

KABC020390142024



**IN THE COURT OF II ADDL. SMALL CAUSES
JUDGE, ACJM AND MEMBER-MOTOR ACCIDENT
CLAIMS TRIBUNAL, BENGALURU. (SCCH-13)**

DATED THIS THE 11th DAY OF MARCH 2026.

**PRESENT: Smt. Shyla S.M., B.B.M. LL.B.,
II Addl.Judge & ACJM,
Court of Small Causes
Bengaluru.**

M.V.C.No.4500 OF 2024

Petitioner: H. Madhusudhan
S/o Hanumaiah
Aged about 24 years
R/At No. 80, Near Kabbamma Temple,
Chikkegowdanaplaya, Thalaghattapura,
Bangalore - 560062.

(By Sri. B.S.Manjunath, Advocate,)

Vs.

Respondents: 1. Talaka Radhakrishna
S/o.Ramachandra Bhat
R/At No. 13/A, Royal Shelters, Phase 3,
IIMB Devarachikkanahalli,

Bengaluru - 560076.

(RC owner of car bearing No.KA-51-MN-9653)

(By Sri.K.V.Ramesh Kumar, Adv.)

2. Royal Sundaram Gen.Ins Co Ltd.,
No. 30, JNR City Center
Opp Kanteerava Stadium
Rajaram Mohan Roy Road
Sampangiram Nagar
Bengaluru – 560027

IP No.VPC1705767000101

Validity:24-12-2023 to 23-12-2024.

(By Sri.Ravi S Samprathi, Advocate)

JUDGMENT

This petition under Section 166 MV act is filed by the Petitioner seeking compensation of Rs.40,00,000/- for the injuries sustained in a road traffic accident.

2 It is the specific case of the petitioner that on 01.05.2024 at about 12.25 p.m., he was travelling as a pillion rider on a motorcycle bearing registration No. KA-05-GU-5659 on NICE Road near Sompura Bridge, Kengeri, Bengaluru. At that time, the driver of a car

bearing registration No. KA-51-MN-9653 (hereinafter referred to as the “offending car”) drove the same in a rash and negligent manner, came from behind and dashed against the motorcycle on which the petitioner was travelling.

3. Due to the impact, both the rider and the petitioner fell down and sustained grievous injuries. Immediately after the accident, the petitioner was shifted to P M Santhosha Hospital, where he was administered first aid. Thereafter, he was shifted to KIMS Hospital, where he was admitted as an inpatient and underwent surgery.

4. At the time of the accident, the petitioner was working as a Sales Executive L3 at Amazon Distributor Pvt. Ltd., earning a monthly income of Rs.23,400/-. The petitioner contends that due to the injuries sustained in the accident, he has suffered permanent disability resulting in loss of earning capacity and reduction in income. He further states that he has incurred substantial expenses towards medical treatment, conveyance and other incidental charges. Hence, he has sought compensation from

Respondent Nos.1 and 2 towards injuries, disability, loss of income and other expenses.

5. Upon service of notice, Respondent Nos.1 and 2 appeared through their respective counsel and filed their written statements.

6. Respondent No.1 (Owner) has denied all the averments made in the claim petition and contended that the alleged accident did not occur due to the rash and negligent driving of the offending car. He has admitted that he is the RC owner of the offending vehicle and that at the time of the accident, his son was driving the vehicle and was holding a valid and effective driving licence. He has further stated that the offending car was insured under a valid policy as on the date of the accident. On these grounds, he has sought dismissal of the claim petition against him.

7. Respondent No.2 (Insurance Company) has denied all the material averments of the petition, while admitting issuance of a valid insurance policy in respect of the offending car, which was in force as on the date of the accident. However, it has contended

that its liability, if any, is subject to the terms and conditions of the policy.

8. The insurer has further contended that the owner of the offending car and the concerned police failed to comply with the mandatory provisions under Section 134(c) and Section 158(6) of the Motor Vehicles Act. It is also contended that the driver of the offending car did not possess a valid and effective driving licence at the time of the accident.

9. Further, Respondent No.2 has denied the allegation of negligence attributed to the driver of the offending car and has instead contended that the accident occurred due to the negligence of the rider of the motorcycle. It is alleged that the rider and pillion rider were not wearing helmets, that the rider did not possess a valid driving licence, and that he overtook a car in a rash manner and collided with it.

