

KABG300008282024



**IN TE COURT OF SENIOR CIVIL JUDGE & ADDL.
MACT, BAILHONGAL, AT: BAILHONGAL**

Dated this the 27th Day of June 2026

PRESENT

Shri. Ravi Babu Chawan,
B.A. LL.B.,
Senior Civil Judge and Addl. MACT.,
Bailhongal.

M.V.C. Nos.1648/2024 C/w M.V.C No.1649/ 2024

Petitioner in M.V.C. No.1648/2024:

Smt. Mairunbi W/o Jibrayil Nadaf,
Age: 44 years, Occ: Agriculture (Now nil)
R/o: Buderhatti, Tq: Bailhongal,
Dist: Belagavi-591104

(By Shri.I.D.W., Advocate)

Petitioner in M.V.C. No.1649/2024:

Mr. Jibrayil S/o Mugutsab Nadaf,
Age: 58 years, Occ: Agriculture (Now nil)
R/o: Buderhatti, Tq: Bailhongal,
Dist: Belagavi-591104.

(By Shri.I.D.W., Advocate)

-Vs-

**Common Respondents in MVC No.1648/2024 C/w
MVC No.1649/2024:**

1) Shri. Bhabruvan Vittal Giggi,
Age: 24 years, Occ: Agriculture,
R/o: At/Post: Benchinmaradi,
Tq: Gokak, Dist: Belagavi-591 344.

(Owner of motorcycle bearing No.KA.49/EC-1450)

2) The Manager,
National Insurance Company Limited,
1732, Ramdev Galli, Belagavi,
Dist: Belagavi.

(Insurer of Motorcycle bearing No.KA.49/EC-1450, Policy
No.39010231236200701093, valid from 14-11-2023 to
13-11-2028.

**(R1- Ex-parte in both clubbed MVC cases)
(By Shri. U.C.H., Advocate for R2 in both clubbed
MVC cases)**

COMMON JUDGMENT

The petition is instituted by the petitioner in MVC No.1648/2024 under Section 166 of Motor Vehicles Act, seeking compensation amount of Rs.15,00,000/- together with interest at the rate of 18% p.a. from the date of accident till its realization for the injuries

sustained by her in a road traffic accident that occurred on 23-05-2024.

The petition is instituted by the petitioner in MVC No.1649/2024 under Section 166 of Motor Vehicles Act, seeking compensation amount of Rs.15,00,000/- together with interest at the rate of 18% p.a. from the date of accident till its realization for the injuries sustained by him in a road traffic accident that occurred on 23-05-2024.

Since both the above claim petitions arise out of the same accident, involving common facts, evidence, and parties, they are clubbed together for the purpose of recording of common evidence and for passing a common judgment.

2. The common brief facts of both the petitions in MVC Nos.1648/2024 and 1649/2024 are as under:

On 23-5-2024 at about 7.30 pm the petitioner in MVC No.1648/2024 and her husband petitioner in MVC No.1649/2024 were travelling on motorcycle bearing No.KA.24/R-8698 towards Belawadi from Sampagaon,

the petitioner in MVC No.1649/2024 was riding the said motorcycle along with the petitioner (wife) in MVC No.1648/2024 who was a pillion rider, in a moderate speed by observing all the traffic rules. When they came near the spot of the accident i.e., near Channamma Circle within the limits of Bailhongal city on Bailhongal-Belagavi Road, at that time the rider of another motorcycle bearing No.KA.49/EC-1450 came from Bailhongal Bus Stand side proceeding towards Belagavi side in high speed, rash and negligent manner, endangering to human life without following the traffic rules and lost control over his vehicle and dashed to the motorcycle of the petitioners and caused the accident. Due to the heavy impact, both the petitioners sustained grievous injuries in the accident. Immediately after the accident, they were shifted to Government Hospital, Bailhongal, for first aid treatment and thereafter they referred to Malaprabha Multi-Speciality Hospital, Bailhongal, where they were admitted as inpatients and took conservative treatment. The petitioner in both the petitions have spent approximately Rs.50,000/- each towards medical expenses, conveyance, etc.

3. It is further submitted that prior to the accident, the petitioner in MVC No.1648/2024 was aged about 44 years, hale and healthy and was doing agriculture work and earning Rs.3,00,000/- p.a., contributing the maintenance of her family. Due to the injuries sustained in the accident, she has suffered permanent disability, resulting in loss of earning capacity and sever physical, mental and financial hardship. Similarly, the petitioner in MVC No.1649/2024, prior to the accident, was aged about 58 years, hale and healthy and was doing agriculture work and earning about Rs.5,00,000/- p.a., and maintaining his family. Due to the injuries sustained in the accident, he has also suffered disability, resulting in loss of earning capacity and sever hardship affecting his future life. It is specifically averred that the accident occurred solely due to the rash and negligent riding of the river of the offending motorcycle bearing No.KA-49/EC-1450. The respondent No.1 being the owner and respondent No.2 being the insurer of the offending vehicle are jointly and severally liable to pay compensation to the petitioners. Hence the petitions.

4. In response to the notices, the respondent No.2 - Insurance Company in both MVC cases has appeared

through it counsel and filed detailed objections to the claim petitions. The respondent No.1 in both the cases, despite service of notice, has remained absent and hence has been placed ex-parte.

