

KABC020090782009



**BEFORE THE CHIEF JUDGE, COURT OF SMALL
CAUSES &, MEMBER PRL.MOTOR ACCIDENT
CLAIMS TRIBUNAL AT BENGALURU
(S.C.C.H. - 1)**

Dated this the 10th day of August, 2026

PRESENT:

*Smt. Vineetha P.Shetty,
B.Sc., M.A. (Sanskrit)(English), LL.M.,
Chief Judge,
Member, Prl. M.A.C.T., Bengaluru.*

M.V.C. No.9254/2009

Petitioner: Mr.Krishnamurthy,
S/o.Hanume Gowda,
Aged 26 years,
R/a. No.84, Anjananagar,
4th Cross, Magadi Main Road,
Bengaluru - 560 091.

(By Smt. Gayathri R., Adv.)

-Vs-

Respondents: 1. HDFC ERGO General
Insurance Co. Ltd.,
No.14, H.M.Genewa House,
1st Floor, Cunninghyam Road,
Bangalore-560 052.

(By Sri.K.Prakash, Adv.)

2. Siddesh,
S/o.Kempanna,
Kadusonnappanahalli,
Kannuru Post,
Bengaluru-562 149.

(By Sri C.Rajanna, Advocate)

JUDGMENT

This claim petition is filed by the petitioner under Section 166 of the Motor Vehicles Act, 1989 claiming compensation of Rs.15,00,000/- along with interest from the respondents on account of the injuries sustained by him in a road traffic accident.

2. The case of the petitioner is as follows:

That on 13.10.2009 at about 2.00 p.m. the petitioner was proceeding on Bande Hosur Petrol Bunk road in his Motorcycle No.CKO-8533 from Tavakal Mosque towards his residence situated at Anjananagar. At that time, the driver of a Tractor and Trailer No.KA-04-T-568 and KA-04-T-569 arrived there in front of Bande Hosur Petrol Bunk, driving the same with a high speed and in a rash and negligent manner and dashed against the petitioner's Motorcycle. Due to the impact, petitioner fell off and sustained grievous injuries. He took treatment at Shushrusha Nursing Home, Bangalore and later at Manasa Hospital, Bangalore. He

spent Rs.80,000/- towards medical and nourishment expenses. He was working as Mason and earning Rs.20,000/- p.m.

3. The Respondent No.1-HDFC ERGO General Insurance Company entered appearance through its counsel and filed Written Statement admitting the insurance policy in respect of Tractor and Trailor No.KA-04-T-568 and KA-04-T-569. Inter-alia it is contended that the driver of the insured vehicle had no valid and effective Driving License to drive the Tractor and Trailor No.KA-04-T-568 and KA-04-T-569 and thereby violated the terms and conditions of the policy. It is also contended that the petitioner was riding his Motorcycle with a high speed and in a rash and negligent manner, without possessing a Driving Licence and dashed against the insured vehicle. Further the avocation, income, age of the Petitioner, alleged accident, injuries suffered, and the amount spent by the Petitioner towards medical expenses are all denied by the Respondent No.1.

4. Despite service of the notice, Respondent No.2, the owner of the Tractor and Trailor No.KA-04-T-568 and KA-04-T-569 remained absent and hence he was placed ex-parte.

5. On the basis of the above pleadings, my learned predecessor-in-office framed the following Issues:

1. Whether the petitioner proves that he sustained injuries in a motor vehicle accident that occurred on 13.10.2009 at about 2.00 p.m on Bande Hosur Petrol bunk road in front of Bande Hosur Petrol bunk, on account of rash and negligent driving of the Tractor-Trailer bearing registration No. KA-04-T-568?
2. Whether the Insurer proves that driver of the vehicle bearing registration No. KA-04-T-568 was not holding valid and effective Driving Licence as on the date of the accident?
3. Whether the petitioner is entitled for compensation? If so, how much and from whom?
4. What order?

6. The Petitioner examined himself as PW-1 and two witnesses as PW.2 and P.W.3 and Ex.P.1 to P.11 are tendered during evidence on Petitioner's side. Respondent No.1, Insurance Company examined its Assistant Manager Legal as RW.1 and one witness as RW.2. Ex.R.1 and R.2 are tendered during evidence on Respondent No.1's side.

