

KABC020375422024



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

Dated: This the 20th day of July 2026

**Present: DHANESH MUGALI
B.Com., LL.B.,(Spl.)
III ADDL. JUDGE &
MEMBER, MACT
COURT OF SMALL CAUSES,
BENGALURU.**

M.V.C. No.4363/2024

Petitioner Shri Mahendra Kumar,
S/o Chandrappa,
Aged about 25 years,
Kaloni, Vatadahosahalli,
Gowribidanur Taluk,
Chikkaballapura District.

(By Pleader Sri Mallikarjuna)

V/s

Respondent The Managing Director,
K.S.R.T.C.
Transport House,
Central Offices, K.H.Road,
Shanthinagar,
Bengaluru-560 027.

(By Pleader Sri M.S.Basavaraju)

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.20,00,000/- for the injuries sustained by him in a road traffic accident.

The brief facts of the petitioner's case are as under:

2. That, on 05.05.2024 at about 8-00 hours the petitioner was proceeding in a motor cycle bearing registration No.KA-43/X-9470 along with two others, on the left side of Gowribidanur-Kodigenahalli road, Dandipura village, Madugiri Taluk, when he reached near curve Upparahalli Cross, at that time, driver of KSRTC bus bearing registration No.KA-40/F-1019 drove the same in a rash and negligent manner came at high speed and dashed the petitioner's motor cycle and caused the accident. Immediately after the accident the petitioner was shifted to Madhugiri Government Hospital, for first aid, then he was shifted to Tumkur District Hospital, from there he was shifted to NIMHANS Hospital, Bengaluru and then shifted to Victoria hospital, Bengaluru, wherein he took treatment as an inpatient

and spent Rs.1,00,000/- towards medicines, attendant charges, food and nourishment etc.

3. Prior to the accident, the petitioner was hale and healthy and was doing agriculture and vegetable business and earning a sum of Rs.25,000/- per month. Due to accidental injuries he could not able to do any work as earlier.

4. It is contended that, the accident occurred due to the rash and negligent act of the driver of the KSRTC bus bearing registration No.KA-40/F-1019. In this regard, case was registered against the driver by the jurisdictional Kodigenahalli Police in Crime No.57/2024. As such, the respondent being RC owner and internal insurer of the offending vehicle is liable to pay compensation to the petitioner. Hence, the petitioner has filed the instant petition seeking compensation.

5. In response to the notice, the respondent has appeared through its counsel and filed the written statement.

6. The respondent in its written statement contended that, the petition is not maintainable either in law or on facts of the case. This respondent has denied

the manner of accident, age, avocation and income of the petitioner and also denied the expenses incurred towards medication and other incidental charges. Further contended that on the date of accident, the driver of the offending vehicle was driving slowly and cautiously and this accident occurred due to sole negligence on the part of the petitioner himself. It is also contention of the respondent that the compensation claimed by the petitioner is excessive and exorbitant. With all these main grounds, prayed to dismiss the petition with cost.

7. On the basis of rival pleadings of both the parties, this court has framed the following issues;

ISSUES

1. Whether the petitioner proves that, he had sustained grievous injuries in a motor vehicle accident which took place 05-05-2024 at about 8.00 hours near Upparahalli cross, Dandipura, Kodigenahalli-Gowribidanur road, Madhugiri taluk, Tumakuru, due to rash and negligent driving of the driver of the KSRTC Bus bearing Reg.No.KA-40-F-1019 in an actionable negligence?
2. Whether the petitioner is entitled for compensation? If so, at what rate and from whom?

3. What order or award?

8. In order to substantiate the case of the petitioner, he got examined as PW1 and got marked as Ex.P1 to Ex.P10. In addition this, placed the evidence of Dr.B.N. Nagaraj as PW.2 and got marked the documents at Ex.P11 to Ex.P2.

9. On the other hand, the respondent Corporation has examined its driver as RW1 and got marked documents as Ex.R1 to Ex.P8.

10. Heard the arguments of the learned counsel for the petitioner and the counsel for the respondent has filed the written arguments.