5. The respondent No.2 in its objections filed in both the MVC cases has contended that the contents petition are false, frivolous, concocted and illegal. It is further contended that there was two days inordinate delay in filing the complaint, the complainant has not explained properly the delay. The motorcycle bearing No.KA.49/EC-1450 was implicated in the criminal case to get bad monetary benefits from this respondent. It is further contended that the rider of motorcycle bearing No.KA.49/EC-1450 was not holding a valid and effective driving license, the police have filed charge sheet against him for the offence punishable under Section 3 R/w. Sec. 181 of M.V.Act. He denied the age, income and occupation of the petitioner in both petitions and also nature of injuries sustained, treatment taken, medical expenses and also the manner of accident. The claim of compensation amount under the heads are highly exorbitant. It is further contended that, if the tribunal comes to the conclusion that there is contribution of

negligence on the part of the rider of motorcycle bearing No.KA.24/R-8698, under such circumstances the contribution of liability may be apportioned 50% on the motorcycle bearing No.KA.49/EC-1450 and 50% on the owner of motorcycle bearing No.KA.24/R-8698. It is further contended that the award is carry interest at 6% per annum since the rate of interest has been scaled down by the nationalized Bank under the provisions of interest and also as per the recent reported in MFA No.100090/2014 connected with MFA No.25107/2013, order dated 7-3-2018 as per the provisions of MV Act. The liability of this respondent is subject to the provisions of M.V. Act and Rules, valid and effective driving license of the rider of offending motorcycle, R.C., F.C., permit and terms and conditions of the insurance policy.

6. Further, it is contended that in the event this Hon'ble Court comes to the conclusion that the petitioners are entitled to compensation and this respondent is liable to pay the same with interest at the rate of 6% per annum, as per the recent citation reported in MRFA No.100090/2014 connected with MFA No.25107/2013 order dated 07-03-2018, as per the

provisions of Section 149 (1) of the M.V. Act. The respondent No.2 also seeks permission of this Hon'ble Court under section 170 of the Motor Vehicles Act, to contest the claim petitions on all grounds, including those available to it in case the person against whom the claim is made fails to contest the claim petition. With these grounds, the respondent No.2 has prayed for dismissal of the claim petitions in both MVC cases.

7. On the basis of averments of claim petitions and objections, this tribunal has framed the following issues in both clubbed MVC Nos.1648/2024 and 1649/2024 cases:

ISSUES IN MVC No.1648/2024

1) Whether the petitioner proves that she has sustained grievous injuries in the alleged road traffic accident occurred on 23-05-2024 at about 7.30 pm, on Bailhongal-Belagavi Road, near Channamma Circle, within the limits of Bailhongal City, on account of actionable negligence of the rider of motorcycle bearing No.KA.49/EC-1450?

2) Whether the petitioner is entitled for compensation ? If so, how much and from whom ?

3) What order or award ?

ISSUES IN MVC No.1649/2024

1) Whether the petitioner proves that he has sustained grievous injuries in the alleged road traffic accident occurred on 23-05-2024 at about 7.30 pm, on Bailhongal-Belagavi Road, near Channamma Circle, within the limits of Bailhongal City, on account of actionable negligence of the rider of motorcycle bearing No.KA.49/EC-1450?

2) Whether the petitioner is entitled for compensation ? If so, how much and from whom ?

3) What order or award ?

8. In order to substantiate their respective cases, the petitioner in MVC No.1648/2024 has entered the witness box and examined herself as PW.1, she has got marked the documents at Ex.P1 to P41. The petitioner in MVC No.1649/2024 has also entered the witness box and examined himself as PW.2, he has got marked the documents at Ex.P42 to P52. Further the petitioner in both the petitions have examined the treated doctor namely, Dr. Manjunath S. Mudakanagoudar, as PW.3. On the other hand the respondent No.2 has examined its official witness, Senior Business Manager,

Mr.Satishkumar S/o Yadagiri Ambati as RW.1. Further, respondent No.2 has produced two documents marked at Ex.R1 and R2.

9. I have heard the elaborate arguments advanced by the learned counsel appearing for the petitioner in both the cases and the learned counsel for the respondents in both the cases.

10. I have also carefully perused the oral and documentary evidence available on record. Perused the written arguments of the respondent No.2. Perused the rulings relied by the learned counsel for petitioner and learned counsel for respondent No.2 in both the cases.

11. My findings on the above issues in MVC Nos.1648/2024 is as under;

Issue No.1	: In the Affirmative
Issue No.2	: Partly in the Affirmative
Issue No.3	: As per final order

12. My findings on the above issues in MVC Nos.1649/2024 is as under;

Issue No.1 : In the Affirmative
Issue No.2 : Partly in the Affirmative
Issue No.3 : As per final order, for the
following reasons:

REASONS

13. Issue No:-1 in both MVC Nos.1648/2024 and 1649/2024:- The petitioner in both the cases has filed the present claim petition under Section 166 of the Motor Vehicles Act, seeking compensation on account of injuries sustained by them in the road traffic accident, due to rash and negligent riding of motorcycle bearing No.KA.49/EC-1450 by its driver. Therefore, the burden of proving these issues squarely rests upon the petitioner in both the cases. In order to discharge the said burden, the petitioner in both the cases has examined as PW.1 and 2 and produced the documentary evidence marked at Exb.P1 to P52.

14. PW.1 and 2 in their examination-in-chief filed in the form of affidavit, have reiterated all the averments made in the claim petition. They specifically deposed that, on 23-5-2024 at about 7.30 pm they were travelling on motorcycle bearing No.KA.24/R-8698 towards Belawadi from Sampagaon, petitioner in MVC

No.1649/2024 was riding the said motorcycle along with the petitioner(wife) as pillion rider in MVC No.1648/2024 in a moderate speed by observing all the traffic rules. When they came near the spot of the accident i.e., near Channamma Circle within the limits of Bailhongal city on Bailhongal-Belagavi Road, at that time the rider of another motorcycle bearing No.KA.49/EC-1450 came from Bailhongal Bus Stand side proceeding towards Belagavi side in high speed, rash and negligent manner, endangering to human life without following the traffic rules and lost control over his vehicle and dashed to the motorcycle of the petitioners and caused the accident. Due to the heavy impact, both the petitioners sustained grievous injuries in the accident. Immediately after the accident, they were shifted to Government Hospital, Bailhongal, for first aid treatment and thereafter they referred to Malaprabha Multi-Speciality Hospital, Bailhongal, where they were admitted as inpatients and took conservative treatment.

