

KABG300001412022



**IN THE COURT OF SENIOR CIVIL JUDGE & ADDL.
MACT, BAILHONGAL**

Dated this the 20th Day of February 2025

PRESENT

Shri. Ravi Babu Chawan,
B.A.LL.B.(Spl.)
Senior Civil Judge and Addl. MACT.,
Bailhongal.

M.V.C. No.208/2022

Shri. Siddappa S/o Dundappa Kapsi,
Age: 31 years, Occ: Government Servant,
R/o: Mugalakod, Now at Bailhongal
Dist: Belagavi.

..... Petitioner

(By Shri. S.G.B., Advocate)

-Vs-

1) Shri. M D Umar S/o Usamansab,
Age: 38 years, Occ: Business,
R/o: No.1/7/209. Near Fruit Market,
Singar Bhag Bidar,
At: Bidar, Pin code-580401,
Dist: Bidar.

(Owner of Eicher Company MGV Vehicle

No.KA-38/A-1001)

2) The Divisional Manager,
New India Assurance Company Limited,
At: Belagavi, Tq: And Dist: Belagavi.

(Insurer of Eicher Company MGV Vehicle
No.KA-38/A-1001, policy No.71070031190100027478)

.....Respondents

(R1-Exparte)

(By Shri. G.B.S., Advocate for R2)

JUDGMENT

This petition is filed under Section 166 of the Motor Vehicle Act 1989, seeking compensation of Rs. 25,00,000/- against respondents for the injuries sustained by him due to road traffic accident caused by the driver of the truck bearing No.KA-38/A-1001.

2. The facts in brief stated in the petitioner are as under:

On 24-06-2020 at about 9.15 pm, the petitioner after completing Covid-19 Security duty was proceeding on his own Bajaj Company Motor cycle No.KA-23/EQ-5658 from his work place Yaragatti to his Head Quarter Murgod Police Station, Murgod, on extreme left side of Belagavi-Bagalkot road, near land of Nagappa S/o Bharmappa Koppad in moderate speed

and also observing the traffic rules and regulations. At that time the driver of the one Eicher Company MGW Truck vehicle bearing No.KA38/A-1001 drove it in rash and negligent manner with great speed and with endangering to human life and property and also personal safety of others and without controlling his vehicle and its speed, without observing road conditions i.e., road ahead left side coming petitioner's vehicle, and all of the sudden lost the control of his vehicle, drove on wrong side and dashed vehicle to the petitioner's vehicle. Due to the said impact the petitioner has sustained grievous injuries.

3. It is further stated by the petitioner that, immediately after the accident he was shifted to Community Health Center Yaragatti. He has further shifted to KLE's Dr. Prabhakar Kore Hospital Medical Research Center, Belagavi, wherein he was admitted as inpatient till 03-07-2020 for treatment. Upon examination, the doctors have found that the petitioner has sustained deformity over the right leg, comminuted displaced fracture of mid shaft of right tibia, displaced fracture of proximal shaft of fibula with one fracture fragment in the soft tissue Plane and Tear of posterior Cruciate ligament and conducted surgery on 30-06-2020, under SA inter-medullary Nail with

fixating screws done for right tibia. After treatment he was discharged and advised to take follow of treatment and operations for repair pf right teared Posterior Cruciate ligament and implant removal from right leg and he is under treatment now also. The petitioner has spent an amount of Rs.1,50,000/- towards medical expenses and he will be incurred further medical expenditure of Rs.1,50,000/- and Rs.10,000/- for regular follow of treatment etc.,

4. It is also stated that, prior to the accident petitioner was hale, healthy and energetic person and was aged 29 years at the time of the accident. He had BA Graduate, and he has been Government servant, serving in Karnataka Police Department as Civil Police Constable at Murgod Police station and earned Rs.32,420/- per month and maintaining his family. Due to the accidental injuries the petitioner has suffered permanent physical disability and he is unable to attend his department PSI examination and he has lost very opportunity of got promotion and increments forever as got other colleagues regularly and the petitioner has lost his physical strength and unable to do his routine work. Accident was due to rash and negligent driving if driver of the truck bearing KA-38/A-1001. The Murgod police have registered criminal case

against the driver of the offending vehicle for the offence punishable under Section 279 and 338 of IPC. The respondent No.1 is the owner of the said vehicle and respondent No.2 is the insurer of offending vehicle. Hence the respondents are jointly and severally liable to pay the compensation to the petitioner. The petitioner has sought for compensation of Rs. 25,00,000/- with interest at the rate of 18% per annum. Hence he has prayed to allow the petition.

