

## Kiran M.G vs M/S Voler Car Private Limited on 8 January, 2020

IN THE COURT OF XIX ADDL. JUDGE AND MOTOR  
ACCIDENT CLAIMS TRIBUNAL, BENGALURU. (SCCH-17)

Dated this 8th day of January 2020

Present: SRI.MAHANTESH S.DARGAD  
B.Sc., LL.B., (Spl)  
III ADDL. JUDGE.  
COURT OF SMALL CAUSES,  
BANGALORE.

M.V.C.No.858/2017

Petitioners

1. Kiran M.G.,  
Since deceased  
Represented by his LRS

1(a) Gangadhara Swamy M.R.,  
Son of Rudraiah,  
Aged about 58 years,

2(b) Kirthan M.G.  
Son of Gangadhara Swamy M.R.,  
Aged about 23 years,

Both are residing at No.17, Ground  
floor,  
6th Cross, Chikkappaiah Layout,  
Hanumagiri Nagar,  
Chikkalasandra,  
Bengaluru-560 061.  
(By Pleader Shri Vinoda B.C.)

Respondents

V/s

1. M/s Voler Car Private Limited,  
No.3730/A-2, I Floor,  
Railway Parallel Road,  
Subramanyanagar,

2

SCCH-17

MVC 858/2017

Bengaluru-560 021.  
Represented by its Manager,  
(R.C. Owner of the Car bearing  
registration No.KA-01-AF-8015)  
(Exparte)

2. The Manager,

New India Assurance Co. Ltd.,  
No.9/2, Mahalaxmi Chambers,  
M.G.Road,  
Bengaluru-560 001.  
(Insurer of the Car bearing registration  
No.KA-01-AF-8015)  
Policy No.6716023160300002844  
valid from 28.6.2016 to 27.6.2017)  
(By Pleader Shri B.V.Sudhakara  
Reddy)

#### JUDGMENT

The petitioners have filed this claim petition against the respondents U/S. 166 of M.V. Act for seeking compensation of Rs.1,20,00,000/- for the death of Kiran M.G. in a road traffic accident.

2. The brief contents of petition are as under:

On 24.11.2016 at about 4.20 a.m. the Kiran was traveling in a car bearing registration No.KA-01-AF-8015 along with Bharath, the said car was driving by one Lokesh at high speed in a rash and negligent manner on NH-4 road towards Bengaluru, when the said car was reached near Kogganuru Village, Davanagere District, the driver of the said car lost the control and dashed against the hind portion of the lorry, which was going ahead of the said car. Due to the said impact, Kiran M.G. sustained severe head and bodily injuries. Immediately he was shifted to S.S. Institute of Medical Science and Research, Davanagere, wherein he was treated as inpatient for one day and then shifted him to Manipal Hospital, Bengaluru and admitted as inpatient and then shifted to Manipal Hospital, Bengaluru and admitted as inpatient and underwent operations and the shifted to Victoria hospital and admitted to ICU on 28.11.2018. After the prolonged treatment he was shifted to Florance Old Age Home and Medical Services for further management of fractures and treatment, but Kiran was succumbed to the injuries on 14.8.2017. Thereafter, dead body was shifted to Bowring and Lady Curzon Hospital, Bengaluru, wherein post mortem was conducted and then the body was handed over to the petitioners. The petitioners have spent more than Rs.15,00,000/- towards hospital charges, treatment, medicines, conveyance, food and nourishment etc.,

3. The contention of the petitioners is that, deceased Kiran M.G. was hale and healthy at the time of accident, aged about 28 years, Assistant Manager Ops, at Volar Car Private Limited, Bengaluru and earning a sum of Rs.25,000/- per month. He was contributing the entire income to the family members. Due to the untimely death of Kiran petitioners are facing lot of financial difficulties and lot of pain and mental agony. The accident occurred due to rash and negligent driving of the driver of the car bearing No.KA-01-AF-8015 and as such, the respondents are liable to pay compensation to the petitioners. Contending the above facts, they pray to grant for compensation with interest and cost.

4. In response to the petition notice, the respondent No.1 has not appeared before the court, placed exparte. The respondent No.2 has appeared before the court and filed its written statement.