7. After hearing the arguments on both sides, the then learned Predecessor-in-office has passed the Judgment on 16.03.2012 and allowed the petition filed by the Petitioner in part, holding that the Petitioner was entitled for compensation of Rs.2,03,224/- from the Respondent No.2 with interest at the rate of 6% p.a. from the date of petition till realization.

8. Respondent No.2-Siddesh filed Miscellaneous Petition No.67/2021 on 29.09.2021 under Order IX Rule 13 of Civil Procedure Code seeking to set aside the Judgment and Award dated 16.03.2012.

9. Claimant and the Respondent No.1 contested the said Miscellaneous Petition. After hearing both sides, the said Misc.No.67/2021 came to be allowed on 17.02.2025, wherein the Judgment and Award dated 16.03.2012 was recalled directing the Petitioner, the Respondent No.1 and the Respondent No.2 to appear before the Tribunal on 24.03.2023.

10. Accordingly this case was restored by the then learned Predecessor in office on 24.03.2023. As per the contentions taken in the Miscellaneous Petition, the matter was posted for filing of the Written Statement of Respondent No.2-Siddesh.

11. Respondent No.2 – Siddesh appeared through his counsel and filed his Written Statement denying the

petition averments and contended that he was neither the driver nor the owner of the Tractor No.KA-04-T-568 and Trailer No.KA-04-T-569 at the relevant time. It is stated by the said Respondent that one Bachegowda son of Bachenna was the owner of the said Tractor and Tractor. Further, though no accident had occurred on the alleged date and place, the petitioner by colluding with some other persons, lodged a false complaint against the driver of the Tractor and Trailer for illegal gain.

12. After restoration of the case, the said Respondent No.2-Siddesh got examined himself as R.W.3 and tendered Ex.R.3 and Ex.R.4 during his evidence. One witness was secured by issuing Court notice and examined as C.W.1. Ex.C.1 to C.3 are marked during his evidence.

13. Heard the arguments of the learned counsel for the Respondent No.2. The learned counsel for the Petitioner and the Respondent No.1 remained absent. Hence, arguments on Petitioner side and Respondent No.1's side could not be heard.

14. My findings on the above issues are as under:
Issue No.1 In the Affirmative.
Issue No.2 In the Affirmative.
Issue No.3 Partly in Affirmative, holding that

the Petitioner is entitled for compensation amount of Rs.3,00,000/- from the Respondent No.1 and 2.

Issue No.4 As per the final order for the following:-

REASONS

15. **Issue No.1:** Prior to the filing of Miscellaneous Petition, P.W.1 in this case has filed affidavit in lieu of examination-in-chief, wherein he has sworn in consonance with the petition averments that on 13.10.2009 at about 2.00 p.m. when the petitioner was proceeding on Bande Hosur Petrol Bunk road in his Motorcycle No.CKO-8533 from Tavakal Mosque towards his residence situated at Anjananagar, in front of Bande Hosur Petrol Bunk, the driver of a Tractor and Trailer No.KA-04-T-568 and KA-04-T-569 drove the same with a high speed and in a rash and negligent manner and dashed against the petitioner's Motorcycle. Due to the impact, petitioner fell off and sustained grievous injuries.

16. PW.1 relied upon the documents Ex.P.1-Copy of First Information Report with complaint, Ex.P.2-Copy of Charge Sheet, Ex.P.3-Copy of Sketch, Ex.P.4-Copy of Spot Mahazar, Ex.P.5-Wound Certificate. Ex.P.1-FIR with complaint would show

that a case has been registered against the driver of the Tractor No.KA-04-T-568 and Trailer No.KA-04-T-569, for the offences punishable under Sections 279, 337 of IPC and Section 187 of M.V.Act. After completion of investigation, the concerned Chikkajala police filed Ex.P.2-Charge Sheet against the said driver namely Venkatesh for the offences punishable U/Sec.279 and 338 of IPC. However, P.W.1 has not submitted himself for cross-examination on behalf of the Respondent No.2 after restoration of the case.

17. Respondent No.1 examined it's Assistant Manager-Legal as R.W.1 and one Sudheendra the RTO attached to Indira Nagar RTO Office as R.W.2 prior to the filing of the Miscellaneous petition. Neither the accident nor the rash and negligent driving on the part of the driver of the Tractor No.KA-04-T-568 and Trailer No.KA-04-T-569 has been disputed during their evidence. Moreover, none of them are the eyewitnesses to the accident.