5. In response to the notice, the respondent 2 insurance company has appeared through its counsel and filed its written statement. The respondent No.1 remained absent in spite of due service notice. Hence he has been placed ex-parte.

6. The facts in brief stated in the written statement of the respondent No.2 are as under;

The respondent No.2 has denied the allegations in the petition. It has stated that the insurance policy was in force at the time of accident. It has stated that the respondent No.1 the owner of the offending vehicle is not complied under section 134(c) and 156(6) of MV Act. It is further stated that petition bad for non-joinder

of necessary parties as the accident is between the two vehicles. Hence until the owner of Bajaj Company motorcycle bearing No.KA-23/EQ-5658 and its insurer are as respondent in the main petition case is not maintainable. It has denied the manner of accident stated in the petition. It has denied the expenses spent by the petitioner for treatment. It has denied permanent disability to the petitioner. It has stated that the petitioner he was drove his vehicle without observing the traffic rules and regulation with heavy speed and due to which he lost control over his vehicle and dashed to the oncoming vehicle and caused accident and sustained simple injuries on his fault. It has further stated that, the offending vehicle is flying on the public road without having effective fitness certificate and its permit and the driver of offending vehicle was not holding the valid and effective driving license. It has further stated that, if the court comes to conclusion that, the accident was due to the fault of the Eicher vehicle bearing No.KA-38/A-1001 hence, this respondent No.2 is not indemnifying the owner of the said vehicle. It is further stated that awarding the interest more than 6% per annum is not permissible as observed by Hon'ble High Court in a decision reported in KLJ 2002(4) 98. Hence, it has prayed to dismiss the petition.

7. Based on the pleadings of both the parties, my learned predecessor has framed the following:

ISSUES

1) Whether the petitioner proves that, he has sustained injuries in the road accident that occurred on 24-06-2020 at 9.15 pm., when he was proceeding as a rider on the motor cycle bearing registration No.KA-23/EQ-5658 on Belagavi Bagalkot road near land of Nagappa S/o Bharamappa Koppad within the limit of Budigoppa village/Murgod police station, due to the rash and negligent driving by the driver of the MGV Truck bearing Reg. No.KA-38/A-1001 ?

2) Whether the petitioner is entitled for compensation? If so, what would be the quantum? Who is liable to compensate ?

3) What Order ?

8. In order to prove the case, the petitioner himself has got examined as PW.1 and got marked documents as Ex.P1 to 26. The petitioner has also got examined a Doctor as PW.2 and P.W2 has got marked his signature on disability certificate as Ex.P13(a). Per contra, the respondent No.2 has not let any evidence on its behalf, but he has got marked Ex.R1 Insurance policy with consent of the counsel for petitioner.

9. Heard arguments of learned counsel for petitioner and learned counsel for respondent No.2. I have perused the pleadings, evidence and materials available on record.

10. My findings on the above issues are as under:-

Issue No.1	In the Affirmative
Issue No.2	In the Affirmative as observed
Issue No.3	As per final order for the reasons that follow

REASONS

11. **Issue No.1:-** The petitioner has stated that the accident was due to rash and negligent driving of the driver of offending vehicle namely Eicher company MGW truck bearing Regn. No. KA38/A-1001. It is further contention of the petitioner that, driver of the said offending vehicle drove it in rash and negligent manner and dashed the petitioner who was proceeding on his own Bajaj Company Motor cycle No.KA-23/EQ-5658 from his work place Yaragatti to his Head Quarter Murgod Police Station, Murgod, on extreme left side of Belagavi-Bagalkot road near land of Nagappa S/o Bharmappa Koppad. It is further contention of the petitioner that he has sustained grievous injuries due to the said accident. It is the further contention of the

petitioner that, the Murgod police have registered the criminal case against the driver of the said offending vehicle Eicher company MGV truck bearing Regn. No. KA38/A-1001 for the offences punishable under Section 279 and 338 of IPC.

