

KABC020602092024



**BEFORE THE COURT OF I ADDL. SMALL CAUSES JUDGE & ACJM &
MOTOR VEHICLES ACCIDENT CLAIM TRIBUNAL, BENGALURU.
(SCCH-11)**

DATED THIS THE 19TH DAY OF JUNE - 2026

PRESENT: SRI.NARENDRA.B.R., B.Sc, L.L.B.
I ADDL.SMALL CAUSES JUDGE & ACJM
& MEMBER - MACT

MVC No.6953/2024

PETITIONER:

Sri.Shivakumar B S
Aged about 43 years
Residing at No.12
Sai Garden Residency Layout
15th Cross Old Madras Road
Bengaluru City, Karnataka.

(By Smt.Niveditha.K.S., Adv.)

//Versus//

RESPONDENTS:

1. Sri.Jayappa S/o Chikkapapanna
Owner of Goods Carrier (MGV)
No.18, 2nd Cross, CR Layout
Kalyananagar, Bengaluru - 560043.
2. Sri.Dhanaraj J S/o Jayappa

Driver of Goods Carrier (MGV)
Rampura Village, Virgonagar Post
Bengaluru East, Bengaluru – 560049.

3. IndusInd General Insurance Co Ltd
Venkateshpura Nilaya, Prashant Nagar
Near Police Head Quarters
Chikkaballapur, Karnataka – 562101.

(Resp.1 & 2 – Exparte)
(Resp.3 – By Sri.Gururaj Salur, Adv.)

J U D G M E N T

This claim petition is filed by the petitioner claiming compensation of ₹.30,00,000/- with interest from the date of petition till its realization for the injuries sustained by him in the accident.

2. The case of the petitioner in brief:-

On 28.08.2024 at about 03.30 p.m., when petitioner was proceeding in Scooter bearing Regn.No.KA-03-KA-2826, in front of Yogeshwar Nagar Cross, BWSSB, the driver of Goods Vehicle bearing Regn.No.KA-53-B-7860, came at high speed and hit

back of the scooter. Due to the accident, petitioner fell down and sustained grievous injuries and thereafter, he was shifted to Hebbal Manipal Hospital and later shifted to Hosmat Hospital, wherein he took treatment as an inpatient and spent a sum of ₹.2,05,000/- towards medicines, attendant, conveyance and other incidental charges.

Prior to the accident, he was hale and healthy and was a Field Officer and earning a sum of ₹.30,000/- per month. Due to the accidental injuries, he has suffered permanent disability. The accident occurred only due to rash and negligent driving of goods vehicle by its driver. The respondents being the owner, driver and insurer of the offending vehicle, are jointly and severally liable to pay compensation to the petitioner.

3. In spite of service of notice, respondent No.1 & 2 did not appear before the tribunal and hence,

they have been placed ex-parte. The respondent No.3 appeared before the tribunal through the counsel and filed the written statement.

4. In the Written Statement, the respondent No.3 has denied the contents of claim petition specifically and categorically. The respondent No.3 has also denied age, occupation and income of petitioner as well as place, time and manner of accident. Further respondent No.3 has also contended that the petition filed by the petitioner is not maintainable either in law or on facts and same is liable to be dismissed. Further respondent No.3 admitted the aspect of issue of policy in respect of Goods Vehicle and contended that the liability, if any, is subject to the terms and conditions of policy. Further the driver of vehicle has no valid and effective driving license to drive the goods vehicle at the time of accident. Further contended

that at the time of alleged accident, the petitioner was proceeding on motor cycle without wearing headgear and it is violation of Motor Vehicles Act. The amount claimed by petitioner is highly exorbitant. Hence, prays for dismissal of the petition.

5. On the basis of above pleadings, this tribunal has framed the following:

ISSUES

1. Whether petitioner proves that, he sustained grievous injuries in the accident that occurred on 28.08.2024 at about 03.30 p.m., in front of Yogeshwara Nagar Cross BWSSB, when petitioner was riding his Scooter bearing Regn.No.KA-03-KA-2826, due to the rash and negligent driving of Goods Vehicle bearing Regn.No.KA-53-B-7860 by its driver?

2. Whether the petitioner is entitled for compensation as prayed in the claim petition? If so, what is the quantum of compensation and from whom?

