

KABC020135002023



IN THE COURT OF III ADDL.JUDGE AND MOTOR
ACCIDENT CLAIMS TRIBUNAL,
COURT OF SMALL CAUSES BENGALURU
(SCCH-18)

Dated: this the 7th day of April 2026

Present: DHANESH MUGALI

B.Com., LL.B.,(Spl.)

III ADDL. JUDGE & MEMBER, MACT,
COURT OF SMALL CAUSES,
BENGALURU.

MVC No.2951/2023

Petitioner : Sri.Suresh A.,
S/o. Aadappa,
Aged about 33 years,
Darinayakanapalya Village,
Gowribidanur Taluk,
Chikkaballapura-561206.

**(Pleader by Shri Ashok
Kumar)**

Respondents: V/s
1.Liberty General Insurance
Co. Ltd., Office No.1,
'Alyssa', 1st Floor, Rear
Poration, Old No.28,
New No.23,
Richmond Road,
Bangalore-560 025.

(Pleader by Sri K. Suresh)

2. Mr. Ramacharan Yadav,
S/o. Shibeshwar Yadav,
R/at No.201, Anjanappa,
Building, 2nd Main Road,
Hoysala Hotel,
Sheshadripuram,
Bangalore – 560 020.

**(Pleader by Sri
G.V.Krishna Reddy)**

3.HDFC ERGO GENERAL
INSURANCE CO., LTD.,
T.P Claims Hub, No.25/1,
2nd Floor, Building No.02,
Shankarnarayana Building,
M.G.Road,
Bangalore-01.

(Pleader by Sri K.Nagaraja)

4. Syed Alem Pasha,
R/at No.109, 34th Cross,
Masid Road, Yarab Nagar,
Bangalore – 560070.

(Exparte)

5. Sikandar Baig,
S/o.Rahamuthulla Baig,
R/at 4/96, 30th E Cross,
BTM Area, Jayanagar,
Bangalore – 560041.

(Exparte)

* * * * *

J U D G M E N T

The petitioner has filed this petition under Section 166 of Motor Vehicles Act, 1988, claiming compensation of Rs.30,00,000/- for the injuries sustained by him in a road traffic accident.

Brief facts of the petitioner's case are as under:

2. That on 08-04-2023 at about 9.45 p.m., the petitioner was crossing Dr.Marigowda road and proceeding towards NIMHANS Convention Gate, near Tejaswi Sweets Shop, Bangalore, at that time, motor cycle bearing registration No.KA-02-KL-3280 ridden by its rider with high speed, in rash and negligent manner and dashed against the petitioner from behind. Due to the said impact, the petitioner fell down & at the same time one goods vehicle bearing registration No.KA-52-4208 ran over his right leg and right hand and sustained grievous injuries.

3. It is further stated that, immediately, after the accident, the petitioner was shifted to Sanjay Gandhi Hospital for first aid treatment, wherein he was treated as an inpatient and spent huge amount towards transportation, treatment, medicines, conveyance etc.,

4. It is stated that, prior to the accident the petitioner was hale and healthy, aged about 33 years, working as painter and was earning Rs.40,000/- p.m. Due to accidental injuries, he could not able to do his work as earlier.

5. It is stated that, the accident occurred due to rash and negligent riding of the rider of the motor cycle bearing registration No.KA-02-KL-3280 and also against driving of driver of the goods vehicle bearing registration No.KA-52-4208. Hence Wilson Garden Police have filed criminal case against rider and driver of said vehicles in Cr.No.0084/2023. As such, the respondent No.1 to 5 are jointly and severally liable to pay compensation to the petitioner. Hence, the petitioner has filed the instant petition, seeking compensation.

6. After service of summons, both the respondent No.1 to 3 have appeared through their respective counsel and inspite of sufficient opportunities the respondent No.2 has not filed his written statement. On the other hand, the respondent No.1 & 3 have filed

their respective written statements. The respondent No.4 & 5 are remained absent, placed exparte.

