

KAYG210005022022



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC AND ADDITIONAL M.A.C.T-IV, SHAHAPUR**

Present: **Smt.Hema Pastapur**, B.A., LL.B.
Senior Civil Judge and JMFC
and Addl. M.A.C.T. IV, Shahapur

MVC.No.167/2022

Dated this 01st day of September – 2026

Petitioners :-

1. Ayyappa S/o Honnappa,
Age: 33 years, Occ: Agri., and cooli,
2. Devappa S/o Honnappa,
Age: 30 years, Occ: Agri., and cooli,
3. Veerasha S/o Honnappa,
Age: 17 years, Occ: Student,
Minor U/g of petitioner No.1.
4. Ningamma D/o Honnappa,
(W/o Mallikarjun)
Age: 25 years,
5. Umadevi D/o Honnappa,
(W/o Devindrappa)
Age: 32 years,
6. Annapurna D/o Honnappa,
Age: 24 years, Occ: Coolie,

All are R/o: Munamutagi village,
Tq: Shahapur, Dist: Yadgir.

(By Sri. M.N.P. Advocate)

Versus

Respondents:- 1. Bassannagouda S/o Shanthagouda
Biradar, Age: 35 years, Occ: Tankar
business, R/o: Jambaldinni village,
Tq: Muddebihal, Dist: Vijayapur.

(Owner of the offending Tankar
bearing No.KA-50-9500)

2. The Divisional Manager Iffco Tokio
Gen Insurance Co. Ltd., Shanti
Towers, 5th floor # 141 3rd main East
of NGEF Layout Kasturi Nagar,
Bangalore – 560043.

(Insurer of the offending Tankar
bearing No.KA-50-9500)

**(Respondent No.1 by Sri.S.N.D.
Advocate and respondent No.2
by Sri.R.N.D. Advocate)**

J U D G M E N T

That, the petitioners have submitted the claim
petition under Section 166 of the Indian Motor
Vehicles Act, claiming the compensation of
Rs.40,00,000/- with cost and interest.

Facts of the case are as under :-

1. That, one deceased Smt. Devindramma W/o Honnappa was the mother of the petitioners No.1 to 6. That, the respondent No.1 is the Owner of the Tanker vehicle bearing No.KA-50-9500 and the respondent No.2 is the Insurer of the said vehicle. That, on 21.04.2021 at about 10.30 a.m., the mother of the petitioners said deceased Devindramma along with other labours was proceeding in a Auto bearing No.KA-33-A-6725 towards Huvin Hadagalivillage, Devadurga Taluk and when they were proceeding near Birnoor cross, at that time the driver of the said Tanker vehicle bearing No.KA-50-9500 by driving the same came from wrong side in high speed and in a rash and negligent manner and dashed against the said auto and caused the accident.

2. That, in alleged accident the said Devindramma had sustained the grievous injuries and died on the spot. That, the Shahapur police have registered the case against the driver of the said Tanker in Crime No.90/2021.

3. That, on alleged date of accident the said deceased Devindramma was aged about 55 years and was doing labor/coolie work and getting the income of Rs.20,000/- per month. That, due to sudden death of said Devindramma the petitioners are leading a miserable life. Hence, this petition.

4. That, on notices being served, the respondents have appeared before this Tribunal through their learned counsel. That, the respondent No.1 has submitted his written statement, wherein he denied all contentions of the petitioners and has pleaded that he is the registered owner of the Tanker vehicle bearing No.KA-50-9500 and on alleged date of

accident his said vehicle was insured with the respondent No.2 Company. That, the petitioners have not impleaded the owner and insurer of the said Auto bearing No.KA-33-A-6725. That, the claim putforth by the petitioners is exorbitant. That, the respondent No.1 in view of his aforesaid contentions has prayed for dismissing the claim petition against him.

5. That, the respondent No.2 has submitted his counter to the claim petition, wherein he denied all contentions of the petitioners and has pleaded that the alleged accident was occurred due to the rash and negligent act of the driver of the Auto bearing No.KA-33-A-6725 and on alleged date of accident the said auto was not insured and its driver was not possessing with the effective driving license.

6. That, the respondent No.2 has further averred that from Complaint, FIR and Final report it clearly appears that on alleged date of accident more than six

persons were travelling in the said auto. Hence, the respondent No.1 had violated the terms and conditions of policy. That, the petitioners have not impleaded the owner and driver of the said auto. Hence, the present petition is not maintainable. That, the claim putforth by the petitioners is exorbitant. That, the respondent No.2 in view of the aforesaid contentions has prayed for dismissing the claim petition against him.

