

KABC020208082023



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.4679/2023

Petitioner : Shri Narasiyappa
S/o Kulla Narasimhappa
@ Kulla Narasiyappa,
Aged about 65 years,
R/at: Somashettihalli Village
Thondebhavi Hobli,
Gowribidanur Taluk

**(Pleader by A.N.Lokesh
Kumar)**

V/s

Respondents: 1. Mahesh D.
S/o Dasappa,
R/at Narasapura,
Kolar Taluk,
Kolar District-563133,

(Pleader by Umesha T.)

2. The Manager,
The Reliance General Insurance
Company Limited,
Situated at:Unnathi Arcade,
5/111 and 6/112, 1st Floor,
1st Block, Dr. Raj Kumar Road,
Rajajinager,
Bangalore-560010.

**(By Pleader Shri M.E.Madhu
Sudhan)**

* * * * *

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.15,00,000/- for the injuries sustained by him in a road traffic accident.

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

2. That on 25-12-2022 at about 10.00 a.m. the petitioner was walking on side of road, at that time, rider of Motor Cycle bearing Reg.No:KA-07-EC-5811 rode the same with high speed in a rash and negligent manner and dashed against the petitioner. Due to

impact the petitioner fell down & sustained grievous injuries.

3. It is further stated that immediately after the accident, the petitioner was shifted to Government Hospital, Gowribidanur, again he was shifted to Sanjay Ghandi Hospital, Bangalore, wherein he took the treatment as an inpatient and spent more than Rs.2,30,000/- towards transportation, treatment, medicines, conveyance etc.

4. It is stated that, prior to the accident the petitioner was hale and healthy, aged about 68 years doing agriculture and milk vending and was earning Rs.30,000/- per month. 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 Motor Cycle bearing registration No.KA-07-EC-5811. Hence the Gowribidanur Rural Police have filed criminal case against rider of said vehicle in Cr.No.319/2022. As such, the respondent No.1 & 2 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, respondent No.1 and 2 have appeared through their respective counsel, inspite of giving sufficient opportunities to the respondent No.1 has not filed his written statement. On the other hand, the respondent No.2 filed written statement.

7. In the written statement, the respondent No.2 denies the existence of the policy in respect of vehicle bearing registration No.KA-07-EC-5811. It is also contention of the respondent No.2 that the accident occurred due to the negligence on the par of the petitioner. 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.

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

ISSUES

1. Whether the petitioner proves that, he had sustained grievous injuries in a motor vehicle accident which took place on 25-12-2022 at about 10.00 a.m. in front of Somashettihalli Village, Gowribidanur Taluk, due to rash and negligent riding of the rider of the motor cycle bearing Reg.No.KA-07-EC-5811 in an actionable negligence?

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

3. What order or award?

9. In order to substantiate his case, the petitioner got examined himself as PW1 and got marked the documents at Ex.P1 to Ex.P17. In addition to his evidence, placed the evidence of Dr.S.Ramachandra as PW2 and got marked documents at Ex.P18 & Ex.P19. Further, placed the evidence of MRO at Sangay Gandhi Institute of Trauma and Orthopaedics as PW3 and got marked documents at Ex.P20 to Ex.P23.

10. On the other hand, the respondent No.2 has not led any rebuttal evidence on its behalf.

11. Heard the arguments and perused the materials available on record.

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

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

ISSUE No.1:-

13. 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-07-EC-5811 the alleged accident had taken place, consequently he had sustained grievous injuries.

14. On the other hand, the respondent No.2, though not disputed the accident and the injuries sustained by the petitioner, but seriously disputed the actionable negligence on the part of the rider of the offending vehicle.

15. In the light of the rival contentions of both the parties, on going through the above issue burden is on the petitioner to prove the above issue on the touch stone of preponderance of probabilities.

16. The petitioner in order to prove his case got examined himself as PW1. He has reiterated the averments made in the petition. The petitioner in support of his oral evidence has relied upon the police documents as per Ex.P1 to Ex.P9. Ex.P1-true copy of FIR, Ex.P2- true copy of FIS, Ex.P3-true copy of spot mahazar, Ex.P4- true copy of I.M.V. report, Ex.P5- true copy of wound certificate, Ex.P6-true copy of charge sheet, Ex.P7-notice U/Sec. 133 of MV Act, Ex.P8-reply to the notice U/Sec. 133 of MV Act and Ex.P9- true copy of order sheet in CC172/2023.