7. In the written statement the respondent No.1 admitted about the issuance of insurance policy in respect of motor cycle bearing registration No.KA-02-KL-3280 and it was valid as on the date of accident. It is also contention of the respondent No.1 that the rider of the offending vehicle had no valid and effective driving licence to ride the said vehicle as on the date of accident. The police have filed the charge sheet against the rider of the motor cycle for the offence punishable under section 3(1) section 180, 5(1) and 181 of MV Act. Further denied the age, avocation and income of the petitioner and expenses incurred towards medication and other incidental charges. It is also contention of the respondent No.1 that owner of the vehicle knowing fully well that he has entrusted his vehicle to the rider who had no valid and effective driving licence to ride the vehicle and thereby violated the terms and conditions of the policy. It is the defence of the respondent No.1 that the accident occurred due to the negligence on the part of the driver of the goods vehicle bearing No.KA-52-4208. Further contended that insured vehicle had no

FC as on the date of alleged accident. Further contended that there is delay in lodging the complaint after four days of the accident. Ultimately contended that the compensation claimed by the petitioner is excessive and exorbitant. With all these main grounds, prayed to dismiss the petition with costs.

8. In the written statement the respondent No.3 has admitted about the insurance policy in respect of goods vehicle bearing registration No.KA-52-4208 and it was valid and was in force as on the date of accident. Further contended that the driver of the goods vehicle had no valid and effective driving license at the time of accident. It is also contention of the respondent No.3 that the alleged accident occurred due to the negligence of the petitioner, who was crossing the road without observing the on coming vehicles and caused the alleged accident. Further contended that rider of the motor cycle is also cause for the accident. Further denied the age, avocation and income of the petitioner and expenses incurred towards medication and other incidental charges. Ultimately contended that the compensation claimed by the petitioner is excessive and exorbitant. With all these main grounds, prayed to dismiss the petition with cost.

9. On the basis of rival pleadings of both the parties, this court has framed the following:

ISSUES
Recasted issue No.1;

1. Whether the petitioner proves that he had sustained grievous injuries in a motor vehicle accident which was taken place on 08.04.2023 at about 9.45 p.m., on Lakkasandra, Dr.Marigowda Road, in front of Tejes Sweets Shop, Bengaluru, due to the rash and negligent riding of the rider of the motor cycle bearing registration No.KA-02-KL-3280 & driver of the goods vehicle bearing No.KA-52-4208 in an actionable negligence?

2. Whether petitioner is entitled for compensation? If so, at what rate and from whom?

3. What order or award?

10. In order to substantiate his case, the petitioner examined himself as PW1 and got marked the documents at Ex.P1 to Ex.P17. In addition to his evidence, Dr.Chidanand.K.J.C. is examined as PW2 and got marked documents at Ex.P18 to Ex.P20.

11. On the other hand, respondent No.2 is examined as RW1 and got marked documents Ex.R1 to Ex.R5. The Asst.Manager-Legal Claim of respondent No.1 is examined as RW2 and got marked documents Ex.R6 to R7. The Senior Manager of respondent No.3-Insurance company is examined as RW3 and got marked documents at Ex.R8 to Ex.R11 and closed their side of evidence.

12. Heard the arguments on both side and perused the material available on record.

13. My answer to the aforesaid issues are as follows:

Recasted Issue No.1: In the Affirmative

Issue No.2: Partly in Affirmative

**Issue No.3: As per final order
for the following:**

R E A S O N S

RECASTED ISSUE No.1:-

14. It is the specific case of the petitioner that, due to the actionable negligence on the part of the rider of the motor cycle bearing registration No.KA-02-KL-3280 and the driver of the goods vehicle bearing No.KA-

52-4208 the alleged accident had taken place, consequently he had sustained grievous injuries.

15. On the other hand, the respondent No.1 being the insurer of the motor cycle bearing No.KA-02-KL-3280 has contended in its written statement that, accident occurred due to the rash and negligent act of the driver of the goods vehicle bearing No.KA-52-4208 and not on the part of the rider of the motor cycle.

16. Further the respondent No.3 being the insurer of the goods vehicle bearing registration No.KA-52-4208 has contended in its written statement that the accident occurred due to the negligence on the part of the rider of the motor cycle as the rider of the motor cycle had no valid and effective driving licence to ride the said vehicle and hence, implanted the goods vehicle. There is no negligence on the part of the driver of the goods vehicle.

17. On the basis of rival contention of both the parties, the petitioners have to place satisfactory evidence on the touch stone of preponderance of probabilities against both the vehicles in question. On

the other hand, onus shifts on the respondents to prove the same by means of cogent and convincing evidence.

