

KABG010039502009



Presented on : 11.06.2009
Registered on : 18.06.2009
Decided on :- 30.06.2026
Duration :- 17 years 0 months 11 days

**IN THE COURT OF I ADDITIONAL DISTRICT JUDGE
AND MACT-II, BELAGAVI, AT BELAGAVI**

Present :
Sri SUBHASH SANKAD,
B.A., LL.M
I Additional District Judge
and MACT-II, Belagavi.

M.V.C. No.1026/2009

Dated this the 30th day of June-2026

PETITIONER:

1. Shri. Iranna S/o Shivanand Kudachi
Age: 22 years, Occ: Pvt. Service, (now nil)
R/o: Block No. 21, Quarters No. 21C,
Class-3, PWD. Quarters, Vishwaraya
Nagar, Belgaum.

(R/by Sri D.A.P, Advocate)

//Vs//

RESPONDENTS:

1. Shri Shamshuddin Abdulsattar
Naragundbaba
Age: Major, Occ: Business,
R/o: Ambiger Galli, Gokak, Tal: Gokak
Dist: Belgaum
(Owner of Motor Cycle bearing
No.KA-23/R-4371)
2. National Insurance Company. Ltd.,
Policy No. 270801/31/08/6700001448
validity from 17.05.2008 to 16.05.2009

Through its Divisional Manager
Divisional Office Ramdev Galli, Belgaum.
(Insurer of Motor cycle bearing
No.KA-23/R-4371)

3. Ashok Mahalingappa Kudachi
Age: Major, Occ: Pvt. Service,
R/o Near Karamma Temple, APMC,
Gokak, Tal: Gokak, Dist: Belgaum
(owner of motor cycle bearing No.
KA-49/H-559)
4. National Insurance Company. Ltd.,
Bo: Near Court Circle, Gokak.
Policy No.602602/31/08/6200000083
validity from 09.04.2008. to
08.04.2009
Through its Divisional Manager
Divisional Office Ramdev Galli, Belgaum.
(Insurer of Motor cycle bearing No. KA-
49/H-559)

(R-1: Sri M.V.K. Advocate)

(R-2 and 4:- R/by Sri M.D.T. Advocate)

(R-3: Sri S.L.T., Advocate)

JUDGMENT

This claim petition is filed under Section 163A of Motor Vehicles Act, 1988, seeking compensation for the injuries sustained by the petitioner herein in road accident that occurred on 27.03.2009 on Yogikolla cross near Gokak.

2. Brief facts of the case are as under.

On 27.03.2009, the petitioner herein was proceeding on motorcycle bearing No.KA-49/H-0551 by riding the said

motorcycle. When he came near Yogikolla cross near Gokak, said vehicle collided with motorcycle bearing No. KA-23/R-4371 coming from opposite direction and there was head on collision between both the vehicles. Due to which the petitioner has sustained grievous injuries. Immediately he was shifted to Dr. R. B. Patagundi's Hospital at Gokak, wherein he was treated as an indoor patient from 27.03.2009 to 02.04.2009. The petitioner has filed this claim petition contending that he has incurred huge medical expenses towards treatment and sustained permanent disability.

3. The notice on the petition was issued to the respondents. The contesting respondents have appeared and filed objections. Earlier after evaluating the evidence placed on record, this Tribunal has allowed the petition by awarding compensation of Rs.9,820/- with interest @ of 9% per annum. Being dissatisfied with the quantum of compensation, the petitioner has filed appeal in MFA No.22268 of 2012 before the Hon'ble High Court of Karnataka. The Hon'ble High Court allowed and remanded the appeal for fresh disposal after recording the evidence of Medical Officer. Thereafter, additional evidence of petitioner was recorded.

The petitioner who was examined as PW1 earlier has further examined and produced 4 documents at Ex.P.11 to Ex.P.14. The petitioner has also examined Dr.Manish Bagi as PW-2 to prove the disability. The respondents have not lead evidence.

4. The petitioner's side arguments are heard. Subsequent to posting the matter for judgment the respondent No.2 has filed written arguments.

