



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

Dated: this the 24th day of April 2026

Present: DHANESH MUGALI

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

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

MVC No.4076/2023

Petitioner : Shri K.C.Shankar,
Son of Late Chikkaboraiah,
Aged about 44 years,
Residing at Kallaiahana Palya,
Hutridurga Hobli,
Kunigal Taluk,
Tumkur District-572 126.

(Pleader by Shri K.Venkata)

V/s

Respondents: 1. Shri Chethan,
Son of Somashekar,
2nd Street, Basavanahalli,
Nelamangala Taluk,
Bengaluru Rural District-562
123.

(Exparte)

2. HDFC ERGO General
Insurance Co. Ltd., Ground
floor, ECR Tower-32, Residency
Road, Ashok Nagar,
Bengaluru-560 025.
(By Pleader Shri Madhu Kiran)

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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.

Brief facts of the petitioner's case are as under

2. That on 27.3.2023 at about 11.30 a.m. the petitioner was riding a motor cycle bearing registration No.KA-06-EW-1721 along with pillion rider Renukappa in front of Taluk Panchayath office, BM Road, Kunigal slowly and cautiously by observing the traffic rules and regulations, at that time, rider of the another motor cycle bearing No.KA-06-EN-3535 ridden by its rider with high speed in a rash and negligent manner and dashed against the motor cycle in which the petitioner was proceeding. Due to the said impact, the petitioner had sustained grievous injuries.

3. It is further stated that, immediately he was shifted to Government Hospital, Kunigal for first aid, then he was shifted to Smt.Jayadevi Memorial Hospital, Bengaluru for further treatment, wherein he took treatment as an inpatient and undergone surgery and spent more than Rs.3,00,000/- towards transportation, treatment, medicines, conveyance etc.,

4. It is stated that, prior to the accident the petitioner was hale and healthy and doing agriculture and earning Rs.20,000/- p.m. Due to accidental injuries, he could not able to do his work as earlier.

5. It is stated that, the accident occurred due to negligent act of rider of motor cycle bearing registration No.KA-06-EN-3535. Hence Kunigal Police have filed charge sheet against rider of said vehicle in Cr.No93/2023. 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 has not appeared before this court, remained absent, hence

placed *exparte*. On the other hand, the respondent No.2 has appeared through its counsel and filed the written statement.

7. In the written statement, the respondent No.2 admitted about the issuance of policy in respect of motor cycle bearing registration No.KA-06-EN-3535 and the liability of this respondent is subject to terms and conditions of the policy. It is contended that, the rider of offending vehicle had no valid and effective riding licence to ride the said vehicle as on the date of accident, hence there is a violation of terms and conditions of the insurance policy. It is contended that the accident occurred due to sole negligence on the part of the petitioner. Further contended that petitioner and the pillion rider were not wearing the safety head gear at the time of accident. Further denied the age, avocation and income of the petitioner. 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 that was taken place on 27.3.2023 at about 11.30 a.m. when he was riding his motor cycle bearing registration No.KA-06-EW-1721 along with pillion rider proceeding on BM road, Kunigal, when they reached in front of Taluk Panchayath office, at that time, rider of the motor cycle bearing registration No.KA-06-EN-3535 rode the same in a rash and negligent manner came at high speed from behind and dashed the petitioner's motor cycle and caused the accident. Due to the forced impact, the petitioner fell down and sustained grievous injuries ?

2. Whether the petitioner is entitled for the compensation as prayed for? If so, at what rate? 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.P12.

10. On the other hand, the respondent No.2 has examined its Senior Manager Legal as RW1 and got marked the document at Ex.R1.

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 motor cycle bearing registration No.KA-06-EN-3535 the alleged accident had taken place, consequently he had sustained grievous injuries.

14. On the other hand, the respondent No.2 has contended that the accident occurred due to sole negligence on the part of the petitioner as he was riding his motor cycle with high speed under the influence of alcohol in the middle of the road without having proper lookout over the oncoming vehicles. There is no negligence on the part of the rider of motor cycle bearing registration No.KA-06-EN-3535.

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.P7. Ex.P1-true copy of FIR, Ex.P2-true copy of FIS, Ex.P3- true copy of spot mahazar, Ex.P4-true copy of spot sketch, Ex.P5-true copy of IMV report, Ex.P6-true copy of wound certificate & Ex.P7-true copy of charge sheet.

