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CrI.A.5074/2025
(Old CrI.A.36/2019)

**IN THE COURT OF II nd ADDL.DISTRICT AND
SESSIONS COURT, YADGIR,
SITTING AT SHORAPUR.**

:PRESENT:

**Sri. Yamanappa Bammanagi, B.A.LL.B (Spl.)
II nd Addl. District & Sessions Judge, Yadgir,
sitting at Shorapur.**

DATED THIS THE 22RD DAY OF MAY, 2026.

**CrI.A. No.5074/2025
(Old CrI.A. No.36/2019)**

Appellant/

Accused:

Suresh Meti S/o Jadeppa Meti,
Age: 24 years, Occ: Auto Driver,
R/o Siddapur 'B', Tq: Shorapur, Dist:
Yadgiri.

(By Sri.S.A.Q Adv.)

V/s

Respondent/

Complainant:

The State through Kodekal
Police Station, Tq: Shorapur &
Dist: Yadgiri, (Represent by Public
Prosecutor).

(By Sri. Public Prosecutor)



JUDGMENT

Being aggrieved by the judgment of conviction and order of sentence, passed by the learned Addl. Civil Judge and JMFC, Shorapur, in CC No.262/2011, dated 23.10.2019, convicted the appellant/accused for the offence punishable U/Sec.279, 337, 338, and 304(A) of IPC and Sec.187 of MV Act, the accused is before the court challenging the correctness and legality of said judgment of conviction and order of sentence.

This is an appeal preferred by the accused against conviction, and the parties are referred as per their original rank before the trial court for convenience of the court.

2. Brief facts of the prosecution case:

On 01.03.2011, the complainant lodged the complaint stating that, his younger brother Anverbhash and his friends Goudappa Kori and Bandenavaza were proceeding towards to Shantapur on motorcycle



bearing No.KA-33-0537 from the house of complainant to celebrate fair, the complainant's younger brother was rider of motorcycle, Bandenavaza and Goudappa were pillion riders, it was about 08.45 pm, when complainant was in his house, he received phone call from his relative Babusab S/o Madansab Sheni, and he told him that, himself, Parasappa and Davalsab Khiledar were going towards Shantapur by walk for celebration of fair, when they were on the road near Kudagupapeth Doddi, Anuverbhash, Bandenavaza and Goudappa were proceeding on motorcycle bearing No.KA-33-0537 towards Shantapur and Anuverbhash was riding in the motorcycle, at that time, one Auto bearing No.KA-33-6646 came from opposite direction, in high speed and rash and negligent manner and dashed against motorcycle on which the said persons were proceeding towards Shantapur and caused the accident, due to which motorcycle fell on ground with above said



persons, the rider and pillion riders fell on the ground with motorcycle, motorcycle fell on them, due to which complainant's brother Anuverbhash sustained grievous injury on his occipital and on his head and on his private part, and sustained bleeding injuries to his right knee, and Bandenavaza sustained injury to his right knee, and left cheek and other parts of his body, said Goudappa sustained injuries on his right knee, and abrasions, even inmates of auto were also sustained injuries, by name Venkatesh, Paramesh and Parasappa, thereafter, Parasappa and Dawalasab Khiledar took the injured to Kakkera Govt. Hospital in the Auto, and admitted them in the said hospital, it was about 09.35 pm complainant's younger brother died in the hospital while he was taking treatment, the said accident took place due to rash and negligent driving of driver of auto, hence the complainant lodge the complaint against driver of auto, on receipt of the complaint police have



registered crime, after investigation I.O has submitted charge sheet against the accused for the punishable U/ Sec.279, 337, 338, 304A of IPC and 187 of MV Act.

3. The trial court has taken cognizance for the said offences and issued summons to accused, accused appeared through his counsel and trial court has framed charges for the said offences and read over to the accused, accused did not plead-guilty and claimed to be triad. Hence the trial court has fixed the date for recording the evidence of prosecution witnesses.

4. The prosecution, in order to prove its case, examined as many as 15 witnesses as PW1 to 15, and got marked Ex.P1 to P14, counsel for the accused fully cross-examined the witnesses, and thereafter, prosecution has closed its side evidence, and thereafter trial court has recorded statement of accused U/Sec.313 of Cr.P.C, thereafter, the trial court has called upon the accused to lead defense evidence, the Ld



counsel for the accused has submitted that, accused has no defense evidence, hence case was posted for argument.