11. At the time of arguments Learned Counsel for the respondent has relied upon following decisions:

a) (2005) S.C.C. 172 (between National Ins. Co. Ltd., V/s Prembai Patel and others)

Wherein the Hon'ble Supreme Court of India held that, **"the claim petition before the Motor Accident Claims Tribunal is an action in tort and the injured or the legal representatives of the deceased have to establish any preponderance of evidence that there was no negligence**

on the part of the injured or deceased and they were not responsible for the accident”.

b) (2007) 13 S.C.C. 476 (Between Oriental Ins. Co. Ltd., V/s Premlata Shukla and others)

c) (2014) 13 S.C.C 254 (Between Lachoo Ram and others V/s Himachal Road Transport Corporation)

In the above supra decisions, the Hon’ble Supreme Court of India held that, **“simply by involvement of bus in the accident cannot make the respondent to pay compensation unless it can be held on the basis of materials on record that, the accident was caused by rash and negligent act of the driver”.**

d) MFA.No.2829/2009 (M.V), Hon’ble High Court of Karnataka, between Manju V/s Mathue K.P. and another

Wherein the Hon’ble High Court of Karnataka held that, **“the court will have to presume that accident had occurred in the manner stated by claimant. The filing of charge sheet u/s 173 (5) (Cr.P.C.) may give rise to a presumption. However, that is not decisive on the issue. If the court finds evidence adduced by parties and material placed by parties are sufficient to hold that charge sheet filed by police is a fabricated document, the claim petition cannot be sustained”.**

e) MFA.No.2921/2012 (MV), Hon'ble High Court of Karnataka, (between Smt. Vijayalakshmi K.N. & Others V/s and another)

Wherein the Hon'ble High Court of Karnataka held that, **“on perusal of photographs Ex.R1 and Ex.R2 and the sketch Ex.P3 and the evidence of PW2 and as rightly held by the respondent's counsel, the driver of the KSRTC bus was proceeding from Bengaluru to Ghati, the rider of the TVS XL came in the middle of the road and dashed against the bus in the right side. Hence, it cannot be held that the bus itself came in its right side to commit offence, though PW2 has been examined, he only deposed that it is KSRTC which came in a rash and negligent manner and caused accident. Oral evidence itself is not a deciding factor. The oral evidence must corroborate with materials viz., Ex.P3-sketch and Ex.R1 & Ex.R2-photographs. The tribunal has rightly dismissed the claim petition on carefully perusing the materials available. Despite the materials are available in favour of KSRTC, question of filing charge sheet would not arise against its driver, which shows non-application of mind by the investigating officer. While filing charge sheet, investigation officer should be honest and she should speak through the materials”.**

f) 2005 ACJ 1359 Hon'ble High Court of Karnataka, (between P.S. Somaiah and another V/s Director, Bangalore Dairy and others)

Wherein the Hon'ble High Court of Karnataka held that, **“a motor cycle or a scooter or a moped conventionally answering to the description of two wheelers is permitted under the law to carry only two individuals regardless of the age or size of those persons. Secondly, the law postulates that the person other than the driver can only be carried in a position behind the driver and we need to remind the police and the traffic control authorities for the last time that it is totally completely impermissible to permit the second person travelling on that vehicle to be in any other position”.**

g) MFA 10770/2010 (MV) C/w MFA 10771/2010(MV) C/w MFA 10760/2010 (MV) Hon'ble High Court of Karnataka,

Wherein the Hon'ble High Court of Karnataka held that, **“the finding relating to contributory negligence should be applicable to the case of pillion riders also while quantifying the compensation”.**

h) ILR 2004 KAR 26 (between KSRTC V/s Arun @ Aravind and others.

Wherein the Hon'ble High Court of held that, **“when the other joint tort feasor is not a party, the tribunal should**

refrain from giving any finding about apportionment or negligence, in the absence of other tortfeasor, to avoid any exercise in futility and leave the said question of liability of joint tortfeasors to be adjudicated, if the joint tortfeasor who satisfies the award is able to find out the name of the other joint tortfeasors and seeks to exercise right of contribution in accordance with law”.

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

Issue No.1: In the Affirmative.

Issue No.2: Partly in the 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 driver of the KSRTC bus bearing registration No.KA-40/F-1019, the alleged accident had taken place, consequently he had sustained grievous injuries.

14. On the other hand, the respondent though not disputed the accident and the injuries sustained by the petitioner, but strongly disputed the actionable negligence on the part of the driver of the KSRTC bus.

15. On the basis of the rival contentions of both the parties, it is necessary to rely the evidence placed on record by both the parties.

16. The petitioner in order to prove her case, petitioner herself examined as PW1. In her examination-in-chief by way of affidavit has reiterated the averments made in the petition. The petitioner in support of her oral evidence have relied upon Ex.P1 to Ex.P8. Ex.P1-true copy of the F.I.R. in Crime No.57/2024 of Kodigehalli Police Station. Ex.P2-true copy of the first information statement. Ex.P3-true copy of spot mahazar, Ex.P4-true copy of spot sketch, Ex.P5-wound certificate, Ex.P7-accident investigation report and Ex.P8-true copy of charge heet.