7. That, on the basis of the pleadings of both the parties, the following issues were struck :-

1. Whether the petitioners prove that,
on 21.04.2021 at about 10.30
a.m., the deceased Devindramma
W/o Honnappa along with other
labours was traveling in a Auto
bearing No.KA-33-A-6725 for going
to coolie work at Huvin Hadagali

village of Devadurga Taluk, when they were reached near Birnoor cross on Hattigudur – Devadurga main road, at that time the driver of Tanker bearing registered No.KA-50-9500 came from opposite direction drove it in rash and negligence manner and in high speed and dashed to the said Auto and thereby caused accident?

2. Whether the petitioners prove that, in the alleged accident the mother of the petitioners namely Devindramma had suffered grievous injuries all over the body and succumbed on spot ?
3. Whether the petitioners are entitled for the compensation ? If

so, to what extent, from which
respondent ?

4. What order or award ?

8. That, the petitioners to probabalise their
aforesaid contentions have got examined the
petitioner No.1 as PW-1 and have got marked the
documents at Exs.P1 to 10 and closed their side.

That, the respondent No.1 to establish his case
has deposed himself as RW1 and got marked the
documents at Exs.R1 to 4 and closed his side.

That, the respondent No.2 to demonstrate his
aforesaid contentions has got examined one Shri
Manjunath Badiger S/o Mohan Badiger – Senior Legal
Claims Executive – as RW2 and got marked the
documents at Exs.R5 to 7(a). That, the respondent
No.2 to strengthen his aforesaid contentions has got
examined one Shri Malkappa S/o Somappa – RTO

Vijayapura, as RW3 and got marked Exs.R8 to 10 and closed his side.

9. That, I have heard the arguments and perused the materials placed on record. That, My answer to the aforesaid issues are as under:-

Issue No.1 :- In the **AFFIRMATIVE**

Issue No.2 :- In the **AFFIRMATIVE**

Issue No.3 :- **PARTLY** in the **AFFIRMATIVE**

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

REASONS

10. Issues No.1 and 2 :- That, as these issues are connected together, I have taken them for joint discussion to avoid repetition of facts. It is specific case of the petitioners that, on 21.04.2021 at about 10.30 a.m., their mother – deceased Devindramma along with other labours was proceeding in a Auto bearing No.KA-33-A-6725 towards Huvin Hadagali village, Devadurga Taluk and when they were proceeding near Birnoor cross, at that time the driver

of the Tanker vehicle bearing No.KA-50-9500 by driving the same came from wrong side in high speed and in a rash and negligent manner and dashed against the said auto and caused the accident. That, the petitioners have further contended that in alleged accident their said mother had sustained the grievous injuries and died on the spot and the Shahapur police have registered the case against the driver of the said Tanker vehicle in Crime No.90/2021. That, the PW1 in his chief affidavit has reiterated the said facts and got marked the documents at Exs.P1 to 10. That, the Ex.P2 is the certified copy of Complaint. That, one Shri Sidramayya S/o Veerabhadraiah Ganachari had lodged the complaint against one Shri Veeresh S/o Shantagouda Biradar, in Shahapur police station. That, the Ex.P1 is the certified copy of F.I.R. That, the said police in pursuance of Ex.P2 have registered the case against the said driver – Veeresh in Crime No.90/2021 for the offences punishable under

Sections 279, 337, 338 and 304(A) of the Indian Penal Code and under Section 187 of the Indian Motor Vehicles Act. That, the Ex.P3 is the certified copy of Final report. That, the Investigating officer has charge sheeted against the said driver – Veeresh for the offences punishable under Sections 279, 337, 338 and 304(A) of the Indian Penal Code and under Sections 3, 181 and 187 of the Indian Motor Vehicles Act and arrayed him as accused No.1 and against the present respondent No.2 for the offences punishable under Section 180 of the Indian Motor vehicles Act and arrayed him as accused No.2 and against one Shri Mallikarjun @ Mallappa – Owner of the said Auto for the offences punishable under Sections 3, 181 and 192(a) of the Indian Motor Vehicles Act and arrayed him as accused No.3.