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 rider of the offending vehicle for the offences punishable under Section 279 and 337 of I.P.C. and Section 134(a & b) R/w Section 187 of IMV Act. 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 and 338 of IPC and Section 134(a& b) 181 and 187 of IMV Act.

18. In order to substantiate the defence of the respondent No.2 has examined its Legal Manager as RW1. He has reiterated the averments made in the written statement, but his evidence will not much helpful to disprove the allegation made against the rider of the offending vehicle.

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-06-EN-3535. 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 riding of the rider 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.20,00,000/-** 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.P6**. The said document discloses that, he had sustained the following injuries:-

- 1)Lacerated wound measuring 6x1 cms seen over lateral aspect of right foot (Extensor digitorum tendon tear right foot with fracture lateral malleolus)*
- 2)Lacerated wound measuring 4x0.5x0.5 cms seen over medial aspect of right foot*
- 3) Abrasion measuring 1x1 cm seen over lower part of left leg-medial part.*

24. In connection with the above said injuries the doctor is of the opinion that, the injury No.1 is grievous in nature and the injury No.2 & 3 are simple in nature. Further, the petitioner has produced discharge summary issued by Smt.Jayadevi Memorial Hospital, Bengaluru as per Ex.P8, which reveals that petitioner was admitted to the said hospital from 28.3.2023 to 8.4.2023. The petitioner has not examined the doctor. 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.25,000/- under the head of Pain and Sufferings.**

Loss of income during treatment period:

25. PW1 has stated that, he was doing agriculture and earning Rs.20,000/- p.m. 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 summary issued by Smt.Jayadevi Memorial Hospital, Bengaluru as per Ex.P8, which reveals that petitioner was admitted to the said hospital from 28.3.2023 to 8.4.2023. During

the period of treatment, definitely, there was some difficulty to him to do daily routine work and to do his work for livelihood at least for a period of one month 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.16,000/- 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.P10 to the extent of Rs.95,300/-along with advance receipts at Ex.P9. Except the suggestion there are no contra materials available on record to disprove the medical bills. Hence, it is just and proper to award compensation of **Rs.95,300/- 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.12,000/- 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. Except the production of medical documents and averments made in the main petition as well as in the chief affidavit, has not made an effort to examine the treated doctor, in order to prove the disability sustained by him, due to the accidental injuries in order to know, whether the injuries sustained by the petitioner will effect to his future and whether the said injuries will make any discomfort to the petitioner to do his routine work as well as his work for his avocation. In such a situation, court cannot consider the loss of future income, in the absence of convincing evidence from the side of the petitioner. Hence, the petitioner is not entitled for the compensation under the **head of loss of future income** due to want of evidence on record.

Loss of amenities;

29. PW1 has stated in his evidence that due to the accidental injuries, he cannot do any work as earlier. On perusal of evidence of PW1 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 as a mason. Hence, it is just and proper to award compensation of **Rs.20,000/- towards loss of amenities.**

30. In connection with the future medication, the petitioner has not stated about future medication. Hence, the petitioner is not entitled for compensation of **under the head of future medical expenses.**

31. 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. 25,000-00
2.Loss of income during laid-up period and rest period	Rs. 16,000-00
3. Medical expenses	Rs. 95,300-00

4. Attendant, Nourishment and Conveyance Charges	Rs. 12,000-00
5. Loss of future income due to disability	NIL
6. Loss of Amenities	Rs. 20,000-00
7.Future medical expenses	NIL
Total	Rs.1,68,300-00

32. Accordingly, the petitioner is entitled for compensation of **Rs.1,68,300/- (Rupees one lakh sixty eight thousand and three hundred 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:

33. 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-06-EN-3535 the 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.

34. The respondent No.2 has contended that the rider of the offending vehicle had no valid and effective driving licence as on the date of accident. Thereby violated the terms and conditions of the insurance policy. As such, insurance company is not liable to pay compensation to the petitioner. To substantiate the same, respondent No.2 has examined Manager-Legal as RW1. He has reiterated the contents as averred in the written statement. RW1 has placed policy copy at Ex.R1.