15. To substantiate their oral evidence, the petitioner in both the cases have relied upon the police records Ex.P1 to P10, P16 and P17, P43 and P44 which includes FIR, complaint, statement, spot panchanama,

hand sketch map, vehicle seizure panchanama, MVI report, Police notice under Section 133 of M.V. Act, statement of accused, indemnity body, charge sheet and wound certificate of the petitioner in both the cases. These documents consistently disclose that the accident occurred due to rash and negligent riding of motorcycle bearing No.KA.49/EC-1450 and that the petitioner in both the petitions has sustained grievous injuries in the said accident. The charge sheet filed by the jurisdictional police against the rider of the vehicle is a relevant piece of evidence which carries considerable evidentiary value in claim proceedings under the Motor Vehicles Act. Though the charge sheet is not conclusive proof, in the absence of convincing rebuttal evidence it lends corroboration to the case of the petitioner in both the cases.

16. The learned counsel appearing for respondent No.2 has mainly contended that there was a unexplained delay of 02 days in lodging the complaint and the motorcycle bearing No.KA.49/EC-1450 was implicated in the criminal case to get bad monetary benefits from this respondent. This contention does not merit acceptance. Because the records disclose that

immediately after the accident, the injured deceased was shifted to the Govt. Hospital, Bailhongal and then referred to Malaprabha Multi Specialty Hospital, Bailhongal, for the injuries sustained in the accident. It is a matter of common human conduct that the immediate concern of the family members would be to provide medical treatment and save the life of the injured rather than rush to the police station to lodge the complaint. Hence, the delay in lodging the complaint, by itself, cannot be treated as fatal to the claim, particularly when the delay stands reasonably explained by the medical condition of the injured and his subsequent death.

17. Though, the respondent No.2 has examined its Senior Business Manager, Satishumar S/o Yadagiri Ambati as RW.1, his evidence admittedly is not based on personal knowledge of the occurrence of the accident in question. RW.1 was neither an eye witness to the accident nor the Investigating Officer. His testimony is only based upon the records maintained by the insurance company. Except making bald allegations regarding false implication of the vehicle and collusion with the police, no independent evidence

has been placed before the tribunal to probablize such allegation. No eye witness has been examined by the insurer, nor has any material been produced to show that the motorcycle was not involved in the accident. Mere suggestion made during the cross-examination or bald pleadings in the written statement cannot disbelieve the consistent oral testimony of PW.1 supported by the contemporaneous police records.

18. It is a settled principle of law that, the proceedings before the motor accident claim tribunal are summary in nature and strict rules of evidence applicable to the criminal trial are not required to be followed. The claimant is only expected to establish the case on the touch stone of preponderance of probability and not beyond reasonable doubt. In the present case, the oral evidence of PW.1 and 2 coupled with the police papers and medical records clearly establish that the accident occurred due to rash and negligent riding of motorcycle bearing No.KA.49/EC-1450 and that petitioner in both the petitions has sustained grievous injuries in the said accident. Therefore, this tribunal is satisfied that the petitioner in both the cases has successfully established that the accident occurred

solely due to actionable rider of the motorcycle bearing No.KA.49/EC-1450 and that petitioner in both the cases has sustained grievous injuries in the said accident. Accordingly, Issue No.1 is answered in the **Affirmative.**

19. **Issue No.2 in MVC No.1648/2024:-** In view of the findings recorded on Issue No.1, this Tribunal holds that the petitioner is entitled to compensation. The next question that arise for consideration is with regard to the quantum of just and reasonable compensation to be awarded to the petitioner in MVC No.1648/2024 under various heads.

20. Before proceeding to discuss this issue in detail, I feel it is correct to cite the law declared by the Hon'ble Apex Court in the decision reported in **2011 (1) SCC 343-** in the case of **Rajkumar v/s Ajay Kumar**, wherein, at **para No.5** of the judgment, the Hon'ble Apex Court has mentioned the heads under which the compensation is to be awarded in personnel injury cases. I reproduce the same here itself, for the convenient sake. The same reads as follows;

5.The heads under which compensation is awarded in personal injury cases are the following:

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

a. Loss of earnings during the period of treatment;

b. Loss of future earnings on account of permanent disability.

(iii) Future medical expenses. Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

21. Keeping in view the law declared in the aforementioned decision, I have carefully perused the entire materials available on record. P.W-1 has stated in her evidence that, immediately after the accident, she was shifted to Government Hospital, Bailhongal, for treatment and thereafter she was shifted to Malaprabha Multi-Speciality Hospital, Bailhongal, for sustaining fracture of radial head of left elbow, fracture of tibial

spine left knee and pain and tenderness of right knee. She has taken conservative treatment. She has spent Rs.50,000/- for her medical treatment. However in spite of such treatment she could not regain her original strength and she has suffered from permanent disability. She further deposed that, she is unable to do her work as earlier she was doing and due to which has affected on her occupation and income. She was hale and healthy before the accident. She was doing agriculture work. Apart from that she was carrying milk vending business and earning Rs.3,00,000/- per annum.

22. The petitioner in order to prove the injuries and also physical disability sustained by her she has examined a doctor namely Dr. Manjunath S. Mudakangoudar as P.W-3. She has got marked Ex.P16 wound certificate issued by the General Hospital, Bailhongal which shows that she has sustained fracture of radial head of left elbow, fracture of tibial spine left knee and pain and tenderness of right knee. The Doctor has opined that the said injury Nos.1 and 2 are grievous and injury No.3 is simple in nature. Further as per Ex.P17 wound certificate issued by the Malaprabha Multi Speciality Hospital, Bailhongal, shows that the

petitioner has sustained fracture of radial head left elbow and fracture of tibial spine left knee.

