**KABC020123882020**

**IN THE COURT OF THE XX ADDITIONAL SMALL CAUSES JUDGE AND ADDITIONAL CHIEF JUDICIAL MAGISTRATE (SCCH-22).**

**Dated this the 18th Day of February 2026**

PRESENT : Sri.M.V.Channakeshava Reddy.,
B.A, L.L.B.,
XX Addl. Small Causes Judge
and A.C.J.M., Bengaluru.

**M.V.C.No. 2612/2020**

**PETITIONERS** :1. Sri. Kapu Erakyathappa @
Erakyathappa,
S/o. Chikkahanumanthappa,
Aged about 54 years,

2. Smt. Devamma,
W/o Erakyathappa,
Aged about 52 years,

3. Baby.K.Shema,
D/o Late. Hanumantharaya,
Aged about 3 years.

Both are residing at,
No. 3-81, Devagani Halli,
Amarapuram, Ananthpur,
Andhra Pradesh-515281.

Since the third petitioner
K. Shema is minor represented
by her natural guardian
grand father namely

Hanumantharaya. R
S/o. Rangappa .N.H
Aged about 52 years.
Nayadagunte, Nidugal Hobli,
Pavagada Taluk,
Tumkur-572116.

**(By Pleader Sri. T.S.)**

V/s.

**RESPONDENTS** : 1. ICICI Lombard General
Insurance Co. Ltd,
No.121, 9th Floor,
The estate Dickension road,
F M Kariappa Colony,
Sivana Chetti Garden,
Bengaluru-560042.

Policy No.3001/MI-07849749/00/000
Period from 30-08-019 to 29-08-2020.

**(By Pleader Sri. R.B.)**

2. Sri. Uddanna S.E,
S/o Erajjappa,
R/at No.52, Maruthi Krupa,
1st Main Road, 3rd Cross,
Sahydre Balaga,
Siddeshwara L/O,
Bengaluru-560073.

(RC Owner of the Matuthi Vitara
Brezza bearing No.KA-04/MS-1489)

**(By Pleader Sri. K.S.)**

## J U D G M E N T

The petitioners have filed this claim petition against the respondents U/Sec.166 of Motor Vehicles Act claiming compensation of Rs.70,00,000/- for the death of Hanumantharaya S/o. Erakyathappa in a motor vehicle accident that took place 08-02-2020.

2. It is the case of the petitioner that, on 08-02-2020 at about 09.15 p.m., the deceased Hanumantharaya was traveling in a Maruthi Suzuki Brezza Car bearing Reg.No.KA-04-MS-1489 belonging to second respondent along with his friends from Bangalore to Amarapura, Madakasira Taluk, Andhrapradesh State, on Sira – Tumkur road, to attend marriage function of his relative and the said car was driven by its driver and when they reached near Kurubraramanahalli Gate, at that time, driver of the said Car, drove the same in a rash and negligent manner and hit the road side Tamarind tree on the right side of the road and the car turned turtle. As a result, the inmate of the car Hanumantharaya sustained grievous injuries and died on the spot. After the postmortem, the dead body of the victim was handed over to the petitioners and they have performed funeral ceremony by spending an amount of Rs.30,000/- and they have also spent an amount of Rs.20,000/- towards

transportation expenses.

3. The contention of the petitioners is that, deceased Hanumantharaya was hale and healthy at the time of accident/prior to the accident and he was aged about 38 years, working as a Interior designer earning a sum of Rs.60,000/-p.m.

4. Further, the contention of the petitioners is that, petitioner No.1 and 2 are the parents and the petitioner No.3 is the minor daughter of the deceased and they are the legal heirs and dependents of deceased, Hanumantharaya. The wife of deceased has also expired after demise of the deceased. Due to unexpected death of Hanumantharaya, the petitioners have suffered a lot as they lost their bread earner in the family.

5. Respondent No.1 is the insurer of Maruthi Suzuki Brezza Car bearing Reg.No.KA-04-MS-1489 and respondent No.2 is the owner of the alleged Car and the insurance policy was in force as on the date of accident. The accident is said to have occurred due to rash and negligent driving by the driver of Maruthi Suzuki Brezza Car as such, respondent

No.1 and 2 are jointly and severally liable to pay compensation to the petitioners. Contending the above said facts, they have prayed to grant compensation with interest and costs.