5. After hearing argument on both side, the Ld trial court has recorded the order of conviction, convicting the appellant for the offence punishable U/Sec.279, 337, 338, 304A of IPC and Sec/187 of MV Act, being aggrieved by the said judgment of conviction and order of sentence, the accused/appellant is before this court, challenging the correctness and legality of the said judgment of conviction, and order of sentence, on following;

“GROUNDS”

I. The judgment and order under appeal is suffering from many infirmities on both legal and factual as the trial court did not appreciated the evidence led by the prosecution properly and failed to considered that, prosecution failed to



prove its case beyond all reasonable doubt.

II. *The trial court failed to appreciate the evidence of PW1 as he deposed that, himself and deceased and one Bheemanagouda were riding on motorcycle, when they were riding on motorcycle in 03 persons and they lost their balance and due to which they fell on the ground and accused is noway concerned to the accident in question, but, trial court did not considered this aspect.*

III. *The trial court failed to considered the evidence of witness deposed that, the road is rough road and there is road break due to which the motorcycle fell on the ground and caused the accident, but, accused and his vehicle never come to the spot.*

IV. *The trial court failed consider that, there is no material before the court to*



attract sec.279 and 338 of IPC, further trial court failed to considered the medical evidence and came to wrong conclusion.

V. *There are many contradictions and omissions in the evidence of PW1 to 15, but, the trial court did not consider and came to wrong conclusion, hence judgment of conviction and order of sentence of trial court is liable to be set-aside.*

6. On admitting the appeal, this court has passed the order on application filed U/sec.389(2) of Cr.P.C., and suspended the operation and execution of the trial court order of conviction and sentence and issued notice to the respondent. The respondent represented by Ld PP and received TCR.

7. Heard argument on both side. Ld counsel for the appellant admitted written argument and in support of his argument he relied on the decision reported in 2019 Cr.R 715 (Kant.) in case of State of Karnataka V/s



Rathnakar M. and decision reported in 2019 Cr.R 777
(Kant.) in case of State of Karnataka V/s Gangadhar
Rama Goud.

8. I have perusal judgment of conviction and order of sentence of the trial court, and re-appreciated oral and documentary evidence, led by the prosecution before the trial court, and considered material placed before the court, considered the arguments of the learned counsel for the appellant and Ld. Public prosecutor, on perusal of the same, the points that would arise for my consideration are as follows:-

POINT NO.1. Whether the prosecution proved beyond all reasonable doubt that, on 01.03.2011 at 08.30 pm, on Kakkera-Shantapur road, when deceased and PW2 and 3 were proceeding on motorcycle bearing No.KA-33-0537, at that time, accused drove the Tum-Tum auto bearing No.KA-33-6646 in rash and negligent manner and dashed against



motorcycle and caused the accident and accused committed offence P/U/Sec.279 of IPC ?

POINT NO.2. Whether the prosecution proved beyond all reasonable doubt that, on the same road, on the same time and place the accused drove the Tum-Tum auto bearing No.KA-33-6646 in rash and negligent manner and dashed to motorcycle bearing No.KA-33-0537 and caused the accident, in which deceased and CW2 and 3 and CW4 and 5 sustained injuries and accused committed offence P/U/Sec.337 of IPC ?

POINT NO.3. Whether the prosecution proved beyond all reasonable doubt that, on the same road, on the same time and place the accused drove the Tum-Tum auto bearing No.KA-33-6646 in rash and negligent manner and dashed to motorcycle bearing No.KA-33-0537 and caused the accident, in which deceased and CW2 and 3 and CW4 and 5



sustained grievous injuries and accused committed offence P/U/Sec.338 of IPC ?

POINT NO.4. Whether the prosecution proved beyond all reasonable doubt that, on the same road, on the same time and place the accused drove the Tum-Tum auto bearing No.KA-33-6646 in rash and negligent manner and dashed to motorcycle bearing No.KA-33-0537 and caused the accident, and ran away from the spot without reporting the accident, in which deceased sustained head injury and died due to injury sustained by him in the accident when he was taking treatment and accused committed offence P/U/Sec.304(A) of IPC and Sec.187 of MV Act ?

POINT NO.5. Whether the appellant/accused person made out grounds to show that, the judgment of conviction and order sentence, recorded by the trial court, in C.C No.262/2011, 23.10.2019, is deserves to be set-aside



and call for the interference of this court ?

POINT NO.6. What order ?