23. In the affidavit evidence of PW.1 Ex.P11 receipt issued by the ARTO, Gokak, Ex.P12 copy of Insurance policy, Ex.P13 Certificate of registration, Ex.P14 driving license, Ex.P15 Adhar card, Ex.P16 wound certificate, Ex.P17 wound certificate, Ex.P18 discharge summary of hospital, Ex.P19 physical disability certificate, Ex.P20 Hospital bill, Ex.P21 to P28 medical bills, Ex.P29 to P36 prescriptions, Ex.P37 to P40 X-Ray films and Ex.P41 case sheet of the hospital are got marked.

24. P.W.2/Doctor has deposed that after the accident the petitioner was admitted to Govt.Hospital, Bailhongal and later on the same day she was admitted to their Mulaprabha Multispeciality Hospital, Bailhongal and she admitted as inpatient in the hospital and discharged on 29-05-2024. He further deposed that on 08-08-2025 the petitioner has approached him for assessment of permanent disability certificate. He deposed that the petitioner has sustained injuries to left hand, left elbow both legs, left leg knee, fracture of radial head left elbow and fracture of tibial left knee. He

deposed that the petitioner has taken conservative treatment. He further deposed that there is malunited fracture of radial head of left elbow and malunited fracture of tibial spine of left knee with arthritic changes.

25. PW.2 further deposed that the petitioner is having difficulty in squatting, performing daily activities, standing, walking, sitting cross-legged, inability to stand on the affected leg, lifting heavy weight with left hand, grasping items with left hand. He further deposed that the petitioner has permanent physical disability amounting to 25% to the left upper limb and 25% to the left lower limb.

26. In the cross-examination by the learned counsel for respondent No.2 RW.2 denied that the petitioner/PW.1 has not sustained any fracture injuries. He stated that the PW.1 was admitted as inpatient for 06 days in their hospital. He further denied that the PW.1 has not sustained any physical disability. He denied that at the time of issuance of Ex.P19 has not followed the calculation method as per Central Government Gazette. He denied that in order to help

the PW.2 he has issued a false Ex.P19 and medical documents.

27. According to evidence on record there is physical disability to the tune of 25% to the left upper limb and 25% to the left lower limb. Petitioner has relied on Ex.P19 physical disability certificate. Ex.P19 clearly shows that there is a disability sustained by the petitioner to the tune of 25% to the left upper limb and 25% to the left lower limb. However, the doctor has not assessed the total permanent physical disability to the whole body.

28. On careful consideration of the medical evidence on record, the doctor i.e., PW.2 has assessed 25% to the permanent disability of the particular left upper limb and 25% to the left lower limb. Since the disability of a particular limbs cannot be directly treated as whole body disability, the same are required to be converted by applying the standard weight-age i.e., lower limb = 40% of the whole body and upper limb = 60% of whole body. As the upper limb constitutes 60% whole body, then it comes to 15% ($25\% \times 60\% / 100 = 15\%$) whole body. Further as the lower limb constitutes

40% whole body, then it come to 10% ($25\% \times 40\% / 100 = 10\%$) whole body. Therefore, 25% of the left upper limb would correspond to 15% whole body disability and 25% of the left lower limb would correspondent to 10%.

The disability relating to the upper limb and lower limb being distinct, the same are required to be combined by applying the accepted method. Accordingly, by applying the formula $A + B - (A \times B / 100)$ $15 + 10 - (15 \times 10 / 100) = 25 - 1.5$, the combined disability of the limbs works out to 23.5, which is rounded off to 24% whole body disability.

29. The petitioner has claimed that, she was doing agriculture work. Apart from that she was carrying milk vending business and earning Rs.3,00,000/- per annum. After the accident she is unable to do her work as earlier. In the cross-examination PW.1 stated that she was doing agriculture work and apart from that she was carrying milk vending work and earning Rs.3,00,000/- per annum. To prove her income from the agriculture and milk vending business, the petitioner has not produced any material

documents. In the absence of proper materials to assess the income of the petitioner, it would be appropriate to assess the notional income of petitioner as Rs.14,750/- per month by considering the SOP laid down by our Hon'ble High Court of Karnataka KSLSA in which year wise notional income chart has been given. In the present case, accident occurred on 23-05-2024, the notional income is Rs.14,750/- has been calculated per month. Hence annual income of the petitioner is taken as Rs.**1,77,000/-** (*Rs.14,750/- X 12 months*).

30. So for as age of the petitioner is concerned, in the present case, the petitioner averred that he was aged about 44 years as on the date of accident. To prove his age he has produced copy of Adhar card marked at Ex.P15 which shows his date of birth as 04-10-1980. The accident is occurred on 23-05-2024. Therefore, the age of the petitioner is taken as 44 years as on the date of accident.

31. As discussed above the income of petitioner is assessed at Rs.14,750/- P.M. It is also established that petitioner was 44 years old at the time of accident. Therefore, the multiplier applicable to present case on

hand is '14' as per table given in the decision of Hon'ble Supreme Court reported in ***AIR 2009 SC 3104 (Sarla Verma V/s Delhi Transport Corporation Ltd.)***. The functional disability of the petitioner is assessed at 24%. Hence by applying multiplier '14' the future loss of income due to disability made as follows;

i) **Rs.42,480/-** ($Rs.1,77,000/- \times 24\%$ (Functional disability) / 100 = Rs.42,480/-)

ii) $Rs.42,480 \times 14$ (Multiplier) = Rs.5,94,720/-.

Therefore, the future loss of income of the petitioner determined at Rs.5,94,720/-.