35. It is relevant to note that, in the case on hand, on going through the charge sheet submitted by the investigation officer, relevant provision has been inserted stating that, at the time of accident the driver of the offending vehicle had no valid and effective driving license. To disprove the contents of the charge sheet and to show that, the rider had valid D.L. no

supportive evidence or documents is available on record to impeach the recitals of Ex.P7. Moreover, respondent No.1 being the owner remained absent, placed exparte. In the absence of the document from the side of the respondent No.1, it is crystal clear that, the rider of the offending vehicle had no valid and effective driving licence as on the date of accident and it is clear violation of the terms and conditions of the policy.

36. During the course of argument the learned counsel for the petitioner has relied the following decisions;

1) MFA 202104/2024 between the Branch Manager, ICICI Lombard Nibhaye Vadde General Insurance Co. Ltd., Vs. Pooja & Others,

Wherein the Hon'ble High Court of Karnataka held that **"as per the conditions of the policy, the insured vehicle must be driven by the driver of the vehicle, who is having effective driving licence. In this case, it is not so. Therefore, there is a violation of policy conditions by the owner of the lorry. As MV Act is benevolent legislation, the claimants cannot be deprived of the compensation so awarded in this case. Therefore, if the insurance company is directed to deposit the compensation, as the policy was in**

force as on the date of accident, as the insurance company has to indemnify the said compensation so awarded in view of the principle laid down in case of Pappu & Others Vs. Vinod Kumar Lamba & Another reported in (2018) 3 SCC 208 by the Hon'ble Apex Court, it would meet the ends of justice. However, the insurance company is at liberty to recover the same from the owner of the lorry by executing the award against him".

2) AFR 1780/2024 of High Court of Allahabad between ICICI Lombard General Insurance Co. Ltd., Vs. Smt.Arati Devi & Others.

Wherein the Hon'ble High Court of Allahabad "applied the pay and recovery principle laid down in the case of Pappu & Others Vs. Vinod Kumar Lamba".

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

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

In the aforesaid case, with due discussions the Hon'ble Apex Court came to the conclusion that, the insurer has satisfactorily proved its defence in accordance with the provision of Section 149(2) R/W Subsection 7, as interpreted by the court. And the Tribunal can direct the insurer liable to be reimbursed by the insured for the compensation amount, which has been compared to

pay to the third party under the award of the Tribunal. In one word it is necessary to note that, through this authority, highlighted about the concept pay and recovery.

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

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

38. On going through the supra decisions, it is to be noted that to protect the interest of third party, the principle of pay and recovery is applied. Apart from this, as per the assertion of the petitioner, insurance policy was valid from **29.11.2022 to 28.11.2023**. The accident had occurred on **27.3.2023**.

39. In the light of the discussion held above, I am of the view that, though the respondent No.1 being the owner of the offending vehicle, cannot escape from his liability to pay compensation to the petitioner, in view of violation of terms and conditions of the policy. But,

to protect the interest of the petitioner, it is necessary to direct the respondent No.2-insurance company to pay compensation to the petitioner and thereafter to recover the same from the owner of the offending vehicle, through due process of law. **Accordingly, I am answering the issue No.2 is partly in the Affirmative.**

ISSUE No.3:

40. 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.1,68,300/- (Rupees one lakh sixty eight thousand and three hundred only)**, along with the interest at the rate of **6%** per annum from the date of petition till the date of deposit.

The respondent No.2-Insurance Company is liable to pay the compensation to the petitioner with interest at **6% p.a.** from

the date of petition till its realization within two months from the date of this order and thereafter, recover the same from the respondent No.1 through due process of law.

After deposit of the compensation amount together with interest, since the award amount is very meagre, 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 **24th 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 K.C. Shankar

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	IMV report
Ex.P6	Wound certificate
Ex.P7	Charge sheet
Ex.P8	Discharge summary
Ex.P9	Advance receipts
Ex.P10	Medical bill
Ex.P11	Notarized copy of Aadhar Card
Ex.P12	Driving licence

List of witnesses examined on respondents' side:

RW1	Shri Suresh G.
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List of documents exhibited on respondents' side:

Ex.R1	Policy copy
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**III ADDL.SMALL CAUSES JUDGE
MEMBER MACT & ACJM,
BENGALURU.**