6. In response to the petition notice, respondent No.1 and 2 have appeared before the court through their respective counsels and they have filed their objection statements.

7. Respondent No.1 has contended that, petition filed by the petitioner is not maintainable either in law or on facts and they have denied the contents of petition averments in toto. While denying issuance of insurance policy to the vehicle bearing Reg.No.KA-04-MS-1489, this respondent was restricted their liability to the terms and conditions of the insurance policy.

8. Further, it is contended that, as on the date of accident, the driver of the offending Car was not having a valid and effective driving license to drive the said vehicle and he has also violated the terms and conditions of the insurance policy and the owner and concerned police have

not complied mandatory provisions of Section 134 (c) and 158 (6) of M.V.Act.

9. Further, respondent No.1 has denied the involvement of the alleged vehicle in the accident and they have also denied the age, occupation and income of the deceased and also the relationship of petitioners with the deceased and their dependency on the income of deceased. They have contended that, they have right to contest the claim petition on behalf of owner of the vehicle also as per Sec.170 of M.V.Act. It is also opposed saying that the compensation claimed by the petitioners is highly excessive, exorbitant and an exaggerated one. Contending the above facts, they have prayed to dismiss the claim petition as against respondent No.1. with costs.

10. Respondent No.2 has denied the contents of petition averments in toto. Respondent No.2 has submitted that, he is the owner of the Car and the same was insured with respondent No.1 and the insurance policy was in force as on the date of accident. Further, respondent no.2 has contended that, the state police have registered a false case

against the respondent only with an intention to help the claimant to get compensation. Respondent No.1 has denied the involvement of the alleged vehicle in the accident and he has also denied the age, occupation and income of the deceased and also the relationship of the petitioners with the deceased and their dependency on the income of deceased. Contending above facts, he has prayed for dismissal of the petition as against him with costs.

11. On the basis of the above pleadings, the following issues were framed:

> *1. Whether the petitioners prove that Mr. Hanumantharaya died on account of road traffic accident on 08.02.2020 at 9.15 p.m due to rash and negligent driving by the driver of Maruthi Suzuki Brezza car bearing registration No. KA-04-MS-1489?*
>
> *2. Whether the Petitioner is entitled for compensation? If so, to what extent and from whom?*
>
> *3. What order or award?*

12. In order to prove their case, the natural guardian of petitioner No.3 namely Hanumantharaya.R has examined himself as PW1 and they have got marked documents as Ex.P.1 to 14 on their behalf.

13. On the other hand, to disprove the case of the petitioners and to prove their defence, respondent No.2 has examined himself as RW-1. However, they have not marked any documents on his behalf. Respondent No.1/insurance company got examined its Legal Manager as RW-2 and they have also got marked documents as Ex.R.1 and 2.

14. I have heard arguments on behalf of petitioners and respondent and I have perused the materials available on record.

12. My findings to the above issues are as follows:

| | |
|---|---|
| **Issue No.1:** | **In the Affirmative** |
| **Issue No.2:** | **Partly in the Affirmative** |
| **Issue No.3:** | **As per final order, for the following:** |

**:: REASONS ::**

**15. ISSUE No.1:-** The petitioners have filed the present petition claiming compensation for the death of Hanumantharaya in a road traffic accident that took place on 08-02-2020. The petitioner No.1 and 2 are the Parents and Petitioner No.3 is the minor daughter of the deceased, Hanumantharaya. According to the petitioners, on 08-02-2020 Hanumantaharay traveling in a Maruthi Suzuki Brezza

Car bearing Reg.No.KA-04-MS-1489 owned by second respondent towards Amarapura, A.P. to attend a marriage function of his relative and when they reached near Kurubraramanahalli gate, the driver of the said vehicle drove the same in a rash and negligent manner and hit a Tamarind tree on the right side of the road as a result, car turned turtle. Thereby, the deceased sustained critical multiple injuries and succumbed to the said injuries.