10. This respondent has also denied the nature and extent of injuries, income, disability, medical expenses and the quantum of compensation claimed, contending that the claim is highly excessive and

without legal basis, and has sought dismissal of the petition.

11. On the basis of the above pleadings, the following Issues were framed :-

1. Whether the Petitioner proves that he sustained grievous injuries in a Road Traffic Accident occurred on 01-05-2024 at about 12.25 noon, near Sompura Bridge, on Nice Road, Bangalore, due to the rash and negligent driving of the driver of Car bearing No.KA-51-MN-9653?
2. Whether the petitioner is entitled for compensation ? If so, what amount?
3. What order or award?

12. In order to prove the claim, the Petitioner examined himself as PW.1 and in support of his case, 2 witnesses were examined as PW-2 and 3 and got marked the documents as per Ex.P.1 to P.25. Respondents have not chosen to adduce any oral and documentary evidence.

13. I heard the counsel on both sides and have perused the material on record.

14. By considering the available materials on record and the arguments addressed by the parties, I have answered the above Issues as under:

Issue No.1: In the Affirmative.

Issue No.2: Partly in affirmative.

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

REASONS

15. **ISSUE NO.1:-** The petitioner has categorically stated that on 01.05.2024 at about 12.25 p.m., he was travelling as a pillion rider on a motorcycle bearing registration No. KA-05-GU-5659 on NICE Road near Sompura Bridge, Kengeri, Bengaluru. At that time, the driver of the offending car drove the same in a rash and negligent manner, came from behind and dashed against the motorcycle on which the petitioner was travelling. Due to the impact, both the rider and the petitioner fell down and sustained grievous injuries.

16. In support of his version, Petitioner has filed affidavit e under Order XVIII Rule 4 of the Code of Civil Procedure and examined as PW1 and has produced

the documents marked as Ex.P1 to Ex.P7, FIR, complaint, spot mahazar, rough sketch, IMV report, wound certificate and charge sheet. A perusal of the complaint and FIR clearly discloses that the offending car was driven in a rash and negligent manner and dashed against the petitioner's motorcycle, resulting in the accident. Accordingly, the FIR was registered against the driver of the offending car.

17. After conducting a detailed investigation, the police have filed a charge sheet against the driver of the offending car, alleging negligence on his part in causing the accident. The said police records consistently support the version of the petitioner with regard to the manner of the accident.

18. Further, E.Selwyn Jeba Singh, MRO of KIMS Hospital, was examined as PW2 and he produced the documents marked as Ex.P21 and Ex.P22, namely the authorization letter and case sheet. These records clearly establish that the petitioner was admitted to the hospital immediately after the accident and that the injuries sustained were the result of a road traffic accident.

19. On the other hand, Respondents have contended that the accident occurred due to the negligence of the rider of the motorcycle. It is alleged that by the respondent no 2 that the rider and pillion rider were not wearing helmets, that the rider did not possess a valid driving licence, and that he overtook a car in a rash manner and collided with it. During the course of cross-examination, these suggestions were put to PW1, which he categorically denied.

20. Except making such a bald and unsupported suggestion, respondent No.2 has not produced any material evidence, either oral or documentary, to disprove the police investigation or to rebut the testimony of PW1. No independent eyewitness has been examined, nor has any contra-investigation report or other cogent evidence been placed on record to establish that the accident occurred due to the negligence of the rider of the motorcycle on which the petitioner was travelling. Further, nothing substantial has been elicited in the cross-examination of PW1 to shake his credibility or to discredit his version regarding the manner of the accident.

21. Mere allegation of negligence, without producing any cogent and probative evidence, cannot outweigh the positive and consistent evidence placed on record by the petitioner. It is a well-settled principle that proceedings under the Motor Vehicles Act, 1988 are summary in nature, and the standard of proof required is that of preponderance of probabilities and not proof beyond reasonable doubt as required in criminal trials. Further, the Motor Vehicles Act being a beneficial and welfare legislation, its provisions are required to be interpreted liberally in favour of the claimants.