3. What order or award?

6. In order to prove the contentions of the petition, the petitioner has examined himself as PW.1 and got examined Dr.Ramesh.B., Orthopaedic Surgeon at Victoria Hospital as PW.2 and got marked documents at Ex.P.1 to 21 and closed his side evidence. The respondents did not adduce their evidence either oral or documentary.

7. Heard the argument of both side and perused the materials available on record.

8. Findings of this tribunal on the above issues are as under:-

Issue No.1 : In the Affirmative;

Issue No.2 : Partly in the Affirmative;

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

:-REASONS:-

9. **Issue No.1:-** The petitioner has contended

that on 28.08.2024 at about 03.30 p.m., in front of Yogeshwar Nagar Cross BWSSB, when petitioner was riding his Scooter bearing Regn.No.KA-03-KA-2826, due to the rash and negligent driving of Goods Vehicle bearing Regn.No.KA-53-B-7860 by its driver, in which he sustained grievous injuries.

10. In order to prove rash and negligent driving of Goods Vehicle bearing Regn.No.KA-53-B-7860 by its driver, the petitioner has examined himself as PW.1. In the chief examination, PW.1 deposed that due to rash and negligent driving of goods vehicle by its driver, the accident occurred. On perusal of cross-examination of PW.1, nothing has been elicited from the mouth of PW.1 to disprove the case of petitioner.

11. Further, in order to prove the accident, the petitioner has produced Ex.P.2, first information

statement and its translated version is marked as Ex.P.2(a). On perusal of Ex.P.2 and P.2(a), it discloses that one of the relatives of petitioner by name Sri.Prakash S S/o Shivarudraiah has lodged complaint with police on 29.08.2024 pertaining to the accident occurred on 28.08.2024. The police registered the FIR as per Ex.P.1 for the offence punishable U/s.125(a), 281 of BNS. In the first information statement as well as FIR, the accident is stated to have been caused due to rash and negligent driving of driver of offending vehicle. The accident is stated to have been caused due to negligence on the part of driver of offending vehicle. The respondents not furnished satisfactory materials to rebut or contradict the recitals of first information statement and FIR.

12. The petitioner also furnished spot sketch & Mahazar, which are marked as Ex.P.8 & 9. The said

documents disclose that the police visited the place of incident after registration of FIR and the place of incident is described in the said documents. In the mahazar also, the accident is stated to have been caused due to negligence on the part of driver of offending vehicle. The mahazar and sketch depicts the aspect of negligence on the part of driver of offending vehicle in the cause of accident. The respondents not furnished satisfactory materials in order to show that the facts at the place of accident, as described in the mahazar and sketch, are contrary to actual facts.

13. Ex.P.6 is the Wound certificate which discloses the aspect of injuries sustained by petitioner in the road traffic accident. Ex.P.10 is the IMV Report, wherein the damages caused to both the vehicles are mentioned. The IMV report discloses the aspect of seizure of offending vehicle by the

police on the ground of its involvement in the cause of accident. The rider or owner of the vehicle does not appear to have questioned the seizure procedure. Further, IMV report discloses the aspect of damages caused to the offending vehicle. If the vehicle has not been involved in the accident, then the driver or owner of the offending vehicle could have provided explanation regarding the manner in which the vehicle got damaged. But, the driver or owner of offending vehicle not provided satisfactory explanation regarding the manner in which damages are caused to the vehicle. The said document indicates involvement of offending vehicle in the accident.

14. Ex.P.11 is the notice issued under Sec.133 of IMV Act and reply given to said notice is marked as Ex.P.12. In the notice given by I.O, there is mention about involvement of the offending vehicle

and negligence of the driver in the cause of accident. Reply has been given to the said notice and in the reply, the aspect of involvement of the vehicle and negligence of the driver in the cause of accident does not appear to have been denied. If the vehicle has not been involved in the accident, then the aspect of involvement of the vehicle and negligence of the driver in the cause of accident could have been denied by the owner of the offending vehicle. The owner of offending vehicle has the opportunity to deny the involvement of the vehicle and negligence of the driver while giving reply to the notice. But, owner of the vehicle neither denied the involvement of the vehicle nor denied negligence of the driver in the cause of accident. The said documents disclose the aspect of involvement of the vehicle in the cause of accident.

