

KAHV300002272023



**IN THE COURT OF PRL. SENIOR CIVIL JUDGE
& JMFC. HANGAL, AT: HANGAL**

: PRESENT :

Shri. MAHESH S. PATIL,
B.Sc., LL.B
Prl. Senior Civil Judge & JMFC.,
Hangal

Dated this 29th day of June 2026

M.V.C.216/2023

BETWEEN:

1. Smt Renukamma W/o Basavappa Gollar,
Age 44 years, Occ: Household,
R/o Negawadi village, Sorab Taluk,
Now at Kopparsikoppa village,
Hangal Taluk, Haveri District.
2. Parasappa.B. S/o Basavappa Gollar
Age 26 years Occ: coolie.
R/o Negawadi village, Sorab Taluk,
Now at Kopparsikoppa village,
Hangal Taluk, Haveri District.
3. Sumitra W/o Malathes Goals @ shirkoti
Age 24 years, Occ: Household,
R/at Kopparsikoppa village,
Hangal Taluk, Haveri District.

...PETITIONERS

(BY SRI. R.U.P., ADVOCATE)

A N D :

1. Basavaraj. Y. S/o Yallappa
Age: Major, Occ: Owner of Motor bike
No: KA-015/ V-3598
R/o Negawadi village, Sorab Taluk,
Shimoga district.
2. Divisional Manager United India
Insurance Co.Ltd.
ENKAY Complex Kesavapur Hubli
[Policy No: 2404033122p104957607]
[Validity: 30-08-2022 to 29-08-2023]

...RESPONDENTS

**(BY SRI.A.S.P, Adv. for R2
Respondent No.1 Exparte)**

J U D G M E N T

This is a claim petition filed by the petitioners under section 166 of the Motor Vehicles Act, 1989 against the respondents claiming compensation of Rs.40,00,000/- with interest @ 18% p.a. from the date of accident till its realization on account of death of Basavappa S/o Badiyallappa Gollar in the road traffic accident on 10.01.2023.

2. The brief averments of the petitioner's case are as under;

It is the case of the petitioners that on 10.01.2023, at about 6.45 p.m. when the husband of petitioner No.1 and father of petitioner No.2 and 3 was proceeding on motor cycle bearing Reg.No.KA.15/V-3598 as pillion rider, when he came near Tandagunda bus stand at that time rider of the aforesaid motorcycle ridden in rash and negligent manner and dashed to the motor cycle bearing Reg.No.KA.15/X-9821. Due to the said accident the deceased was sustained grievous injuries and immediately he was shifted to Government Hospital Shiralakoppa and took first aid from there he was shifted to Megonn Hospital Shivamogga and he was taken to the Wenlock Hospital on the way he died. The doctors of Wenlock Hospital declared that he was dead and wherein the postmortem of the deceased was conducted and dead body was handed over to the relatives of the deceased. Before the Accident the deceased was hale and healthy and aged 54 years and he was doing agricultural work and getting monthly income of Rs.20,000/-. The petitioners are fully dependent

upon the earnings of the deceased. The petitioners are leading their miserable life and due to unexpected death of deceased the entire family caused mental shock and agony. The death of deceased was due to rash and negligent riding of rider of motorcycle bearing Reg.No.KA.15/V-3598 involved in the accident belonging to the respondent No.2. The respondent No.2 is the insurer of the said offending vehicle and both the respondents are is liable to pay the compensation. Hence, sought to award the compensation as prayed in the petition herein above.

3. After service of notices the respondent No.2 appeared through its counsel and respondent No.1 did not appear in this case and placed him as exparte. The respondent No.2 has filed its objection statement to the main petition.

4. The 2nd respondent in its objection statement denied the entire case of the petitioners and contended that, the petition is not maintainable under law or on facts. The 2nd respondent denied the policy coverage to the

motorcycle bearing Reg.No.KA-15/V-3598 at the time of the accident. The 1st respondent has violated the provisions of Section 158(6) of the IMV Act. The 2nd respondent denied the nature of the accident, the age, avocation and income of the deceased. At the time of the accident the rider of the motorcycle was not holding any driving license and he has been charge-sheeted for the offences which resulted in violation of the policy conditions and it is also contended that, the petition is hit by non joinder of necessary parties. The 2nd respondent further contended that, the claim made by the petitioners is highly excessive and exorbitant. Hence, prayed to dismiss the petition against the 2nd respondent with costs.