32. The record shows that the Petitioner has produced medical bills which are marked in bulk as Ex-P20, P21 to P28 along with Ex.P29 to P36 prescriptions. This medical bills depict that the petitioner did spend Rs.29,303/- towards his medical expenses. The next question would be, whether the medical bills can be accepted or not. It is true that while conducting the cross-examination of PW-1 it is suggested that the Petitioner has concocted the medical bills with an intention to obtain more compensation and the PW-1 has denied the said suggestion. But, it is relevant to

note that the above medical bills are in the name of Petitioner does find place. Besides, it is equally relevant to mention that the medical bills, the other details like name of the treatment given and price or cost of treatment. Thus, in my humble opinion, if really the respondent No.2 was sure about his assertion that the Petitioner has concocted the said medical bills, certainly, the respondent No.2 was at liberty to request this Court to summon the original registers from the concerned hospital or shop. Besides, in my view, if the Respondent No.2 had summoned the original registers from the concerned hospital or medical shop, and if there were to be any information which did not tally with the information available in the hospital, then, the things would have been different and this Court could have suspected the information available in the said medical bills. But, for the best reasons known to her, the Respondent No.2 did not make any efforts to summon the records from the hospital. Hence, I do not see any reason to doubt the information available in the said medical bills. Besides, again I say, the medical evidence available on record shows that the Petitioner had sustained grievous injuries. Thus, having regard to the gravity of the injury sustained by the Petitioner and

having regard to the present day cost of treatment, I conclude that Rs.29,303/- is not on higher side. Hence, I conclude that the Petitioner is entitled for reimbursement of Rs.29,303/- towards her medical expenses.

33. The petitioner has taken treatment as inpatient in Malaprabha Multi Speciality Hospital, Bailhongal, as per Discharge summary produced at Ex.P18, she was admitted as inpatient from 23-05-2024 to 29-05-2024 for sustaining fracture of radial head left elbow and fracture of tibial spine left knee in the accident. Hence she could not have returned to her normal work immediately after taking treatment from the hospital. Hence, the loss of income of the petitioner during laid up period is assessed for a period of one month at Rs.14,750/-. Considering the nature of injuries, line of treatment, the expenses towards conveyance, nourishment and attendant charges for conservative treatment a sum of Rs.10,000/- may be awarded.

34. The petitioner was age of 44 years as on the date of accident. The petitioner is undergoing mental trauma of the disability she is suffering. Hence, the

petitioner is entitled for compensation of Rs.10,000/- towards pain and sufferings and Rs.10,000/- towards loss of amenities.

35. In view of the above discussion, the petitioner is entitled for just and reasonable compensation as under:

Sl. No	Head of compensation	Amount in Rs
1	Loss of future income	5,94,720/-
2	Medical Expenses	29,303/-
3	Loss of income during laid up period	14,750/-
4	Pain and suffering	10,000/-
5	Loss of amenities	10,000/-
6	Food attendants charges and conveyance	10,000/-
	Total	6,68,773/-

36. **Issue No.2 in MVC No.1649/2024:-** In view of the findings recorded on Issue No.1, this Tribunal holds that the petitioner is also entitled to compensation. The

next question that arise for consideration is with regard to the quantum of just and reasonable compensation to be awarded to the petitioner in MVC No.1649/2024 under various heads.

37. Before proceeding to discuss this issue in detail, I feel it is correct to cite the law declared by the Hon'ble Apex Court in the decision reported in **2011 (1) SCC 343-** in the case of **Rajkumar v/s Ajay Kumar**, wherein, at **para No.5** of the judgment, the Hon'ble Apex Court has mentioned the heads under which the compensation is to be awarded in personnel injury cases. I reproduce the same here itself, for the convenient sake. The same reads as follows;

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(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

a. Loss of earnings during the period of treatment;

b. Loss of future earnings on account of permanent disability.

(iii) Future medical expenses. Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

38. Keeping in view the law declared in the aforementioned decision, I have carefully perused the entire materials available on record. P.W-2 has stated in his evidence that, immediately after the accident, he was shifted to Government Hospital, Bailhongal, for treatment and thereafter he was shifted to Malaprabha Multi-Speciality Hospital, Bailhongal, for sustaining fracture of ribs (5th, 6th, and 7th) and fracture of T12 vertebral body. He has taken conservative treatment. He has spent Rs.50,000/- for his medical treatment. However in spite of such treatment he could not regain his original strength and he has suffered from permanent disability. He further deposed that, he is unable to do his work as earlier he was doing and due to which has affected on his occupation and income. He

was hale and healthy before the accident. He was doing agriculture work. Apart from that he was carrying vegetable vending business and earning Rs.5,00,000/- per annum.

39. The petitioner in order to prove the injuries and also physical disability sustained by him he has examined a doctor namely Dr. Manjunath S. Mudakangoudar as P.W-3. He has got marked Ex.P43 wound certificate issued by the General Hospital, Bailhongal which shows that he has sustained pain and tenderness of right knee and superficial burn over elbow on vertebral aspect. Further as per Ex.P44 wound certificate issued by the Malaprabha Multi Speciality Hospital, Bailhongal, shows that the petitioner has sustained fracture of ribs (5th, 6th and 7th) and fracture of T12 vertebral body.

40. In the affidavit evidence of PW.2 Ex.P11 statement before the police, Ex.P45 discharge summary of the hospital, Ex.P46 physical disability certificate, Ex.P47 copy of Adhar card, Ex.P48 Inpatient bill, Ex.P49 Medical bills, Ex.P50 Prescriptions, Ex.P51 X-Ray films and Ex.P52 Case sheet of the hospital are got marked.

41. P.W.2/Doctor has deposed that after the accident the petitioner was admitted to Govt.Hospital, Bailhongal and later on the same day he was admitted to their Mulaprabha Multispeciality Hospital, Bailhongal and he admitted as inpatient in the hospital and discharged on 28-05-2024. He further deposed that on 08-08-2025 the petitioner has approached him for assessment of permanent disability certificate. He deposed that the petitioner has sustained injuries to chest, hands, low back, legs, fracture of 5th, 6th, 7th ribs, fracture of T12 vertebral body. He deposed that the petitioner has taken conservative treatment. He further deposed that there is malunited fracture of ribs 5th, 6th and 7th and malunited fracture of T12 vertebra.