9. My answer to the above points are as follows:

Point No.1: In the Affirmative,

Point No.2: In the Affirmative,

Point No.3: In the Affirmative,

Point No.4: In the Affirmative,

Point No.5: In the Negative,

Point No.6: As per the final order,

for the following:-

REASONS

10. **POINT No.1 to 5:** These points are interconnected to each other and in order to avoid repetition of facts and evidence I took these points together for discussion, the brief facts of the prosecution case is already extracted supra. To prove its case, the prosecution has examined PW1 to 15, Bandenawaz as PW1, Bhimanna @ Goudappa as PW2, Parmesh as PW3, Adam as PW4, Babu as PW5, Parasappa as PW6,



Maheboobsab as PW7, Hussain Basha as PW8, Dawalsab as PW9, Dr.Mallikarjun Yettalli as PW10, Venkatesh as PW11, Shankar as PW12, Dr.M.A.Hiremath as PW13, Rajendra as PW14, Syed Umar Iqbal as PW15, and got marked as per Ex.P1 to 14, Ex.P1 is the statement of PW1, Ex.P2 is the statement of PW2, Ex.P3 is the complaint, Ex.P4 is the inquest, Ex.P5 is the spot panchanama, Ex.P6 to 8 are the medocolegal certificate, Ex.P9 is the wound certificate, Ex.P10 is the PM report, Ex.P11 is the MVA report, Ex.P12 and 13 are the Indemnity bonds, Ex.P14 is the FIR.

11. PW1 deposed that, CW1 is his uncle, CW3 is his friend, CW9 and 10 are parents of the deceased, and he knows CW4 to 8 and accused, further he deposed that, on 01.03.2011 in the night hours, when himself, Anavarpash and Bheemanagouda were proceeding on motorcycle on side of the road, he was pillion rider, and



Anavarapash was rider, at that time, one tum-tum vehicle came from opposite direction in high speed and dashed against the motorcycle, due to which the rider and pillion riders fell on the ground and he became unconscious, the sustained bleeding injuries on his both legs and CW3 sustained grievous bleeding injuries, deceased Anavarapash sustained grievous bleeding injuries, and Anavarapash and Bheemanagouda were taken to Kakkerla Govt. hospital and then he was taken to hospital, thereafter, they were sifted to Govt. Lingasura hospital for higher treatment, from their they were referred to Dr.Mallikarjun hospital Maski, and he came to know name of the accused as Suresh, he do not remember accused vehicle number, he has given statement before the police, the accused is present before the court who caused the accident.

12. PW2 deposed that, he knows CW1 and CW4 to 11 and accused, on 01.03.2011, in the night, himself



Bandenavaza, Anavarpash were proceeding on motorcycle bearing No.KA-33-0537, towards Shantapur to celebrate fair, Anavarapash was rider, it was about 08.15 pm, when they were near Budagumpera cross, at that time, one tum-tum vehicle came from opposite direction in high speed and in rash and negligent manner on wrong side, and dashed against motorcycle, due to which he sustained grievous bleeding injuries to his right leg, chin and head, Bandenavaza sustained fracture to his leg and the sustained grievous bleeding injuries and thereafter, they were taken to Kakkera Govt. hospital in one auto and Anavarapash died in the hospital, and thereafter they were taken to Maski hospital for treatment and said auto No.KA-33-6646, he do not know name of the accused, and accident took place due to fault on part of driver of tum-tum vehicle, and police has recorded his statement, the accused is present before the court.



13. PW3 deposed that, he knows CW5, he do not know others, he knows accused, on 01.03.2011 himself CW5 and accused and other persons who belongs to his village, gone for celebration of fair, in tum-tum auto, and were coming from Kakkerla to Shantapur, at that time, one motorcycle bearing No.KA-33-0537 with 03 persons were came and dashed to tum-tum auto, due to which himself and CW5 sustained injuries and rider motorcycle sustained grievous injuries and died on the spot, and said accident took place due to fault on part of motorcycle rider, thereafter, himself and CW5 were taken to Govt. hospital, he has not given statement before the police.

