed upon respondent No.3 and 4 since the petition is filed under Sec.163A of IMV Act.

28. So far as interest on compensation is concerned; this tribunal likes to place reliance upon the decision of the Hon'ble High Court of Karnataka in ***M.F.A. 13390/2014 clubbed with M.F.A. 25107/2013*** *dated 07.03.2018, between* ***Vijay Ishwar Jadhav and others Vs. the Divisional Manager, the Bajaj Allianz General Insurance Co. Ltd.,*** *wherein the Hon'ble High Court of Karnataka has elaborately discussed with regard to the rate of interest to be awarded in the case arising out of the accident, wherein at para No.15 it is held that "However, the provisions of Section 149 (1) of the Act to the extent they speak of interest payable on the compensation amount is in the nature of an exception to the general law enacted in Section 169 of the M.V. Act and therefore, the provisions of*

Section 34 of C.P.C. to that extent become invocable on the general principles of construction of statutes namely the special law over rides the general law. Therefore, in the absence of any other law relating to interest on judgments, the MACT has to follow the provisions of Section 34 of C.P.C., 1908. Thus, in the given circumstances of this case, interest at the rate of more than 6% could not have been awarded." By relying upon the decisions of the aforesaid judgment, this court is of the opinion that it is just and proper to award interest at the rate of 6% per annum, from the date of the petition till its realization. Hence, I answer **issue No.3 partly in the affirmative.**

Issue No.4:

29. In view of the above discussion, this court proceeds to pass the following order.

ORDER

The claim petition filed by the petitioners under Section 163-A of the Motor vehicles Act is allowed in part with cost.

The petitioners are entitled to receive total compensation amount of Rs.5,00,000/-

(Rupees Five Lakhs Only) along with interest at the rate of 6% per annum from the date of petition till realization of the amount.

The respondent No.1 and 2 are jointly and severally liable to pay the award amount. Since the respondent No.2 is the insurer, the respondent No.2 is directed to pay the compensation and the same shall be deposited within 45 days from the date of this order.

The petitioner No.1 to 3 shall share the compensation at the ratio of 50:30:20 respectively.

The amount awarded to the petitioner No.1 and 3 with proportionate interest is ordered to be credited to the account of the petitioner No.1 and 3 either through R.T.G.S. or N.E.F.T.

The compensation awarded to the share of the petitioner No.2 shall be kept in Nationalized or Scheduled Bank in his name till he attains majority.

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

Draw award accordingly.

(Dictated to Stenographer, transcribed by her, corrected and then pronounced by me in open court on this the 2nd day of July, 2026)

SANTOSH SRIVASTAVA

Digitally signed by SANTOSH SRIVASTAVA
Location: Addl Senior Civil Judge and ACJM Udupi
Date: 2026.07.03 12:48:35 +0530

(Santosh Srivastava)
I Addl. Senior Civil Judge & Addl. MACT,
Udupi.

ANNEXURE

Witnesses examined on behalf of the petitioners:

P.W.1 : Smt. Deepa Devendra Kotian.

Documents marked on behalf of the petitioner:

Ex.P1 : True copy of F.I.R.;

Ex.P2 : True copy of complaint;

Ex.P3 : True copy of spot mahazer;

Ex.P4 : True copy of sketch;

Ex.P5 : True copy of IMV Report;

Ex.P6 : True copy of Inquest Report;

Ex.P7 : True copy of P.M. Report;

Ex.P8 : True copy of Charge sheet;

Ex.P9 : True copy of AIR Report;

Ex.P10 : Aadhar Card of deceased;
Ex.P11 : True copy of Aadhar Card of petitioner No.2;
Ex.P12 : True copy of Aadhar Card of petitioner No.1;
Ex.P13 : True copy of Aadhar Card of petitioner No.3;
Ex.P14 : True copy of PAN Card of petitioner No.1;
Ex.P15 : True copy of PAN Card of petitioner No.3;
Ex.P16 : Copy of Bank Passbook of petitioner No.1;
Ex.P17 : Copy of Bank Passbook of petitioner No.2;
Ex.P18 : Copy of Bank Passbook of petitioner No.2;

Witnesses examined on behalf of the respondents:

R.W.1 : Pushpavalli K.

Documents marked on behalf of the respondents:

Ex.R1 : Authorization Letter;
Ex.R2 : Insurance Policy;
Ex.R3 : Insurance Policy.

I Addl. Senior Civil Judge & Addl. MACT.,
Udupi.