17. On perusal of the police documents, it could be seen that based upon the first information statement given by the petitioner, registered the case against the driver of the offending vehicle for the offences punishable under Section 279 and 337 of I.P.C. Upon investigation, the Investigation Officer of the case has filed charge sheet against the rider of the offending

vehicle alleging that he has committed the offences punishable under section 279, 337 & 338 of I.P.C.

18. On the contrary, the respondent No.2 has strongly disputed the actionable negligence on the part of the rider of the offending vehicle, but not examined either the rider of the offending vehicle or any of the independent eye witness to prove its contention.

19. Apart from this, even at the time of cross-examination of PW1, no material answers culled out to believe the defences of the respondent No.2 about the denial of allegation made against the rider of the offending vehicle.

20. In the light of the evidence placed on record, it is crystal clear that, the alleged accident was occurred due to the rash and negligent riding of the rider of the Motor Cycle bearing registration No.KA-07-EC-5811. As such, the petitioner has placed the satisfactory and convincing evidence on record to prove the above issue. Hence, without making much discussion on the point of rash and negligent driving of the driver of the offending vehicle, I am answering the **issue No.1 in the Affirmative.**

ISSUE No.2:

21. This issue is with respect to the entitlement of reliefs claimed by the petitioner. The petitioner through this petition, claiming compensation of **Rs.15,00,000/-** on account of the injuries sustained by him in the accident under different heads.

22. 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 proposition 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;

23. 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.P5**. The said document discloses that, he had sustained the following injuries:-

- 1) Punctured wound measuring 2x2 cm in the right medial side of leg.***
- 2) Open fracture of right tibia, x-ray shows right distal 1/3rd both bones of leg fracture with type 3 B open wound***

24. In connection with the above said injuries the doctor is of the opinion that, the said injuries are grievous in nature. Further, the petitioner has produced discharge summaries, outpatient record, x-

rays, lab reports, at Ex.P10 to Ex.P14. On going through the discharge summaries issued by Sanjay Gandhi Institute of Trauma & Orthopaedics as per Ex.P10 & Ex.P11, which reveals that petitioner was admitted to the said hospital from 25.12.2022 to 4.1.2023 and from 25.8.2023 to 6.9.2023. In addition to his evidence placed the evidence of Dr.S.Ramachandra as PW2. He has deposed that the petitioner has sustained ***right distal both bones (tibia & fibula) leg fracture with type III B open wound.*** He has placed outpatient record and x-ray as per Ex.P18 & Ex.P19. 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:

25. PW1 has stated that, he was doing agriculture and milk vending and earning Rs.30,000/- 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 perusal of discharge summaries issued by Sanjay Gandhi Institute of Trauma & Orthopaedics as per Ex.P10 & Ex.P11, which reveals that petitioner was admitted to the said hospital from 25.12.2022 to 4.1.2023 and from 25.8.2023 to 6.9.2023. 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.31,000/- towards loss of income during the laid up period and rest period.**

Medical Expenses;

26. The petitioner in connection with his treatment expenses, he has produced medical bills at Ex.P16 to the extent of Rs.13,920/- along with prescriptions at Ex.P15. There are no contra materials available on record to disprove the medical bills. Hence, it is just and proper to award compensation of **Rs.13,920/- towards medical expenses.**

Attendant charges, food and nourishment and conveyance charges;

27. The petitioner herein, as per the medical records and also on going through the discharge summary 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.23,000/- towards attendant charges, food, nourishment and conveyance charges.**

Loss of future income;

28. 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.P5 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.S.Ramachandra** examined as PW2. He has stated in his evidence that, the petitioner has sustained right distal both bones (tibia and fibula) leg fracture with type III B open wound, for which he underwent wound debridement with Ex-Fix (extrnal fixator) and again in the second admission diagnosed non-union of fracture both bones of right leg and underwent CRIF with IMIS and for tibia and plate and screws of fibula. In support of his evidence he has produced outpatient record and x-ray at Ex.P18 & Ex.P19.

29. Further, PW2 has stated that, x-ray shows type III B compound fractures of tibia and fibula of distal one third of right leg shows partial union of tibia and union of fibula with implants in situ in both the bones. PW2 has assessed permanent physical disability of **39.95% of right lower limb and 19.97% of whole body.**

30. In the cross-examination he has admitted that he is not the treated doctor. Further denied that he has assessed the disability on higher side to help the petitioner.