11. That, the Ex.P4 is the certified copy of Crime details form. That, the contents of said document

depicts that the alleged accident was occurred near the land of one Shri Basavaraj S/o Hanamanth Bovi, Shahapur – Devadurga road. That, the Ex.P5 is the certified copy of Hand sketch map of scene of accident. That, the Ex.P6 is the certified copy of Inquest panchanama. Ex.P8 is the certified copy of Post – mortam report, wherein the cause of death of said Devindramma had mentioned as due to head injuries sustained.

12. That, the Ex.P6 is the certified copy of Motor vehicles accident report, wherein at column No.10 it has mentioned that the alleged accident was not occurred due to any mechanical defect in the Motor vehicles bearing No.KA-50-9500 and KA-33-A-6725. That, the Exs.P9 and 10 are the certified copies of Statement and Further statement of PW1.

13. That, the respondent No.1 in his written statement has evasively denied the occurrence of

alleged accident. It is well settled law that the pleadings must be specific.

14. That, the respondent No.2 has pleaded that the alleged accident was occurred due to the negligent act of the driver of the said auto. That, the RW2 in his chief affidavit has reiterated the said facts. That, the respondent No.2 to demonstrate his aforesaid contentions has not adduced any documentary evidence. The mere plausible explanation is not sufficient for rebuttal evidence but proof of explanation is necessary. That, in absence of any cogent and material evidence the said contention of the respondent No.2 do not assume any importance.

15. That, the respondents No.1 and 2 in cross-examination of PW1 though, have tried to elicit that the alleged accident was occurred due to the negligent act of the driver of the said auto but, nothing has been elicited from him.

16. It is pertinent note here that, the Investigating officer in Ex.P3 - Final report has specifically mentioned that, due to the negligent act of the said Veeresh – driver of the said Tanker vehicle the alleged accident was occurred and due to his actionable negligence the said Devindramma, one Smt. Mallamma, Smt. Ayyamma, Smt. Umadevi and Smt. Khasimbi inmates of the said auto have lost their breath and other inmates have sustained simple and grievous injuries.

17. *It is settled principle of law that, in case of accident it is not mandatory to prove the guilt of the accused beyond all reasonable doubt. That, for the purpose of claim petition mere proof of accident due to negligence is sufficient. That, in National Insurance Company Versus Pushpa Rama and other, reported 2009 ACJ 287 it has held that, the certified copy of the Criminal Court records such as FIR, Recovery memo and*

mechanical Inspection report of Vehicle documents are sufficient proofs to reach the conclusion that the driver was negligent. Proceedings under Motor Vehicles Act are not akin to proceedings in a Civil Suit and hence, strict rules of evidence are not required to be followed in this regard.

18. That, in this case from police records coupled with ocular evidence of PW1 it clearly appears that due to the negligent act of the said driver - Veeresh the said Devindramma lost her breath. Hence, without much discussion, issues No.1 and 2 are answered in the **AFFIRMATIVE**.

19. Issue No.3:- That, the petitioners are entitled for the compensation under the following heads :-

- a) **Transportation of dead body:-** That, the petitioners might have spent some amount to transport the dead body of their

deceased mother from Government Hospital, Shahapur, to their native. Hence, it is feasible to award a sum of Rs.15,000/- under this head.

b) **Loss of estate and Funeral expenses:-**

That, the petitioners are entitled for Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses.

c) **Parental Consortium:-** That, the petitioners have lost their loving and protective mother in their tender age. Hence, it is feasible to award Rs.2,40,000/- i.e., Rs. 40,000X6 = 2,40,000/-. That, the petitioners are entitled for Rs.2,40,000/- under this head.

d) **Loss of dependency:-** That, the petitioners though, have pleaded that on alleged date of accident the said deceased Devindramma was aged about 55 years

but, to demonstrate the same have not produced her birth certificate and school records. That, the respondent No.2 in cross-examination of PW1 has tried to probabalise that he is falsely deposing that on alleged date of accident his mother was aged about 55 years but, he denied the said suggestion.

20. It is pertinent to note here that, in Ex.P8 – Post mortem report the age of the deceased Devindramma has been mentioned as 57 years. Hence, the age of the deceased – Devindramma on alleged date of accident is taken as 57 years. That, as being guided in **Sarla Verma and others Versus Delhi Transport Corporation and another**, decided in **Civil Appeal No. 3483 of 2008 dated:15.04.2009** the appropriate multiplier for the age group of 56 to 60 years is 9.

