

KABC0B0010232025



**IN THE COURT OF XV ADDL. JUDGE, COURT OF SMALL
CAUSES, & MEMBER M.A.C.T, MAYO HALL UNIT,
BENGALURU (SCCH-19)**

Dated this the 17th day of July, 2026

PRESENT:

**SRI. MOHAN SADASHIV POL,
B.A., L.L.B(SPL)**

XV ADDL. JUDGE, Court of Small Causes
& Member MACT, Bengaluru.

M.V.C.No.6703/2025

- 1) Mr. Jayapal Dhami,
S/o. Late Singo Dhami,
Age 56 years.
- 2) Mr. Ramesh Singh Dhami,
S/o. Jayapal Dhami,
Age 28 years.
- 3) Mr. Ganesh Dhami,
S/o. Jayapal Dhami,
Age 20 years.
- 4) Kum. Rumala Dhami,
D/o. Jayapal Dhami,
Age 17 years.

- 5) Kum. Manika Dhami,
D/o. Jayapal Dhami,
Age 15 years.

[Petitioner No.4 and 5 are minors,
R/by their father N/G petitioner No.1)

All are R/at Bhamchour, Bajhong, Nepal.

(By Sri.M.S. Adv.,)

..... Petitioners

V/s.

- 1) Mr. W. Tanuj Barie,
S/o. I. Winstone Jayakumar,
No.592, 1st Floor, 'D' Cross,
1st Main, Mathikere, MSRIT Post,
Bangalore North – 560 054.

(Owner of Motorcycle No.KA-04/KH-9031)

- 2) Liberty Videocon Gen. Ins. Co. Ltd.,
Office No.1, Alyssa, 1st Floor, Rear Portion,
Old No.28, New No.23.
Richmond Road, Bangalore-25.

(Policy No.201250020122700815400000)

(Valid from 12-05-2022 to 11-05-2027)

....Respondents

(R.1 by Sri. S.N.M. Adv.,)

(R.2 by Sri. K.P. Adv.,)

Date of Institution of petition	:	12-09-2025
Nature of petition	:	U/Sec.166 of MV Act.

Date of commencement of Recording of evidence	:	10-03-2026		
Date of pronouncement of Judgment	:	17-07-2026		
Total Duration	:	Year	Months	Days
		00	10	04

JUDGMENT

The petitioners filed this petition U/Sec.166 of the Motor Vehicles Act 1988, claiming compensation of Rs.50,00,000/- from the respondents due to death of Mr. Padam Dhami in the road traffic accident.

2. Brief facts of the petitioner's case are that, on 25-07-2025 at about 1.10 pm, the deceased was crossing the road near St. Patricks Church from Markarum Road towards St. Patricks Church, at that time, the rider of the motorcycle bearing Reg.No.KA-04/KH-9031 drove it, in a rash and negligent manner, so as to endanger the human life, came at high speed from Apera Junction towards P.S. Junction and dashed against the deceased, caused the accident, due to forced impact deceased fell on the road and he sustained grievous injuries.

3. Immediately after the accident, the deceased was shifted to St. Philomina Hospital, wherein he was treated as an inpatient in ICU and during the course of treatment he succumbed to the injuries on 27-07-2025. After conducting the postmortem, the petitioners were shifted the dead body to their native place and performed the funeral, obsequies and last rites ceremony of the deceased, for which they spent more than a sum of Rs.3,00,000/- towards hospital, ambulance charges, funerals, rituals and other charges.

4. At the time of accident, the deceased was aged about 25 years and enjoying good health. He was working as food server at Green Theory Hotel, Shanthalanagar, Bangalore and earning Rs.30,000/-p.m. he was contributing his entire earnings to maintain the family. Petitioner No.1 is the father, petitioner No.2 and 3 are younger brothers and petitioner No.4 and 5 are minor sisters of the deceased and due to sudden death of the deceased the petitioners lost love and affection of the deceased and they are undergoing great mental shock and agony and also facing great financial difficulties.