5. Earlier this tribunal has framed the following issues.

ISSUES

1. Whether the petitioner proves that on 27.03.2009 at about 19.00 hours near Yogikolla Cross, Gokak, within the limits of Gokak the accident had taken place to collusion of motor cycle bearing No.KA-49/H-559 and Motor cycle bearing No.KA-23/R-1371 and thus he was injured?

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

3. What order or award?

6. The petitioner in order to prove his case, has examined himself as PW-1 and the doctor as PW-2. He produced Ex.P.1 to 14 documents. Ex.P.1 is the Certified copy of complaint, Ex.P.2 is the Certified copy of FIR, Ex.P.3 is the Certified copy of

scene of offence panchanama, Ex.P.4 is the Certified copy of MVI Report, Ex.P.5 is the Certified copy of wound certificate, Ex.P.6 is the Certified copy of charge sheet, Ex.P.7 is the Hospital bill, Ex.P.8 is the case sheet, Ex.P.9 is the X-ray, Ex.P.10 is CT Scan Film, Ex.P.11 is the disability certificate issued by Dr.Manish Bagi, Ex.P.12 is the report submitted Shreyas Diagnostic Center, Belagavi, Ex.P.13 is the CT Scan Film, Ex.P.14 is the receipt for having a sum of Rs.300/-, issued by Shreyas Diagnostic Center, Belagavi.

7. The findings of this tribunal on the above issues are as under:-

Issue No.1:- In the affirmative

Issue No.2:- Partly in the affirmative

Issue No.3:- As per the final order,

for the following

REASONS

8. **Issue Nos.1 & 2:-** Since these points are interconnected both these issues are taken together for consideration for common consideration.

9. The petitioner has contended that he has suffered grievous injuries and permanent physical disability due to the accident. He has placed reliance on the aforesaid documents. The contention of respondent No. 2 is that petition is one under Section 163A of the M. V. Act. The petition can be maintained by a person whose income is Rs.40,000/- per annum, whereas as per the admission given by PW1 during his cross-examination dated 12.02.2026, it can be seen that monthly income of the petitioner is Rs.10,000/- to Rs.12,000/- which exceeds Rs.40,000/- per annum. Hence petition under Section 163A of the M.V. Act cannot be maintained. The respondent No.2 has stated in his written arguments that without prejudice to the above-said contention, PW2 is not the treated doctor who issued disability certificate assessing disability to the extent of 39% with regard to injuries sustained by the petitioner in the accident which took place 17 years back. The counsel for respondent No.2 and respondent No.4 have cross examined PW-2 wherein PW-2 has denied that as per Ex.P.5 petitioner has injuries on head only, and that as per Ex.P.8 there is no mention of loss of teeth, whereas PW-2 has assessed disability to the loss of teeth. He has

further admitted that if at all the injured has sustained grievous injuries he must take follow-up treatment and there is no follow-up treatment by this medical officer. Since PW-2 is not treated doctor his evidence may be discarded. The counsel for respondent No.2 has further contended that petition is of the year 2009 and the petitioner has not led evidence of any doctor in the year 2009. After remand of the case, he has examined PW-2 which has consumed lot of time. Hence, prays to waive interest for this period.

10. As regards maintainability of the petition under section 163A of M.V. Act, the respondent No.2 has relied on the judgment of High Court of Karnataka in MFA No.688 of 2010- The Manager, Oriental Insurance Co. Ltd. Vs M. Dinesh and another. In this case, the Tribunal has allowed the claim petition in part. In appeal filed by the insurance company, judgment was set aside and consequently the claim petition was dismissed. In this case, the Hon'ble High Court of Karnataka has observed that earlier the petition was filed under Section 166 of M. V. Act and later provision was amended so as to make the petition as one under section 163A of the M. V. Act and the petition was

converted to one under section 163A of M.V. Act and petitioner has pleaded his monthly income as Rs.3,000/- per month. The Hon'ble High Court has further observed that earlier while giving evidence when the petition was under Section 166 of the M. V. Act, the petitioner has stated his income of Rs.10,000/- per month. After amendment he has come out with the case that his monthly income is Rs.3,000/- per month. The Hon'ble High Court has considered this as an improvement so as to fit the case under Section 163A of the M.V. Act. It is observed that once the claimant was examined and the evidence was recorded to the effect that he was earning Rs.10,000/- said admission cannot be withdrawn. Hence considering the same, the Hon'ble High Court of Karnataka has held that petition under Section 163A of M. V. Act is applicable to the person whose annual income is Rs.40,000/-. On this ground the Hon'ble High Court of Karnataka has dismissed the claim petition.