5. Based on the above pleadings my learned predecessor the then in office has framed the following :

I S S U E S

- 1. Whether the petitioners prove that, one Basavappa, S/o Badiyallappa Gollar who is the husband of the 1st petitioner and father of petitioners No.2 and 3 died in a motor vehicle accident that occurred on 10.01.2023 at about 6.45 pm near Tandagunda bus-stop on Shiralakoppa-Anavatti road due to the rash and negligent riding of the rider of motorcycle bearing*

Reg.No.KA-15/X-9821 when the deceased was moving as a pillion rider in a motorcycle bearing Reg.No.KA-15/V-3598?

- 2. Whether the 2nd respondent proves that, the rider of the offending motorcycle had no driving license at the time of the accident?*
- 3. Whether the petitioners are entitled for compensation? If so, for what amount and from whom?*
- 4. What order or award?*

6. The petitioner No.1 is examined as PW.1 and in all 9 documents were marked as Ex.P.1 to P.9 and closed her side. On the other hand, the respondent No.2 has not led any evidence but, produced one document as per Ex.R1.

7. I have heard the argument submitted by both side. Perused the materials placed before this Court.

8. My answer to the above points are as under :

Issue No.1:	In Affirmative.
Issue No.2:	In negative.
Issue No.3:	Partly in Affirmative.
Issue No.4:	As per final order for the following:

REASONS

9. ISSUE NO.1 :- As could be seen from the records it is the specific case of the petitioners that the petitioner No.1 has lost her husband and remaining petitioners have lost their father in the road traffic accident that took place on 10.01.2023 at 6.45 p.m. near Tandagunda village bus stop, Shiralakoppa-Anavatti road when the motor cycle bearing Reg.No.KA-15/V-3598 on which the deceased was riding as pillion and which was being ridden by its rider by name Sri.Chandrappa S/o Nagappa (accused in the connected criminal case) was ridden in a rash and negligent manner and dashed to the parked motorcycle bearing Reg.No.KA.15/X-9821. Immediately after the accident he was shifted to Megonn Hospital Shivamogga but however died in the hospital and the accident alleged took place due to the rash and negligent riding upon the aforesaid motorcycle bearing Reg.No.KA-15/V-3598 by its rider by name Sri.Chandrappa S/o Nagappa and in this regard the criminal case registered against the aforesaid rider. Before the accident he was hale and healthy, aged 54 years, he was doing waterman work agricultural work

and getting monthly income of Rs.20,000/-. Due to untimely death of the deceased they are thrown to street and also deprived of the love and affection of the deceased. The said accident has taken place due to the rash and negligent riding of the aforesaid offending vehicle by its rider which is owned by respondent No.1 and insured with respondent No.2. The jurisdictional police have registered Cr.No.07/2023 against the rider of the aforesaid offending vehicle and also filed the charge sheet. Hence, on such other grounds prays to pass the award as prayed for in the petition.

10. In order to prove their case, the petitioner No.1 examined herself as PW-1 and got marked 9 documents at Ex.P1 to P9.

11. The PW-1 has filed her affidavit in lieu of her examination-in-chief and reiterated the petition averments as stated in para No.22 of her petition and prayed to award the petition as prayed for.

12. In order to substantiate her oral evidence the PW-1 has produced and relied upon the documents ExP.1 to P.9.

13. The document of ExP.1 is the true copy of the First information statement dated 11.01.2023 at about 2 PM., lodged by the very PW1 with Shiralakoppa Police Station. In Ex.P1 the manner of the accident as stated therein is the same as cited by the petitioner in para No.22 of their claim petition and for the injuries sustained by the deceased before his death. Whereas the document of Ex.P2 is the further statement of the complainant to include the charge of Section 304A of IPC due to the death of the deceased and therefore the charge of 304A is included in the Charge-sheet.

14. The document of Ex.P3 is the true copy of the First Information Report registered by the Shiralakoppa Police Station at Cr.No.07/2023 for the offences punishable U/Sec.279 and 337 of IPC on 11.01.2023, for the alleged incident that took place on the same date at about 2 p.m. on the basis of the FIS lodged by aforesaid person

against the rider of the aforesaid motorbike herein. In Ex.P3 the deceased is arrayed as the victim of the accident alleged and the aforesaid Chandrappa is arrayed as the accused of the accident alleged.

15. ExP.4 is the certified copy of the spot panchanama conducted by the aforesaid police at the spot of the accident in the presence of two independent pancha witnesses on 11.01.2023 between 2.30 p.m, to 3.30 p.m. The said spot panchanamas which shows that the accident alleged took place on the date, time, place and in the manner stated in the claim petition.