5. This accident occurred due to negligence of the rider of the motorcycle bearing Reg.No.KA-04/KH-9031, hence, the Ashoknagar Traffic Police have registered a case against rider of said Motorcycle in crime No.36/2025 for the offence

punishable U/Sec.281, 125(a) and 106(1) of BNS. Respondent No.1 and 2 are owner and insurer of the motorcycle are jointly and severally liable to pay compensation to the petitioner. Hence, prayed to grant the compensation.

6. In pursuance to the notice, respondent No.1 and 2 have entered appearance through their respective counsel and filed their separate objections to the main petition

7. Respondent No.1 has contended in his objections that, the petition filed by the petitioners is not maintainable either in law or on facts and it is liable to be dismissed in limine. It is further contended that, he is the owner of the offending motorcycle and it is insured with respondent No.2. It is contended that, the accident was caused due to negligence of the deceased, as he was crossing the road negligently. There is no negligence on the part of the rider of the motorcycle. Further, denied the accident, date, time and place of accident and also the age, income and occupation of the deceased, medical and other expenses incurred and also contended that, claim of the petitioners is excessive and exorbitant. Hence, prayed to dismiss the petition with costs.

8. Respondent No.2 has contended in its objections that, the petition filed by the petitioners is not maintainable either in law or on facts and it is liable to be dismissed in limine. It has

admitted the insurance policy. It is further contended that, the rider of the said motorcycle was not holding valid and effective D.L. as on the date of the alleged accident, the owner of the vehicle willfully entrusted the vehicle to the said rider and thereby committed breach of terms and conditions of the policy. The rider of the motorcycle is not responsible for the accident. It is further contended that, the deceased negligently crossing the road and was solely negligent in causing the accident, as such the claim petition was not maintainable. Further, denied the accident, date, time and place of accident and also the age, income and occupation of the deceased, medical and other expenses incurred and also contended that, claim of the petitioners is excessive and exorbitant and also denied the relationship of the petitioners with the deceased. Hence, prayed to dismiss the petition with costs.

9. On basis of the pleadings and materials, this Tribunal framed the following:

ISSUES

1) Whether the petitioners prove that on 25-07-2025 at about 1.10 PM, the deceased was crossing the road near St. Patrick Church from Markarum Road towards St. Patrick Church, at that time the rider of the motorcycle bearing Reg.No.KA-04/KH-9031 drove it, in a very rash and negligent manner with high speed, came from Apera Junction

towards P.S. Junction and dashed against the deceased, caused the accident, due to forced impact, the deceased sustained grievous injuries and died on 27-07-2025?

2) Whether the petitioners are entitled for the compensation? if so, what is the quantum and from whom?

3) Whether order or award?

10. In order to substantiate the case, petitioner No.2 got examined himself as PW.1 and got marked 18 documents as Ex.P.1 to P.18. On the other hand, respondent No.2 got examined its Legal Manager as RW.1 and got marked 02 documents as Ex.R.1 and R.2. Respondent No.1 neither examined any witnesses and nor produced any documents before the Tribunal on his side.

11. Heard the arguments of both side counsel and perused the materials available on record.

12. For the following reasons, this Tribunal answer the above Issues as under:-

Issue No.1 : In the Affirmative,

Issue No.2 : Partly in the Affirmative

Issue No.3 : As per final order,

for the following:

REASONS

13. Issue No.1:- The petitioners filed this claim petition against respondents for claiming compensation due to death of the son of petitioner No.1 and brother of petitioner No.2 to 5 by name Mr. Padam Dhami in a road traffic accident that occurred on 25-07-2025.