22. In the present case, the medical records clearly establish that the petitioner sustained injuries in the said accident. The credible oral testimony of PW1, coupled with the charge sheet and other contemporaneous police records, clearly establishes that the accident occurred due to the rash and negligent driving of the driver of the offending car.

Issue No.1 is answered in the Affirmative.

23. **ISSUE NO.2** :- As per the medical records, the petitioner sustained multiple facial abrasions,

hemorrhagic contusion with extra-axial collection, subgaleal hematoma and linear displaced fracture of the right occipital bone due to the impact of the accident. Immediately after the accident, the petitioner was shifted to P.M. Santosh Hospital, where first aid treatment was administered. Thereafter, he was shifted to KIMS Hospital, Bengaluru, where he was admitted as an inpatient and underwent surgical treatment.

24. In order to substantiate the injuries and disability, the petitioner has examined PW3 – Dr. Banuprakash, Senior Consultant Neurosurgeon at Shreyas Clinic, Bengaluru. PW3 has produced documents marked as Ex.P23, re-examination OPD slips, neuro-behavioural cognitive assessment at Ex.P24, and follow-up records at Ex.P25.

25. PW3 has deposed that the petitioner had sustained multiple facial abrasions, E2V2M5 occipital fracture, subgaleal hematoma, hemorrhagic contusion right EDH SDH and at the time of admission his GCS score was E3V4M5. He further stated that the petitioner underwent treatment at KIMS Hospital and later underwent right fronto-temporal craniotomy with

evacuation of EDH on 2-05-2024, followed by cranioplasty on 29-06-2024, and further follow-up treatment on 6.6.2024, 29.06.24, ,19.9.2024, 4.9.2025 findings revealed bilateral basi frontal and anterior temporal cortical and sub-cortical gliosis.

26. According to PW3, the petitioner presently complains of dizziness while walking in the sun, weakness, tremors on the left side, ataxia and difficulty in maintaining balance on the left lower limb. He further deposed that the petitioner has hemiparesis with muscle power graded at 4+/5 and exaggerated deep tendon reflexes. PW3 also stated that the petitioner finds it difficult to carry out all his previous activities and cannot effectively perform his work as a sales executive, though he is able to look after his personal affairs. He has assessed the petitioner as having Modified Rankin Scale (MRS) – 2, indicating slight disability, and opined permanent physical impairment (PPI) 40-50% of about 25% on neurological basis. He has further referred the petitioner for neuropsychological evaluation, and as per the report of Dr. Pratibha Sharun, the cognitive disability was assessed at 34.83% using VSMS scale and IDEAS. On the basis

of these findings, PW3 has assessed the overall disability at 50%.

27. However, during the course of cross-examination, PW3 admitted that he examined the petitioner about one year and three months after the accident and that he had not conducted any specific functional assessment regarding the petitioner's employability or day-to-day functional disability. It is also elicited that PW3 was not the treating doctor and his opinion was based on the available medical records.

28. The learned counsel for respondent No.2 contended that though PW3 has opined that the petitioner suffers from memory loss and cognitive impairment, the petitioner while deposing before this Tribunal as PW1 was able to clearly narrate the manner of accident, his occupation and other relevant facts in a coherent and composed manner without exhibiting any visible cognitive difficulty.

29. In view of the said submissions, this Tribunal has carefully perused the evidence of PW1 once again. The deposition of PW1 indicates that he has clearly

narrated the sequence of events relating to the accident and responded logically to the questions put to him during cross-examination. He did not exhibit any significant neuro-psychological deficit of the nature described by PW3 during the course of his evidence.

30. Further, PW3 was not the treating doctor and his opinion appears to be based primarily on the available records rather than continuous clinical observation. In these circumstances, the disability assessed at 50% appears to be on the higher side and cannot be accepted in its entirety.

31. However, considering the nature of the head injury sustained, the surgical treatment undergone, the neurological sequelae documented in the medical records, and the difficulties stated by the petitioner in performing his daily activities and vocation, this Tribunal is of the opinion that the petitioner has suffered some degree of permanent functional disability. Therefore, this Tribunal deems it appropriate to assess the permanent disability of the petitioner at 15% to the whole body, which would be

just, reasonable and appropriate in the facts and circumstances of the case.