42. PW.2 further deposed that the petitioner is having pain in backache, difficulty in lifting weight, difficulty in standing for longer time, difficulty to climbing, difficulty in bending forward and backward and difficulty to do agricultural work. He further deposed that the petitioner has permanent physical disability amounting to 15% to the whole body for the fracture of T12 vertebra.

43. In the cross-examination by the learned counsel for respondent No.2 RW.2 denied that the petitioner has not sustained any fracture injuries. Further he stated that the petitioner/PW.2 was admitted as inpatient for 05 days in their hospital. He denied that the petitioner/PW.2 has not sustained any physical disability. He further denied that he has issued Ex.P46 without following the calculation method as per Central Government Gazette. He denied that in order to help the petitioner/PW.2 he has issued a false Ex.P46 and medical documents.

44. According to evidence on record there is physical disability to the tune of 15% to the whole body. Petitioner has relied on Ex.P46 physical disability certificate. Ex.P46 clearly shows that there is a disability sustained by the petitioner to the tune of 15% to the whole body. Considering the injuries sustained by the petitioner and the medical records of the hospital, the disability assessed by the doctor PW.3 is proper and correct and it is believable one and hence the disability of 15% to the whole body is taken for calculation.

45. The petitioner has claimed that, he was doing agriculture work. Apart from that he was carrying vegetable vending business and earning Rs.5,00,000/- per annum. After the accident he is unable to do his work as earlier. In the cross-examination PW.1 stated that she was doing agriculture work and apart from that he was carrying vegetable vending work and earning Rs.5,00,000/- per annum. To prove his income from the agriculture and vegetable vending business, the petitioner has not produced any material documents. In the absence of proper materials to assess the income of the petitioner, it would be appropriate to assess the notional income of petitioner as Rs.14,750/- per month by considering the SOP laid down by our Hon'ble High Court of Karnataka KSLSA in which year wise notional income chart has been given. In the present case, accident occurred on 23-05-2024, the notional income is Rs.14,750/- has been calculated per month. Hence annual income of the petitioner is taken as Rs.**1,77,000/-** (*Rs.14,750/- X 12 months*).

46. So far as age of the petitioner is concerned, in the present case, the petitioner averred that he was aged about 58 years as on the date of accident. To

prove his age he has produced copy of Adhar card marked at Ex.P47 which shows his date of birth as 01-06-1965. The accident is occurred on 23-05-2024. Therefore, the age of the petitioner is taken as 59 years as on the date of accident.

47. As discussed above the income of petitioner is assessed at Rs.14,750/- P.M. It is also established that petitioner was 59 years old at the time of accident. Therefore, the multiplier applicable to present case on hand is '9' as per table given in the decision of Hon'ble Supreme Court reported in **AIR 2009 SC 3104 (Sarla Verma V/s Delhi Transport Corporation Ltd.)**. The functional disability of the petitioner is assessed at 15%. Hence by applying multiplier '9' the future loss of income due to disability made as follows;

i) **Rs.26,550/-** ($Rs.1,77,000/- \times 15\%$ (Functional disability) / 100 = Rs.26,550/-)

ii) $Rs.26,550 \times 9$ (Multiplier) = Rs.2,38,950/-.

Therefore, the future loss of income of the petitioner determined at Rs.2,38,950/-.

48. The record shows that the Petitioner has produced medical bills which are marked in bulk as Ex-P20, P21 to P28 along with Ex.P29 to P36 prescriptions. This medical bills depict that the petitioner did spend Rs.30,518/- towards his medical expenses. The next question would be, whether the medical bills can be accepted or not. It is true that while conducting the cross-examination of PW-2 it is suggested that the Petitioner has concocted the medical bills with an intention to obtain more compensation and the PW-2 has denied the said suggestion. But, it is relevant to note that the above medical bills are in the name of Petitioner does find place. Besides, it is equally relevant to mention that the medical bills, the other details like name of the treatment given and price or cost of treatment. Thus, in my humble opinion, if really the respondent No.2 was sure about his assertion that the Petitioner has concocted the said medical bills, certainly, the respondent No.2 was at liberty to request this Court to summon the original registers from the concerned hospital or shop. Besides, in my view, if the Respondent No.2 had summoned the original registers from the concerned hospital or medical shop, and if there were to be any information which did not tally

with the information available in the hospital, then, the things would have been different and this Court could have suspected the information available in the said medical bills. But, for the best reasons known to him, the Respondent No.2 did not make any efforts to summon the records from the hospital. Hence, I do not see any reason to doubt the information available in the said medical bills. Besides, again I say, the medical evidence available on record shows that the Petitioner had sustained grievous injuries. Thus, having regard to the gravity of the injury sustained by the Petitioner and having regard to the present day cost of treatment, I conclude that Rs.30,518/- is not on higher side. Hence, I conclude that the Petitioner is entitled for reimbursement of Rs.30,518/- towards his medical expenses.

49. The petitioner has taken treatment as inpatient in Malaprabha Multi Speciality Hospital, Bailhongal, as per Discharge summary produced at Ex.P45, he was admitted as inpatient from 23-05-2024 to 28-05-2024 for sustaining fracture of ribs (5th, 6th and 7th)and fracture of T12 vertebral body. Hence he could not have returned to his normal work immediately after taking

treatment from the hospital. Hence, the loss of income of the petitioner during laid up period is assessed for a period of one month at Rs.14,750/-. Considering the nature of injuries, line of treatment, the expenses towards conveyance, nourishment and attendant charges for conservative treatment a sum of Rs.10,000/- may be awarded.

50. The petitioner was age of 59 years as on the date of accident. The petitioner is undergoing mental trauma of the disability he is suffering. Hence, the petitioner is entitled for compensation of Rs.10,000/- towards pain and sufferings and Rs.10,000/- towards loss of amenities.