15. The I.O., after completion of investigation,

filed the final report against the driver of the offending vehicle for the offence punishable U/s.281, 125(b) of BNS, which is marked at Ex.P.13. In the final report also, the accident is stated to have been caused due to negligence on the part of driver of offending vehicle. The police filed the final report after detailed investigation. The driver or owner of offending vehicle does not appear to have questioned the correctness of the investigation. The petitioner has produced Ex.P.17 Order sheet of C.C.No.4096/2024, wherein the police have filed charge sheet against the accused by name Danaraj.J for the offence punishable U/s.281, 125(B) of BNS and the accused appeared before the Court of Judicial Magistrate First Class (Traffic Court-V), Bengaluru City, pleaded guilty and paid fine of ₹.6,000/-. No satisfactory materials are placed by the respondents to show that the investigation is

not conducted in a proper manner. The driver or owner of offending vehicle does not appear to have challenged or questioned the FIR or final report filed by the police. In the FIR as well as final report, the accident is stated to have been caused due to negligence on the part of driver of offending vehicle which aspect does not appear to have been challenged in any manner. The respondents not furnished any satisfactory materials in order to rebut or controvert the documents furnished by petitioner related to negligence of driver of offending vehicle. PW.1 is cross examined on behalf of respondents and in the cross examination also, nothing to disprove or disbelieve the contention of petitioners could be elicited. No satisfactory materials are being placed before the Tribunal to disprove the contention of petitioners pertaining to the aspect of negligence on the part of driver of

offending vehicle in the cause of accident.

16. The driver as well as owner of offending vehicle have been impleaded as respondent No.1 and 2 and in spite of service of notice, the remained absent. Respondent No.1 and 2 are the proper persons to state about involvement of vehicle and negligence of the driver. But, respondent No.1 and 2 failed to appear before the Tribunal and also not placed satisfactory materials to disprove or rebut the claim of petitioner. The respondent No.1 and 2 not resisted the claim of petitioner in any manner. The respondent No.1 and 2 not furnished satisfactory materials to rebut or controvert the contentions of petitioner in any manner.

17. The respondents not placed satisfactory materials before the tribunal to disprove case of petitioner. In the absence of sufficient and satisfactory materials to the contrary, the

documents furnished by the petitioner are to be considered for ascertaining the aspect of negligence. The respondents not furnished any materials to show that there is no negligence on the part of rider of offending vehicle in the cause of accident. On perusal of record, it discloses that the accident has been caused due to negligence on the part of driver of offending vehicle in which petitioner sustained injuries. Under these circumstances, relying upon the oral evidence of PW.1 coupled with the documents produced as per Exs.P.1 to P.13, this tribunal is of the opinion that the accident has occurred due to rash and negligent driving of Goods Vehicle bearing Regn.No.KA-53-B-7860 by its driver and same has resulted in grievous injuries to the Petitioner. Accordingly, Issue No.1 is answered in the Affirmative.

18. **Issue No.2:** In view of answering issue No.1 in the Affirmative, the petitioner is entitled for compensation. In order to assess the compensation, the Tribunal has to look into several factors like injury, pain and suffering sustained by the petitioner and amount spent by the petitioner towards medical expenses, food and extra nourishment and medical attendants, conveyance, loss of income during treatment, disability, loss of amenities etc.

i) **Towards injury, pain and suffering:-** The petitioner contended that due to accident he sustained injuries and underwent surgery and later discharged with an advice to take follow up treatment. In order to prove the injuries sustained, the petitioner has produced Wound certificate marked at Ex.P.6, which discloses the aspect of injuries sustained by petitioner and that the injuries are grievous in nature. Further, the petitioner has

produced Ex.P.7 – Discharge summaries issued by Hosmat Hospital which discloses the aspect of injuries sustained by petitioner. The petitioner examined Dr.Ramesh.B., as PW.2 and got marked documents at Ex.P.20 & 21. PW.2/doctor has deposed that he examined the petitioner for assessment of permanent physical disability and assessed disability to the right lower limb at 26% and to the whole body at 13%. By considering the injuries and facts and circumstances of the case, the tribunal is of the view that the compensation of ₹.50,000/- appears just and reasonable towards pain and suffering.