17. On perusal of the police documents, it could be seen that, based upon the first information statement given S.Ramanjappa, the S.H.O. of Kodigehalli Police have registered the case against the driver of the offending vehicle for the offences punishable under Sections 279, 337 & 304(A) of I.P.C. Upon investigation, the I.O. has filed charge heet against the driver of the offending vehicle alleging that he has committed the

offences punishable under section 279, 337, 338 and 304(A) of IPC.

18. In order to substantiate the defence of the respondent, has examined its driver as RW1. RW1 has deposed in his evidence that he was driving the bus slowly and cautiously at Vijayanandi cross(Upparahalli mud road) after Dandipur, at that point of time, the petitioner was riding two wheeler baring No.KA-43-X-9740 came from opposite direction along with two pillions riders, came to the extreme right side, by crossing the mid point, at that time he was stopped the bus, the petitioner with over speed and over loading lost the control over the motor cycle and dashed against the stopped the bus and caused the alleged accident. The petitioner was solely responsible for the accident. To prove the said fact, he has placed Ex.R1 to Ex.R8. On perusal of the photographs, the damages caused to the right side of the bus. But the said documents only will not support the defence of the respondent.

19. Apart from this, at the time of cross-examination of PW1, though several questions put to the witness, but nothing has been culled out from her mouth

of PW1 to believe all the defenses of the respondent forthcoming in the written statement.

20. In the light of the discussions held above, I hold that, the accident was occurred due to the rash and negligent driving of the driver of the KSRTC bus bearing registration No.KA-40-F-1019. Accordingly, I am of the view that, the petitioners have placed satisfactory materials on record, to prove the aforesaid issue. **Accordingly, I am answering the Issue No.1 is 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.20,00,000/-** on account of the injuries sustained by her in the accident under different heads.

22. Before appreciation of the evidence placed by the petitioner about the injuries sustained by her, in the accident and its consequences, it is apt to note herein, the preposition laid down in the following land mark 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, comes 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 her 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) Lacerated wound 2x1x1 cm over left forearm**
- 2) Lacerated wound 3x1x1 cm over left knee joint**

- 3) On undergoing further investigations at Victoria Hospital, Bengaluru and was found to have suffered the following additional injuries**
- a) undisplaced fracture of left zygomatic arch, greater wing of right sphenoid extending to lesser wing or right sphenoid, extending to lesser wing of right sphenoid, fracture of right lateral wall and roof of sphenoid**
 - b) Left hemothorax with multiple rib fracture with pulmonary contusion.**

24. In connection with the above said injuries, the doctor is of the opinion that the said injury No.1 & 2 are simple in nature and the injury No.3 is grievous in nature. Further, the petitioner has produced the discharge summary as per Ex.P6 issued by Victoria Hospital, which discloses that the petitioner was admitted on 5.5.2024 and discharged on 10.5.2024. In addition to her evidence, placed the evidence of Dr.Nagaraj B.N. as PW2. PW2 has stated in his evidence that the petitioner had sustained rib fractures with left hemothorax with pulmonary contusion and craniofacial fracture. By taking into consideration of the nature of the injuries and the treatment taken by the petitioner, he could 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.50,000/- 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 business and was earning a sum of Rs.25,000/- per month. In this regard, he has not produced any iota of documents to show that he was earning Rs.25,000/- per month. In such a situation, as per law, notional income has to be taken. On going through the discharge summary as per Ex.P6 issued by Victoria Hospital, which discloses that the petitioner was admitted on 5.5.2024 and discharged on 10.5.2024. 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.34,000/- towards loss of income during the laid up period and rest period.**

Medial Expenses;

26. The petitioner in connection with his treatment expenses, at the time of his evidence, placed medical bills of Rs.13,680/- as per Ex.P9. There are no contra

materials available on record to disprove the medical bills. Hence, it is just and proper to award compensation of **Rs.13,680/- 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 for a period of **6 days** and also as an outpatient, definitely he could have spent some amount towards, food, nourishment, conveyance, as well as towards attendant charges. Hence, the petitioner is entitled for compensation of **Rs.6,000/- 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 her. In order to prove the same, the petitioner has relied on her 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 her as per Ex.P5 goes

to show that, he had sustained grievous injuries. Apart from this, another material witness by name **Dr.Nagaraj B.N.** examined as PW2. PW2 has stated in his evidence that the petitioner has sustained Multiple rib fracture with left haemothorax with pulmonary contusion and craniofacial fracture. For which the petitioner was treated conservatively and later discharged on 10.5.2024.