51. In view of the above discussion, the petitioner is entitled for just and reasonable compensation as under:

Sl. No	Head of compensation	Amount in Rs
1	Loss of future income	2,38,950/-
2	Medical Expenses	30,518/-
3	Loss of income during laid	14,750/-

	up period	
4	Pain and suffering	10,000/-
5	Loss of amenities	10,000/-
6	Food attendants charges and conveyance	10,000/-
	Total	3,14,218/-

52. So far as interest is concerned, the petitioner/s in both the petitions have claimed 18% interest. But having regard facts and circumstance of the case and following the decision render by the Hon'ble High court of Karnataka in the case of **Chetana Vs. Babuji M** reported in **2021 ACJ 1146**, I am of opinion that it is just and proper to award interest at 6% p.a. on the compensation amount from the date of petition till its realization.

53. **Regarding Liability :-** The principal defence raised by the insurance company is that the rider of motorcycle bearing Reg.No.KA.49/EC-1450 was not holding the valid and effective driving license as on the date of the accident, there is fundamental breach of the terms and conditions of the insurance policy. On this

ground, the respondent No.2 has sought dismissal of the claim petition as against it.

54. The learned counsel appearing for respondent No.2 has contended that though an application was filed calling upon respondent No.1/owner-cum-rider to produce his driving license, but he failed to produce the same.

55. Records further disclose that the petitioner had filed I.A. No.III under Order 16 Rule 6, 7 r/w.sec. 151 of CPC seeking direction to produce the driving license of the rider of offending motorcycle. No driving license pertains to the rider of offending motorcycle has been produced either by the petitioner or by respondent No.1/owner-cum-rider despite sufficient opportunities. It is also pertinent to note that respondent No.1/owner-cum-rider has neither entered the witness box nor produced any documentary evidence to establish that he was possessed a valid and effective driving license. The respondent No.1/owner-cum-rider has also not chosen to rebut allegation made in the charge sheet. Therefore, his silence gives raise to an adverse inference under Section 114(g) of the Indian Evidence

Act. Therefore, this tribunal is of the considered opinion that the respondent No.2 has successfully established that the rider-cum-owner of the motorcycle bearing No.KA.49/EC-1450 was not holding a valid and effective driving license on the date of the accident and that there was a breach of the policy condition by the insured/owner.

56. However, mere proof of breach of policy conditions does not automatically absolve the insurer from satisfying the award passed in favour of third party claimant. It is now well settled that in cases involved third party risks, even where breach of policy conditions relating to the driving license is established, the insurer is ordinarily required to satisfy the award in the first instance and thereafter recover the amount from the insured by initiating appropriate proceedings in accordance with law.

57. The learned counsel for the petitioner has relied upon the following decisions in support of his arguments with regard to the principle of pay and recover:

(i) Judgment of the Hon'ble Supreme Court of India Civil Appellate Jurisdiction, ***Civil Appeal Nos. of 2025 (Arising out of SLP © Nos.7139-7140 of 2023) Dated 29-10-2025*** in the case of ***K Nagendra vs. The New India Insurance Co.Ltd. & others.***

(ii) Judgment in ***Civil Appeal No.9669/2024 Dated 24-09-2025 passed by the Hon'ble Supreme Court of India*** in the case between ***Rama Bai vs. M/s Amit Minerals through incharge officer/Competent Officer & Anrs.,***

(iii) Judgment in ***Civil Appeal No.9538/2025 (Arising out of Special Leave Petition (Civil) No.1412 of 2024) Dated 17-07-2025*** in the case between ***Sunita & Ors. Vs. United India Insurance Co.Ltd., & Ors.***

(iv) Order in ***Civil Appeal No.1175/2025 (Arising out of SLP (c) No.377/2023) Dated 29-01-2025*** in the case between ***M.Ananthi & Ors. Vs. P. Venkatesan & Ans.,*** wherein it is observed that;

“ 7. In so far as the liability on the insurance company is concerned, the courts below have rightly held that since the driver of the offending vehicle was

not having any license to drive the same, the insurance company cannot be held liable to compensate.

8. We find no error or illegality in the said part of the order also. However, while granting the compensation of Rs.10,36,000/- (Rupees ten lakhs thirty-six thousand) with interest, the High Court has not directed the insurance company to pay the sum and to recover the same from the owner/driver.

9. In the case of National Insurance Co. Ltd. V/s Saran Singh and Ors.: (2004) 3 SCC 297, it has been laid down that the claimant should not be allowed to suffer and run about to release the compensation awarded and t hat, it is in the fitness of things that the insurance company in such case should first pay and then recover the amount.

10. In view of the aforesaid facts and circumstances, we partly modify the impugned judgment and order passed by the High Court dated 20-08-2020 and direct the respondent No.2 to make the payment of the compensation awarded which shall be invested / distributed as per the directions contained in the order of the High Court to the claimants/appellants.

11. The respondent No.2 is at liberty to recover the said amount from the owner /driver of the vehicle in accordance with law."

(v) Judgment in *MFA No.21528 of 2012 (MV-I)* Dated 27-02-2025 in the case between *The Divisional Manager, National Insurance Company Ltd., vs. Mohammed Jafar and another.*

(vi) Judgment in ***MFA No.103604/2022 (MV-D) Dated 27-06-2023*** in the case between ***Shri. Rudrappa S/o Basayya Pujer vs. Shri Muddingouda S/o Yalagouda Myalendar and another.***

58. The learned counsel for respondent No.2 has relied on the following rulings:

i) Oral Judgment in ***MFA No.202189/2024(MV-1) Dated 03-02-2025*** in the case between the ***Manager, Cholamandalam MS General Insurance Co.Ltd. vs. Devaraj S/o Sharanappa and others.***

ii) Oral Judgment in ***MFA No.4739/2024 (MV-D) Dated 06-11-2025*** in the case between ***Bhagyashree and others vs. Bajaj Allianz General Insurance Co.Ltd., and another.***

3) Order passed in ***SLP (Civil) No.11757/2025 (@ Diary No.43219/2018) Dated 24-04-2025*** in the case between ***Mahaveer Vs. The Branch Manager, United India Insurance Co.Ltd., and others.***

The ratio laid down in the above cited decisions relied upon by respondent No.2 are distinguishable to the present facts and circumstances of the case.