5. The brief contents of written statement of respondent No.2 are as under:

The respondent No.2 has contended in its written statement that the petition filed by the petitioners is not maintainable either in law or on facts. Further contended that death of the he deceased was not due to the accidental injuries, but it is due to some other reason, so there is no nexus between the injuries and he death. In fact the deceased has sustained injuries on 24.11.2016 and the death has happened on 14.8.2017 i.e., after 9 months of the accident, hence, it is clear that there is no nexus between the injuries and death. Further this respondent has issued a policy of insurance infavour of the respondent No.1 in respect of car bearing No.KA-01-AF-8015 Further contended that the driver of the canter had no valid and effective driving licence to drive the same as on the date of accident, the driver had driving license authorized to drive LMV Non-transport, but at the time of accident he was driving LMV transport vehicle. Further contended that the petition is not maintainable against this respondent as the accident was took place during the course of employment. Further contended that as on the date of the accident the car was being driven in a reasonable speed and careful manner and there was no rashness or negligence on the part of the driver of the car. Further contended that neither the owner of the vehicle nor the jurisdictional police have complied the mandatory provisions of S. 134© and S. 158(6) of the M.V. Act in furnishing the better particulars. Further contended that the compensation claimed by the petitioner is exorbitant, excessive, imaginary, fanciful and without any basis. Further denied the age, avocation and income of the deceased as alleged in the claim petition. Contending the above facts, it prays to dismiss the claim petition as against it with cost.

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

1. Whether the petitioner proves that there is nexus between the accidental injuries and death of Kiran ?
2. Whether the petitioners prove that on 24.11.2016 at about 4.20 a.m. when the deceased was traveling in a car bearing No.KA-01-AF-8015 near Kogganur Village, Davanagere District met with an accident and succumbed to the same due to the actionable negligence on the part of driver of car bearing registration No.KA-01-AF-8015 as alleged?
3. Whether the petitioners are entitled for compensation? If so, at what rate and from whom?
4. What order or award?

7. In order to prove their case, the petitioner No.1 is examined as PW1 and got marked the documents as Ex.P1 to Ex.P22 and Medical Record Keeper is examined as PW2 and got marked the documents at Ex.P23 to Ex.P25 and another Medical Record Officer is examined as PW3 and got marked the document at Ex.P26 to Ex.P28 and Manager of the M/s Voler Car Private Limited, Bengaluru is examined as PW4 and got marked the documents at Ex.P29 to Ex.P33.

8. To disprove the case of the petitioner and to prove the defence, the respondent No.2 has examined its Assistant Manager as RW1 and got marked the documents at Ex.R1 to Ex.R4.

9. Heard arguments.

10. My findings to the above issues are as under:

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

#### REASONS

11. Issue No.1 & 2 : As these issues are interlinked with each other, so in order to avoid repetition of facts, these issues are taken together for common discussion.

12. Initially the petitioner i.e., Kiran has filed the claim petition on 15.2.2017 and during the proceedings of the case he died on 14.8.2017. So, his legal representatives are come on record as per the order dated 2.1.2018 as petitioner No.1(a) & 1(b). The petitioners 1(a) & (b) being said to be the legal heirs and financial dependants of the deceased Kiran have approached this court on the ground that on 24.11.2016 at about 4.20 a.m. the Kiran was traveling in a car bearing registration No.KA-01-AF-8015 along with Bharath, the said car was driving by one Lokesh at high speed in a rash and negligent manner on NH-4 road towards Bengaluru, when the said car was reached near Kogganuru Village, Davanagere District, the driver of the said car lost the control and dashed against the hind portion of the lorry, which was going ahead of the said car. Due to the said impact, Kiran M.G. sustained severe head and bodily injuries. Immediately he was shifted to S.S. Institute of Medical Science and Research, Davanagere, wherein he was treated as inpatient for one day and then shifted him to Manipal Hospital, Bengaluru and admitted as inpatient and then shifted to Manipal Hospital, Bengaluru and admitted as inpatient and underwent operations and the shifted to Victoria hospital and admitted to ICU on 28.11.2018. After the prolonged treatment he was shifted to Florance Old Age Home and Medical Services for further management of fractures and treatment, but Kiran was succumbed to the injuries on 14.8.2017. Thereafter, dead body was shifted to Bowring and Lady Curzon Hospital, Bengaluru, wherein post mortem was conducted and then the body was handed over to the petitioners. The petitioners have spent more than Rs.15,00,000/- towards hospital charges, treatment, medicines, conveyance, food and nourishment etc.,