18. In order to prove their case, the petitioner No.3 examined himself as PW1. In his examination-in-chief by way of affidavit, he has reiterated the averments made in the petition. The petitioner in support of his oral evidence has relied upon police documents Ex.P1 to Ex.P11. Ex.P1-true copy of the F.I.R. Ex.P2-true copy of the first information statement. Ex.P3-true copy of rough sketch. Ex.P4-true copy of spot mahazar. Ex.P5-8 true copy of notice u/s 133 of MV Act and reply to notice. Ex.P9-true copy of IMV report, Ex.P10-true copy of wound certificate and Ex.P11-true copy of charge sheet.

19. On perusal of the police documents, it could be seen that, based upon the first information statement given by the petitioner, the S.H.O. of Wilson Garden Traffic Police have registered the case against the drivers of both the vehicles for the offences punishable u/s 279, 337 and 134(a & b) of IMV Act. Upon investigation, the I.O. has filed charge sheet against the

rider of the motor cycle for the offences punishable u/s Section 3(1), 181 of MV Act and 279 & 338 of IPC and also driver of the goods vehicle bearing No.187, 134(a & b) of MV Act and 338 & 279 of IPC. for the offences punishable under section 279, 337 and 304(A) of IPC.

20. In order to prove the defence, the respondent No.2 being the owner of the motor cycle has examined himself as RW1. He has deposed in his evidence that, petitioner intentionally made him as a party, he had no way connected to this case. On the day of accident his friend by name Rajprith was driving the vehicle, he was travelling as a pillion rider. The accident occurred due to the negligence of the driver of the goods vehicle. Further petitioner is also responsible for the cause of accident as he was jumping centre of divider, while crossing the road. Intentionally police have filed FIR against him for not having driving licence. He has placed copy of judgment and order sheet in CC 8641/2023 at Ex.R1 & Ex.R2, policy copy at Ex.R3, driving licence at Ex.R4 and Aadhar card at Ex.R5.

21. On the other hand, the respondent No.1 has examined its Assistant Manager-Legal claim as RW2.

He has reiterated the averments made in the written statement. He has placed Ex.R6 & Ex.R7.

22. Per contra the respondent No.3 has examined its Sr.Manager TP Claims as RW3. He has deposed that the alleged accident took place due to the negligent act of the petitioner and the rider of the motor cycle bearing No.KA-02-KL-3280, as the petitioner was started to run and cross the said road between the vehicles, the rider of the motor cycle was in high speed and could not control and dashed against the petitioner. Hence, the goods vehicle is not at all involved in the accident. Further deposed that as per the medical documents the alleged accident occurred due to the negligence of the rider of the two wheeler. He has placed policy copy, notice u/s 133 of MV Act, wound certificate and MLC Extract at Ex.R8 to Ex.R11.

23. At the time of cross-examination of PW1, nothing has been elicited from his mouth to disbelieve the case of the petitioner. Even at the time of cross-examination of RW1 to RW3, it is clear that they have not challenged the charge sheet filed against the rider of the motor cycle and the driver of the goods vehicle. Further respondent No.3 except the evidence of RW3

has not placed any documents to show that accident occurred due to the negligent act of the rider of the motor cycle only and not on the part of the driver of the goods vehicle.

24. Added to this, on perusal of the recitals of the police documents, there is clear narration about the involvement of both the vehicles in the accident. On keen observation of the evidence of PW1 and the documents produced by the petitioners, it is clear that due to the negligence of rider and the driver of the offending vehicles the accident occurred.

25. Apart from this, there is no doubt that, the charge sheet submitted by the investigation officer clearly reveals that accident occurred due to the rash and negligent act of the rider of the motor cycle bearing No.KA-02-KL-3280 and the driver of the goods vehicle bearing registration No.KA-52-4208. On perusal of the evidence and the materials placed by the petitioners, it is clear that the charge sheet is not the conclusive proof. At the most, that may be a circumstance which has to be considered along with other materials on record.

26. On appreciation of evidence of PW1 and the documents placed by the petitioner, I hold that, the accident was occurred purely on the part of the rider of the motor cycle bearing No.KA-02-KL-3280 and the driver of the goods vehicle bearing registration No.KA-52-4208. In the said accident, petitioner had sustained grievous injuries. **Accordingly, I am answering the Recasted Issue No.1 in the Affirmative.**

ISSUE No.2:

27. This issue is with respect to the entitlement of reliefs claimed by the petitioner. The petitioner through this petition, claiming compensation of **Rs.30,00,000/-** on account of the injuries sustained by him in the accident under different heads.