31. Over all appreciation of evidence of PW2 along with the entire medical documents the whole body disability expressed by PW2 as physical disability for right lower limb is **39.95% and whole body is 19.97%**. Hence, by taking into consideration of point of disability expressed by PW2, it is apt to take whole body disability as **14% instead of 19.97%**. The same will meets the ends of justice.

32. 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 68 years. In support of the age proof, he has placed any Aadhar card at Ex.P17 for consideration. On perusal of the said document, it is not visible to see his date of birth. On perusal of outpatient record of Sanjaygandhi Hospital, they have clearly mentioned the age of the petitioner as "73 years, 1 month and 19 days as on 13.2.2023. Hence, it is apt to be believe the said document. Therefore, as on the date of accident, the age of the petitioner is considered as **73 years**. To the said age as per **Sarla Verma case, multiplier '5'** is to be taken into consideration.

33. 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 doing agriculture and getting an income of Rs.30,000/- per month. 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 2022. I am of the view that, it is apt to take the notional income of the petitioner as Rs.15,500/- per month.

34. 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.15,500 X12 X 5 X14/100= Rs.1,30,200/-.

Loss of amenities;

35. 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;

36. PW2 has stated that petitionere requires one more surgery for removal of implants from both tibia and fibula of right leg after achieving complete union of the fracture of tibia. The cost of the estimation is not produced. But on perusal of the grievousness of the injuries, it is just and proper to award compensation of **Rs.20,000/- under the head of future medication.**

37. 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. 31,000-00
3. Medical expenses	Rs. 13,920-00
4. Attendant, Nourishment and Conveyance Charges	Rs. 23,000-00
5. Loss of future income due to disability	Rs.1,30,200-00
6. Loss of Amenities	Rs. 20,000-00
7.Future medical expenses	Rs. 20,000-00
Total	Rs.2,78,120-00

38. Accordingly, the petitioner is entitled for compensation of **Rs.2,78,120/- (Rupees two lakhs seventy eight thousand one hundred and twenty 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:

39. As regards the liability is concerned, it is the assertion of the petitioner that, due to actionable negligence on the part of the rider of the motor cycle bearing registration No.KA-07-EC-5811 alleged accident had taken place. The evidence given by the petitioner in connection with the issue No.1, remained unshaken. As such, I am of the view that, the respondent No.1 being the owner and the respondent No.2 being the insurance company of the offending vehicle are jointly and severally liable to pay compensation to the petitioner.

40. The respondent No.2 has denied the existence of the policy as on the date of accident. But he has not placed any records in this regard. In the absence of the documents, it has to be considered that, as on the date of accident the policy was valid. As such, I am of the view that, the respondent No.2 insurance company is liable to indemnify the respondent No.1. Hence, the respondent No.2 is liable to pay the compensation with interest at **6% p.a.** from the date of petition, till its

realization. **Accordingly, I am answering the issue No.2 partly in the Affirmative.**

ISSUE No.3:

41. 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.2,78,120/- (Rupees two lakhs seventy eight thousand one hundred and twenty 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.2 is liable to pay the compensation 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, by considering the age of the petitioner, entire amount 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 Shri Narasiyappa

PW2 Dr.S.Ramachandra

PW3 Shri R.Agilasithan

List of documents exhibited on petitioner's side:

Ex.P1 : FIR
Ex.P2 : First information statement
Ex.P3 : Spot Mahazar
Ex.P4 : I.M.V. Report
Ex.P5 : Wound certificate
Ex.P6 : Charge sheet
Ex.P7 : Notice u/s 133 of MV Act,
Ex.P8 : Reply to the notice u/s 133 of MV Act
Ex.P9 : Order in CC 172/2023
Ex.P10 &11 : Discharge Summaries
Ex.P12 : Out patient record
Ex.P13 : X-rays
Ex.P14 : Lab report
Ex.P15 : Prescriptions
Ex.P16 : Medical Bills
Ex.P17 : Notarized copy of Aadhar Card
Ex.P18 : Outpatient record
Ex.P19 : X-ray
Ex.P20 : Authorisation letter
Ex.P21 : Case sheet
Ex.P22 : Police intimation
Ex.P23 : MLC Extract

List of witnesses examined on respondents' side:

- Nil -

List of documents exhibited on respondents' side:

- Nil -

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