16. To prove the said facts, the Natural Guardian of Petitioner No.3 (i.e., maternal grand father of petitioner No.3.) examined himself as Pw-1 and produced Copies of documents marked as Ex.P.1 to 14. The Ex.P.1 is the FIR, Ex.P.2 is the Complaint, Ex.P.3 is the Spot Mahazrar, Ex.P.4 is the Rough Sketch, Ex.P.5 is the IMV report, Ex.P.6 is the PM report, Ex.P.7 is the Charge sheet along with witness statements, Ex.P.8 is the Aadhar card, Ex.P.9 is the Death Certificate and Ex.P.10 to 14 are the Aadhar cards.

17. As per Ex.P.1 FIR, a case is registered against the driver of the Car bearing Reg.No.KA-04-MS-1489 for the alleged offences punishable U/Sec.279,337 and 304(A) of IPC

on the basis of Ex.P2 - report/Complaint lodged by one B.H.Venkatesh. Ex.P3 and 4 are the copies of Spot mahazar and spot sketch which disclose the place of accident and offending vehicle involved in the accident. Ex.P6 – copy of PM report which discloses the cause of death as due to Shock and Hemorrhage, due to multiple injuries sustained. After completion of investigation, the police have filed Charge sheet as per Ex.P7 as against the driver of the offending Car for the offences punishable under section 279, 337, 338 and 304(A) of IPC.

18. The respondent, insurance company has taken a specific contention that the driver of the car is falsely implicated. It is their contention that, the person who was driving the offending car at the time of the accident also died in the accident and in his, place his brother is substituted to claim compensation.

19. The Advocate representing the petitioner allays this contention stating that a gruesome accident has taken placed resulting in the death of three inmates of the car. The report was filed at the earliest point of time and there was no

scope or opportunity for the complainant to deliberate and wrongly implicate the surviving inmate of the car as the driver of the offending vehicle. This limb of the argument finds force while considering the timing at which the police report was filed.

20. Even otherwise, the respondent insurance company has not chosen to examine the expert who has recreated the scene of the accident and furnished the report which was marked as Ex.R.2. Mere marking of a the document will not amount to proof unless the author of the said document is examined to speak to its contents under oath before the court so that the petitioner would cross-examine him to impeach the evidence of the author of the report. Under the circumstances, the respondents have not successfully proved the contents of the report Ex-P2. The said report was not furnished at the earliest point of time and it was not obtained through a Court Commissioner or any other legally authorized person. Rather, the insurance company has obtained the said report on their own in support of their defence.

21. The self-serving testimony of the insurance company cannot be relied to deny the claim of the petitioner. The documents relied by the insurance company are not proved in a manner known to law. Hence, there is no reason to disbelieve the version of the petitioner with regard to the manner in which the accident has taken place.

22. Further, on perusal of Ex.P5 - copy of IMV report it disclose the damages found on the offending vehicle and it is opined that, the accident was not due to any mechanical defects of the vehicle.

23. Further, the charge sheet is filed against the driver of the offending car, since insurance company is a 3rd party to the criminal case, they could not challenge the same. If that is so, the driver of the Car against whom a charge sheet was filed could have challenged the charge sheet. But, he has not done so. This conduct on the part of the driver of the Car enables the Court to draw an adverse inference against him that as the accident has taken place due to his negligence as such, he remained silent. Therefore, without much discussion, I am of the opinion that, the accident has

taken place due to the sole negligence on the part of the driver of the offending Car bearing Reg.No.KA-04-MS-1489. Hence, I answer Issue No.1 in the Affirmative.

24. **ISSUE No.2**:- The contention of the petitioners is that, Petitioner No.1 is the father, Petitioner No.2 is the mother and Petitioner No.3 is the daughter of deceased Hanumantharaya and they are the legal heirs and dependents on the deceased. On the other hand, respondents have disputed the relationship of the petitioners with the deceased and also their dependency on the income of the deceased.

25. To prove their relationship, the petitioners have produced documents as per Ex.P.10 to Ex.P.14 i.e., copies of Aadhaar cards maintained in the name of deceased and Petitioners and they have also produced copy of the Aadhaar card of mother of petitioner No.3 who is the wife of deceased. It also discloses that, the petitioner No.1 and 2 are the aged parents and petitioner No.3 is a minor girl / daughter of the deceased. As such, petitioner No.1 to 3 are considered as legal heirs of the deceased and dependents on the income of

the deceased, Hanumantharaya.