14. In order to prove the case, petitioner No.2 got examined himself as PW.1 and filed affidavit in lieu of chief examination and he had reiterated the entire contention of petition and got marked 18 documents as Ex.P.1 to Ex.P.18. Ex.P.1 is the copy of F.I.R, Ex.P.2 is the copy of Complaint, Ex.P.3 is the copy of Spot Mahazar, Ex.P.4 is the copy of Sketch, Ex.P.5 is the copy of Inquest Mahazar, Ex.P.6 is the copy of IMV Report, Ex.P.7 is the copy of PM Report, Ex.P.8 is the copy of Notice U/Sec.133 of IMV Act, Ex.P.9 is the copy of Reply to the Notice, Ex.P.10 is the copy of Police Intimation, Ex.P.11 is the copy of Charge Sheet, Ex.P.12 is the copy of Aadhar Card of the deceased, Ex.P.13 to 15 are the copies of Citizenship of the petitioners, Ex.P.16 and 17 are the copies of Birth Certificates of Petitioners No.4 and 5, Ex.P.18 is the Medical Bills. In cross examination, he has denied that, the accident took place due to the negligence of the deceased.

15. On the other hand, respondent No.2 got examined its Legal Manager as RW.1 and got marked as Ex.R.1 and R.2, which are the Authorization Letter and Insurance Policy. In chief-examination he has deposed that, the accident is taken place due negligence of the deceased as he was crossing the road without due care and there is no Zebra cross to cross the road. There is no negligence on the part of the rider of the motorcycle. In cross-examination he has stated that, he is deposing on the basis of police records. The chargesheet is filed against the rider of the motorcycle. The rider came towards right side of the road and caused the accident. Further stated that, he has no knowledge about the existence of Zebra cross in the place of the accident.

16. Respondent No.1 has not adduced any evidence and also not produced any documents on their behalf.

17. Learned counsel for petitioner submitted his arguments by contending that, the accident took place due to the fault of the rider of offending vehicle. Hence, prayed to award the compensation.

18. Ld. Counsel for respondent No.2 has submitted his arguments contending that, due to the negligent act of the petitioner the accident took place. Therefore, prays to dismiss the petition.

19. Respondent No.2/RW.1 has contended that due to the negligence on the part of deceased himself, the alleged accident has taken place and therefore, it is not liable to pay the compensation. As per Ex.P.3 and 4 the Mahazar and Sketch, the accident took place on the Brigade road. It is contended that the accident occurred while petitioner was crossing the road. The vehicle and other users of the road including the pedestrian are required to follow the traffic rules. If the incident occurred in the highway, the vehicle will have right of way and the person who would like to cross the road is required to take proper precaution and cross the road. But, the situation in the city limits is totally different. In the city limits, the constant moving of the people in the city limits is usual and permissible. The specific zebra crossing is provided for the pedestrian to cross the road and normally people shall opt for it. But in the present case, it is not the case of the respondents that zebra crossing was available near the place of occurrence. RW1 in his cross examination has clearly admitted that, he don't know existence of Zeebra crossing in the place of the accident Therefore, it cannot be said that the deceased was prohibited from crossing the road at the place of occurrence as it is within the city limits. Such being the case, it was the duty of the rider of the offending motorcycle to notice the deceased and tried to avoid the accident. It is not

even contended that the deceased suddenly entered the road. Therefore, the evidence on record is clear that rider of the motorcycle has failed to take reasonable care to protect the petitioner. The rider of the motorcycle was expected to recognize the deceased on the road and he should have slowed down his vehicle. This omission of the rider of offending motorcycle constitutes the negligence on his part. After the investigation, the Investigating Officer has filed charge sheet against the rider of the offending motorcycle concluding that the accident was occurred only due to his negligence. There is no reason to take a different view. Therefore, this Tribunal hold that the accident was occurred only due to the rash and negligent act of rider of the offending motorcycle.