16. ExP.5 is the certified copy of the seizure mahazar for having seized both the motorcycles involved in the accident alleged in the presence of two independent pancha witnesses on 11.01.2023 between 4 p.m, to 5 p.m.

17. The document of Ex.P6 is certified copy of the inquest panchanama conducted on the dead body of the deceased by the aforesaid police on

12.01.2023 between 4 pm to 4.30 pm. Wherein, his age shown as 56 years.

18. ExP.7 is the certified copy of the postmortem report conducted on the dead body of the deceased on 12.01.2023 at Mc Gann Hospital Shimoga between 4 p.m. to 4.40 p.m. As per which it goes to show that the cause of death is due to shock and hemorrhage due to the road traffic accident.

19. The document of ExP.8 is the certified copy of the charge sheet submitted by the aforesaid police against the rider of the motorcycle for the offence punishable U/Sc.279 and 304A. One Chandrappa S/o Nagappa, (the rider of the aforesaid motor cycle on which the deceased rode as pillion) is arrayed as accused since he had caused the accident alleged.

20. Hence, as of now and primaface it appears that the aforesaid deceased has died in the aforesaid accident at the aforesaid date, time and place. Moreover, the charges of rashness and negligence are against the rider of the aforesaid

offending vehicle. Hence, left with no other option, this Court is constrained to answer this Issue accordingly.

21. ISSUE NO.2 :- The contesting Respondent No. 2 in the objections submitted has casually contended that the rider of the offending motorcycle was not having valid and effective driving license as on the date of the accident and therefore, the Respondent No. 2 is not liable to pay the compensation. In this regard the court has perused the criminal prosecution papers, including the charge sheet submitted by the police at Ex.P8. In Ex.P2 there is a charge of Section 279 and 304A IPC alone, and there is no charge for the offence punishable under Section 3/181 of the IMV Act, which is for the offence of riding the motorcycle without having a valid and effective driving license. Therefore, the court is of the opinion that, since there is no charge of Section 3/181 IMV Act, Therefore, the rider had a valid and effective driving license. Moreover, in order to establish the said contention, the Respondent No. 2 has not led any evidence and therefore, left with no other option, the court is

constrained to conclude that the rider of the aforesaid offending motorcycle had a valid and effective driving license to ride the aforesaid offending motorcycle. Therefore, this point is answered accordingly.

22. ISSUE NO.3:-The PW-1, wife of the deceased on behalf of herself and on behalf of the remaining petitioners as well, in her examination-in-chief further deposes that the deceased was the only earning member of the family of the petitioners. The deceased was, prior to the accident, hale and healthy, and was earning Rs.20,000/- by doing waterman and agricultural work. Due to untimely death of the deceased, the petitioner No.1 has lost her husband, and remaining petitioners have lost their father. They have also suffered physically, mentally and financially. The accident is caused due to the rash and negligent riding of the aforesaid offending motorbike owned by the respondent No.1 and insured with respondent No.2. Hence, both the respondents are liable to pay the compensation as sought for in the claim petition.

23. The P.W.1 claims that deceased was aged 54 years. In order to prove the same, the petitioners have not produced any document of the deceased. Therefore, it is inevitable for this court to peruse the post mortem of the deceased produced at Ex.P.7, as per which his age is mentioned as 56 years. Therefore in view of the law laid down in the Sarla Varma case the proper multiplier is 9. Looking to the number of the dependents the self expenses of the deceased can be considered as 1/3.

24. The PW-1 claims that the deceased was earning Rs.20,000/- per month by working waterman and agricultural work. But in order to establish the same, the petitioners have not produced any documentary evidence to that effect. Hence, left with no other option the Court is constrained to peruse the notification dated 26.2.2022 issued by Karnataka State Legal Services Authority, Bengaluru, wherein the notional income of such persons is mentioned. As on the date of accident (2023) the said notional income is Rs. 15250/- pm (arrived at after adding increment of Rs. 500 to the notional income for

the year 2022). Hence, the monthly income of the deceased can be ascertain at Rs.15,250/- per month. Upon such calculation the loss of dependency comes to;

$$\text{Rs.15,250/-} \times 12 \times \frac{2}{3} \times 9 = \text{Rs.10,98,000/-}$$

25. In view of the Law laid down in the NICL V/s. Pranaya Sethi, the petitioners are also entitled for the loss of future prospectus which is 10% looking to the age of the deceased. The same comes to Rs.1,09,800/-.