28. Before appreciation of the evidence placed by the petitioner about the injuries sustained by him, in the accident and its consequences, it is apt to note herein, the preposition laid down in the following landmark judgment, while appreciating the injuries cases in Motor Vehicle Act.

Civil Appeal No.8981/2010 D.D. 18.10.2010
Rajkumar V/s Ajay Kumar & Another of the Hon'ble
Supreme Court of India.

“In the aforesaid case, it was held that, the court has to make judicious attempt to award compensation to the loss suffered by the claimant. The compensation should not be assessed conservatively. On the other hand, compensation should also not be endeavouring to secure some uniformity and consistency. The object of awarding compensation is to make good the loss suffered as a result of wrong done, as far as money can do so, in a fair reasonable and equitable manner.” “while determining quantum of compensation, in such cases, the court has to strike a balance between the inflated and unreasonable demands of a victim and the equally untenable claim of the opposite party saying that nothing is payable. That sympathy for the victim does not, and should not, come in the way of making a correct assessment. But if a case is made out, and the court must not be chary of awarding adequate compensation. “

Pain and Sufferings;

29. PW1 has stated in his evidence that, he has sustained the injuries in a road traffic accident. In connection with the injuries he has produced wound

certificate marked as **Ex.P10**. The said document discloses that, he had sustained the following injuries:-

- 1) Swelling and tenderness, deformity of right arm***
 - 2) Tenderness and swelling, deformity of right hip, thigh***
 - 3) ACLW 1x 1 cm over proximal 1/3rd of right arm***
 - 4) ACLW 10xc over right elbow***
- X-ray shows fracture of right humerus with subtrochanteric fracture of right femur***

30. In connection with the above said injuries doctor is of the opinion that the said injuries are grievous in nature. The petitioner has placed discharge summary and x-rays at Ex.P12 & Ex.P17. On going through the discharge summary issued by Sangay Gandhi Institute of Trauma and Orthopaedics at Ex.P12 reveals that he was admitted on 9.4.2023 and discharged on 24.4.2023. In addition to his evidence placed the evidence of Dr.Chidanand K.J.C. as PW2. He has deposed in his evidence that the petitioner has sustained right humerus shaft fracture type 2 open and closed right subtrochanteric femur fracture. He has placed clinical notes, x-rays and inpatient record at Ex.P18 to Ex.P20. By taking into consideration of the

nature of the injuries and the treatment taken by the petitioner, he might have undergone pain and sufferings while taking treatment, as an in patient as well as an outpatient. Hence, the petitioner is entitled for compensation of **Rs.40,000/- under the head of Pain and Sufferings.**

Loss of income during treatment period:

31. PW1 has stated that, he was working as painter and earning Rs.40,000/- per month. In this regard, there is no iota of documents to show the income of the petitioner. Hence, in the absence of the documents, it is apt to take the notional income as per law. On going through the discharge summary issued by Sangay Gandhi Institute of Trauma and Orthopaedics at Ex.P12 reveals that he was admitted on 9.4.2023 and discharged on 24.4.2023. During the period of treatment, definitely, there was some difficulty to him to do daily routine work and to do his work for livelihood at least for a period of two months by looking in to the nature of the injuries sustained by him. Hence, I am of the view that, it is just and proper to award compensation of **Rs.32,000/- towards loss of income during the laid up period and rest period.**

Medical Expenses;

32. The petitioner in connection with his treatment expenses, he has produced medical bills at Ex.P15 to the extent of Rs.13,774/- along with prescriptions and advance receipts at Ex.P13 & Ex.P14. Except the suggestion there are no contra materials available on record to disprove the medical bills. Hence, it is just and proper to award compensation of **Rs.13,774/- towards medical expenses.**

Attendant charges, food and nourishment and conveyance charges;

33. The petitioner herein, as per the medical records and also on going through the discharge summaries the petitioner has taken treatment as an inpatient and as an outpatient, definitely the petitioner could have spent some amount towards, food, nourishment, conveyance, as well as attendant charges. Hence, the petitioner is entitled for compensation of **Rs.15,000/- towards attendant charges, food, nourishment and conveyance charges.**