21. That, the petitioners though, have contended that their mother Devindramma during her life time

was doing as labor/coolie work and getting the income of Rs.20,000/- per month but, have not adduced any documentary evidence. That, as per revised National income chart prepared by the Karnataka State Legal Services Authority, Bengaluru, dated:- 26.02.2026 the income of the said deceased is taken at Rs.14,250/- per month (for the year 2021).

22. That, the *Hon'ble Supreme Court in the case of National Insurance Company Limited Versus Pranay Sethi and others, reported in 2017 ACJ 270* has held as under:-

In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased

was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

23. That, the compensation is calculated as under :-

$$14,250 \times 12 = 1,71,000/-$$

That, on alleged date of accident the said deceased was aged about 57 years, if 10% is warranted then it comes to :-

$$\frac{1,71,000 \times 10\%}{100} = 17,100/-$$

$$1,71,000 + 17,100 = 1,88,100/-$$

That, if 1/4th is deducted towards personal and living expenses of the deceased then it comes to :-

$$1,88,100 \times 1/4 = 47,025/-$$

$$1,88,100 - 47,025 = 1,41,075/-$$

That, the annual income for the purpose of calculating the loss of dependency is Rs.1,41,075/-.

$$1,41,075 \times 9 \text{ (Multiplier)}$$

$$= 12,69,675/-$$

That, the petitioners are entitled for
Rs.12,69,675/- under this head.

24. That, the petitioners are entitled for the total compensation under the following heads :-

HEADS	COMPENSATION IN RUPEES
Transportation of dead body	15,000.00
Loss of estate	15,000.00
Funeral expenses	15,000.00
Parental consortium	2,40,000.00 (40,000 X 6)
Loss of dependency	12,69,675.00
Total	15,54,675.00

25. That, the petitioners are entitled to receive the compensation as under:-

Petitioner No.1 - 16%
 Petitioner No.2 - 16%
 Petitioner No.3 - 20%
 Petitioner No.4 - 16%
 Petitioner No.5 - 16%

Petitioner No.6 - 16%

26. Interest:- That, as being guided by the **Hon'ble High of Karnataka in Regional Manager Oriental Insurance Company Limited Versus Pushpa and others** decided in **MFA No.5956/2017 clubbed with 6310/2017 (MV)** it is just and proper to award the interest at the rate of 6% per annum from the date of petition till its realization.

27. Liability:- That, the respondent No.1 has contended that on alleged date of accident his said Tanker vehicle bearing No.KA-50-9500 was insured with the respondent No.2 company and its driver was owning the effective driving license. That, the respondent No.1 in his evidence has got marked the documents at Exs.R1 to 3. That, the Ex.R1 is the copy of Extract of driving license of said driver – Veeresh. That, the Ex.R2 is the copy of 'B' register extract of offending vehicle – Tanker bearing No.KA-50-9500

and the Ex.R3 is the copy of Endorsement issued by the RTO, Yadgiri, dated: 24.07.2025.

28. That, the respondent No.2 in his pleadings has admitted that on alleged date of accident the said offending vehicle Tanker bearing No.KA-50-9500 was insured with his company.

29. That, the RW3 in his chief examination has deposed that the Driving license – Ex.R9 of the said driver – Veeresh was valid from 20.09.2018 to 20.09.2021 and they have issued transport vehicle license to him on 20.09.2018 and it was valid for three years and the said license was not got renewed from 20.09.2021 to 18.01.2022 and the same was got renewed on 19.01.2022 and as on 21.04.2021 the said Driving license was inforce and in Ex.R9 they have not mentioned the date as 20.09.2018 to 20.09.2021.

30. It is pertinent to note here that, Exs.R1 and 10 are one and the same documents. It is pertinent to note here that, in Ex.R3 – the RTO Yadgir, had certified that the Driving license number of the said driver – Veeresh was KA 282016109508 and he had obtained the said license on 20.09.2018 and it was issued for the period of three years and there was a gap period from 20.09.2021 to 18.01.2022 and he got renewed the same up to 19.01.2022 to 18.01.2027. That, from the evidence of RW3 and contents of Ex.R3 it clearly appears that on alleged date of accident the said driver – Veeresh was possessing with valid and effective driving license. That, from Ex.R8 – Form KMV 45 pertaining to said offending vehicle – KA-50-9500 it appears that its permit was valid from 12.12.2018 to 11.12.2023.