13. In order to substantiate the said fact, the petitioner No.1(a) is examined as PW1 and produced the documents to prove that there is nexus between the injuries and the death. He has produced discharge summaries, OPD book, CT Scan and brain report, which are marked at Ex.P12 to Ex.P16

and also post mortem report at Ex.P10

14. On perusal of Ex.P12 discharge summary of Manipal Hospitals reveals that the deceased Kiran has sustained traumatic brain injury, right hemopneumothorax-S/P ICD, right hilum of Kidney injury and liver laceration with perinephric Hematoma and left forearm both bones fractures Haemorrhagic shock and was treated as inpatient from 25.11.2016 to 28.11.2016. On perusal of Ex.P13 discharge summary of Victoria hospital reveals that the Kiran has sustained Traumatic brain injury (Left parietal contusion with IVH) with right renal injury and liver contusion and was admitted as inpatient from 28.11.2016 to 25.1.2017. Further on perusal of Ex.P14 discharge summary of BMC and R1 Super Specialty Hospital, Victoria hospital campus, reveals that Kiran was admitted on 10.2.2017 and discharged on 14.2.2017 during that period PEG tube was inserted under EGD guidance, clear liquids was started on post procedure and gradually increased. He is being discharged in a hemodynamically stable state tolerating PEG tube feeds. As per Ex.P16 CT brain was performed on Multidetector row CT scanner without IV contract in axial plane with sagittal and coronal reconstructions on 12.7.2017 and the impression shows " Illdefined hypodensity in posterior limb of left internal capsule and extending inferior along rostral midbrain and its atrophy--Old ischemia and Wallerian degeneration, Illdefined periventricular and subcortical white matter hypodensity consistent with small vessel ischemic changes"

15. The petitioners have also examined Medical record keeper at Manipal hospital as PW2. He has produced Authorization letter, MLC Extract and case sheet, which are marked at Ex.P23 to Ex.P25. Further the petitioners have also examined MRO of Victoria hospital, Bengaluru. She has produced authorization letter, MLC extract and case sheet, which are marked at Ex.P26 to Ex.P28.

16. During the course of arguments, the learned counsel for the petitioners argued that death was caused due to accidental injuries and the deceased was under treatment till his death after the accident.

17. On the other hand, the counsel for the respondent No.2 has argued that, the there is no nexus between the injuries and the death of Kiran. Kiran died due to some other reason and not due to accidental injuries.

18. On perusal of the arguments advanced by both the parties I would like to discuss the case on merits.

19. It is evident from the records that the deceased met with an accident on 24.11.2016 and immediately he was admitted to hospital and again he was shifted to Victoira Hospital and again on BMC &RI Super Specialty Hospital, Bengaluru and discharged on 14.2.2017 and again on 12.7.2017 SC Scan of brain was performed.

20. At this juncture this court has drawn the attention on the decision reported in 2018 ACJ 497 in case of R.N.Manjula Vs. Noorulla and others in which it is observed that;

"the deceased was under constant medical treatment ever since the date of accident till his last breath. The parts of human body are so intrinsically linked that the impact on one part of the body would affect the entire system. The injury caused to the head definitely would have an effect on the pre- existing disease which was dormant in nature. If so, it cannot be construed that the deceased died due to his hypertension and parkinson disease which were pre-existing as contended by the learned counsel for the insurer."

21. On perusal of the same, it is clear that the parts of human body are so intrinsically linked that the impact on one part of the body would affect the entire system.

22. Further it is clear from Post Mortem report marked at Ex.P10 that, the death is due to head injury sustained and the medical records reveals that the deceased was under medical treatment from the date of accident till 12.7.2017 and as per the citation it is clear that the parts of the human body are so intrinsically linked that the impact on one part of the body would affect the entire system. Therefore, arguments advanced by the learned counsel for the respondent cannot be accepted.

23. On perusal of the above citations and the arguments advanced by the learned counsel on both sides and also considering the oral evidence of PW1 I am of the opinion that Kiran died due to injuries sustained in the accident. Therefore, as per medical records, it is clear that there is nexus between the injuries and the death of Kiran.