18. In the affidavit filed by the Respondent No.2-Siddesh in lieu of examination-in-chief, he has sworn that he is neither the driver nor the owner of the Tractor No.KA-04-T-568 and Trailer No.KA-04-T-569. It is also sworn by the said Respondent as R.W.3 that one Bachegowda son of Bachenna was the owner of

the said Tractor and Trailer. R.W.3 has further sworn that though no accident had occurred on the alleged date and place, the petitioner by colluding with some other persons, lodged a false complaint against the driver of the Tractor and Trailer for illegal gain. R.W.3 has referred to 'B' Register extract of Tractor No.KA-04-T-568 at Ex.R.3 and 'B' Register extract of Trailer No.KA-04-T-569 at Ex.R.4. R.W.3 was not cross examined by the other side.

19. Thus, it is seen that though R.W.3 has disputed the accident, he has not placed any independent contra evidence to disbelieve the accident. There is absolutely no cogent evidence placed by him to ignore the documents i.e. the FIR at Ex.P.1 and the Charge Sheet at Ex.P.2. In the Charge Sheet at Ex.P.2, Respondent No.2-Siddesh has been shown as witness No.3. However, in his affidavit filed in this case he has not clarified as to why he has been shown as a witness in the said case. Though the name of the driver is mentioned in the Charge Sheet, the said driver-Venkatesh is also not summoned by the Respondent No.2 to elicit from the said driver, as to who was the owner of the Tractor at the relevant time and who had entrusted the said Tractor to him.

20. Learned counsel for the Respondent No.2 argued that Petitioner has not subjected himself for cross-examination on behalf of the Respondent No.2-owner and therefore, the case of the Petitioner cannot be believed. It is needless to mention that though P.W.1 was not subjected to cross-examination on behalf of the Respondent No.2, the entire evidence of P.W.1 cannot be discarded for the simple reason that P.W.1 has already subjected himself for cross-examination on behalf of the Respondent No.1. Such being the case, it was incumbent upon the Respondent No.2 to place cogent material evidence to dispute the documents marked during the evidence of P.W.1. But, he has not made any such attempt to disbelieve the documentary evidence placed by P.W.1. Hence, I hold that the Petitioner has established the accident and also the rash and negligent driving on the part of the driver of the Tractor No.KA-04-T-568 and Trailer No.KA-04-T-569. Ex.P.5 – Copy of Wound Certificate shows that the Petitioner sustained injuries in the accident. Therefore, I answer **Issue No.1** in the **Affirmative**.

21. **Issue No.2:** Respondent No.1, the Insurance Company has taken up a contention that the driver of vehicle No.KA-04-T-568 was not holding a valid and an effective Driving Licence as on the date of the accident.

R.W.1 has sworn that as per the D.L. extract, the driver was authorized to drive Motorcycle with gear, LMV-NT-CAR, Transport vehicle MHMV (Rigid Chassis) Goods, LMV-Transport-PSV-Cab, valid from 25.03.1997 to 24.03.2017 for the vehicle other than transport and valid from 25.03.1999 to 01.02.2002 for transport vehicle. The insured vehicle is a Tractor-Trailer. Therefore, the Respondent No.2 has knowingly entrusted the said vehicle to the driver, who did not have a valid and effective Driving Licence as on the date of accident. In support of his evidence, R.W.1 has produced Ex.R.1 – History Sheet for Drivers. During cross-examination on behalf of the Petitioner, R.W.1 denied the suggestion that the driver-Venkatesh was not disqualified from obtaining a valid Driving Licence. R.W.1 deposed that the Tractor-Trailer has been separately classified and in order to drive the same, a specific endorsement made by the RTO on the license, is required.

22. R.W.2-V.Sudheendra, the RTO attached to RTO East, Indiranagar has deposed that Ex.R.1-D.L.extract has been issued from their office and that as per Ex.R.1 the driver was not authorized to drive the Tractor and Trailer. During cross-examination on behalf of the Petitioner, R.W.2 admitted that as per Ex.R.1 the person shown therein is not debarred or

disqualified from holding a driving license and there are chances of him obtaining another category of license. R.W.3-Siddesh has not stated anything about the driver of the Tractor and Trailer and he has only disputed the ownership of the said vehicle.