26. In this case, the petitioners have claimed compensation of Rs.70,00,000/- for the death of deceased Hanumantharaya in the road accident. The petitioners have contended that, deceased was an Interior designer and he was earning a sum of Rs.60,000/-per month. To prove the avocation and income of the deceased, the petitioners have not produced any document to show that the deceased was working as an Interior Designer earning Rs.60,000/-p.m. In the absence of any documentary proof, the notional income of the deceased has to be taken into consideration. The accident has occurred on 08-02-2020. Therefore, the amount of Rs.14,500/- is to be taken into consideration as monthly notional income of the deceased.

27. It is specifically contended by the petitioners that, the deceased was aged about 38 years at the time of accident. The petitioners have not produced any document to prove the actual age of the petitioner. However, they have produced Aadhar card of deceased as per Ex.P.10, wherein, the year of birth of the deceased is mentioned as 1981 and

the accident has taken place on 08-02-2020. On perusal of Ex.P6, PM report it discloses the age of the deceased as 39 years. Therefore, at the time of accident, the deceased was aged about 39 years. As per Sarla Varma's case, the proper multiplier that would be applicable to the case on hand is '15'.

28. At this stage, I rely on the observation of the Hon'ble Apex Court in case of National Insurance Co. Ltd V/s Prany Sethi and others, has held at para No.61 as under:

> "(i) ................
>
> (ii) ................
>
> (iii) While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40-50 years. In case the deceased was between the age of 50-60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.
>
> (iv) 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."

29. In view of the above decision of the Hon'ble Apex Court, I am of the view that, the deceased being aged below 40 years, an addition of 40% to the income should be added towards future prospects. Further, as stated above that, as on the date of accident, deceased Hanumantharya was aged about 39 years and as such, 40% is added to the income of the deceased, then it comes to Rs.20,300/-p.m. (Rs.14,500 + 5,800 i.e. 40%).

30. The deceased died leaving behind 3 dependents. As per the principle laid down by the Hon'ble Apex Court in Sarala Verma Case, 1/3$^{rd}$ of his income is required to be deducted towards his personal expenses which comes to Rs.13,533/-p.m. (Rs.20,300 – Rs.6,767 = Rs.13,533/-).

31. If the income of the deceased is taken as Rs.13,533/-p.m. and when the multiplier 15 is applied, then the loss of dependency comes to **Rs.24,35,940/-** (Rs.13,533 X 12 X 15). Considering the above facts, I deem it just and reasonable to grant compensation of **Rs.24,35,940/- under the head of loss of dependency.**

32. In this case, petitioner No.1 and 2 are the parents and petitioner No.3 is the minor daughter of the deceased. As per the decision reported in (2018) 12 SCC 130 (between Magma General Insurance Company Limited V/s Nanu Ram alias Chuhru Ram and others) the petitioners are entitled for filial consortium, as the filial consortium is the right of the parents and children to get compensation in case of an accidental death of children and father as the case may be. An accident leading to death of a father or children causes great shock and agony to the parents and family of the deceased. **Therefore, petitioner No.1 to 3 are entitled for Rs.40,000/- each under the head, Filial consortium.**

33. Further, as per the Law laid down by the Hon'ble Apex Court in National Insurance Company Limited Vs.

Pranay Sethi and others, the compensation towards loss to estate, funeral expenses and consortium is to be awarded. The petitioners have contended that they have spent substantial amount towards transportation of dead body, funeral expenses and obsequies but, no document is produced. Hence this Tribunal awards Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses.