32. In the petition the age of the petitioner is mentioned as 25 years. Ex.P.13 – Aadhar card of the petitioner shows that he was born in the year 2000, the same is considered, then age of the petitioner as on the date of accident as 24 years and the multiplier applicable to the case on hand is **18**.

33. The petitioner has stated that at the time of the accident he was aged about 24 years and was working as an L3 Sales Executive at Amazon Distributor Private Limited, earning a salary of Rs.23,400/- per month. In order to substantiate his avocation and income, the petitioner has produced Ex.P16 – Appointment Letter, Ex.P17 – Employment and Leave Certificate, Ex.P18 – Relieving Letter, Ex.P19 – Pay Slips for the period from March 2024 to May 2024, and Ex.P20 – Bank Statement.

34. On perusal of Ex.P19 – Pay Slips, it is evident that for the months of March 2024 to May 2024, the petitioner was drawing a gross salary of Rs.21,640/- per month. The salary was regularly credited to his

bank account as reflected in Ex.P20 – Bank Statement, which corroborates the said income.

35. Further, the bank statement clearly shows the credit of salary during the said period. It is also evident from Ex.P17 – Employment and Leave Certificate that the petitioner was on leave from 25.02.2024 to 12.03.2025 on account of the injuries sustained in the accident. The petitioner has further stated that he had to discontinue his employment due to the accidental injuries suffered by him. In this regard, Ex.P18 – Relieving Letter supports his contention that he had relieved from the said employment.

36. Therefore, the documentary evidence produced by the petitioner clearly establishes that he was employed with Amazon Distributor Private Limited and had discontinued his employment due to the injuries sustained in the accident.

37. Further, the pay slips at Ex.P19 reveal that after deductions towards ESI and PF, the petitioner was receiving a salary of Rs.19,719/- per month. During the course of cross-examination, PW1 has

categorically stated that he was working in the said company and drawing a salary of Rs.23,400/- per month, and this fact has not been seriously disputed by respondent No.2.

38. However, based on the documentary evidence available on record, particularly Ex.P19 – Pay Slips, this Tribunal deems it appropriate to take the monthly income of the petitioner at Rs.19,719/- per month for the purpose of assessment of compensation, instead of Rs.23,400/- as claimed by the petitioner.

39. Thus this tribunal is of the opinion that the petitioner who sustained the injuries is entitled for compensation under the following heads:

40. Loss of future income on account of permanent disability : The petitioner's condition is indeed slightly critical, and considering that prior to the accident he was employed as a L3 sales executive in Amazon and was capable of earning his livelihood, this Court is of the considered view that the petitioner has suffered functional disability as a result of the accidental injuries. The loss of future earnings comes to **Rs 19,719 x 12 x 18 x 15/100= ₹.6,38,895/-**.

41. **Pain and sufferings:** The term “pain and suffering” encompasses not only physical discomfort and distress but also the mental and emotional trauma suffered resulting from the injuries sustained. compensation under this head is recognized in motor accident claims to address such physical and psychological agony. Although it cannot be measured in terms of money through any precise mathematical calculation, the tribunal is empowered to award just and reasonable compensation by way of conventional sums. Considering the petitioner’s hospitalization for 27 days, the complete loss of independence lifelong suffering, and permanent disability, this Tribunal considers that a sum of ₹70,000/- would be just, fair, and reasonable compensation under the head of pain and suffering.

42. **Loss of amenities of life:** undoubtedly the petitioner is suffering from difficulties in performing day to day activities and is facing continuous hardship due to the disability. Therefore this tribunal finds to appropriate to award a sum **₹.50,000/- under head of loss of amenities of life.**

43. Medical expenses: Under the pecuniary damages, expenses relating to treatment, hospitalization and medicines, the Petitioner has relied on medical bills at Ex.P.10 for Rs.3,07,621/-. On perusal of these medical bills, it reveals that the Petitioner has spent ₹.3,07,621/- towards medical expenses. The medical bills appears to be genuine. Therefore, the Petitioner is entitled for medical expenses of ₹.3,07,621/- towards Medical Expenses.