23. In Ex.R.1-History Sheet for Drivers, it is clearly mentioned that the driver-Venkatesh K. was authorized to drive Motorcycle with gear, LMV-NT-CAR, Transport vehicle MHMV (Rigid Chassis) Goods, LMV-Transport-PSV-Cab, valid from 25.03.1997 to 24.03.2017 for the vehicle other than transport and valid from 25.03.1999 to 01.02.2002 for transport vehicle. The accident had occurred on 13.10.2009. It is also seen that the license granted to him as per Ex.R.1 has not been renewed by him after 01.02.2002. Therefore, it is clear that as on the date of the accident, the said driver was not having a valid Driving License to drive the Tractor and Trailer. Therefore, I answer **Issue No.2** in the **Affirmative**.

24. **Issue No.3:** PW-2 - the Administrative Assistant at Shushrusha Nursing Home, Bengaluru has produced Inpatient Record at Ex.P.9. PW-3 - Dr.S.Ramachandra, Orthopedic Surgeon at Bowring and Lady Curzon Hospital, Bengaluru, has stated that the Petitioner has sustained injuries as mentioned in

the Discharge Summary. During the evidence of PW.3, the documents i.e., Outpatient Record at Ex.P.10 and X-ray film at Ex.P.11 are marked.

25. Ex.P.5 is the Wound Certificate and Ex.P.6 is the Discharge Summary issued by Shushrusha Nursing Home, Yelahanka, Bengaluru. The said documents disclose that the Petitioner sustained fracture of both bones of left leg, lower one third with pin point wound and it is mentioned as grievous injury. Therefore, considering the nature of the injury, I am of the considered view that the Petitioner is entitled for a reasonable compensation of Rs.60,000/- towards pain and sufferings.

26. The Petitioner has stated that he has spent more than Rs.80,000/- towards medical expenses. He has produced 19 medical bills as per Ex.P.8 for Rs.56,624/-. During cross-examination, the Petitioner denied the suggestion that he had not spent Rs.80,000/- for his medical treatment. By considering the nature of the injuries sustained by the Petitioner and the type of treatment undergone by him and the period of hospitalisation, I am of the considered view that the Petitioner is entitled for Rs.56,624/- towards medical expenses.

27. Petitioner has stated that he was working as a Mason and earning Rs.20,000/- p.m., but he has not produced any material evidence in this regard. Hence, his oral testimony touching his income cannot be relied upon to calculate the compensation. A table has been published by the Karnataka State Legal Services Authority, Bengaluru fixing notional income to enable the Courts to decide the compensation to be paid in Motor Vehicles Accident cases. Ex.P.6-Discharge Summary shows that the age of the petitioner is 24 years. Further, in Ex.P.5 – Copy of Wound Certificate also, the age of the Petitioner is mentioned as 24 years. Therefore, considering the age of the Petitioner and the oral evidence of PW-1 coupled with documentary evidence, I am of the considered view that a notional income of Rs.5,000/- can be taken into consideration as income of the Petitioner per month for calculating the loss of income, as the accident is of the year 2009.

28. The Petitioner was hospitalized for a period of 4 days from 13.10.2009 to 16.10.2009 as per the Discharge Summary at Ex.P.6. Considering the nature of injuries sustained and the said period of hospitalization, this court finds that the Petitioner might not have attended any other work at least for a minimum period of three months. Therefore, for three

months, the compensation under the head of 'Loss of income during laid up period' has to be awarded and same comes to Rs.15,000/- (Rs.5,000/- X 3 months).

29. PW-3 – Dr.S.Ramachandra, Orthopedic Surgeon, Bowring and Lady Curzon Hospital, Bengaluru has stated that the Petitioner has suffered disability for left lower limb at 30.2% and to the whole body at 15%. In view of the evidence of the Medical Officer, coupled with medical documents, I am of the considered view that the Petitioner has suffered disability of 10%. As already stated, the age of the Petitioner was 24 years at the time of the accident and the proper multiplier applicable to the said age is '18'. Therefore, the loss of future earning capacity due to disability is assessed as Rs.5,000/- X 12 X 18 X 10% = Rs.1,08,000/-.

