

KAMS080028712023



**IN THE COURT OF PRINCIPAL SMALL CAUSES & SENIOR
CIVIL JUDGE & M.A.C.T. AT MYSURU.**

Presided Over by SRI AFTHAB.K

Dated on this the 1st day of August, 2026

M.V.C.No.1635/2023

Petitioner:

1) Sri. Shankar S/o. Late Doddashetty,
Age: 34 years,

2) Kum. Niveda S. D/o. Shankar,
Age: 11 years,

3) Master Nishanth S/o. Shankar,
Age: 9 years,

Petitioner No.2 and 3 are minors, hence
represented by their father Sri. Shankar, 1st petitioner

All are R/at #5/209, F Block, 2nd cross, 10th main road,
J.P. Nagara, Mysuru city.

(By Sri. A.C. Prakash, Advocate)

Vs.

Respondents :

1. Sri. Raju S/o. Ningappa,
Age: 45 years, R/at Nanjegowdanadoddi
village, Kasaba hobli, Malavalli taluk,
Mandya district.
Owner of the goods auto bearing No.KA-51/AG-4594

2. Sriram General Insurance Co. Ltd.,
branch office at #302, 2nd floor, CH66-2904/1,
Sapthaswara complex, Mysuru-570009.
Insurer of goods auto bearing No.KA-51/AG-4594
Insurance Policy No.418007/31/22/01/014248
valid from 11.10.2021 to 1010.2022

(R1 – Exparte)

(R2 – Sri. Mithun V.G., Advocate)

PARTIES TO IA-I

Applicants: Sri. Shankar R and others

Vs.

Respondents : Sri. Raju and others

PARTIES TO JOINT MEMO

Applicants: Sri. Shankar and others

V/s.

Opponents: Sriram General Insurance Co. Ltd.,

COMMON ORDER ON JOINT MEMO and IA NO.III

1. The IA No.III is filed by the legal guardian of minor petitioner No.2 and 3 under Order XXXII Rule 7 of C.P.C. seeking permission of this tribunal to enter into a compromise in this case on behalf of minor petitioner No.2 and 3 along with a joint memo filed by the parties to the petition under Order XXIII Rule 3 of CPC seeking permission of this tribunal to compromise the matter.

2. ***Brief facts of the case :***

The petition is filed seeking compensation from the respondents to the tune of ₹.48,00,000/- along with interest. After due service of notice on main petition, the respondents appeared before the tribunal through their counsel. Thereafter the parties arrived at a compromise and in order to report the same the application under Order XXXII Rule 7 of C.P.C. and joint memo which are under consideration are filed.

3. Heard counsel for the either parties.

4. On careful perusal of present application and the affidavit in support of it, the following points arise for my consideration:

1. *Whether the next friend proves that the compromise is for the benefit of the minor petitioner No.2 and 3?*

2. *Whether the present compromise petition is legally acceptable and fit to be allowed?*

3. *What order?*

5. After carefully analyzing the terms of the compromise and the arguments canvassed this tribunal proceeds to answer the aforesaid issue as under:

Issue No. I & II

: In the affirmative

Issue No. III

: As per the final orders,

for the following reasons.

REASONS

6. **POINT No.1 and 2 :**

As regards to the application under Order XXXII rule 7 of C.P.C., this tribunal is required to consider if the compromise is for the benefit

of the minor petitioner No.2 and 3. This tribunal has perused the joint memo which makes it clear that the petitioners have agreed to receive a sum of ₹.13,50,000/- as full and final compensation.

7. In the joint memo, it is clearly mentioned that petitioners have jointly agreed to receive a sum of ₹.48,00,000/- as full and final compensation. Perusal of the compromise petition shows that there is no apportioned and the same needs to be done by this tribunal. Further it is clear that the parties have taken adequate steps to safeguard the interests of the minor petitioner No.2 and 3, as such it can be held that the interests of petitioner No.2 and 3 are well represented and hence the same has to be considered as being entered into for the benefit of minor. Wherefore the compromise sought to be permitted amply satisfies all the pre requisites of Order XXXII. In fact no matter from which angle the present compromise is viewed, it is the firm view of this tribunal that the same is arrived at keeping in mind the interest of the minor petitioner No.2 and 3. Moreover the compromise is further supported by the certificate issued by the counsel representing petitioners, who also certifies that the compromise is for the benefit of the minor and may be permitted.