14. PW4 deposed that, CW2 is son of his uncle, CW9 and 10 are his parents, CW11 is his brother, and he knows CW2 to 6, 12 and 13 and he knows accused, about 06 years back, his brother and CW2 and 3 gone to Shantapur for celebration of fair, his brother



Anavasapash told him that, he will go to Shantapur with his friends for celebration of fair, when they left the house it was about 07.30 pm, when he was in his house, CW7 called through phone, and told that, on the road Kakkera-Shantapur, near Budigumpera Doddi, one auto bearing No.KA-33-6646 came in high speed and dashed to motorcycle and thereafter CW6 to 8 took Anavarapash and CW2 and 3 in one auto to Kakkera Govt. Hospital and admitted them, thereafter, himself, his wife, his elder brother Hussainpash went to Kakkera Govt. Hospital, Anavarapash sustained grievous injury to his head and hands and legs, Bandenavaza sustained fracture to his right leg, and Goudappa sustained injuries.

15. PW5 deposed that, he know CW1 to 6, 8 to 13 and accused, on 01.03.2011 at 08.30 pm, Anavarapath, CW2 and 3 together were proceeding towards Shantapur on motorcycle bearing No.KA-33-



0537 for celebration of fair, at that time, himself CW6 and 8 were going to said fair, Anavarapath, CW2 and 3 were proceeding on motorcycle from Kakkera to Shantapur, at that time, one auto bearing No.KA-33-6646 came from Shantapur towards Kakkera in high speed and rash and negligent manner, driven by its driver and dashed against motorcycle and caused the accident, said accident took place near Budigumpera Doodi, Anavarapath sustained grievous injuries to his head in the accident, CW2 sustained fracture to his right leg and CW3 sustained injuries, inmates of auto also sustained injuries, and he informed to CW1 about the accident, and thereafter, himself CW6 took injured persons in auto to Kakkera Govt. Hospital and admitted them in the hospital, Anavarapash died in the hospital, CW2 and 3 were referred Lingasure hospital for higher treatment, the driver of the auto ran away from the spot by leaving the auto on the spot, accused who is present



before the court was driver of the auto and caused the accident, he has given statement before police.

16. PW6 deposed that, he know CW1 to 5, 7 to 13 and accused, about 06 years back, at 08.30 pm, Anavarapash, CW2 and 3 together were going on motorcycle bearing No.KA-33-0537 to Shantapur for celebration of fair, at that time, himself, CW7 and 8 were proceeding on the road to attend fair, at that time, Anavarapash, CW2 and 3 were coming from Kakkera to Shantapur, at that time, auto driver Suresh took his auto bearing No.KA-33-6646 in high speed and in rash and negligent manner, and dashed against motorcycle near Budigumpera Doodi, Anavarapash was rider of motorcycle, after causing accident accused ran away from the spot, thereafter, himself and CW7 and 8 took the injured and admitted in Kakkera Govt. hospital and informed to CW7 about the incident through phone, Anavarapash sustained grievous injury in the accident



and died in the hospital when he was under treatment, and thereafter CW2 and 3 were referred to Lingasure hospital, said accident took place on fault of auto driver, who is present before the court, he has given statement before the police.

17. PW7 deposed that, CW1 and 11 are his children, CW10 is his wife, he know CW2 to 8, he do not know accused, about 07 years back, his son Anavarapash and CW2 and 3 were proceeding on motorcycle to Shantapur for celebration of fair, when motorcycle was near Budigumpera cross, at that time one auto came from opposite direction in high speed and caused the accident, in the said accident his son Anavarapash sustained grievous bleeding head injuries and CW2 and 3 were sustained grievous bleeding injuries, they were admitted in Kakkera Govt. hospital, when he came to know about the accident, himself his son CW1, his wife CW10 went to the said hospital, his



son Anavarapath died in the hospital at 10.00 pm when he was under treatment, and other injured person were referred to Maski hospital for higher treatment, he do not know who is responsible for the accident, he do not know number of vehicles involved in the accident, he has given statement to the police.

18. PW8 deposed that, CW1 is his younger brother, CW9 and 10 are his parents, he know CW2, 3, 4, 5 to 8, 12 and 13 and accused, deceased Anavarapash is his younger brother, when his younger brother Anavarapash and Salim were going to Shantapur on motorcycle for celebration of fair, when they were near Budugumpa cross, one auto came from opposite direction in high speed, and caused the accident, his younger brother Anavarapash sustained grievous bleeding injuries to his head in the said accident, and Salim sustained fracture to his leg, inmates of the auto were also sustained injuries and



injured persons were taken to Kakkerla Govt. hospital, he came to know about the accident through phone, and went to hospital with CW1, his younger brother Anavarapash died in the hospital at 10.00 pm, other injured person taken to Lingasure Govt. hospital for higher treatment, accident took place due to negligent driving of driver of auto, he do not know vehicles numbers involved in the accident, he came to know from the public that, one Venkatesh is the driver, he has given statement before the police.