(ii) **Towards Medical Expenses:** The petitioner has claimed compensation towards medical expenses. The petitioner contended that he took treatment at the Hospital. The petitioner has produced medical bills amounting ₹.9,470/- marked at Ex.P.14. In the said documents, in bills numbered as 10, 12, 13, 16,

17, 18, 20, 21, 24, 25 and 26, the amount is mentioned to have been sponsored by New India Assurance company. In the medical bills mentioned above, the name of sponsor is mentioned as New India Assurance company and the amount mentioned in the said bills appears to have been paid by the insurance. As per the recitals of medical bills, out of total bill amount of ₹.9,470/-, as sum of ₹.7,860/- has been paid by the insurance company and ₹.1,610/- has been paid by the petitioner. The petitioner does not appear to have paid the entire amount mentioned in the medical bills. The petitioner is shown to have paid only ₹.1,610/- towards the medical bills as reflected in Ex.P.14, medical bills and remaining amount has been sponsored by the insurance company. The petitioner is not entitled for the amount sponsored by the insurance company towards medical expenses. PW.1

also admitted the aspect of refund of medical expenses. The petitioner not furnished satisfactory materials to show the nature of policy under which medical expenses are sponsored and mode of payment of premium pertaining to the said policy. As such, the petitioner is entitled to the amount paid by him and not to the entire amount towards medical expenses. So, this tribunal is of the view that compensation of ₹.1,610/- appears just and reasonable towards medical expenses.

(iii) Towards food, extra nourishment and medical attendant charges: On perusal of records, the accident occurred on 28.08.2024 and the petitioner took treatment as an inpatient at the hospital. On perusal of evidence, it discloses that the petitioner has been admitted as an inpatient at Hospital as he has sustained injuries. So, during the time of treatment the petitioner might have

required good food and extra nourishment. The petitioner has produced Ex.P.7 - Discharge Summary issued by Hosmat Hospital, which discloses that the petitioner has taken treatment as an inpatient from 28.08.2024 to 31.08.2024 i.e., for a period of 04 days. Considering the said facts, the Tribunal is of the view that compensation of ₹.500/- per day for 04 days amounting **₹.2,000/- appears just and reasonable towards food, extra nourishment and medical attendant.**

(iv) Towards Conveyance:

The petitioner is the resident of Sai Garden Residency Layout, 15th Cross Old Madras Road, Bengaluru City and he has been admitted to hospital for treatment. In order to prove the said aspect, the petitioner has produced Discharge summary marked at Ex.P.7. The petitioner might have incurred expenses towards conveyance during the period of

treatment. Considering the injuries and facts of the case, the tribunal is of view that the compensation of ₹.10,000/- appears just and proper towards conveyance charges.

(v) Towards loss of income during treatment:

The petitioner has contended that he was a Field Officer and earning a sum of ₹.30,000/- per month. In order to prove the income, the petitioner has produced Ex.P.19 – Pay slip for the month of August 2024. To substantiate the same, he has not examine the author of said document. By considering the facts and circumstances of the case, the notional income of the petitioner considered as ₹.16,500/-. On perusal of record, it appears that petitioner might not attended his work for some time due to accidental injuries. Accordingly, the petitioner is entitled for ₹.30,000/- towards loss of income during treatment.

(vi) Towards Loss of future earning capacity:

The petitioner has contended that due to accident, he was admitted as an inpatient at hospital and sustained permanent disablement. The petitioner also examined Dr.Ramesh.B, working as an Orthopaedic Surgeon at Victoria Hospital as PW.2. PW.2/Doctor examined the patient clinically and radiologically to assess disabilities. The doctor deposed that petitioner has sustained injuries like Open Type II Bimalleolar fracture of right ankle and underwent Debridement and internal fixation of right medial and lateral malleolus and later discharged. Further PW.2 deposed that petitioner complains of pain in right ankle, difficulty to squat on floor, climb upstairs, walk on slope, stand on affected limb, difficulty to do routine activities. The doctor examined the petitioner for assessment of disability and assessed the permanent physical