11. However, the factual matrix of the present case are entirely different. Because, at the first instance the petition is filed under Section 163A of M.V. Act and the claimant has contended his monthly income as Rs.3,000/-. In his affidavit

evidence and in earlier cross examination also, he has stated his monthly income as Rs.3,000/-. In his written arguments, the counsel for the respondent no.2 has contended that in the cross-examination dated 12.02.2026, PW-1 has admitted his monthly income as Rs.10,000/- to Rs.12,000/-. This is a misconception. Because if the cross-examination dated 12.02.2026 is seen, PW1 has stated that now his income is Rs.10,000/- to Rs.12,000/- per month. The counsel for respondent No.2 himself has elicited that present income is Rs.10,000/- to Rs.12,000/- per month. Because after 17 years from the date of accident he has been examined. It is common understanding that income keeps increased. Hence, the respondent no.2 cannot take advantage of this admission. Hence, I hold that petitioner's income is considered as Rs.3,000/- per month.

12. The petition is one under section 163A of M.V. Act. It is not in dispute that petitioner herein was riding the vehicle and said vehicle was insured by the respondent no. 2. It is sufficient that insured vehicle is used. The charge sheet is filed against the petitioner himself. Section 163A of M.V. Act speaks about 'No Fault Liability'. Even though there is no fault on the part of the

driver of the insured vehicle, still the insurer of the vehicle is liable to pay compensation, provided insured vehicle has been used. In the case on hand, the vehicle which has been insured with the respondent No.2 has been used and same is the offended vehicle. In view of Section 163A of the M. V. Act, by applying the principles of 'No Fault Liability', the petitioner is entitled for compensation on a structured formula basis as per Schedule II to section 163A of M.V. Act, 1988.

13. The petitioner has mentioned his age as 24 years. No documents are produced by the petitioner regarding age proof. In the absence of documents regarding age proof, the oral evidence of PW-1 is considered. Hence, the age of petitioner is considered to be 23 years as on the date of accident. PW-2 Medical Officer has assessed the disability as 39%. If the same is applied to the whole body, it comes to 13%. As regards disability is concerned, the respondent has contended that disability is assessed after lapse of 17 years and PW-2 is not the treated doctor. PW2 has issued Ex. P11 and he has been cross examined by the respondents. The cross-examination is with regard to competency of this witness to issue disability certificate.

However, PW-2 has issued disability certificate on the basis of the medical records produced by the injured. He has noticed that injured has suffered injuries and there is partial healing with malunion. There is implantation. He has denied the suggestion that since, the accident is of the year 2009 presently there is no disability either functional or physical.

14. I would like to mention here at this juncture, no doubt PW-2 has examined the petitioner recently. Though he has not treated the injured, he has issued certificate after referring to the medical records produced by the injured and scanned reports etc. It is immaterial that after length of 17 years injured is examined. Rather it is strong evidence, that even after lapse of 17 years injured has disability. Hence, I reject the contention of respondent no. 2 that evidence of PW-2 is not admissible. PW2 has assessed the disability at 39%. This disability is oro-facial disability. If the same is applied to the whole body, it comes to 13%. As per Schedule II multiplier applicable to the age of 23 is 17. Therefore considering the age of the petitioner as 24 years, multiplier 17 is held applicable and disability is 13% and income is Rs.3,000/- per month. The petitioner is entitled for

compensation under the head of loss of future income at Rs.79,560/- (Rs.36,000 X 17 x 13÷100) which is the just compensation under the head of loss of future income.

15. The petitioner has produced medical bills as per Ex.P.7 and Ex.P.8. The medical bill is Rs.4,800/- as per Ex.P.7 and Rs.18,064/- as per Ex.P.8. Totally it comes to Rs.22,864/-. However, the maximum amount that can be awarded towards medical expenses as per Schedule II is Rs.15,000/-. Therefore the petitioner is entitled for Rs.15,000/-. Therefore, the petitioner is awarded Rs.15,000/- under the head of medical expenses.