24. Further the accident occurred due to the negligence of the driver of the car bearing No.KA-01-AF-8015. On perusal of Ex.P2 complaint has been lodged by Lakshman N on 24.11.2016. So, case has been registered by Rural Police, Davanagere in Cr.No.311/2-16, Ex.P3 is the charge sheet clearly discloses that after investigation I.O. has filed the charge sheet against the driver of the car bearing No.KA-01- AF-8015 for the offences punishable u/s 279, 337 and 304(A) of IPC. Ex.P4 and Ex.P5 are the Mahazar and sketch clearly reflects scene of occurrence, Ex.P6 is the IMV report reveals that the damages caused to the vehicle and IMV inspector has opined that the accident occurred not due any mechanical defect of the vehicle. Ex.P7 is the further statement of complainant.

25. The counsel for the respondent No.2 has argued that the accident has not occurred due to the negligence of the driver of the car, as the driver of the car was being driven in a reasonable speed and careful manner and there was no rashness or negligence on the part of the driver of the car. The accident took place due to the negligence of the unknown lorry. In this behalf he has examined Assistant Manager as RW1, but his evidence will not help the respondents to prove their defence. So, the arguments advanced by the respondent No.2 holds no water. On the other hand, the petitioners have proved their case through oral and documentary evidence.

26. In addenda of this, in a claim for compensation U/S.166 of MV Act, 1988, the claimant has to prove the incident only on preponderance of probabilities and the standard of proof beyond reasonable doubt is not required as held by Hon'ble Apex Court in the decision reported in 2011 SAR

(Civil) 319 (Kusum and others Vs. Satbir and others).

27. Looking to the oral evidence of PW1 the documents placed before the court I am of the opinion that, petitioner has proved his case. Accordingly, I answer this issue in the affirmative.

28. Issue Nos.3:- The petitioners in order to prove the relationship of the petitioners with the deceased, the petitioner No.1 has produced Aadhar card of petitioner No.1(a), marked at Ex.P17 and driving license of deceased Kiran M.G. at Ex.P18 and Aadhar card of petitioner No.1(b) marked at Ex.P19. On perusal of the same, it reveals that the petitioner No.1(a) is the father of the deceased Kiran and the petitioner No.1(b) is the brother of the deceased. On perusal of oral evidence of PW1 petitioner No.1(b) is major son of petitioner No.1(a), is not the dependant of the deceased Kiran. Therefore, petitioner No.1(a) being the father of the deceased is only the financial dependant of the deceased. Accordingly, I answer this issue partly in affirmative.

29. The specific contention of the petitioners is that, deceased Kiran was hale and healthy at the time of accident, aged about 28 years, Assistant Manager OPS at Volar Car Private Limited, Bengaluru. Due to the sudden demise of Kiran, petitioners have put to untold misery, pain and sufferings, frustration and financial loss.

30. On the other hand, the respondents have disputed the above contention of the petitioners in toto.

31. To prove the age, the petitioners have produced extract of driving license marked at Ex.P18. This document reveals that, the date of birth of the deceased is mentioned as 9.9.1989. The accident occurred on 24.11.2016. So as on the date of accident, the deceased was aged about 27 years. So, the same is considered as age of the deceased, then the proper Multiplier applicable to the case on hand is "17".

32. The counsel for the petitioners has argued that the deceased was working as a Assistant Manager OPS and earning Rs.25,000/- per month. To substantiate the said fact, the petitioner has examined Branch Manager in m/S Voler Car Private Limited, J.P.Nagar, Bengaluru as PW4. He has in his evidence that Kiran M.g. was working as a Branch Manager in M/s Voler Car Private Limited, J.P.Nagar, Bengaluru and drawing a salary of Rs.25,150/- per month. He was relieved from the services of the organization consequent to the road traffic accident. He has produced Xerox copy of authorization letter, company identity card of him, provisional offer letter, pay slips and employment agreement with salary structure, which are marked as Ex.P29 to Ex.P33 and original documents are marked at Ex.P29(a) to Ex.P33(a). It discloses that the deceased Kiran was drawing salary of Rs.25,150/-. But the petitioners have not produced bank statement or acquaintance roll to show that the deceased Kiran was getting an salary of Rs.25,150/-. Therefore, in the absence of the positive documents with respect to his income if notional income of Rs.7,000/- per month is considered, it will meet the ends of justice. Then the yearly income comes to Rs.84,000/-.