disability for right lower limb at 26% and to the whole body at 13%. In order to prove the disability, doctor has produced Ex.P.20 & 21 i.e., OPD Book and X-ray. PW.2 not stated that the petitioner could not be able to do his routine activities in a normal way. No satisfactory materials are placed by the petitioner to show that the petitioner is unable to do any work at all. The materials on record do not disclose that the accidental injuries incapacitated the petitioner from doing his work and activities. Further, PW.1 admitted in the cross examination that he is presently receiving ₹.40,000/- per month. PW.1 clearly stated that he has been receiving ₹.38,000/- as salary earlier and presently he is receiving ₹.40,000/- as salary. The income of petitioner has been increased and there appears to be no loss in the earnings of petitioner. The said aspect indicates that the petitioner is still under

employment and he is earning income. The evidence of PW.1 discloses that the earning capacity of petitioner has not been affected due to accidental injuries. The evidence of PW.1 clearly discloses that the petitioner is having earning even after the accident and he is not incapacitated from doing his work. The evidence of petitioner clearly discloses that the petitioner has not suffered loss in income due to accidental injuries. The nature of injuries sustained by the petitioner does not appear to affect the working capacity as well as income of petitioner. The materials on record do not disclose that the petitioner suffered loss of income and his earning capacity has been affected due to accidental injuries. The evidence of PW.1 discloses that the earning capacity of petitioner has not been affected due to accidental injuries.

No satisfactory materials are placed by the

petitioner to show that there is loss of income to him due to accidental injuries. On the other hand, PW.1 himself stated that presently also he is receiving salary. The materials on record disclose that the petitioner not sustained any loss of income due to accidental injuries. There appears to be no loss of income for the petitioner due to accidental injuries. Further, the petitioner not furnished materials to show that the disability, as stated by doctor, causing problems in performing his work or activities and due to the same, there is loss of income to him. The materials on record do not disclose the aspect of loss of income caused to the petitioner due to the accidental injuries. The materials on record are not sufficient and satisfactory to consider that the petitioner is incapacitated from doing any work due to accidental injuries. The accidental injuries do not appear to

have affected the earning capacity of petitioner. The nature of injuries sustained by petitioner does not appear to have caused impact on the income as well as earning capacity of petitioner. The nature of injuries sustained by petitioner does not appear to cause disability to the petitioner so as to render him incapable of doing any work or activities. As per the materials on record, the petitioner appears to be still under employment and receiving salary.

In **ILR 2010 KAR 2439**, wherein Hon'ble High Court of Kartakana it is held that if there is no loss of income, the petitioner is not entitled for compensation under the head of loss of future income.

In **ILR 2000 KAR 3443** in between **United India Insurance company Ltd., Vs. DC Rajan and another** the Hon'ble High court held at para 6 as follows;

"It has to be born in mind while awarding compensation of future loss of earnings, there must be evidence to show that as a result of the injury, the income was reduced or there was loss of earnings or he was removed from service on account of disability or he is incapable of doing any work. In the absence of these factors, the question of awarding compensation on heading loss of future earnings does not arise".

The injuries sustained by the petitioner do not appear to affect the earning capacity of petitioner. The petitioner not furnished any satisfactory materials to show the aspect of earning capacity as well as loss of income to him due to the accidental injuries. The materials on record are not sufficient to consider that the injuries sustained by petitioner will incapacitate him from doing any work and affects his earning capacity. **Hence, the petitioner is not entitled for compensation under the head loss of future earning capacity.**

(vii) Deprivation of Future Amenities:- The doctor has opined that the petitioner sustained

grievous injuries and he is unable to do his day-to-day activities as earlier. By considering the facts and circumstances of the case, the tribunal is of the view that compensation of ₹.10,000/- appears just and reasonable under the head deprivation of future amenities.

(viii) Towards Future Medical Expenses:

The doctor/PW.2 has opined that the petitioner needs one more surgery for removal of implant, but not mentioned the estimation of cost for surgery. No satisfactory materials are placed by the petitioner to show the actual cost for future surgery. By considering the facts and circumstances of the case ₹.20,000/- appears just and reasonable under the head deprivation of future medical expenses.