30. Further, this Court finds it reasonable to award Rs.10,000/- under the head 'Loss of amenities' and Rs.10,000/- under the head 'Food, nourishment and attendant charges' and Rs.5,000/- under the head 'Conveyance'. In the circumstances, I opine that the Petitioner is entitled for compensation under the following heads:-

<u>Sl.No.</u>	<u>Compensation Head</u>	<u>Compensation Amount</u>
1.	Pain and suffering	Rs. 60,000/-
2.	Medical expenses	Rs. 56,624/-
3.	Loss of income during laid up period	Rs. 15,000/-
4.	Loss of future earning capacity due to disability	Rs. 1,08,000/-
5.	Loss of amenities	Rs. 25,000/-
6.	Food, nourishment and attendant charges	Rs. 25,000/-
7.	Conveyance	Rs. 10,000/-
	Total	Rs. 2,99,624/-
	Which is rounded off to	Rs. 3,00,000/-

31. Thus on appreciation of entire evidence on record, I am of the considered view that the Petitioner has established that he had sustained injuries in the road traffic accident occurred on 13.10.2009 at 2.00 p.m., on Bande Hosur Petrol Bunk road, in front of Bande Hosur Petrol Bunk, due to rash and negligent driving of the Tractor and Trailer No.KA-04-T-568 and KA-04-T-569. Hence, the Petitioner is entitled for the compensation in respect of the injuries sustained by him as calculated above.

32. In para No.2 of the Written Statement Respondent No.1, the Insurance Company has admitted that the Tractor and Trailer No.KA-04-T-568 and KA-04-T-569 had been insured with it at the time of the accident. Ex.R.2-Copy of Insurance Policy reveals that the same was valid for the period from 10.10.2009 to 09.10.2010. The accident had occurred on 13.10.2009. Hence the policy was in force as on the date of the accident.

33. R.W.3, the Respondent No.2 has contended that the petitioner by colluding with some other persons had lodged a false complaint against the driver of the Tractor and Trailer for illegal gain; that one Bachegowda son of Bachenna is the owner of the said Tractor and Trailer. R.W.3 produced 'B' Register extracts pertaining to vehicle No.KA-04-T-0568 and KA-04-T-0569 at Ex.R.3 and Ex.R.4. On perusal of Ex.R.3 and R.4, they reveal that at the time of registration i.e. on 21.11.1996, one Bache Gowda was the owner.

34. In response to the Court notice ordered on 19.08.2025, Dilip Kumar, working as FDA in Yeshwanthpura Regional Transport Office appeared as Court witness No.1. He has produced Ex.C.1- 'B' Register extract along with Authorization Letter as per

Ex.C.2 and an Endorsement dated 13.09.2007 as per Ex.C.3. On perusal of Ex.C.3, it is seen that the vehicle Tractor and Tractor No.KA-04-T-568; KA-04-T-569 has been sold to R.W.3-Siddesh and the tax was paid by him for life time; he did not have a license and the vehicle is free from installment agreement. Moreover, the Ex.R.2-Insurance Policy clearly indicates that the name of the insured is Siddesh. Therefore, it can be safely held that as on the date of the accident, Respondent No.2-Siddesh was the owner of the Tractor No.KA-04-T-0568 and the Trailer No.KA-04-T-0569.

35. Learned counsel for the Respondent No.2 argued that the Respondent No.2-owner has not been cross-examined on behalf of the Petitioner and hence, evidence of R.W.3 that he is not the owner of the Tractor has to be accepted. Merely because Respondent No.2 was not cross-examined, this Court cannot arrive at a direct conclusion that whatever deposed by the Respondent No.2 is true, particularly when the documents before the Court speak otherwise. When Ex.C-1 to C-3 documents clearly indicated that the Respondent No.2-Siddesh is the owner of the vehicle at the relevant time, it was incumbent upon him to explain that he had not given the Tractor to a driver who was not holding a valid Driving Licence. The

evidence on record would show that Mr.Venkatesh was the driver at the relevant time and that he did not have a Driving Licence to drive the Tractor and Trailer on the relevant day. As already stated, the said driver has not been summoned to establish that the vehicle was not entrusted to him by the Respondent No.2-Siddesh. Further, Bachegowda son of Bachenna, whom the Respondent No.2 has referred as the owner of Tractor and Trailer No.KA-04-T-0568 and KA-04-T-0569 also has not been summoned by the Respondent No.2. Hence, the contention of the Respondent No.2 that he is not the owner of the offending vehicle at the time of accident, cannot be accepted. It is thus seen that the Respondent No.2 being the owner of the Tractor and Trailer, has committed breach of policy conditions by entrusting the vehicle to a driver who was not holding a valid Driving Licence at the relevant time.