12. On the other hand, the respondent No.2 insurance company has denied the manner of accident and the nature of injuries sustained by the petitioner in a road traffic accident.

13. In view of above rival contentions, it is worthwhile to refer the following decisions;

(i) In the case between ***Kusum and others V/s Satbir and others*** reported in ***(2011) SCC 646***, the Hon'ble Apex Court has held that, in a case relating to motor Accident Claims, the claimants are not required to prove the case as needs required to be done in criminal trial.

(ii) In the case of ***Parameshwari Vs Amir Chand and others*** reported in ***(2011) SCC 635***, the Hon'ble Supreme Court has held that, a road accident claims the strict principles of proof in a criminal case not required.

(iii) In the case between ***Bimla Devi and others Vs. Himachal Road Transport Corporation and others*** reported in ***(2009) 13 SCC 513***, the Apex Court has held that the claimants were merely to establish their case on touch stone of preponderance of probability and that standard of proof on beyond reasonable doubt could not have been applied.

(iv) In case between ***Ducina Fernades and others Vs. Joquim Xavier Cruz and another*** reported in ***(2013) 10 SCC 6***, the Apex court has has that, *"It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pickup van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probability and certainly not on the basis of proof beyond reasonable doubt"*.

(v) In the case of ***Anita Sharma and others Vs. The New India Assurance Co. Ltd. and another*** ruling reported in (2021)1 SCC 171, the Hon'ble Supreme Court has observed as follows:

"Equally we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in

MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim case ought not to be to find fault with non-examination of some best eye witnesses, as may happen in criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more like that not true"

(vi) In **Gurdeep Singh Vs. Bhim Singh's case** reported in **(2013)11 SCC 507**, the Hon'ble Apex Court has held that, in the motor accident claims, it is very difficult to get eye witnesses. It has further held that if, the eyewitnesses are available, they are not ready to come and depose in court of law for many reasons and thus, courts have to go by the oath of claimants only.

14. In order to prove his case, the petitioner has produced as many as 26 documents. They are marked as Ex.P1 to P26. Out of the said documents, Ex.P1 is FIR, Ex.P2 is the complaint, Ex.P3 is the wound certificate, Ex.P4 RC copy, Ex.P5 is the Permit, Ex.P6 is the insurance copy, Ex.P7 is DL, Ex.P8 is spot mahazar, Ex.P9 is the sketch of spot, Ex.P10 is vehicle seizure panchanama, Ex.P11 is the IMV report, Ex.P12 is the charge sheet, Ex.P13 is the disability certificate,

Ex.P14 is the discharge summary, Ex.P15 is the medical bills, Ex.P16 prescriptions, Ex.P17 is the memo issued by SP Belagavi, Ex.P18 is the is the order copy of the SP Belagavi, Ex.P19 & P20 are the pay slips, Ex.P21 ID is copy of police ID card, Ex.P22 is the copy RC of petitioner's motorcycle bearing Regn. No.KA-23/EQ-5658, Ex.P23 is the copy of DL of petitioner, Ex.P24 is the copy of Adhar card of petitioner, Ex.P25 are the X-Rays and Ex.P26 are the entire IP case sheet records submitted by KLE hospital, Belagavi.

15. In Ex.P1, it is stated that the accident was due to rash and negligent driving of the driver of the offending truck. It is further stated that driver of the said offending vehicle was driving his vehicle in rash and negligent manner and dashed the petitioner who was proceeding on his above said motorcycle.

16. Ex.P2 which shows that, the complainant Sri. Hanamant Nagappa Koppad, who is the villager of petitioner has filed the complaint before the Murgod PS alleging about the accident that took place on 24.06.2020. The complaint was lodged same day. Hence there is no delay in filing the complaint.

17. Ex.P-1 FIR shows that on the basis of complaint the Murgod PS have registered the case under crime No.137/2020 for the offences punishable under section 279 and 338 of IPC against the accused Mr. Vidyasagar Shankarov Shanke who is the driver of Eicher 1110 vehicle No.KA-38/A-1001.