19. PW9 deposed that, he know CW1 to 7 and 9 to 13 and accused, on 01.03.2011 at 08.30 pm, himself and CW6 and 7 went to Shantapur for celebration of fair, after celebration of fair 03 persons were coming on the road by pushin motorcycle as petrol in the motorcycle is completed, on account of which, they were pushing the motorcycle on the road, at that time, one auto came in high speed and dashed to Anavarapash



and Anavarapash sustained grievous injuries in the accident and other two persons sustained fracture to their legs and Anavarapash taken to Govt, Hospital Kakkerā, Anavarapash died in the hospital due to injuries sustained by him in the accident, the inmates of auto were also sustained injuries, since he is illiterate hence he do not know vehicles numbers which caused the accident, said accident took place due to negligent driving of driver of auto who is present before the court, he has given statement before the police and PW10 doctor deposed as per the injury certificates and PM report.

20. PW11 deposed that, he know CW2 and 4 and accused, he do not know CW1, 3 and 6 to 13 about 08 to 09 years back, in the morning hours, he gone to Tinthani temple, thereafter, in order to go to his village, he came to Shantapur cross, at that time, accused Suresh came with his auto and boarded the auto and



accused took him to towards his village, when auto was on the road near Budigunti Doodi cross the auto driver dashed the his auto to motorcycle, which was coming from opposite direction, and due to said dash he fell from the auto and sustained fracture to his hands and legs, and CW2 sustained fracture to his right leg, thereafter, he be came unconscious, when he regain his conscious he was in Kakkerla Govt. Hospital, thereafter he was referred to Maski hospital for higher treatment, he has given statement before the police about the incident.

21. PW12 deposed that, on 02.03.2011 he took further investigation from CW18 and on the same day he visited Kakkerla Govt. hospital, and conducted inquest panchanama on deadbody of Anavarapash in the presence of CW12 and 13 and on the same day he visited the spot, spot shown by CW5, he conducted spot panchanama in the presence of CW12 and 13 from



09.00 am to 10.00 am, and seized auto bearing No.KA-33-6646 and motorcycle bearing No.KA-33-0537 from the spot, on the same day he has recorded statement of CW6 to 11, on 14.03.2011 he has recorded statement of CW4, and arrested accused after compliance arrest procedure and released him on bail, on 19.03.2011 he recorded statement of CW2, 3 and 5 and released the vehicles involved in the accident to the owners.

22. Further, he deposed that, on 09.04.2011 he received MV report, on 09.05.2011 he received PM report, on 08.06.2011 he received wound certificates of CW2, 3 and 5, on 24.06.2011 he received wound certificate of CW1, after completion of investigation he submitted charge sheet against accused.

23. PW13 deposed that, on 01.03.2011 at 09.45 pm, when he was in the hospital, CW4 was brought in 108 vehicle with a history of injuries sustained in the accident, on examination of CW4 he found injury on



upper lip adm 01 cm and cut injury adm 2 to 3 cm, said injuries are simple in nature, and caused in the accident, and he has issued wound certificate as per Ex.P9, on the same day he conducted PM on deadbody of Anavarapash who died due to injuries sustained by him in the accident, and issued PM report as per Ex.P10.

24. PW14 deposed that, on 01.03.2011 when he was in the police station PC No.1690 came with written complaint and admitted the same, on basis of which he registered crime No.16/2011 and registered FIR, and FIR and complaint sent to court, and his higher officer, and thereafter, he handed over further investigation to CW19.

25. PW15 deposed that, on 05.03.2011 he received requisition from CPI Hunasagi, for inspection of vehicles involved in the accident, thereafter, on 08.03.2011 at 02.00 pm, he has inspected auto bearing



No.KA-33-6646 and motorcycle bearing No.KA-33-0537

in sub-police station Kakkera, and prepared report showing the damages of vehicles as per Ex.P.11.