34. Considering the above facts and circumstances of the case and for the above stated reasons I am of the opinion that, the petitioners are entitled a total compensation of **Rs.25,85,940/-** under the following heads.

| **Compensation heads** | **Amount (in Rupees)** | |
|---|---|---|
| 1. Towards loss of dependency | Rs. | 24,35,940/- |
| 2. Towards loss to estate | Rs. | 15,000/- |
| 3. Towards transportation of dead body, funeral expenses and obsequies ceremony expenses | Rs. | 15,000/- |
| 5. Towards filial consortium to the petitioner No.1 to 3 (each Rs.40,000/-) | Rs. | 1,20,000/- |
| **Total** | **Rs.** | **25,85,940/-** |

35. **LIABILITY**: On perusal of contents of the petition, it appears that respondent No.1 and 2 are the Insurer and R.C. Owner of the Car bearing Reg.No.KA-04-MS-1489. Further, as stated above, the alleged accident has occurred due to rash and negligent driving by the driver of the offending Car and the car insurance policy was in force as on the date of accident. Therefore, respondent No.1 and 2 are jointly and severally liable to pay compensation to the petitioners. However, respondent No.1 being the insurer of offending Car is liable to pay compensation of **Rs.25,85,940/-** with interest @ 6% p.a. from the date of petition till the date of deposit. **Accordingly, I answer issue No.2 partly in the affirmative.**

36**. Issue No.3:** In view of answering issue nos.1 and 2 as above, I Proceed to pass the following;

**ORDER**

The claim petition filed by the petitioners U/Sec.166 of M.V.Act is partly allowed with costs.

Petitioners are entitled for compensation of **Rs.25,85,940/-** with interest @ 6% p.a. from the date of petition till the date of deposit.

Respondent No.1 and 2 are jointly and severally liable to pay compensation to the petitioners. However, in view of the existence of insurance policy in force, respondent No.1 is liable to pay compensation to the petitioners and directed to deposit the compensation amount in this tribunal within two months from the date of receipt of this order.

Out of the above said compensation amount, the Petitioner No.1 and 2 being the parents of the deceased are entitled for 25% each with interest and Petitioner No.3 being the minor daughter of the deceased is entitled for 50% of the compensation amount with interest.

Out of the above said compensation amount awarded to the petitioners No.1 and 2 each of them shall invest 25% of their share amount as FD in their respective names in any nationalized/scheduled bank of their choice with a liberty to withdraw accrued interest periodically and the remaining amount with accrued interest shall be paid to them through NEFT/RTGS by way of E-payment on proper identification.

As regard to the compensation amount payable to minor 3rd petitioner represented by her natural guardian/grand father by name Hanumantharaya.R, the entire amount shall be kept in FD in the name of petitioner No.3 in any nationalised/Scheduled bank till she attains the age of majority with liberty to withdraw accrued interest periodically.

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

Draw award accordingly.

(Dictated to the stenographer directly on computer, typed by her, corrected, signed and then pronounced by me in open court on this 18th day of February 2026)

**(M.V.Channakeshava Reddy)**
**XX Addl.Judge & A.C.J.M.,**
**Bengaluru.**

**:: ANNEXURE ::**

**LIST OF WITNESES EXAMINED ON BEHALF OF THE PETITIONER:**

PW.1 Sri. Hanumantharaya.R

**LIST OF DOCUMENTS MARKED ON BEHALF OF THE PETITIONER:**

| | |
|---|---|
| Ex.P1 | Certified copy of FIR |
| Ex.P2 | Certified copy of Complaint |
| Ex.P3 | Certified copy of spot mahazar |
| Ex.P4 | Certified copy of sketch |
| Ex.P5 | Certified copy of IMV report |
| Ex.P6 | Certified copy of PM Report |
| Ex.P7 | Certified copy of charge sheet along with statement |
| Ex.P8 | Notarized copy of Aadhar card |
| Ex.P9 | Notarized copy of Death Certificate |
| Ex.P10 to 14 | Notarized copy of Aadhar cards |

**LIST OF WITNESES EXAMINED ON BEHALF OF THE RESPONDENT:**

| | |
|---|---|
| RW.1 | Sri. Uddanna.S.E |
| RW.2 | Sri. Naveena.S |

**LIST OF DOCUMENTS MARKED ON BEHALF OF THE RESPONDENT:**

| | |
|---|---|
| Ex.R1 | Motor accident reconstruction report |
| Ex.R2 | Certificate u/s 65B of IE Act |

**(M.V.Channakeshava Reddy)**
**XX Addl.Judge & A.C.J.M.,**
**Bengaluru.**