18. Ex.P12 is the certified copy of charge sheet which shows that after the investigation police have filed charge sheet in this case against the accused Mr. Mr. Vidyasagar Shankarao Shanke who is the driver of Eicher 1110 vehicle No.KA-38/A-1001 alleging the offenses under section 279 and 338 of I.P.C. Thus, above these police papers goes to show that the driver of offending Eicher 1110 vehicle No.KA-38/A-1001 accident has taken place due to rash and negligent driving of offending vehicle by its driver.

19. The manner of accident is denied by the respondent No.2. In the cross-examination by the learned counsel for respondent No.2 PW.1 admitted that at the time of Covid he was discharging the duty at Yaragatti and around the villages of Yaragatti. He further admitted that he himself was riding his bike. He further admitted that the accident spot is Belagavi-Bagalkot State Highway. He stated that on the day of

accident the offending vehicle was proceeding from Belagavi to Yaragatti. He denied that the accident road is slop as such the offending vehicle was proceeding slowly.

20. The oral evidence of PW.1 coupled with the police documents Ex.P-1 to P-12 is sufficient to hold about the occurrence of the accident. The respondent No.2 has contended that the petitioner without observing the traffic rules and regulations he was drove his motorcycle with heavy speed due to which he lost control over vehicle and dashed to oncoming vehicle and causes simple injuries on his fault. But the respondent No.2 has not adduced reliable evidence to come to conclusion that the accident had taken place due rash and negligent driving of petitioner's vehicle. Hence bare statement and denial of the respondent No.2 before this Tribunal is not sufficient to hold that the accident in question had took place due own fault of petitioner.

21. The petitioner has produced the cogent evidence to show that, the driver of offending vehicle was driving it in rash and negligent manner and he has caused the accident to the petitioner. It is a settled principle of law that FIR is not a encyclopedia of any crime. The charge sheet has relevance in MVC cases

unless it is shown to be incorrect. Further, in the case on hand, the medical records would have the reference of RTA. There is no delay in admitting into the hospital. Furthermore, there is no delay in lodging the complaint.

22. Further in **Pushpavathi and others Vs Manjamma and another; 2011 (5) KCCR SN 610** it was held where insurer did not prove allegations made liability can be fixed on insurer. In this case also respondent No.1 is the owner of the offending vehicle and he has not challenged the complaint filed and has admitted involvement of his vehicle. He did not step into witness box.

23. Further nothing is brought out to hold that I.O has filed a false case only help the claimant. I.O is a public servant who is neither friend of the petitioner nor foe of the respondents. There is nothing to disbelieve police documents.

24. In a case of accident, it is not mandatory to prove the guilt of the accused beyond all reasonable doubts. For the purpose of claim petition mere proof of accident due to negligence is sufficient. The degree of proof is proof by preponderance of probabilities. In this

regard it is beneficial to rely on the decision reported in **2009 ACJ 287** in the case of **National insurance company Vs Pushpa Rama and others** wherein it was held that, the certified copy of the criminal court records such as FIR recovery memo and mechanical inspection of vehicle are documents of sufficient proof to reach the conclusion that the driver was negligent. Proceedings under Motor Vehicles Act are not akin to proceedings in a civil suit and hence strict rules of evidence are not required to be followed in this regard. Thus as per the ration laid down in the quoted ruling and on the basis of the police documents coupled with ocular evidence of PW.1 it is sufficient to answer that, the accident was due to rash and negligence of driver of offending vehicle.