20. On perusal of Ex.P.1-FIR. Ex.P.2-Complaint, Ex.P.3-the copy of Spot Mahazar, Ex.P.4-the copy of Sketch, Ex.P.5-the copy of Inquest Mahazar, Ex.P.6-the copy of IMV Report, Ex.P.7 the copy PM Report, Ex.P.8-the copy of Notice U/Sec.133 of IMV Act, Ex.P.9-the copy of Reply to the Notice, Ex.P.10-the copy of Police Intimation and Ex.P.11 the copy of Charge Sheet, it appears that, the accident occurred near St. Patrick Church from Markarum Road towards St. Patrick Church, Bangalore the rider of the Motorcycle bearing Reg.No.KA-04/KH-9031 drove the same, in a rash and negligent manner, so as to endanger the human life, came at

high speed, dashed against the deceased and caused the accident and due to forced impact, the deceased sustained grievous injuries and also died in the hospital. Further on perusal of charge sheet, it discloses that, the Ashoknagar Traffic Police have filed the case against the rider of Motorcycle bearing Reg.No.KA-04/KH-9031 for the offence punishable U/ Sec.281 and 106(1) of BNS.

21. The Hon'ble Apex Court in the decision reported in **2011 SAR(Civil) 319 Kausum and others V/s Satbir and others** held that, in the petition for compensation U/Sec.166 of Motor Vehicles Act.1988 the petitioner has to prove the incident only on the preponderance of the probabilities and standard of proof beyond all reasonable doubt is not required.

22. Respondent No.2 took contention that the respondent No.1 has violated the policy terms and conditions, but respondent No.2 not produced oral or documentary evidence to prove its contention. There is nothing on record to show that respondent No.1 has violated the terms and conditions of the policy. Therefore, this Tribunal is of considered opinion that respondent No.2 has not proved that respondent No.1 has violated the terms and conditions of the policy.

23. Therefore it is clear that, the accident occurred due to rash and negligent riding of the rider of the offending vehicle. Further, the owner of offending vehicle has not challenged the charge sheet.

24. After careful scrutiny of Ex.P.1-FIR. Ex.P.2-Complaint, Ex.P.3-Spot Mahazar, Ex.P.4-Sketch, Ex.P.5-Inquest Mahazar, Ex.P.6-IMV Report, Ex.P.7-PM Report, Ex.P.8-Notice U/Sec.133 of IMV Act, Ex.P.9-Reply to the Notice, Ex.P.10-Police Intimation and Ex.P.11-Charge Sheet, it appears that the accident occurred due to rash and negligent riding of the rider of Motorcycle bearing Reg.No.KA-04/KH-9031. Hence, this Tribunal answered Issue No.1 in the Affirmative.

25. Issue No.2: The petitioners claimed the compensation amount of Rs.50,00,000/- with respect to death of Mr. Padam Dhami in a road traffic accident.

26. As per Ex.P.12 Notarized Copy of Aadhaar Card, the date of birth of the deceased is 19-12-1999. As per Ex.P.7-PM report, the age of the deceased is shown as 25 years. Accordingly relying on Aadhar Card, age of the deceased is considered about 25 years as on the date of accident. Therefore, this Tribunal is of the opinion that, the age of the deceased is 25 years at the time of accident. Then the proper multiplier is **18.**

27. The petitioners have contended that, at the time of accident, the deceased was working as food server at Green Theory Hotel, Convent Road, Shanthalanagar, Bangalore and earning a sum of Rs.30,000/-p.m. and contributing his entire earnings to maintain the family. In support of the same, the petitioners neither examined the said employer before the Court and nor produced any documents to prove the actual income and avocation of the deceased. The accident was occurred in the year 2025. Therefore, by considering the age, income and occupation of the deceased this Tribunal has taken the monthly income of the deceased at **Rs.18,000/-** p.m.

28. With regard to the loss of future prospectus is concern, the Apex Court in the earlier Judgment reported in **2013 ACJ 1403 (Rajesh & Ors Vs Rajbir Singh & Ors)** also taken note of the fact that, self employed persons are also entitled for future prospectus and the said Judgment was referred to larger bench and the Apex court in the recent Judgment passed in **2017 ACJ 2700 SC, between National Insurance Co. Ltd., V/s Pranay Sethi and Others.**

“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 year. 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”

Herein this case, the deceased was aged about 25 years, hence the petitioners are entitled to claim 40% of future prospectus as per above citation, due to death of the deceased in the road traffic accident.