33. At this juncture this court has drawn the attention on the decision of the Hon'ble Supreme Court reported in 2017 ACJ 2700 in between National Insurance Co.Ltd., Vs. Pranay Sethi and others. In

the said decision, it is held that;

Quantum---Fatal  
Principles of assessment---future  
prospects---Whether legal

representatives of the deceased who was on fixed salary or self-employed or aged between 50 and 60 would be entitled to benefit of future prospects for the purpose of computation of compensation---Held: yes; case-law discussed.

While determining the income, an addition of 50 per cent 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 per cent, if the age of the deceased was between 40 and 50 years. In case the deceased was between the age of 50 and 60 years, the addition should be 15 per cent. Actual salary should be read as actual salary less tax.

In case the deceased was self-  
employed or on a fixed salary, an

addition of 40 per cent of the established income should be the warrant where the deceased was below the age of 40 year.

An addition of 25 per cent where the deceased was between the age of 40 to 50 years and 10 per cent where the deceased was between the age of 50-60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

34. In the instant case, the age of the deceased is considered as 27 years, he comes under the age of below 40 years, 40% of the income of Rs.33,600/- is to be added to the income of Rs.84,000/- as future prospects, on such addition, the total income of the deceased comes to Rs.1,17,600/- p.a..

35. As I have already discussed that the petitioner No.1(a) is only the financial dependant of the deceased. So, as per the decision of the Hon'ble Supreme Court reported in 2012 ACJ 1298 in between Sarlaverma Vs. Delhi Transport Corporation Ltd., if sole dependant, 50% shall be deducted towards the personal and living expenses. In the case on hand, petitioner 1(a) is only the financial dependant of the deceased, so, 50% of the income of the deceased shall be deducted towards his personal expenses, on such deduction, the income of the deceased comes to Rs.58,800/-p.a.

36. The income of the deceased is taken as Rs.58,800/- p.a. and the multiplier 17 is applied, then the loss of dependency comes to Rs.9,99,600/-. Considering the above facts, I deem it just and reasonable to grant for compensation of Rs.9.99,600/- under the head of loss of dependency.

37. At this juncture I relied the judgment of the Hon'ble Supreme Court in Civil Appeal No.9581/2018 (Arising out of SLP (Civil) No.3192/2018) in case of Muama General Insurance Co.Ltd., Vs. Nanu Ram alias Chuhru Ram and Others.



In which it is held in para No.8.7 that " A Constitution Bench of this Court in Pranay Sethi (supra) dealt with the various heads under which the compensation it so be awarded in a death case. One of these heads is "Loss of Consortium":

In legal parlance "consortium" is a compendious term which encompasses 'spousal consortium; parental consortium and filial consortium.

The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

Spousal consortium is generally defined as rights pertaining to the relationship of a husband -wife which allows compensation to the surviving

spouse for loss of "company, society, co- operation, affection and aid of the other in every conjugal relation."

Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training."

Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their oral in the family unit.

Consortium is a special prism reflection changing norms about the status and worth of actual relationship. Modern jurisdictions world-over have recognized that the value of child's consortium far exceeds the economic value of the compensation awarded in case of death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensating for loss of love, affection, care and companionship of the deceased child.

38. In the instant case, petitioner No.1(a) is the father of the deceased is entitled for filial consortium, Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their oral in the family unit. Therefore, Rs.40,000/- is awarded to the petitioner Nos.1.

39. Further the petitioner No.1(a) is the father of deceased, he is entitled for compensation of Rs.15,000/- under the head of loss of estate and also an amount of Rs.15,000/- is awarded under

the head of transportation of dead body, funeral and obsequies ceremony expenses.