19. Therefore, the petitioner is entitled for compensation as follows:

Sl.No.	Particulars	Amount
a.	Towards injury pain and suffering	₹.50,000/-
b.	Towards Medical Expenses	₹.1,610/-
c.	Towards food and extra nourishment and medical attendant	₹.2,000/-
d.	Towards conveyance	₹.10,000/-
e.	Towards loss of income during treatment	₹.30,000/-
f.	Deprivation of future amenities	₹.10,000/-
g.	Towards future medical expenses	₹.20,000/-
	Total compensation	₹.1,23,610/-

The petitioner is entitled for total compensation of ₹.1,23,610/-.

20. In view of ratio and dictum laid down by the Hon'ble High Court of Karnataka in **MFA.No.100090 of 2014 C/w. MFA.No.25107 of 2013** between Vijay Ishwar Jadhav and others Vs. Ulrich Belchior Fernandes and another, the petitioner is entitled

for interest @ 6% per annum from the date of petition till its realization.

21. The petitioner has filed petition against the respondents No.1 to 3. It is already held that the accident occurred due to rash and negligent driving of Goods Vehicle bearing Regn.No.KA-53-B-7860 by its driver. So, the respondent No.1 & 3 being the owner and insurer of the offending vehicle are jointly and severally liable to pay compensation to the petitioner. **Hence, Issue No.2 is answered Partly in the Affirmative.**

22. **Issue No.3:** In view of the findings given on the above said issues, this Tribunal proceeds to pass the following:

O R D E R

The claim petition filed by the petitioner Under Section 166 of Motor Vehicles Act is hereby partly allowed with

cost.

The petitioner is entitled for compensation amount of ₹.1,23,610/- (Rupees One Lakh Twenty Three Thousand Six Hundred and Ten only) with interest at 6% p.a., from the date of petition till realization. (future medical expenses shall not carry any interest)

Respondent No.1 & 3 are jointly and severally liable to pay compensation to petitioner. Respondent No.3 being the insurer is primarily liable to deposit the said compensation amount within a period of two months from the date of award.

The petition against respondent No.2 is hereby dismissed.

Entire compensation amount shall be released in favour of petitioner as amount is meager one.

After deposit of compensation amount with interest thereon disburse amount as mentioned above as per guidelines laid down

by Hon'ble High Court in MFA.No.2509/2019 (ECA) and as per General Circular No.2/2019 dated 19.8.2019.

The petitioner hereby directed to produce particulars of his Bank Account, with name of Bank, IFSC Code, Account Number with copy of First Page of Bank Pass Book which contained compulsorily photographs of petitioner, which is duly attested by concerned Bank. Further petitioner shall produce PAN Card/Aadhaar Card.

In case of deposit of awarded amount with interest thereon by respondent, the petitioner is entitled to receive amount as mentioned above after expiry of period provided for filing an appeal.

The Advocate fee is fixed at ₹.1,000/-.

Draw up award accordingly.

(Dictated to the stenographer over computer, corrected and pronounced by me in open court on this 19th day of June, 2026.)

(NARENDRA.B.R)

I ADDL.SMALL CAUSES JUDGE & ACJM
& MEMBER - MACT, BENGALURU

A N N E X U R E

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PETITIONERS:

PW.1 Sri.Shivakumar.B.S

PW.2 Dr.Ramesh.B

DOCUMENTS MARKED FOR PETITIONERS:

Ex.P1 FIR

Ex.P2 Complaint

Ex.P3 Copy of Policy

Ex.P4-5 Notarized copy of DL & RC

Ex.P6 Wound Certificate

Ex.P7 Discharge Summary

Ex.P8 Sketch

Ex.P9 Spot Panchanama

Ex.P10 IMV report

Ex.P11	133 Notice
Ex.P12	Reply to Notice
Ex.P13	Charge sheet
Ex.P14	Medical bills
Ex.P15	Lab Reports
Ex.P16	Outpatient Record
Ex.P17	Copy of Order sheet of CC.4096/24
Ex.P18	Notarized copy of Aadhaar card
Ex.P19	Pay slip
Ex.P20	OPD Book
Ex.P21	X-ray

LIST OF WITNESSES ON BEHALF OF RESPONDENTS:

-NIL-

LIST OF DOCUMENTS ON BEHALF OF RESPONDENTS:

-NIL-

(NARENDRA.B.R.)

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