29. On examination of the petitioner, the petitioner has restricted chest movements with tenderness in the left side of the chest. X-ray of chest shows united fracture.

30. On the basis of entire evaluation on the basis of guidelines by the ministry of social justice and empowerment, the petitioner is having cardiopulmonary disability at 25%.

31. At the time of cross-examination of PW2, admitted that he was not treated the petitioner, the fracture is united. The petitioner can continue his work. Further denied the suggestion that he assessed the disability of the petitioner in higher side.

32. Over all appreciation of evidence of PW2 along with the entire medical documents the whole body

disability expressed by PW2 seems little bit exorbitant. Hence, by taking into consideration of point of disability expressed by PW2 along with the point that, fracture is united. Hence, it is just and proper to consider the disability **10%**. The same will meets the ends of justice.

33. 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, her age was 25 years. In support of the age proof, he has placed Aadhar card marked at Ex.P10 for consideration. On going through the said document, the date of birth of the petitioner has been mentioned as 25.2.2000. The accident occurred on 5.5.2024. Therefore, as on the date of accident, the age of the petitioner is considered as **24 years**. To the said age as per **Sarla Verma case**, **multiplier '18'** is to be taken into consideration.

34. Next factual aspect of the income of the petitioner is concerned, in her evidence the petitioner has stated that, prior to the accident, he was doing agriculture and vegetable business and getting an income of Rs.25,000/- per month. In support of her avocation and definite income per month, he has not placed any iota of documents. In such a situation, as per

law 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 2024. 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.17,000/- for the year 2024.

35. In the light of my detailed discussions held above, no doubt injuries sustained by the petitioner, definitely come in the way of her 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.17,000 X 12 X 18 X 10/100= Rs.3,67,200/-.

Loss of amenities;

36. PW1 has stated in his evidence that due to the accidental injuries, he cannot stand or walk for long distance,, cannot chew hard food, often get head ached and giddiness. On perusal of evidence of 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 her work for livelihood as an agriculturist. Hence, it is just and proper to award compensation of **Rs.25,000/- towards loss of amenities.**

37. In connection with the future medication, PW2 has not about the future medication. Hence, petitionr is not entitled for compensation **under the head of future medical expenses.**

38. 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. 50,000-00
2.Loss of income during laid-up period and rest period	Rs. 34,000-00
3. Medical expenses	Rs. 13,680-00
4. Attendant, Nourishment and Conveyance Charges	Rs. 6,000-00
5. Loss of future income due to disability	Rs.3,67,200-00
6. Loss of Amenities	Rs. 25,000-00
7. Future medication	Nil
Total	Rs.4,95,880-00

39. Accordingly, the petitioner is entitled for compensation of **Rs.4,95,880/- (Rupees four lakhs ninety five thousand eight hundred and eighty 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:

40. As regards the liability is concerned, it is the assertion of the petitioner that, due to the actionable negligence on the part of the driver of the KSRTC bus bearing registration No.KA-40-F-1019, alleged accident had taken place. The evidence given by the petitioner in connection with the issue No.1, remained unshaken. As such, it is the strong assertion of the petitioner that, the respondent being the owner as well as internal insurer is liable to pay the compensation to the petitioner with interest at the rate of 6% p.a. from the date of petition till

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

ISSUE No.3:

41. In view of above 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 M.V. Act is partly allowed with cost.

The petitioner is entitled for compensation of **Rs.4,95,880/- (Rupees four lakhs ninety five thousand eight hundred and eighty only)** along with interest @ **6% per annum**, from the date of the petition till the realization of the award amount.

The respondent 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.

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 **20th day of July 2026**).

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

ANNEXURE

List of witnesses examined on petitioner's side:

PW1 Shri Mahendra Kumar
PW2 Dr. Nagaraj B.N.

List of documents exhibited on petitioner's side:

Ex.P1 FIR
Ex.P2 First information statement
Ex.P3 Spot mahazar
Ex.P4 Spot sketch
Ex.P5 Wound certificate
Ex.P6 Discharge summary
Ex.P7 Accident inspection report
Ex.P8 Charge sheet
Ex.P9 Medical bills

Ex.P10 Aadhar card
Ex.P11 Clinical notes
Ex.P12 X-ray

List of witnesses examined on respondent's side:

RW1 Shri.V.G.Srinivasa

List of documents exhibited on respondent's side:

Ex.R1 & 2 Copies of complaint
Ex.R3 & 4 Postal receipts
Ex.R5 to 8 Photographs

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