40. PW1 has stated in her evidence that after the accident deceased was shifted to S.S. Institute of Medical Science and Research, Davanagere, wherein he was treated as inpatient for one day and then shifted him to Manipal Hospital, Bengaluru and admitted as inpatient and then shifted to Manipal Hospital, Bengaluru and admitted as inpatient and underwent operations and again shifted to Victoria hospital and admitted to ICU on 28.11.2018. After the prolonged treatment he was shifted to Florance Old Age Home and Medical Services for further management of fractures and treatment, but Kiran was succumbed to the injuries on 14.8.2017. The petitioners have spent Rs.2,81,672/-. They have produced the medical bills marked at Ex.P20. The respondent has disputed the medical bills pertains to the treatment taken by the Kiran. But has not placed sufficient materials to show that the medical bills produced by the petitioner are not relating to the treatment taken by the deceased. Therefore, it is just and proper to award compensation of Rs.2,81,672/- to the petitioners towards medical expenses.

41. Considering the above facts and circumstances of the case and for the above reason, I am of the opinion that, the petitioners are entitled for total compensation under the following heads.

Compensation heads	Compensation amount
Towards loss of dependency	Rs. 9,99,600-00
Towards loss of consortium	Rs. 40,000-00
Towards loss of estate	Rs. 15,000-00

Towards transportation of dead Rs. 15,000-00 body, funeral & obsequies ceremony expenses  
Medical expenses Rs.2,81,672-00 Total Rs.13,51,272-00

42. LIABILITY: On perusal of the contents of petition and contents of written statement, it reveals that, the accident occurred due to the rash and negligent driving of the driver of the car bearing registration No.KA-01-AF-8015.

43. The counsel for the respondent No.2 in his argument has argued that the insured vehicle is a commercial vehicle (motor cab) meant for hiring by the general public but what makes this case a peculiar case is that this vehicle was being used by the employee of the insured M/s Voler Cars Pvt. Ltd., during the course of his official duties on the date of accident. In such an event where deceased was traveling in insured vehicle as an employee (other than driver, conductor or cleaner), the liability would be governed by the Indian Motor Tariff (IMT) and terms and conditions of the policy obtained by the insured from the insurer. To substantiate the said fact the respondent No.2 has examined RW1, who has reiterated the similar facts as stated in the written statement. He has produced authorization letter, policy with terms and conditions, driving license extract and unserved RPAD cover.

44. Further the counsel for the respondent No.2 has relied the IMT Chart on S. 7, 22, 36 and 44 of the Act.

45. On perusal of policy Ex.R2 policy the limits of liability of the policy as under;

"Limit of the amount the Company's Liability Under Section II 1(i) in respect of any one accident; as per the Motor Vehicles Act, 1988, Limit of the amount of the Company's Liability Under Section II 1(ii) in respect of any one claim or series of claims arising out one event : Upto Rs.7,50,000/-".

46. On going through the said policy, it is clear that, the said policy does confine any particular person, it clearly mentioned 'in respect of any one claim arising out of one event: Upto Rs.7,50,000/-. So, the TMT chart produced by the respondent No.2 is not aptly applicable to the facts of this case on hand. Therefore, the insurance company liability limited upto Rs.7,50,000/-.

47. Further the counsel for the respondent No.2 has argued that the driver of the car had no valid and effective driving license at the time of accident the owner of the car has entrusted his vehicle to the person who had no valid and effective driving license at the time of accident. As per Ex.R3 driving license extract the driver had driving license to drive LMV Non-Transport.

48. At this juncture this court has drawn the attention of the decision of the Hon'ble Supreme Court reported in 2017 ACJ 2011 in between Mukund Dewangan Vs. Oriental Insurance Co.Ltd., which reads thus;

Motor Vehicles Act, 1988, section 3 and 10(2) (d) ---Driving licence---Light motor vehicle---whether a person holding driving licence to drive 'light motor vehicle' is competent to drive transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7,500 kgs or a motor car or tractor or road roller, the unladen weight of which does not exceed 7,500 kg---Held yes, no separate endorsement on the licence is required to drive a transport vehicle of light motor vehicle class; a licence issued under section 10(2) (d) continues to be valid after amendment vide Act 54 of 1994 in MV Act and in form 4 under rule 14 (1) of Central Motor vehicles Rules, 1989, w.e.f. 28.3.2001.