16. Further, the petitioner is entitled for compensation Rs.5,000/- under the head of pain and sufferings as per Schedule II.

17. Therefore, the petitioner is entitled for compensation as below:-

Sl.No.	Head of compensation	Amount
1.	Loss of future income	Rs.79,560/-
2.	Medical expenses	Rs.15,000/-
3.	Pain and sufferings	Rs.5,000/-
	Total	Rs.99,560/-

18. As regards awarding interest, the respondent no.2 has placed reliance on the judgment of Hon'ble High Court of Karnataka in MFA No.4427 of 2010, wherein the Hon'ble High Court of Karnataka has held that no interest shall accrue or be awarded for the periods covered by the adjournments granted at the instance of the claimants or their witnesses in the claim petitions, unless there are very special reasons to be recorded in writing for such adjournments. If the circumstances of the present case are seen, in the present case, the appeal was pending before the Hon'ble High Court of Karnataka from 2012 and claim petition is of the year 2009 and the claim petition and same came to be disposed off on 23.05.2011. It can be seen that there is no much delay in taking disposal of the case. The appeal came to be disposed off on 04.08.2025. After remand, no much adjournments are given to the petitioner to lead evidence. In view of the opportunity given by Hon'ble High Court, the petitioner has further examined. Hence, this delayed period cannot be considered as caused at the instance of the petitioner. Hence, the contention of the respondent no.2 regarding waiving interest for the delayed period is also rejected. Therefore, the above said

compensation amount shall carry interest rate of 6% from the date of petition till realization. It is the respondent no. 2 being the insurer of the offending vehicle is liable to pay compensation. In the result, issue No.1 and 2 are answered in the affirmative and partly in the affirmative respectively.

19. **Issue No.3:-** In view of the above discussion and findings on issue no.1 and 2, this tribunal proceeds to pass the following

ORDER

The claim petition filed by the petitioner under section 163A of M.V. Act, 1988 is allowed in part with costs as against the respondent No.1 and 2.

The claim as against the respondent No.3 and 4 is dismissed.

The petitioner is entitled for compensation of Rs.99,560/- together with interest @ 6% p.a. from the date of petition till its realization.

The respondent No.1 and 2 are jointly and severally liable to deposit compensation. The respondent No.2 being insurer shall indemnify respondent No.1 and shall deposit award amount within 30 days from today.

Considering the age of the case and quantum of compensation, on deposit of award amount with

interest, entire award amount with accrued interest
is ordered to be released to the petitioner.

Draw award accordingly.

(Dictated to the stenographer Grade-III, transcribed and typed by him, script corrected and then pronounced by me in the open court on this the 30th day of June-2026)

(Subhash Sankad)
I Addl District Judge and
MACT-II Belagavi

ANNEXURE

List of witnesses examined for the petitioner:-

PW-1 : Iranna Shivanand Kudachi, R/o. Belagavi
PW-2 : Dr.Manish B. Bagi, R/o.Belagavi

List of documents marked for the petitioner:-

Ex.P.1 : Certified copy of complaint,
Ex.P.2 : Certified copy of FIR,
Ex.P.3 : Certified copy of scene of offence panchanama,
Ex.P.4 : Certified copy of MVI Report,
Ex.P.5 : Certified copy of wound certificate,
Ex.P.6 : Certified copy of charge sheet,
Ex.P.7 : Hospital bill,
Ex.P.8 : Case sheet,
Ex.P.9 : X-ray,
Ex.P.10 : CT Scan Film,
Ex.P.11 : Disability certificate issued by Dr.Manish Bagi,
Ex.P.12 : Report submitted Shreyas Diagnostic Center,
Belagavi,

Ex.P.13 : CT Scan Film,

Ex.P.14 : Receipt for having a sum of Rs.300/-, issued by
Shreyas Diagnostic Center, Belagavi.

Witnesses examined for the respondents:-

Nil

Documents marked for the respondents:-

Nil

(Subhash Sankad)

**I Addl District Judge and
MACT-II Belagavi**