26. I have perused oral and documentary evidence led by the prosecution and re-appreciated oral and documentary evidence led by the prosecution, on perusal of the same it is clear that, PW1 to 3, 5, 6, 9 and 11 are the eye witnesses, out of said eye witnesses PW1, 2, 3 and 11 are the injured witnesses. I have gone through the evidence of eye witnesses and injured witnesses, PW1 and 2 are the pillion rider of motorcycle, and deceased Anavarapash was rider of said motorcycle, and PW3 and PW11 are the injured witnesses, PW3 and 11 are injured witnesses who are inmates of auto. PW1 and 2 have stated consistently about the rash and negligent driving of accused in their statements and in their evidence before the court. I have gone through the cross-examination of PW1 and 2, on perusal of the same



there is nothing in the cross-examination to suspect the credibility and trustworthiness of evidence of PW1 and

2. Except the cross-examination in respect of driving license of deceased at the time of accident, there is no cross-examination about the negligence driving on part of accused person. I would like to extract the relevant portion of cross of PW1, which reads thus;

ಎದುರುಗಡೆಯಿಂದ ವಾಹನವು ಸುಮಾರು 30-40 ಕಿ.ಮೀ ಮೇಗದಲ್ಲಿ ಬರುತ್ತಿತ್ತು. ಆಗ ಕತ್ತಲಾಗಿದ್ದರಿಂದ ಮುಂಬರುವ ವಾಹನ ಯಾವುದು ಅಂತಾ ಗೊತ್ತಾಗುತ್ತಿರಲಿಲ್ಲ ಅಂದರೆ ನಿಜ. ನಾವು ಹೊರಟಿದ್ದ ಮೋಟರ್ ಸೈಕಲ್ ಸಹ 30-40 ಕಿ.ಮೀದ ವೇಗದಲ್ಲಿ ಇತ್ತು. ಅಪಘಾತವಾದ ಸ್ಥಳದಲ್ಲಿ ರಸ್ತೆಯು ತಗ್ಗುದಿನ್ನೆಯಿಂದ ಕೂಡಿತ್ತು ಅಂದರೆ ನಿಜ.

27. What, PW1 admitted in cross-examination extracted supra that, the auto was 30-40 km speed, but, in the said cross-examination it is also reflects that, there are ditches on the spot. Off-course, speed of vehicle to the extent of 30-40 km is not a high speed, but, the accused driven his vehicle in such a speed on the road were ditches are found, but, accused did not take care of situation of road which proves negligent



driving on part of the accused. Because, in 30 to 40 km speed is also high speed and dangers to human being looking to the ditches and road breaks on the spot on road, the vehicle of accused is 03 wheeler auto, if driver of such auto not taken care towards ditches and road beaks of the road, such 30 to 40 km speed is also high speed, rashness, negligence and recklessness driving.

28. It is well settled law that, even vehicles speed is more than 60 km on the tar road if there is no any villages and school, ditches and road breaks, in such situation of road, is not high speed and rash and negligent driving, because, the situation of road is free-from all hurdles and there is no danger to the human being. The facts which are necessary to determine the negligent and rashness and recklessness driving are that, the situation of road and taking care and precaution in the driving to have control over the vehicle at the relevant time. In the case on hand, CW1 admitted



that, the opposite vehicle was 30-40 km speed, but, the situation of road is ditches, but, accused did not care to reduce the speed and take care of situation of road, for that only the accused lost his control over the vehicle and dashed against the motorcycle.

29. CW6, 7 and 8 are the road users and eye witnesses to the accident, out of them CW6 and 7 are examined as PW5 and 6, this specifically deposed as extracted supra that, they saw the accident which took place due to high speed driving of driver of auto, PW5 and 6 are the independent witnesses, there is no effective cross-examination to suspect the evidence of PW5 and 6. further they deposed that, after accident accused ran away from the spot by leaving the auto on the spot. Thereafter, CW6 to 8 took the injured person including deceased to the hospital in separate auto. The presence of these witnesses is quite natural on the spot, because, there is celebration of fair of Lord Dyamavva in



Shantapur village and persons from the villages situated around Shantapur village are used to come to Shantapur for celebration of said fair on every year. So, the evidence of PW5 and 6 corroborated with evidence of eye witnesses and injured witnesses PW1 and 2.

30. CW5/PW11 is inmate of auto belongs to accused he deposed that, after celebration of fair in Shantapur he was coming towards Siddapur, in the said auto, at that time, the accused dashed his auto against motorcycle and cause the accident, when accused dashed his auto to motorcycle he fell from the auto on the ground and sustained fracture to his hands and legs and after causing accident accused ran away from the spot. Thus, the presence of this witnesses in the auto clearly proves Ex.P6, Ex.P6 is wound certificate of PW11, he sustained 05 injuries in the said accident, and Ex.P6 reflects fracture of hands and legs in the accident, Ex.P7 to 9 are wound certificates of injured



persons who are traveling as pillion rider on the motorcycle and who are traveling in the auto from Shantapur. These documentary evidence corroborates the evidence of PW1, 2 and 5 and 6 who are injured and eye witnesses to the accident, Ex.P11 is motorcycle vehicle accident report, which corroborates the evidence of eye witnesses and injured witnesses.