25. Further more the charge sheet is not challenged. At this juncture, it is worth to refer the judgment rendered by Hon'ble High court of Karnataka reported in **2021(2) KCCR 1478** in the case between **National insurance Co. Ltd., by its Branch Manager Bellary Vs. Ningamma and others.**, wherein the Hon'ble High Court has held as follows:

" Motor vehicle Act, 1988 section 166, death due to accident, Insurance pleading that death did not occur due to accident, but due to lightening. The documents such as FIR, complaint and

spot panchanama showing that offending vehicle was involved and its driver had caused the accident. Insurer also not challenged the charge sheet filed against driver of offending vehicle. The plea of insurer not sustainable"

26. From the documentary and oral evidence, the petitioner has proved that the accident was due to rash and negligent driving of the driver of the offending truck. The petitioner has further proved that he has sustained grievous injuries due to the accident. Thus, this tribunal is of the considered opinion that, the accident was due to actionable negligence on part of the driver of offending Eicher 1110 vehicle bearing No.KA-38/A-1001 which resulted in petitioner sustaining the grievous injuries. Hence, I answer Issue No.1 in the affirmative.

27. **Issue No.2:-** In view of my findings to issue No.1, the petitioner is entitled for the compensation.

28. The next question would be, what is the reasonable and just compensation to which the Petitioner is entitled.

29. Before proceeding to discuss this issue, I feel it is correct to cite the law declared by the Hon'ble Apex Court in the decision reported in **2011 (1) SCC 343-** in

the case of ***Rajkumar v/s Ajay Kumar***, wherein, at ***para No.5*** of the judgment, the Hon'ble Apex Court has mentioned the heads under which the compensation is to be awarded in personnel injury cases. I reproduce the same here itself, for the convenient sake. The same reads as follows;

5.The heads under which compensation is awarded in personal injury cases are the following:

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

a. Loss of earnings during the period of treatment;

b. Loss of future earnings on account of permanent disability.

(iii) Future medical expenses. Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

30. Keeping in view the law declared in the

aforementioned decision, I have carefully perused the entire materials available on record. P.W-1 has stated in his evidence that, immediately after the accident, he was shifted to Community Health Center Yaragatti for treatment and then sifted to KLE's Dr. Prabhakar Kore Hospital Medical Research Center, Belagavi for treatment. He has spent more than Rs.1,50,000/- for his medical treatment. However, in spite of such treatment he could not regain his original strength and he has suffered from permanent disability. Further he has taken surgical treatment. He further deposed that, he is unable to do his work as earlier he was doing and due to which has affected on his occupation and income. P.W-1 further deposed that he was aged about 29 years at the time of accident. He is a BA Graduate he has been Government servant, serving in Karnataka Police Department, as Civil Police Constable at Murgod Police station and was earning Rs.32,420/- per month.

31. The petitioner in order to prove the injuries and also physical disability sustained by him he has examined a doctor namely Dr.Manjunath S Mudakanagoudar as P.W-2. He has got marked Ex.P-3 which is the wound certificate of the petitioner Mr. Siddappa Dundappa Kapasi, which shows that the petitioner was admitted to KLE's Hospital as inpatient

from 24-06-2020 to 03-07-2020 for sustaining deformity over right leg and further X-ray shows that the right leg AP/ LAT shows comminuted displaced fracture of mid shaft of right tibia, displaced fracture of proximal shaft of fibula with one fracture fragment in the soft tissue plane, tear of posterior cruciate ligament. The doctor opined that the injuries are grievous in nature.

32. Ex.P14 is the Discharge summary of KLE's Hospital Belagavi shows the petitioner was admitted as inpatient from 25-06-2020 to 03-07-2020 for sustaining right tibia proximal 1/3rd displaced and comminuted fracture and proximal fibular shaft fracture and partial tear of posterior cruciate ligament.

33. In the affidavit evidence of PW.1 Ex.P13 Physical disability certificate, Ex.P15 Medical bills, Ex.P16 Prescriptions, Ex.P17 Reminder, Ex.P18 Order copy, Ex.P19 and 20 are Pay slips, Ex.P21 Copy of ID card, Ex.P22 Copy of registration certificate, Ex.P23 Copy of Driving license, Ex.P24 copy of Adhar card, Ex.P25 X- ray films, Ex.P26 Entire case sheet of KLE Hospital are got marked.

34. PW-2 has deposed that soon after the accident on 24.06.2020 petitioner was admitted at KLE's

Prabhakar Kore Hospital and Medical Research Center Belagavi for treatment as inpatient till 03-07-2020. He further deposed that the petitioner had sustained RT Let: right tibia proximal 1/ 3rd displaced and comminuted fracture and proximal fibula shaft fracture, right knee: partial tear posterior cruciate ligment. He further deposed that he has taken surgical treatment on 26-06-2020 at KLE's Hospital, Belagavi, Under SA closed reduction and internal locking with titanium nail done for tibia, and also by medications and discharged on 03-07-2020.