59. The respondent No.2 has produced Ex.R1 Authorization letter and Ex.R2 is the copy of insurance policy which stood in the name of respondent No.1 Mr. Bhabruvan Vittal Giggi in respect of Hero Motorcycle New bearing Chassis No.MBLJAW402P9E52815 and it is valid from 14-11-2023 to 13-11-2028. The accident is occurred on 23-05-2024. Thus, it is crystal clear that as on the date of the accident the insurance policy of the offending motorcycle was in force. This tribunal holds that the respondent No.2/Insurance company is liable to satisfy the award in the first instance with liberty to recover the compensation amount from the respondent No.1/owner of the offending vehicle. Hence, the contention of respondent No.2 seeking complete exaggeration from liability cannot be accepted. Accordingly, Issue No.2 is answered ***in the Affirmative.***

60. **Issue No.3 in MVC Nos.1648/2024 and 1649/2024:-** In view of my findings and discussion

made on issue Nos.1 and 2 in both MVC cases, I proceed to pass the following:

ORDER

The petition filed in MVC Nos.1648/2024 and 1649/2024 under Section 166 of Motor Vehicles Act, 1988 are hereby partly allowed with costs.

Petitioner in MVC No.1648/2024 is awarded a total compensation of Rs.6,68,773/- (Rupees Six lakhs sixty eight thousand seven hundred seventy three only) together with interest at 6% per annum from the date of the petition till the date of realization.

Petitioner in MVC No.1649/2024 is awarded a total compensation of Rs.3,14,218/- (Rupees Three lakhs fourteen thousand two hundred eighteen only) together with interest at 6% per annum from the date of the petition till the date of realization.

The respondent No.1 being the owner and respondent No.2 being its insurer of motorcycle bearing Reg.No.KA-49/EC-1450 are

jointly and severally liable to pay compensation in both the cases. However, in view of the terms of the insurance policy, respondent No.2/Insurance Company shall first deposit the entire compensation amount together with accrued interest before this tribunal within 60 days from the date of this award and shall thereafter be at liberty to recover the said amount from respondent No.1/owner of the offending motorcycle, in accordance with law without filing a separate suit.

On depositing the entire amount awarded along with occurred benefits in MVC No.1648/2024 and 1649/2024, the petitioner in both the cases are entitled to release 50% and remaining 50% amount is ordered to be invested, in the form of a Fixed Deposit, in the name of petitioner, in any Nationalized Bank of her/his choice, for a period of 5 years.

Advocate's fee is fixed at Rs.1,000/- each MVC cases.

Draw the separate award accordingly in MVC Nos.1648/2024 and 1649/2024. Further the original judgment shall be kept in MVC No.1648/2024 and the copy of this common judgment shall be kept in the records of MVC Nos.1649/2024.

(Dictated to the Stenographer directly on computer, computerized by him, revised and corrected by me and then pronounced in the open Court on this the 27th Day of June 2026)

(Ravi Babu Chawan)
Senior Civil Judge and Addl. MACT,
Bailhongal.

ANNEXURE

I) LIST OF WITNESSES EXAMINED BY THE PETITIONER IN BOTH THE PETITIONS:

PW.1: Smt. Mairunbi W/o Jibrayil Nadaf
PW.2: Shri. Jibrayil S/o Mugutsab Nadaf
PW.3: Dr. Manjunath S. Mudakanagoudar

II) LIST OF DOCUMENTS MARKED BY THE PETITIONERS:
In MVC No.1648/2024

Ex.P1: C.C. of FIR
Ex.P2: C.C. of complaint
Ex.P3: C.C. of crime details form
Ex.P4: C.C. of spot sketch
Ex.P5: C.C. of vehicle seizure panchanama
Ex.P6: C.C. of MVI report
Ex.P7: C.C. of Notice issued under Sec. 133 of MV Act
Ex.P8: Copy of reply given by Babruvanan

Ex.P9: C.C. of Indemnity Bond
Ex.P10: C.C. of charge sheet
Ex.P11: Receipt issued by the ARTO, Gokak
Ex.P12: C.C. of Insurance policy
Ex.P13: C.C. of R.C.
Ex.P14: C.C. of Driving license
Ex.P15: C.C. of Adhar card
Ex.P16 and P17: C.C. of Wound certificates
Ex.P18: Discharge summary of the hospital
Ex.P19: Physical disability certificate
Ex.P20: Hospital Bill
Ex.P21 to P28: Medical bills
Ex.P29 to P36: Prescriptions
Ex.P37 to P40: X-Ray films
Ex.P41: Case sheet of the hospital
Ex.P42: statement of witness
Ex.P43 and P44: C.C. of wound certificates
Ex.P45: Discharge summary sheet of the hospital
Ex.P46: Physical disability certificate
Ex.P47: C.C. of Adhar card
Ex.P48: Hospital Bill
Ex.P49: Medical bills
Ex.P50: Prescriptions
Ex.P51: X-Ray films
Ex.P52: Case sheet of the hospital

III) LIST OF WITNESS EXAMINED BY THE RESPONDENTS:

RW.1: Shri. Satishkumar Y. Ambaty

IV) LIST OF DOCUMENTS MARKED BY THE RESPONDENT:

Ex.R1: Authorization letter
Ex.R2: Copy of insurance policy

(Ravi Babu Chawan)
Senior Civil Judge and Addl. MACT,
Bailhongal.