31. The evidence of eye witnesses and injured witnesses proves the accuracy of the witness and observation of the accident which they described, and correctness and accident of what they remember about the incident in question, and their presence proved with documentary evidence on the spot, and their evidence tested and corroborated with the evidence of eye witnesses and injured witnesses who were traveling in the auto. It is settled position of law that, the testimony of injured witness has special status under the law, their evidence can not be doubted on the facts that, the



presence of such witnesses at the scene of crime can not be suspect. The evidence of official witnesses are also corroborated with evidence of eye witness and injured witness. Looking from any angle the prosecution has proved its case beyond all reasonable doubt with cogent evidence of eye witnesses and injured witnesses.

32. Off-course, PW3 is also inmate of auto he deposed that, accident took place due to fault on part of motorcycle rider, and he deposed that, he has not given statement before the police. But, PW3 has given his statement before the police about the accident in question, which reads thus;

ಮೇಲ್ಕಂಡ ವಿಳಾಸದ ನಿವಾಸಿಯಾದ ನಾನು ಒಕ್ಕಲುತನ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ದಿನಾಂಕ:01/03/11 ರಂದು ರಾತ್ರಿ 07:45 ಗಂಟೆ ಸುಮಾರಿಗೆ ನಾನು ಮತ್ತು ನಮ್ಮ ಪರಮೇಶ ಬಿರಾದಾರ ಇಬ್ಬರು ಕೂಡಿ ತಿಂಥಣಿಗೆ ಹೋಗಿದ್ದು, ವಾಪಸ್ ಬರಬೇಕೆಂದು ಶಾಂತಪುರ ಕ್ರಾಸ್ ಹತ್ತಿರ ಬಂದಾಗ ನಮ್ಮೂರಿನ ಪರಮೇಶ ಇವರ ಟಂಟಂ ಆಟೋ ನಂ: ಕೆಎ 33/6646 ನೆಡ್ಡು ಇದ್ದು, ಅದರ ಚಾಲಕನಾದ ಸುರೇಶನು ನಮ್ಮೂರಿಗೆ ಹೋಗುತ್ತಿದ್ದ ಬಗ್ಗೆ ತಿಳಿಸಿದ್ದರಿಂದ ನಾವು ಬರುವುದಾಗಿ ಸದರಿ ಆಟೋದಲ್ಲಿ ಕುಳಿತು ನಮ್ಮೂರಿಗೆ ಹೊರಟಿದ್ದು ನಾವು ಕುಳಿತಿದ್ದ ಆಟೋವನ್ನು ಚಾಲಕ ಸುರೇಶನು ಅತೀವೇಗದಿಂದ ಮತ್ತು ಅಲಕ್ಷ್ಯತನದಿಂದ ನಡೆಸುತ್ತಿದ್ದನು. ಪೀಠಗಾರದೊಡ್ಡಿ ದಾಟಿದ ನಂತರ ಬೂದಗುಂಪಿದೊಡ್ಡಿ ಕ್ರಾಸ್ ಹತ್ತಿರ ಎದುರಿನಿಂದ ಬರುತ್ತಿದ್ದ ಒಂದು ಸೈಕಲ್ ಮೋಟಾರ್ಕ್ಯೆ ಹೋಗಿ ಡಿಕ್ಕಿಹೊಡೆದು ಅವಘಾತವಡಿಸಿದನು. ಆಗ ಆಟೋದಲ್ಲಿದ್ದ ನನಗೆ ಬಲಗಾಲು ಮೊಳಕಾಲಿನ ಮೇಲೆ, ಎದೆಯ ಮೇಲೆ. ಎರಡೂ ಕೈಗಳ ಮೇಲೆ ಭಾರಿಒಳಪೆಟ್ಟಾಗಿ