35. PW.2 further deposed that on 29-08-2024 the petitioner had approached him for assessment of physical disability. He further deposed that there is malunited fracture right tibia proximal 1/3rd displaced and comminuted fracture and proximal fibular shaft fracture, with implant in situ.

36. PW.2 He further deposed that the petitioner having pain an swelling of right leg knee, patient complaints of pain and restriction movement of right lower limbs, difficulty in standing, walking on up and down stairs an sloppy surface, difficulty in squatting, sitting cross legged, climbing and kneeling and difficulty to do routine and labour works. Further deposed that the petitioner requires future surgeries

for implant removals, its approximate cost of Rs.35,000/-.

37. PW.2 further deposed that, petitioner has permanent physical and intellectual disability amounting to 45% to the right lower limb. He has issued physical disability certificate as per Ex.P13.

38. In the cross-examination by the learned counsel for respondent No.2 PW.2 admitted that he is not a treated doctor of petitioner. He denied that as the petitioner is not having any physical disability, he has issued a false physical disability certificate.

39. PW.2 further stated that the on 29-08-2024 petitioner had approached him for assessment of disability certificate. He stated that he has issued physical disability certificate on verifying the medical records. He denied that he has not examined the petitioner. He stated that he has follows the guidelines of Central Government Gazette notification at the time of issuing disability. He denied that as the petitioner is not having any disability, he has issued physical disability of 45% to the petitioner. He denied that in order to help the petitioner he has issued physical disability certificate.

40. According to evidence on record there is

physical disability to the tune of 45% to the right lower limb. Petitioner has relied on Ex.P-13 physical disability certificate. Ex.P-13 clearly shows that there is a disability sustained by the petitioner to the tune of 45% to the right lower limb. However the doctor has not assessed the total permanent physical disability to the whole body.

41. In the case of **The New India Assurance Co Ltd vs Sri Yousurf Basha** reported in **ILR 2013 KAR 5544** the double bench of the Hon'ble High court of Karnataka has reiterated that where there is disability to particular part 1/3rd of it has to be taken as total bodily functional disability. As such applying the same yardstick in this case it has to be taken as 1/3rd of the physical disability of 45% which comes to 15% to the whole body functional disability.

42. The petitioner has claimed that, he has been Government servant, serving in Karnataka Police Department, as Civil Police Constable at Murgod and earning Rs.32,420/- per month. To prove his income he has produced Ex.P19 and P20 pay slip for the month of May-2020 and June 2020 which shows that the petitioner namely Siddappa Dundappa Kapasi was working as Police constable and he was drawing gross salary of Rs.33,420/- by deducting Rs.4,316/-, the net

salary comes to Rs.29,104/-. Ex.P17 is the memorandum dated 27-12-2021 issued by the Superintendent of Police, Belagavi shows that the salary drawn by the petitioner in the absent from his duties for the period from 13-10-2020 to 16-02-2021, total days 127, total sum of Rs.1,37,220/-, recovered through 20 monthly installments i.e., Rs.6861/- per month from his monthly salary. Ex.P18 is the Order passed by the Superintended police, Belagavi shows that the earned leaves sanctioned to the petitioner from 25-06-2020 to 17-09-2020 and vacation leave of 25 days were sanctioned from 18-09-2020 to 12-10-2020 and the absent leaves are 127 days from 13-10-2020 to 16-02-2021. From the above Ex.P17 and P18 it is clear that the petitioner was granted 127 extraordinary leaves without allowance. Hence the petitioner is entitled for Rs.1,37,220/- towards extraordinary leave without.

43. So far as age of the petitioner is concerned, in the present case, the petitioner averred that he was aged about 29 years as on the date of accident. To prove his age he has produced Ex.P21 ID Card issued by the Department of Karnataka Police. Ex.P21 shows that the date of birth of petitioner is 01-06-1991. It is not in dispute that the petitioner is working as Police

Constable till now and getting his monthly salary. Hence the question of loss of future income does not arise.