26. Hence, the total compensation amount under head of loss of dependency comes to Rs.12,07,800/-. The petitioners are also entitled for the compensation under the non-pecuniary heads as per the following :

Sl. No.	Under the Heads of:	Amount	
1.	Loss of consortium. (Rs. 50000 each to the petitioner No. 1 to 3)	Rs.	1,50,000-00
2.	Loss of estate.	Rs.	15,000-00
3.	Transportation of dead body and funeral expenses	Rs.	15,000-00
4.	Loss of dependency	Rs.	12,07,800-00
	Total	Rs.	13,87,800-00

Hence, the petitioners are entitled to total compensation amount of **Rs.13,87,800-00/-** along with interest to be awarded.

27. LIABILITY : As regards the liability to pay the compensation is concerned, the PW-1 in his further examination-in-chief states that the aforesaid accident is caused due to the rash and negligence driving of the aforesaid offending Vehicle which, at the time of the accident, was owned by respondent No.1 and insured with respondent No.2. Hence, the respondents are jointly and severally liable to pay the compensation.

28. The contesting respondent No.2 in its written statement has conceded that the aforesaid offending vehicle was insured with it at the time of the accident alleged in this case. The respondent No.2 has not lead any evidence inpsite of opportunity. Therefore and thereby the respondent No.2 has not established any violation of the terms and conditions of the policy of the insurance of the aforesaid offending vehicle. Hence, left with no other option, the Court is

constrained to hold that the it is the respondent No.2 company which is liable to pay the compensation amount along with interest to be awarded.

29. INTEREST: In so far as awarding of interest on the compensation amount is concerned, in MFA.No.103557/2016 (between Sriram General Insurance Co. ltd., V/s Smt. Lakshmi & others, Dated 20-03-2018) the Hon'ble High Court of Karnataka, Bengaluru has held that as per Sec.34 of CPC the rate of interest that can be awarded on Judgments cannot be more than **6% p.a.** and that since Sec.149 of M.V. Act provides for the interest on Judgments, the interest to be awarded in claim Petitions has to be **6% p.a.** and not more than that. Hence, I hold that the petitioners and respondent No.3 are entitled for interest @**6% p.a.**, from the date of petition till the date of payment on the total compensation. However, the respondent No.1 and 2 are not liable to pay the interest on the compensation amount awarded under the head of future prospects. Hence, with these observations, I answer this Issue accordingly.

30. ISSUE NO.4 :- For the reasons discussed on above issues, I proceed to pass the following:

ORDER

The petition filed by the petitioner Under Section 166 of Motor Vehicles Act is partly allowed.

The respondent No.2 company is liable to pay compensation of **Rs.13,87,800/-** along with interest at the rate of 6% p.a. from the date of petition till its actual payment. However, the respondent No.2 is not liable to pay the interest on the compensation amount awarded under the head of future prospects.

The Respondent No.2 shall deposit the above compensation amount with interest within one month from today.

Out of the total compensation amount awarded, the petitioner No.1 is entitled for compensation of 80%. The petitioner No.2 and 3 are entitled for compensation amount of 10% each.

After deposit of the compensation amount, out of the share of petitioner No.1, 50% shall be released along with

interest to petitioner No.1 and remaining 50% shall be kept in FD in the name of petitioner No.1 for a period of five years in any Nationalized Bank.

Further the share of petitioner No.2 and 3 shall be released along with the interest.

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

Draw up award accordingly.

(Dictated to the stenographer directly on computer, script revised, corrected, signed by me and then pronounced in the open court on this 29th day of June, 2026)

(MAHESH S. PATIL)

PRL. SENIOR CIVIL JUDGE & JMFC,
HANGAL.

A N N E X U R E

WITNESSES EXAMINED ON BEHALF OF PETITIONER:

PW-1 Smt Renukamma W/o Basavappa Gollar

DOCUMENTS MARKED ON BEHALF OF PETITIONER:

Exp.1 Certified copy of complaint
Exp.2 Certified copy of further statement
Exp.3 Certified copy of FIR
Exp.4 Certified copy of spot panchanama

- ExP.5 Certified copy of seizure mahazar
ExP.6 Certified copy of inquest panchanama
ExP.7 Certified copy of postmortem
ExP.8 Charge-sheet
ExP.9 Attested copy of Aadhaar card of PW1

WITNESS EXAMINED ON BEHALF OF RESPONDENTS:

RW-1 Nil

DOCUMENT MARKED ON BEHALF OF RESPONDENTS:

ExR.1 Insurance Policy

(MAHESH S. PATIL)
PRL. SENIOR CIVIL JUDGE & JMFC,
HANGAL.