Loss of future income;

34. The petitioner herein, asserting that, he had sustained permanent disability, consequent upon the

injuries sustained by him. In order to prove the same, the petitioner has relied on his evidence along with the wound certificate and other medical documents. In the evidence of the PW1, reiterated the same thing forthcoming in the main petition. As already discussed above, wound certificate placed by him as per Ex.P6 goes to show that, he had sustained grievous injuries for which he took the treatment as an inpatient. Apart from this, another material witness by name **Dr.Chidanand K.J.C.**, examined as PW2. He has stated in his evidence that, the petitioner has sustained right humerus shaft fracture type 2 open and closed right subtrochanteric femur fracture. The petitioner underwent CRIF with nailing for femur and ORIF with plating for humerus and was discharged on 24.4.2023. In support of his evidence he has produced Ex.P18 to Ex.P20.

35. Further, PW2 has stated that, at the time of examination of the petitioner, the petitioner has healed scar mark over femur knee and humerus with altered sensation over scar, quadriceps and deltoid wasting is seen and x-ray of right femur fracture malunited with implants in situ and x-ray of right humerus fracture united with implant in situ. PW2 has assessed

permanent physical disability from **upper and lower limb is to the whole body is 22%.**

36. Over all appreciation of evidence of PW2 along with the entire medical documents the whole body disability expressed by PW2 as physical disability from **upper and lower limb is to the whole body is 22%.** Hence, by taking into consideration of point of disability expressed by PW3, it is apt to take whole body disability as **14% instead of 22%.** The same will meets the ends of justice.

37. In connection with the age of the petitioner is concerned, on going through the cause title of the petition reveals that, as on the date of the petition, his age was 33 years. In support of the age proof, he has placed any Aadhar card at Ex.P16 for consideration. On perusal of the said document, his date of birth is mentioned as 8.4.1992. The alleged accident occurred on 8.4.2023. As on the date of accident the age of the petitioner shall be considered as 31 years. Therefore, it can be safely considered as **31 years.** To the said age as per **Sarla Verma case, multiplier '16'** is to be taken into consideration.

38. Next factual aspect of the income of the petitioner is concerned, in his evidence the petitioner has stated that, prior to the accident he was working as a painter and earning Rs.40,000/- p.m. In this regard, he has not placed any iota of documents. In the absence of the material documents, notional income has to be taken into consideration. But the said notional income is to be taken judiciously, by taking into consideration of the year of the accident. It is pertinent to note that, in the case on hand, the alleged accident had taken place in the year 2023. As per the notional income chart, I am of the view that, it is apt to take the notional income of the petitioner as Rs.16,000/-.

39. In the light of my detailed discussions held above, no doubt injuries sustained by the petitioner, definitely come in the way of his future, in a slight manner, to do his daily routine work, as well as to do his work for livelihood on going through his age criteria. Hence, the petitioner herein, is entitled for compensation under loss of future income as follows:

Rs.16,000 X12 X 16 X14/100= Rs.4,30,080/-.

Loss of amenities;

40. PW1 has stated in his evidence that due to the accidental injuries, he is unable to walk, stand long time, limping while walking, not able to sit cross leg and not able to use Indian toilet. On perusal of evidence of PW1 and PW2 and also medical documents, I am of the view that, the petitioner will suffer a slight problem in future also, to do his normal work, as well as his work for livelihood. Hence, it is just and proper to award compensation of **Rs.20,000/- towards loss of amenities.**

Future Medical Expenses;

41. PW2 has stated that petitioner requires surgery for removal of implant right, for which petitioner has to incur Rs.30,000/-. Either PW1 or PW2 have not placed any estimation in this regard. On going through the injuries sustained by the petitioner and also escalation of rates in the medical field, it is just and proper to award compensation of **Rs.20,000/- under the head of future medication.**

42. In view of my discussions held above, on various aspects the petitioner is entitled for compensation in to to, under the following heads:

Compensation heads	Compensation amount
1.Pain and Suffering	Rs. 40,000-00
2.Loss of income during laid-up period and rest period	Rs. 32,000-00
3. Medical expenses	Rs. 13,774-00
4. Attendant, Nourishment and Conveyance Charges	Rs. 15,000-00
5. Loss of future income due to disability	Rs.4,30,080-00
6. Loss of Amenities	Rs. 20,000-00
7.Future medical expenses	Rs. 20,000-00
Total	Rs.5,70,854-00