29. The petitioner No.1 is the father, petitioner No.2 and 3 are the younger brothers, petitioner No.4 and 5 are the minor sisters of the deceased. Hence the petitioner No.1 being parent of the deceased is considered as dependent on the income of deceased. So, relying upon the decision reported in **2009 ACJ 1298 (Sarala Varma and Others -Vs- Delhi Transport Corporation & Another)**, out of the salary of the deceased **50%** has to be deducted towards the personal expenses of the deceased (as the deceased is a Bachelor/unmarried).

Income of the deceased is taken at	Rs.	18,000/-
Addition of 40% income towards future prospectus: Rs.18,000/- + 7,200/-(40%)=25,200/-	Rs.	25,200/-
Deduction towards personal expenses: Rs.25,200/- - Rs.12,600/- (50%)	Rs.	12,600/-

Therefore this tribunal took the monthly income of the deceased at Rs.12,600/-, which comes as Rs.12,600/- X 12 X 18 = Rs.25,70,400/-. Hence, the Petitioners are entitled for compensation of **Rs.27,21,600/-** under the head loss of dependency.

30. The petitioner No.1 is the father, petitioner No.2 and 3 are the unmarried brothers, petitioner No.4 and 5 are the minor sisters of the deceased, they lost love, affection and future support of the deceased. In this regard the Hon'ble Supreme Court of India was held in the case of ***Magma General Insurance Co. Ltd., V/s Nanu Ram @ Chuhru Ram & Ors., reported in (2018) 18 SCC 130.***

The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of Filial Consortium.

Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act.

A few High courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of Filial Consortium.

The amount of compensation to be awarded as consortium will be governed by the Principles of awarding compensation under "Loss of consortium" as laid down in Pranay Sethi (Supra).

In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs.40,000/- each, for loss of Filial Consortium.

Hence, petitioner No.1 to 5 are entitled for compensation amount at Rs.40,000/-each under the head **Loss of Filial Consortium**. In total the petitioners are entitled for amount of **Rs.2,00,000/-** under this head.

31. Towards awarding compensation under the head of transportation of dead body, **funeral & obsequies ceremonies**, the petitioners had not produced any document. However, by considering the expenses towards funeral & obsequies ceremonies of deceased and in view of judgment of Hon'ble Apex Court passed in **2017 ACJ 2700 SC (between National Insurance Co. Ltd., V/s Pranay Sethi and others)** with enhanced rate of 10% in every 3 years, it is just and proper to award a **Rs.18,150/-** under this head. Further the petitioners are also entitled for compensation of **Rs.18,150/-** under the head **Loss of Estate**.

32. The petitioners have produced medical bills which is marked as Ex.P.18. As per the bills, the petitioners have spent Rs.2,84,092/- towards medical expenses. The respondents have not made out any grounds to disbelieve the medical bills. On perusal of the said medical bills and also considering the

bills and also treatment taken by the deceased in the hospital, the petitioner is entitled to claim the medical bills amount of **Rs.2,84,092/-** under the **head of medical expenditure.**

33. Considering oral evidence coupled with documentary evidence, it is just and proper to grant compensation as follows:

Under the Heads of:		Amount	
1.	Loss of Dependency	Rs.	27,21,600/-
2.	Medical Expenses	Rs.	2,84,092/-
3.	Towards Loss of Filial Consortium.	Rs.	2,00,000/-
4.	Towards Funeral and Obsequies Ceremonies	Rs.	18,150/-
5.	Towards Loss of Estate	Rs.	18,150/-
	Total	Rs.	32,41,992/-

The Petitioners are entitled for total compensation of Rs.32,41,992/-, which is rounded off to **Rs.32,42,000/-**.