49. On perusal of the same, it is observed that a person holding driving licence to drive 'light motor vehicle' is competent to drive transport vehicle or omnibus, the gross vehicle weight of which does not exceed 7,500 kgs or a motor car or tractor or road roller, the unladen weight of which does not exceed 7,500 kg

50. In the instant case the Cubic capacity of the vehicle is 1498, which does not exceed 7,500 kg. Therefore, insurer cannot escape from its liability. The respondent No.2 has admitted about the issuance of the policy in respect of vehicle bearing No.KA-01-AF-8015. Therefore, respondent No.1 and 2 are jointly and severally liable to pay the compensation. In view of the valid insurance policy the respondent No.2 being the insurer is liable to pay Rs.7,50,000/- and remaining amount of Rs.6,01,272/- plus interest of fully awarded amount at 8% p.a. from the date of petition till its realization shall be paid by the respondent No.1 being the owner of the vehicle. Accordingly, I answer the issue No.2 in the partly affirmative.

51. ISSUE NO.3: In view of my findings on the above issues, I proceed to pass the following;

ORDER The claim petition filed by the petitioners U/S 166 of MV Act is hereby partly allowed with costs.

The petitioner No.1(a) is entitled for compensation of Rs.13,51,272/- with interest @ 8% P.A. from the date of petition till the date of deposit.

The respondents are jointly and severally liable to pay the compensation. In view of the valid insurance policy the respondent No.2 being the insurer is liable to pay Rs.7,50,000/- within two months from the date of this order, in case of default, he is liable to pay 8% interest from the date of 9.3.2020 till its realization. Further the respondent No.1 being the owner of the vehicle is liable to pay Rs.6,01,272/- plus interest of fully awarded amount of Rs.13,51,272/- at 8% p.a. from the date of petition till its realization within two months from the date of this order.

With regard to the compensation amount together with interest of the petitioner No.1(a), 40% of the amount shall be deposited in any nationalized or scheduled bank for a period of three years and 60% of the amount shall be released to the petitioner through account payee cheque on proper identification without any further proceedings. The petitioner is at liberty to withdraw the periodical interest accrued on her deposit amount from time to time.

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

Draw award accordingly.

(Dictated to the stenographer online, corrected by me and then pronounced in the open court on this 8th day of January 2020) (MAHANTESH S.DARGAD) C/C XIX ADDL. SMALL CAUSES JUDGE & ACMM BENGALURU.

ANNEXURE List of witnesses examined on petitioner's side:

PW1	Shri Gangadhara Swamy M.R.
PW2	Smt.Padma T.
PW3	Smt.S.Lakshmi Devi
PW4	Shri Venkatesh

List of documents exhibited on petitioner's side:

Ex-P1	FIR
Ex-P2	Complaint
Ex-P3	Charge sheet
Ex-P4	Spot mahazar
Ex-P5	Sketch
Ex-P6	IMV report
Ex-P7	Further statement of complainant
Ex-P8	Death summary
Ex-P9	Inquest
Ex.P10	PM report

Ex.P11	Death certificate
Ex.P12	Discharge summary
Ex.P13	Discharge summary
Ex.P14	Discharge Summary
Ex.P15	OPD BOOK
Ex.P16	CT Scan and brain report
Ex.P17	Aadhar card

Ex.P18	DRIVING LICENSE Extract
Ex.P19	Aadhar card
Ex.P20	Medical bills
Ex.P21	Advance receipts
Ex.P22	Prescriptions
Ex.P23	Authorization letter
Ex.P24	MLC Extract
Ex.P25	Case sheet
Ex.P26	Authorization letter
Ex.P27	MLC extract
Ex.P28	Case sheet
Ex.P29	Authorization letter

Ex.P29(a) Original authorization letter Ex.P30 Company identity card of PW4 Ex.P31 Provisional Offer letter Ex.P31(a) Original Provisional offer letter Ex.P32 Pay slips Ex.P32(a) Pay slips Ex.P33 Employment agreement with salary structure Ex.P33(a) Original employment agreement List of witnesses examined on respondents' side:

RW1 Shri Jayanth H.Y. List of documents exhibited on respondents' side:

Ex.R1 True copy of authorization letter Ex.R2 True copy of policy with terms and conditions Ex.R3 DRIVING LICENSE extract Ex.R4 Unserved RPAD cover C/C XIX ADDL.SMALL CAUSES JUDGE & ACMM,Bengaluru.