36. It is worthy to mention that the Motor Vehicles Act is a benevolent legislation, and hence the Petitioner cannot be deprived of the compensation as calculated above for the violation of the policy conditions by the owner of the insured vehicle. The policy i.e., Ex.R.2 was valid from 10.10.2009 to 09.10.2010 and the date of the accident is 13.10.2009 and in para No.2 of the Written Statement, the

Respondent No.1-Insurance Company has admitted the same. Therefore, if the said Respondent No.1 is directed to deposit the compensation and thereafter permitted to recover the same from the owner, the same would meet the ends of justice.

37. In the ruling K. Nagendra Vs. The New India Insurance Co. Ltd. & Ors., delivered on October 29th 2025, the Hon'ble Apex Court ruled that insurance companies cannot deny compensation to third party accident victims on technical grounds and upheld the pay and recover principle. In view of the violation of the policy conditions by the Owner, it has to be held that the Insurance Company is at liberty to recover the compensation from the Owner/Respondent No.1 by executing the award against him. Accordingly, I answer **Issue No.3 partly in Affirmative** holding that the Petitioner is entitled for compensation amount of Rs.3,00,000/- from the Respondents No.1 and 2.

38. **Issue No.4:-** For the above said reasons, I proceed to pass the following:

ORDER

The petition filed by the Petitioner is partly allowed with costs.

The Petitioner is entitled for the compensation of Rs.3,00,000/- (Rupees Three Lakhs only) with interest @ 6% p.a. from the date of petition till its realization.

The Respondent No.1 being the insurer is directed to deposit the compensation amount with interest in this tribunal within sixty days from the date of this order and recover the same from the Respondent No.2.

The entire compensation amount shall be paid to the Petitioner through E-payment after proper identification.

Advocate fee is fixed at Rs.1,500/-.

Draw award accordingly.

(Dictated to the Stenographer, directly on the computer, corrected and then pronounced by me in Open Court, on this the 10th day of August, 2026)

(VINEETHA P. SHETTY),
Chief Judge,
Court of Small Causes &
Member, Prl. M.A.C.T.
Bengaluru.

ANNEXURES**Witnesses examined on behalf of the Petitioner:**

P.W.1 : Krishnamurthy.
P.W.2 : Narasimha Murthy.
P.W.3 : Dr.S.Ramachandra.

Documents marked on behalf of the Petitioner:

Ex.P-1	True copy of FIR with complaint.
Ex.P.2	True copy of Charge Sheet.
Ex.P.3	True copy of Sketch.
Ex.P.4	True copy of Mahazar.
Ex.P.5	True copy of Wound Certificate.
Ex.P.6	Discharge Summary.
Ex.P.7	Prescriptions.
Ex.P.8	19 Medical bills.
Ex.P.9	Inpatient record.
Ex.P.10	OPD Card.
Ex.P.11	1 X-ray.

Witnesses examined on behalf of the Respondents:

R.W.1 : Jayashekara V.R.
R.W.2 : V.Sudheendra.
R.W.3 : Siddesh.

Documents marked on behalf of the Respondents:

Ex.R.1 : History Sheet of Drivers.
Ex.R.2 : Copy of Insurance Policy.
Ex.R.3 : 'B' Register Extract of Tractor
No.KA-04-T-0568

Ex.R.4 : 'B' Register Extract of Trailer
No.KA-04-T-0569

Witnesses examined on behalf of the Court:

Court witness No.1: B.S.Dilip Kumar

Documents marked on behalf of the Court:

Ex.C.1 : 'B' Register extract.

Ex.C.2 : Authorization Letter.

Ex.C.3 : Endorsement dated 13.09.2007.

(VINEETHA P. SHETTY),
Chief Judge,
Court of Small Causes &
Member, Prl. M.A.C.T.,
Bengaluru.