44. The record shows that the Petitioner has produced medical bills and they together are marked as Ex-P-15 along with the prescriptions Ex.P16. The Ex.P15 medical bills show that the petitioner has spent of Rs.39,725/- towards his medical expenditure. It is must be noted that during the course of cross-examination of PW.1, he has admits as follows;

“ ನಾನು ಈಗಲೂ ಸಹ ಕರ್ತವ್ಯದ ಮೇಲೆ ಇದ್ದೇನೆ ಎಂದರೆ ಸರಿ. ನಮ್ಮ ಪೊಲೀಸ್ ಇಲಾಖೆಯವರು ನನ್ನ ಆಸ್ಪತ್ರೆಯ ಖರ್ಚು ವೆಚ್ಚಗಳನ್ನು ಸಂಪೂರ್ಣ ಕೊಟ್ಟಿರುವುದಿಲ್ಲಾ ಅರ್ಧ ಕೊಟ್ಟಿರುತ್ತಾರೆ. ”

Thus as admission given by the PW.1 it is clear that the Police department has reimbursed part of medical bills. It must be noted that, the petitioner has not provide detail orders of his superior authority so as to his Department reimbursed only part of the medical expenditure. On above said admission of the petitioner goes to show that he has indirectly admitted that the police department reimbursed the medical bills. Hence itself suffice to hold that, medical expenses incurred by the petitioner reimbursed by the government as rules for reimbursing medical expenses for government

employee. Hence, the petitioner is not entitled for reimbursement of medical bills of Rs.39,725/-.

45. The petitioner has taken treatment as an inpatient at KLE's Hospital from 25-06-2020 to 03-07-2020 for 10 days days. As per Ex.P-14 Discharge summary of KLE's Hospital which shows that the petitioner was admitted as inpatient from 25.06.2020 to 03-07-2020 for sustaining right tibia proximal 1/3rd displaced and comminuted fracture and proximal fibular shaft fracture, partial tear of posterior cruciate ligament. Hence he could not have returned to his normal work immediately after taking treatment from the hospital. As discussed above loss of income of the petitioner during laid up period is assessed and deducted the salary of petitioner to the tune of Rs.1,37,220/-. As far as conveyance, nourishment and attendant charges is concerned, the petitioner was underwent for surgical treatment for fracture injuries sustained by him. Hence considering the nature of injuries, line of treatment, the expenses towards conveyance, nourishment and attendant charges a conservative sum of Rs.20,000/- may be awarded.

46. Petitioner was age of 29 years as on the date of accident. The petitioner is undergoing mental

trauma of the disability he is suffering. Hence the petitioner is entitled for compensation of Rs.30,000/- towards pain and sufferings and Rs.25,000/- towards loss of amenities.

47. In view of the above discussion, the petitioner is entitled for just and reasonable compensation as under:

Sl. No	Head of compensation	Amount in Rs
1	Loss of income during laid up period	1,37,220/-
2	Pain and suffering	30,000/-
3	Loss of happiness and amenities	25,000/-
4	Food attendants charges and conveyance	20,000/-
	Total	2,12,220/-

48. Therefore, the petitioner is entitled for Rs.2,12,220/- (Rupees two lakhs twelve thousand two hundred and twenty only) as compensation.

49. So far as interest is concerned, the petitioner has claimed 18% interest. But having regard facts and circumstance of the case and following the decision render by the Hon'ble High court of Karnataka in the

case of **Chetana v. Babuji M** reported in **2021 ACJ 1146**, I am of opinion that it is just and proper to award interest at 6% p.a. on the compensation amount from the date of petition till its realization.

50. **Liability:-** Regarding fixation of liability is concerned this court has observed that, the respondent No.1 is the owner of Eicher Company MGV vehicle No.KA-38/A-1001 and respondent No.2 is the insurer of the said vehicle.

