

KAYG210005052022



**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.170/2022

Dated this 01st day of September – 2026

Petitioner :- Supriya D/o Mallayya @ Mallareddy,
Age: 06 years, Occ: Student,
R/o: Masarkal village, Tq: Devadurga,
Dist: Raichur, now residing at
Kanaka Nagar, Yadagir. Under
guardian of her natural uncle Shekar
S/o Khandappa, Age: 34 years, Occ:
Agriculture, R/o: Masarkal village,
Tq: Devdurga, Dist: Raichur, now
residing at Kanaka Nagar, 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 minor petitioner through her natural guardian i.e., her uncle by name Sri. Shekhar S/o Khandappa has 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. Mallamma was the mother of the petitioner. 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 petitioner - said deceased Mallamma along with other labours proceeding in a Auto bearing No.KA-33-A-6725 was towards Huvin Hadagali village, 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 caused the accident.

2. That, in alleged accident the said Mallamma 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 vehicle in Crime No.90/2021.

3. That, on alleged date of accident the said deceased Mallamma was aged about 35 years and was doing labor/coolie work and getting the income of Rs.20,000/- per month. That, due to sudden death of

said Mallamma the petitioner is 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 petitioner has not impleaded the Owner and Insurer of the said Auto bearing No.KA-33-A-6725. That, the claim putforth by the petitioner 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 petitioner 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 petitioner has not impleaded the owner and driver of the said auto. Hence, the present petition is not maintainable. That, the claim putforth by the petitioner 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 petitioner proves that, on 21.04.2021 at about 10.30 a.m., the deceased Mallamma W/o Mallayya @ Mallareddy 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 petitioner proves that, in the alleged accident the mother of the petitioner namely

Mallamma had suffered grievous injuries all over the body and succumbed on spot ?

3. Whether the petitioner is entitled for the compensation ? If so, to what extent, from which respondent ?
4. What order or award ?

(Due to oversight on 09-06-2025 issues have been framed again. That, issues framed on 28-05-2024 have taken into consideration)

8. That, the petitioner to probabalise her aforesaid contentions has deposed as her natural guardian Sri. Shekhar S/o Khandappa as PW-1 and got marked the documents at Exs.P1 to 11 and closed her side.

That, the respondent No.1 to establish his case has deposed himself as RW1 and not adduced any documentary evidence on his behalf.

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.R1 to 3(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 document at Ex.R4 and closed his side.

(That, the respondent No.2 has got marked the extract of Driving license of said Veeresh – driver as Ex.R9 and copy of Registration particulars of offending vehicle Tanker bearing No.KA-50-9500 at Ex.R10 in MVC No.167/2022)

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 petitioner that, on 21.04.2021 at about 10.30 a.m., her mother – deceased Mallamma 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 petitioner has further contended that in alleged accident her 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 09. 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.

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.P7 is the certified copy of Inquest panchanama. Ex.P8 is the certified copy of Post – mortam report, wherein the cause of death of

said Umadevi had mentioned as due to multiple 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 is the the certified copy of Statement of one Sri. Bhimshappa S/o Ramanna.

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 her. 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 Mallamma, Smt. Devindramma, 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.

16. 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.

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

18. Issue No.3:- That, the petitioner is entitled for the compensation under the following heads :-

a) **Transportation of dead body:-** That, the petitioner and her guardian might have spent some amount to transport the dead body of said Mallamma 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 petitioner is entitled for Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses.

c) **Parental Consortium:-** That, the petitioner had lost her loving and protective mother in her tender age. Hence, it is feasible to award Rs.40,000/- under this head.

d) **Loss of dependency:-** That, the petitioner though, has pleaded that on alleged date of accident the said deceased Mallamma was aged about 35 years but, to demonstrate the same has 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 said Mallamma was aged about 35 years but, he denied the said suggestion.

19. It is pertinent to note here that, in Ex.P8 – Post mortem report the age of the deceased Mallamma has

been mentioned as 36 years. Hence, the age of the deceased – Mallamma on alleged date of accident is taken as 36 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 36 to 40 years is 15.

20. That, the petitioner though, has contended that her mother Mallamma during her life time was doing as labor/coolie work and getting the income of Rs.20,000/- per month but, has not adduced any documentary evidence. That, as per revised National income chart prepared by the Karnataka State Legal Services Authority, Bengaluru, dated:- 22.06.2022 the income of the said deceased is taken at Rs.14,250/- per month (for the year 2021).

21. 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.

22. 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 36 years, if 40% is warranted then it comes to :-

$$\frac{1,71,000 \times 40\%}{100} = 68,400/-$$

$$1,71,000 + 68,400 = 2,39,400/-$$

That, if 1/3rd is deducted towards personal and living expenses of the deceased then it comes to :-

$$2,39,400 \times 1/3 = 79,800/-$$

$$2,39,400 - 79,800 = 1,59,600/-$$

That, the annual income for the purpose of calculating the loss of dependency is Rs.1,59,600/-

$$1,59,600 \times 15 \text{ (Multiplier)} \\ = 23,94,000/-$$

That, the petitioner is entitled for Rs.23,94,000/- under this head.

23. 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	40,000.00
Loss of dependency	23,94,000.00
Total	24,79,000.00

24. 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.

25. 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.

26. 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. That, from Ex.R2 – copy of Insurance policy of offending vehicle – KA-50-9500 it appears that it was valid from 06.02.2021 to 05.02.2022.

27. It is pertinent to note here 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. It is pertinent to note here that, from the said evidence of RW3 it clearly appears that on alleged date of accident the said driver – Veeresh was possessing with the valid and effective driving license.

28. 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.P3 and 3(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.

29. 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 in force the respondent No.2 is liable to indemnify the petitioner. Hence, without much discussion, issue No.3 is answered in **partly** in the **AFFIRMATIVE**.

30. 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 minor petitioner under Section 166 of the Indian Motor Vehicles Act, is hereby partly allowed with costs.

That, the minor petitioner is entitled to recover from the respondent No.2 the compensation amount of **Rs.24,79,000/-** 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, the entire amount shall be kept as a Fixed Deposit in the name of minor petitioner in any Nationalised Bank of at the choice of PW1 till she attains the majority, with a liberty to withdraw the periodical interest.

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 petitioner:-**

PW-1 : Shekhar S/o Khandappa

List of documents marked on behalf of petitioner:-

- 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.
- Ex.P.9 Certified copy of Statement of one Sri. Bhimshappa S/o Ramanna.
- Ex.P10 School Certificate of minor petitioner
- Ex.P11 Xerox copy of Adhar Card of minor petitioner

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.2:-

- Ex.R1 : Authorization letter.
- Ex.R2 : Copy of Insurance policy of offending vehicle bearing No.KA-50-9500.
- Ex.R3 : CIS copy of Judgment in MVC No.138/2022 passed by the MACT XV – Jewargi.
- Ex.R3(a) : CIS copy of Award in MVC No.138/2022 passed by the MACT XV – Jewargi.
- Ex.R4 : Authorization letter.

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

Nil

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