8. The petition is filed seeking compensation for the death of Late Smt. Vishalakshi W/o. Sri.Shankar to the tune of a sum of ₹.48,00,000/- and the parties have agreed to compromise the matter for a sum of ₹.13,50,000/-, which shall be the full and final compensation amount. Under such circumstances the only question which arises for

consideration before this tribunal is whether the present compromise petition is legally enforceable.

9. The questions that this tribunal needs to consider are *whether the parties are competent to enter into compromise, whether there is consensus ad idem, whether the compromise is entered into voluntarily; and finally whether the terms of the compromise are legally enforceable*. In this regard it is necessary to state that the petition is one of recovery of petition and the petitioners have agreed to receive a total sum of a sum of ₹.13,50,000/- as full and final compensation. As regards to the question whether the compromise is voluntary, all the parties were enquired in the tribunal and questioned if the compromise was entered into voluntarily. All the parties state that the consent is voluntary and as regards to Consensus ad idem i.e., the parties understanding the terms of the compromise and its consequences, the same was read over and explained to them in the tribunal and parties to the compromise have stated that they have affixed their signatures only after reading and understanding the contents of the compromise petition.

10. Finally the question whether the terms of the compromise are legally enforceable, in this regard it is clear that the respondent No.3 has agreed to pay a sum of ₹.13,50,000/- to the petitioners jointly as full and final compensation amount. Under such circumstances where the parties themselves have no grievance against the terms of compromise, this tribunal should not have any legal impediment to allow the compromise petition. In fact the parties submitted that they agreed to

the said terms of compromise voluntarily and hence the same can be accepted.

11. Apart from this the parties were inquired in the open tribunal as well, to ascertain if the compromise is voluntary and all the parties state that the said compromise is entered into with their consent and this tribunal can proceed to allow the same. They also state that only after understanding the consequences of the same, the compromise petition was signed by them. Hence this tribunal holds that compromise petition is held to be valid and legally enforcement and it is also held that the compromise is entered for the benefit of the minor and hence the parties have to be permitted to proceed with the same. Wherefore this tribunal proceeds to answer **the Point No.1 and 2 in the affirmative.**

12. **Point No.2 and 3 to 4:**

In view of the finding of this tribunal on Point No.1 and 2, this tribunal proceeds to pass the final order passed as under :

ORDER

"The IA-III filed under Order XXXII Rule 7 of CPC is hereby allowed.

The joint memo filed by the parties to the petition is hereby accepted.

The petition stands disposed off as per the terms of joint memo.

The joint memo filed by the parties shall form part of this order.

Further from the settled amount of ₹.13,50,000/-, a sum of ₹.5,50,000/- (Rupees Five Lakhs Fifty Thousand only) is apportioned towards the share of petitioner No.1 and ₹.4,00,000/- (Rupees Four Lakhs only) each are apportioned towards the share of petitioner No.2 and 3.

Further, as the petitioner No.2 and 3 are minors the entire sum of ₹.4,00,000/- (Rupees Four Lakhs only) apportioned towards the share of each of petitioner No.2 and 3 shall be kept in fixed deposit in the separate names of petitioner No.2 and 3 in any Nationalized bank or scheduled bank until they attain majority or for a period of 3 years whichever is higher; and the petitioner No.1, being the next friend of minor petitioner No.2 and 3 is entitled to get the interest amount released periodically.

Considering the submissions of the learned counsel for the petitioners that the petitioner No.1 has incurred expenses towards performance of post death rituals of the deceased, the scheme of keeping portion of award amount in fixed deposit is dispensed with and it is ordered that the entire amount apportioned towards the share

of the petitioner No.1 shall be released in his favor, by following due process and after proper identification.

The respondent No.2 is directed to deposit the amount at the earliest without causing unnecessary delay.

In the event of default on the part of the respondent No.2 to deposit the amount, the respondent No.2 shall be liable to pay interest at the rate agreed in the joint memo.

Draw award accordingly."

(Direct typed by me and then pronounced in the open tribunal on this the 1st day of August, 2026)

(AFTHAB.K)
Prl. Judge, Court of Small Causes
& MACT, Mysuru