34. Interest:

For awarding interest, in ***MFA.No.103557/2016 (between Sriram General Insurance Co. ltd., V/s Smt. Lakshmi & others, dd 20-03-2018)*** the Hon'ble High Court of Karnataka, held that as per Sec.34 of CPC the rate of interest can be awarded in MVC Cases, cannot be more than

6% p.a. Hence, this Tribunal is of the opinion that, the petitioner is entitled for interest @6% p.a., from the date of petition till the date of payment.

35. Liability:-

Respondent No.1 is the RC Owner and Respondent No.2 is the Insurer of the Motorcycle bearing Reg.No.KA-04/KH-9031. As already discussed in the issue No.1, it is proved that, the accident occurred due to rash and negligent riding of the rider of the offending vehicle. Hence Respondent No.1 and 2 are jointly and severally liable to pay the compensation to the petitioners. Further, the Respondent No.2 being Insurer of the offending vehicle is primarily held liable to pay the compensation amount with interest to the petitioners. Accordingly, this Tribunal answered **Issue No.2 in the Partly Affirmative.**

36. Issue No.3: For the foregoing reasons, this Tribunal proceed to pass the following:-

ORDER

The claim petition filed by the petitioners U/Sec.166 of the Motor Vehicles Act is hereby Partly allowed with cost.

The Petitioners are entitled for compensation amount of **Rs.32,42,000/-** interest @ **6% p.a.**, from the date of petition till its realization.

Respondent No.1 and 2 jointly and severally liable to pay compensation to the petitioners. Further, Respondent No.2 being Insurer of the offending vehicle is directed to deposit the compensation amount together with 6% interest within 60 days, from the date of this order.

Out of the compensation amount, petitioner No.1 to 5 are entitled at the ratio of 40:10:10:20:20 with interest.

After deposit of the compensation amount, the petitioner No.1 to 3 are entitled to get release 50% each of their share with interest with proper verification and identification and remaining 50% of the compensation amount with interest shall be deposited in their names in any nationalized Bank for a period of 3 years.

After deposit, the entire share of compensation amount with interest of petitioner No.4 and 5 shall be deposited in their names at any nationalized Bank for a period of 3 years.

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

Draw the award accordingly.

(Dictated to the Stenographer directly on computer typed by her, then corrected by me and pronounced in open court on this the 17th day of July 2026)

**(MOHAN SADASHIV POL)
XV ASCJ & Member MACT,
Mayo Hall Unit, Bengaluru.**

A N N E X U R E**List of witnesses examined for Petitioners:**

P.W.1 : Sri. Ramesh Singh Dhami.

List of documents marked for Petitioners:

Ex.P.1 : Copy of F.I.R.
Ex.P.2 : Copy of Complaint.
Ex.P.3 : Copy of Spot Manazar.
Ex.P.4 : Copy of Spot Sketch.
Ex.P.5 : Copy of Inquest Mahazar.
Ex.P.6 : Copy of IMV Report.
Ex.P.7 : Copy of PM Report.
Ex.P.8 : Copy of Notice U/Sec.133 of IMV Act.
Ex.P.9 : Copy of Reply to the Notice.
Ex.P.10 : Copy of Police Intimation.
Ex.P.11 : Copy of Charge Sheet.
Ex.P.12 : N/c of Adhaar Card of Deceased.
Ex.P.13 to 15 : N/c of Citizenship of Petitioners.
Ex.P.16 & 17 : N/c of Birth Certificates of Petitioner No.4 & 5.
Ex.P.18 : Medical Bills.

List of Witnesses examined for Respondents:

R.W.1 : Sri. Vinod Kumar N.

List of Documents marked for Respondents:

Ex.R.1 : Authorization Letter.
Ex.R.2 : Insurance Policy.

**(MOHAN SADASHIV POL)
XV ASCJ & Member MACT,
Mayo Hall Unit, Bengaluru.**