31. It is pertinent to note here that, from Ex.R6 – copy of Insurance policy of offending vehicle – KA-50-

9500 appears that it was valid from 06.02.2021 to 05.02.2022.

32. That, the respondent No.2 has got marked the CIS copy of Judgment and Award passed in MVC No.138/2022 dated:- 05.02.2025, by the Hon'ble MACT XV – Jewargi, at Exs.P7 and 7(a). That, the said Judgment is pertaining to the same accident. That, the said Judgment and Award passed in the said case is not binding on this Tribunal, as the Tribunal must independently assess the negligence and liability based on the evidence presented directly before it.

33. That, as in this case as on alleged date of accident the said Driver – Veeresh was possessing with the valid and effective driving license and Insurance policy of the said offending vehicle Tanker bearing No.KA-50-9500 was inforce the respondent No.2 is liable to indemnify the petitioners. Hence,

without much discussion, issue No.3 is answered in **partly** in the **AFFIRMATIVE**.

34. Issue No.4:- That, as discussed on issues No.1 to 3, I proceed to pass the following :-

ORDER

That, the claim petition filed by the petitioners under Section 166 of the Indian Motor Vehicles Act, is hereby partly allowed with costs.

That, the petitioners are entitled to recover from the respondent No.2 the compensation amount of Rs.15,54,675/- with interest at the rate of 6 % per annum from the date of petition till realization.

That, the respondent No.2 is hereby directed to deposit the said compensation amount within 30 days from the date of passing of the award.

That, on deposit of said compensation amount by the respondent No.2, entire amount shall be released forthwith infavour of the petitioners No.1, 2, 4 to 6 through e-banking on due to identification and the amount apportioned infavour of the minor petitioner No.3 shall be kept as a Fixed deposit in his name in any Nationalised Bank at the choice of the petitioner No.1, till he attains the majority.

That, draw the award accordingly.

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

(Directly dictated to the stenographer, typed by him, corrected and then signed and pronounced by me in the open Court on this 01st day of September - 2026)

(Hema Pastapur)
Sr. Civil Judge and Addl., MACT-
IV, Shahapur.

ANNEXURE**List of witnesses examined on behalf of petitioners:-**

PW-1 : Ayyappa S/o Honnappa.

List of documents marked on behalf of petitioners:-

- Ex.P.1 Certified copy of FIR.
- Ex.P.2 Certified copy of Complaint.
- Ex.P.3 Certified copy of Final report.
- Ex.P.4 Certified copy of Spot panchanama.
- Ex.P.5 Certified copy of Hand sketch map of scene of offence.
- Ex.P.6 Certified copy of Motor Vehicles Accident Report.
- Ex.P.7 Certified copy of Inquest panchanama.
- Ex.P.8 Certified copy of Post-Mortem report.
- Exs.P.9 Certified copies Statement and Further and 10 statement of PW1.

List of witnesses examined on behalf of the respondent No.1:-

RW-1 : Bassangouda S/o Shanthagouda Biradar

List of witnesses examined on behalf of the respondent No.2:-

RW-2 : Manjunath Badiger S/o Mohan Badiger

RW-3 : Malkappa S/o Sompappa

List of documents marked on behalf of the respondent No.1:-

- Ex.R1 : Extract of Driving license of one Viresh Biradar.
- Ex.R2 : B- Register extract of vehicle bearing No.KA-50-9500.
- Ex.R3 : Endorsement issued by the RTO Vijayapur.
- Ex.R4 : Copy of Form KMV 45.

List of documents marked on behalf of the respondent No.2:-

- Ex.R5 : Authorization letter.
- Ex.R6 : Copy of Insurance policy of offending vehicle bearing No.KA-50-9500.
- Ex.R7 : CIS copy of Judgment in MVC No.138/2022 passed by the MACT XV – Jewargi.
- Ex.R7(a): CIS copy of Award in MVC No.138/2022 passed by the MACT XV – Jewargi.
- Ex.R8 : Authorization letter.
- Ex.R9 : Extract of Driving license of one Viresh Biradar.
- Ex.R10 : Copy of Registered vehicle details of vehicle bearing No.KA-50-9500.

(Hema Pastapur)
Sr. Civil Judge and Addl., MACT-
IV, SHAHAPUR.