51. The charge sheet is filed in this case is against the accused Mr. Vidyasagar Shankarao Shanke who is the driver of Eicher vehicle No.KA-38/A-1001 alleging the offences under section 279 and 338 of I.P.C. Thus, the driver of Eicher vehicle No.KA-38/A-1001 was driving the vehicle in rash and negligence. There is no offences alleged under section 3 r/w sec. 181, 146 r/w sec. 196 of MV Act. Therefore, it is deemed that the driver of offending vehicle was holding valid DL and valid insurance policy to drive the vehicle. Apart from that respondent No.2 has not denied the fact that the offending vehicle was insured with the respondent No.2 insurance company. Therefore he admits that as on the date of accident the insurance policy was in force.

52. Respondent No.2 has produced Copy of insurance policy at Ex.R1 which stood in the name of petitioner No.1 Shri. M.D. Umar S/o M.D. Usman in respect of Eicher Vehicle No.KA-38/A-1001 and it is valid from 01.12.2019 to 30.11.2020. Therefore as on the date of accident the driving licence of driver of offending vehicle and its insurance policy was in force.

53. Petitioner has got marked Ex.P7 extract of driving license which stood in the name of driver of offending vehicle namely Mr. Vidyasagar and it is valid till 05-10-2026. The accident occurred on 24-06-2020. Therefore as on the date of the accident the driver of the offending vehicle has possessed the valid and effective drive license to drove the type of the vehicle. Therefore the respondent Nos.1 and 2 being the owner and insurer of offending vehicle are jointly and severally liable to compensate the petitioner. Hence, I answer issue No.2 partly in the affirmative.

54. **Issue No.3:-** In view of my findings on issue Nos.1 and 2, I proceed to pass the following:

ORDER

The petition filed by the petitioner, Under Section 166 of Motor Vehicles Act, is allowed in part with costs.

Petitioner is entitled for compensation of Rs.2,12,220/- (Rupees two lakhs twelve thousand two hundred and twenty only) as compensation together with interest at 6% per annum from the date of petition till realization.

Respondent No.1 and 2 are jointly and severally held liable to pay the compensation. However, the respondent No.2 shall deposit the compensation amount within 30 days from the date of this order.

On depositing the entire amount awarded along with occurred benefits, the petitioner is entitled to release entire amount.

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

Draw award accordingly.

(Dictated to the Stenographer direct on computer, computerized by him, revised and corrected and then pronounced in the open Court on this the 20th day of February, 2025)

(Ravi Babu Chawan)
Senior Civil Judge and Addl. MACT,
Bailhongal.

ANNEXURE

LIST OF WITNESSES EXAMINED BY THE PETITIONER:

PW 1: Sri. Siddappa Dundappa Kapsi

PW 2: Dr. Manjunath S Mudakanagoudar

LIST OF DOCUMENTS MARKED BY THE PETITIONER:

- Ex.P1: True copy of F.I.R.
- Ex.P2: True copy of Complaint.
- Ex.P3: True copy of wound certificate
- Ex.P4: True copy of RC
- Ex.P5: True copy of Permit card
- Ex.P6: True copy of Insurance policy
- Ex.P7: True copy of DL
- Ex.P8: True Copy of Crime details form
- Ex.P9: True copy of Hand sketch
- Ex.P10: True copy of Vehicle seizure Panchanama
- Ex.P11: True copy of IMV Report
- Ex.P12: True copy of Charge sheet
- Ex.P13: Physical disability certificate
- Ex.P14: Discharge summary of hospital
- Ex.P15: Medical bills
- Ex.P16: Prescriptions
- Ex.P17: Copy of Memorandum
- Ex.P18: Order Copy
- Ex.P19 & 20: Pay slips
- Ex.P21: Copy of ID card of department
- Ex.P22: Copy of RC
- Ex.P23: Copy of Driving license
- Ex.P24: Copy of Adhar card
- Ex.P25: X-Ray films
- Ex.P26: Entire records of KLE Hospital

III) LIST OF WITNESSES EXAMINED BY THE RESPONDENTS:

- Nil -

IV) LIST OF DOCUMENTS MARKED BY THE RESPONDENTS:

- Ex.R1: Copy of Insurance policy

(Ravi Babu Chawan)

**Senior Civil Judge and Addl. MACT,
Bailhongal.**