44. Conveyance, food and nourishment charges: Ex.P.8 -Discharge summaries shows that Petitioner underwent inpatient treatment at KIMS Hospital, Bengaluru from 02-05-2024 to 21-05-2024 and again from 03-07-2024 to 09-07-2024 i.e, totally for a period of 27 days. Therefore, it is just and reasonable to award compensation of **₹.30,000/- under the head of conveyance, food and nourishment charges.**

45. Loss of earning during laid up period: With regard to the loss of earnings during treatment period, Considering the nature of the injury, which has resulted in significant difficulty in mobility and in

carrying out daily vocational activities, as well as the duration of impatient treatment and recovery, this tribunal considers the 4 months for rest is considered . As the monthly income of the Petitioner is already considered as ₹.19,719/- per month, **loss of earning during laid up period** would be **₹. 19,719 x 4 = Rs.78,876/-**.

46. Thus the compensation awarded under the various heads are as under:

Sl. No.	Nature of Compensation	Amount
1.	Loss of future earnings	₹. 6,38,895/-
2.	Pain and Sufferings	₹. 70,000/-
3.	Loss of amenities	₹. 50,000/-
4.	Medical expenses	₹. 3,07,621/-
5.	Conveyance, Food and Nourishment charges	₹. 30,000/-
6.	Loss of income during Laid up period and rest period	₹. 78,876/-
	Total	₹. 11,75,392/-

47. Liability: The petitioner has led cogent evidence and has proved that the accident occurred due to the rash and negligent driving of the driver of

the offending vehicle. Respondent No. 1 (insured) and Respondent No.2 (insurer) are held jointly and severally liable to pay the compensation to the petitioner. However, the Respondent No. 2 – insurer, who shall pay the compensation amount to the petitioner together with interest at the rate of 6% per annum from the date of petition till realization. With these observations, **I answer Issue No.2 partly in the affirmative.**

48. ISSUE NO.3 : In view of the above discussion, reasons stated and findings given to above issues, I proceed to pass the following:

ORDER

Claim Petition filed under Sec.166 of M.V.Act is allowed in part with cost.

Petitioner is awarded compensation of **Rs.11,75,392/-** together with interest @ 6% p.a. from the date of petition till the date of deposit with the Tribunal.

Respondent No.2 shall pay the aforesaid amount within two months from the date of this order.

After deposit of compensation amount, 25% of the amount shall be kept in FD in the name of petitioner in any nationalized Bank for a period of 2 years and remaining 75% amount with interest shall be disbursed to the petitioner through E-payment on proper identification.

Advocate's fee is fixed at ₹.1,000/-.

Draw award accordingly.

(Dictated to the Stenographer directly on computer, corrected, signed and pronounced by me in open court dated this the 11th day of March 2026.)

**(SHYLA S.M.)
II Addl. Judge & ACJM
Member, MACT,
Court of Small Causes,
Bengaluru.**

ANNEXURE

List of witnesses examined for Petitioner :

- PW.1 : H.Madhusudhan
PW.2 : E.Selwyn Jeba Singh
PW.3 : Dr. Banu Prakash A.S.

List of documents marked for Petitioners :

- Ex.P.1 : T/c of FIR
- Ex.P.2 : T/c of complaint
- Ex.P.3 & 4 : T/c of spot mahazar and rough sketch
- Ex.P.5 : T/c of IMV report
- Ex.P.6 : T/c of wound certificate
- Ex.P.7 : T/c of charge sheet
- Ex.P.8 : Discharge summary
- Ex.P.9 : Out patient registration
- Ex.P.10 : Medical bills
- Ex.P.11 : Advance bills
- Ex.P.12 : Prescriptions
- Ex.P.13 & 14 : T/c of Aadhar card and PUC marks card of petitioner
- Ex.P.15 : Appointment letter
- Ex.P.16 : Salary certificate
- Ex.P.17 : Leave letter
- Ex.P.18 : Relieving letter
- Ex.P.19 : Pay slips
- Ex.P.20 : Bank statement
- Ex.P.21 : Authorization letter
- Ex.P.22 : Case sheet
- Ex.P.23 : Re-examination OP slip
- Ex.P.24 : Neuro behavioral cognitive assessment

Ex.P.25 : Followup record

List of witnesses examined for Respondents :

-None-

List of documents marked for Respondents :

-Nil-

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