43. Accordingly, the petitioner is entitled for compensation of **Rs.5,70,854/- (Rupees five lakhs seventy thousand eight hundred and fifty four only), along with interest @ 6% per annum**, as per the proposition laid down by the Honourable High court of Karnataka in, ***MFA No.103557/2016, between Sri Ram General Insurance Company Limited V/S. Lakshmi And Others dated. 20.03.2018. And MFA No.30131/2019 dated.12.5.2020***, from the date of the petition, till the realization of the award amount.

LIABILITY:

44. As regards the liability is concerned, it is the assertion of the petitioner that, due to the actionable negligence on the part of the rider of the motor cycle bearing registration No.KA-02-KL-3280 and driver of the goods vehicle bearing registration No.KA-52-4208 also, alleged accident had taken place. And in the said accident petitioner sustained grievous injuries. As such, the respondent No.1 to 5 are jointly and severally liable to pay the compensation to the petitioner. The evidence given by the petitioner in this regard remained unshaken as fully discussed above.

45. On the other hand, the respondent No.1 has contended that rider of the motor cycle bearing No.KA-02-KL-3280 had no valid and effective driving licence to ride the said vehicle. As such, insurance company is not liable to pay compensation to the petitioner. To substantiate the same, respondent No.1 has examined Assistant Manager-Legal Claim as RW2. He has reiterated the contents as averred in the written statement. He has placed authorisation letter and policy copy at Ex.R1 & Ex.R2.

46. Per contra, the respondent No.2 being the owner of the motor cycle bearing No.KA-02-KL-3280 examined himself as RW1. He has stated that accident occurred not due to his negligence, police have intentionally filed FIR against him, the insurance policy was valid as on the date of accident. He has placed Ex.R1 to Ex.R5. In the cross-examination he has admitted that as per Ex.R4, his driving licence was valid from 29.8.2023 to 28.8.2033, the accident occurred on 8.4.2023. In the police documents there is no mention about that, his friend was riding the two wheeler. On going through the Ex.R4, his D.L. was valid from 29.8.2023 to 28.8.2033. But the accident occurred on 8.4.2023. From the said document, it is clear that the after the accident the respondent No.2 has taken the driving licence. But there is no D.L. as on the date of accident.

47. Added to this, on going through the charge sheet submitted by the investigation officer, relevant provision has been inserted stating that, at the time of accident the rider of the motor cycle had no valid and effective driving license. To disprove the contents of the charge sheet and to show that, the rider had valid D.L. no supportive evidence is available on record to

impeach the recitals of Ex.P11. Hence, it is crystal clear that, there is a clear violation of the terms and conditions of the policy.

48. At this stage, it is relevant to note herein, the decisions of the Hon'ble Supreme Court laid down in the following cases.

1). 2004 (3) SCC 297 between National Insurance Co. Ltd., Vs. Swaran Singh & Others

In the aforesaid case, with due discussions the Hon'ble Apex Court came to the conclusion that, the insurer has satisfactorily proved its defence in accordance with the provision of Section 149(2) R/W Subsection 7, as interpreted by the court. And the Tribunal can direct the insurer liable to be reimbursed by the insured for the compensation amount, which has been compared to pay to the third party under the award of the Tribunal. In one word it is necessary to note that, through this authority, highlighted about the concept pay and recovery.

2) 2018 SCC 208 between Pappu & Others Vs. Vinod Kumar Lamba & Another

In the aforesaid case it was observed that, where on adjudication of claim under the Act, the Tribunal arise at a conclusion that, the insurer has satisfactorily proved its defence in accordance with law with the provision of Section 149(2) R/W Subsection 7, the Tribunal can direct that, the insurer is liable to be reimbursed by the insured for the compensation and other amount which it has been compelled to pay to the third party under the award of the Tribunal. In the aforesaid case also, highlighted about the principle of pay and recovery.

49. On going through the supra decisions, it is to be noted that to protect the interest of third party, the principle of pay and recovery is applied. Apart from this, as per the assertion of the petitioner, insurance policy of the motor cycle was valid from **8.12.2021 to 7.12.2026**. The accident had occurred on **8.4.2023**. The said fact has not been denied by the respondent company by placing the insurance policy as per Ex.R7.