ಬಲಗಾಲುಟೊಂಕದಿಂದ ಗುದದ್ವಾರದವರೆಗೆ ಭಾರಿ ರಕ್ತಗಾಯಗಳಾಗಿದ್ದು, ಆಗ ಪರಮೇಶನಿಗೆ ಬಲಗಡೆ ಮೇಲಿನ ತುಟಿಯ ಮೇಲೆ ರಕ್ತಗಾಯವಾಗಿದ್ದು, ಮೈತುಂಬಾ ಗುಪ್ತಪೆಟ್ಟುಗಳಾಗಿದ್ದವು. ಎದುರುಗಡೆಯಿಂದ ಬಂದಿದ್ದ ಮೋಟರ್ ಸೈಕಲ್ ನೋಡಲಾಗಿ ಅದರ ನಂ: ಕೆಎ 33 ಕೆ 0537 ಇದ್ದು. ಅದರ ಮೇಲೆ ಬಂದಿದ್ದವರಿಗೆ ನೋಡಲಾಗಿ ಬಂದೇನವಾಜ, ಗೌಡಪ್ಪ ಕುರಿ ಮತ್ತು ಅನ್ನರಪಾಶಾ ಅನ್ನವವರಿಗೆ ಕೂಡಾ ಸಣ್ಣಪುಟ್ಟ ಮತ್ತು ಭಾರಿಗಾಯಗಳಾಗಿದ್ದು, ಅಪಘಾತವಾದಾಗ ಸಮಯ ಅಂದಾಜು 8:30 ಪಿ.ಎಮ್. ಆಗಿತ್ತು. ಗಾಯಗೊಂಡಿದ್ದ ನಮಗೆಲ್ಲಾ ಕಕ್ಕೇರಿಯ ಆದಮ್ ಸುರಪುರ, ಪರಸಪ್ಪ ಮಲಕೋಜಿ, ದಾವಲಸಾಬ ಕಿಲೇದಾರ ಅನ್ನವವರು ಕೂಡಿ ಯಾವುದೋ ಆಟೋದಲ್ಲಿ ಹಾಕಿಕೊಂಡು ನಮಗೆ ಕಕ್ಕೇರಾ ಸರಕಾರಿ ಆಸ್ಪತ್ರೆಗೆ ತಂದು ಸೇರಿಕೆಮಾಡಿದರು.

33. Thus, evidence of PW3 is contrary to statement given by him before the police recorded U/sec.161 of Cr.P.C, so, the evidence of PW3 can not be relied upon, because, PW11 is also inmate of auto and his evidence corroborated with evidence of PW1, 2, 5 and 6 who are also eye witnesses and injured witnesses.

34. I have gone through the eye witnesses evidence they have specifically deposed that, accused driven his auto in high speed and in rash and negligent manner and dashed to the motorcycle, these evidence proves negligence on part of the accused in driving his vehicle which led to accident. Even PW11 is injured and inmates of auto belongs to accused deposed before the



court that, accused driven his auto in a high speed and rash and negligent manner, which proves the negligent act of accused.

35. I have also gone through the spot panchanama and motor vehicle accident report, on perusal of the same it proves that, accused last his control over the his vehicle and went on wrong side of the road and dashed against motorcycle and caused the accident. Thus, looking to the facts and circumstances of the case on hand, the law laid down in the decision relied on by the Ld counsel for appellant is not applicable to the case on hand, and appellant is not entitle to have shelter under the law laid down in the decisions.

36. On careful scrutiny of oral and documentary evidence, and on re-appreciation of oral and documentary evidence I am of opinion that, the findings of trial court is based on material evidence and reliable



evidence and rightly determined the guilt of the accused for the said offences. Hence it is clear that accident took place due to negligent driving of driver of auto. So, the interference of this court in the findings of trial court is not warrants. Hence, I answer this point No.1 to 4 in the **Affirmative** and point No.5 in the **Negative**.

37. POINT NO.6: In view of the discussion made on point No.1 to 5, I proceed to pass the following;

ORDER

Appeal preferred U/Sec.
374(3)(a) of Cr.P.C. by the appellant/
accused is hereby dismissed.

Consequently, the judgment
of conviction and order of sentence,
dated 23.10.2019, passed by learned
Addl. Civil Judge & JMFC, Shorapur,
in CC No.262/2011, is hereby
confirmed.



The suspension order dated
14.11.2019, passed by this court on
the application filed U/Sec.389(2) of
Cr.P.C. stands canceled.

Office is directed to send
TCR to the trial court with copy of
the judgment.

(Dictated to the Stenographer-III directly on computer, transcript
computerized by her, corrected, initialed and then pronounced by me in
the open court, on this the 22nd day of May – 2026)

(Yamanappa Bammanagi)
(II nd Addl. District and Sessions Judge
Yadgir, Sitting at Shorapur)