50. It is relevant to note that, as per the Ex.R8, as on the date of the accident, insurance policy pertaining to goods vehicle bearing No.KA-52-4208 was valid and the same is forthcoming in the recitals of the said documents. As per the Ex.R8, insurance policy in respect of goods vehicle bearing No.KA-52-4208 was valid from **30.8.2022 to 29.8.2023**. Alleged accident had taken place on 8.4.2023.

51. In the light of the discussion held above, I am of the view that, though the respondent No.2 being the owner of the motor cycle, cannot escape from his liability to pay compensation to the petitioner, in view of violation of terms and conditions of the policy. But,

to protect the interest of the petitioner, it is necessary to direct the respondent No.1-insurance company to pay compensation to the petitioner to the extent of 50% together with interest at 6% p.a. from the date of petition till its realisation and thereafter to recover the same from the owner of the offending vehicle, through due process of law.

52. Further the respondent No.3 being the Insurance Company of goods vehicle, as an indemnifier of respondent No.4 & 5 is having liability to pay the compensation amount determined by this court to the extent of 50%, along with the interest at 6% per annum from the date of the petition till its realization. **Accordingly, I am answering the issue No.2 partly in the Affirmative.**

ISSUE No.3:

42. In view of my due discussions on Issue Nos.1 & 2, I proceed to pass the following;

O R D E R

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

The petitioner is entitled for compensation of **Rs.5,70,854/- (Rupees five lakhs seventy thousand eight hundred and fifty four only)**, along with the interest at the rate of **6%** per annum 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.1 is the insurer of the motor cycle bearing No.KA-02-KL-3280 is liable to pay the compensation at the ratio of 50% with interest at **6% p.a.** from the date of petition till its realization within two months from the date of this order, thereafter recover the same from the respondent No.2 through due process of law. Further, the respondent No.3 is the insurer of the goods vehicle bearing No.KA-52-4208 is liable to pay the compensation at the ratio of 50% with interest at **6% p.a.** from the date of petition till its realization within two months from the date of this order.

The expenses to be incurred for future medication shall not carry any interest.

After deposit of the compensation amount together with interest, **40%** is directed to be deposited in any Nationalized/Scheduled bank in F.D for a period of **3 years** and remaining **60%** shall be released to the petitioner through due process of law.

Advocate fee is fixed at Rs.1000/-.

Draw award accordingly.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this the **7th day of April 2026**).

(DHANESH MUGALI)
III ADDL.SMALL CAUSES JUDGE,
MEMBER MACT & ACJM,
BENGALURU.

ANNEXURE

List of witnesses examined on petitioner's side:

PW1 Suresh.A
PW2 Dr.Chidanand.K.J.C

List of documents exhibited on petitioner's side:

Ex.P1 : FIR

Ex.P2	: First information statement
Ex.P3	: Rough Sketch
Ex.P4	: Spot Mahazar
Ex.P5 to 8	: Notice U/Sec.133 of MV Act and its reply
Ex.P9	: IMV Report
Ex.P10	: Wound Certificate
Ex.P11	: Charge Sheet
Ex.P12	: Discharge Summary
Ex.P13	: Prescriptions
Ex.P14	: Advance receipts
Ex.P15	: Medical Bills
Ex.P16	: Notarised copy of Aadhar Card
Ex.P17	: X-ray
Ex.P18	: Clinical Notes
Ex.P19	: X-rays
Ex.P20	: Inpatient record

List of witnesses examined on respondents' side:

RW1	Shri Ramnacharan Yadav
RW2	Shri Santhosh B.L.
RW3	Shri Suresh G.

List of documents exhibited on respondents' side:

Ex.R1	: Judgment in CC 8641/2023
Ex.R2	: Order sheet in CC 8641/2023

Ex.R3 : Policy copy
Ex.R4 : D.L.
Ex.R5 : Aadhar card
Ex.R6 : Authorisation letter
Ex.R7 : Policy copy
Ex.R8 : Policy copy
Ex.R9 : Notice u/s 133 of MV Act
Ex.R10 : Wound certificate
Ex.R11 : MLC Extract

**III ADDL.SMALL CAUSES JUDGE
MEMBER MACT & ACJM,
BENGALURU.**