

KACD210007082022



Presented on : 10-06-2022

Registered on : 10-06-2022

Decided on : 27-04-2026

Duration : 03 Years 10 Months 17 Days

IN THE COURT OF THE SENIOR CIVIL JUDGE & AMACT
CHALLAKERE

PRESENT : SHAMEER P.NANDYAL,
B.A.,LL.B.(Hons.),LL.M.
Senior Civil Judge & JMFC
Challakere

DATED THIS 27th DAY OF APRIL 2026

M.V.C.No.477/2022

Between:

Halaswamy S/o Anjinappa,
Aged about 33 years,
Occ: Agriculturist & Sheep Merchant,
R/o Junjaragunte village,
Parashurampura Hobli,
Challakere Taluk, Chitradurga Dist.
(Rep by Sri OHJ, Adv)

.....Petitioner

And:

1. D.V.Praveenkumar S/o D.Veeranna
Age: Major, Occ: Owner of bus

R/o Chowluru village,
Parashurampura Hobli,
Challakere Taluk, Chitradurga Dist.

2. The Branch Manager
National Insurance Co. Ltd.
Jagaluru Mahalingappa Towers,
1st Floor, B.D.Road, Chitradurga ... Respondents
(R-1 Rep by Sri MSR, Adv.)
(R-2 Rep. by Sri GS, Adv.)

Date of petition	02-06-2022
Nature of petition	Compensation for Injuries
Date of evidence	09-08-2023
Date of Judgment	27-04-2026
Total Duration	<u>Years Months Days</u> 03 10 17

J U D G M E N T

The present petition is filed under section 166 of Motor Vehicles Act seeking compensation on account of the grievous injuries sustained by the petitioner.

2. **Brief facts of the case of the petitioner:**

That on 18-08-2021 at about 6.00 p.m. near Meerasabihalli gate of Challakere taluk, the petitioner sustained grievous injuries due to actionable negligence of driver of the bus bearing Regn.No.KA-16-B-5564 (*herein after referred as 'offending vehicle'*), in which he was travelling. The

petitioner took initial treatment at Government Hospital, Challakere and then was shifted to District Government Hospital, Chitradurga. Thereafter he was shifted to Kaveri Hospital, Bengaluru for higher treatment. He took treatment therein for a period of 20 days as an inpatient. The petitioner was earning Rs.35,000/- p.m. from sheep business and Rs.5,00,000/- p.a. from agriculture. The petitioner has sustained permanent disability in the said accident. The respondents Nos.1 and 2 are the owner and insurer of the offending vehicle respectively. On these grounds and such others, it is prayed for allowing the petition.

3. In pursuance to the notices issued to them, the respondents Nos.1 & 2 have appeared before the Tribunal and have got filed their separate objection statements denying the entire petition averments. It is specifically contended by the respondent No.2 that the driver of the offending vehicle did not possess valid and effective driving license as on the alleged date of the accident.

4. Based on these rival contentions this Tribunal has framed the following:

ISSUES

- 1. Whether the petitioner proves that he has sustained injuries in the road accident that occurred on 18-08-2021 at about 6.00 p.m. near***

Meerasabihalli gate, Challakere taluk, due to rash and negligent driving of driver of bus bearing Reg.No.KA-16-B-5564?

2. Whether the petitioner is entitled for compensation? If so, how much? From whom?

3. What order or award?

5. The petitioner has got him examined as PW-1 and got marked 18 documents at Ex.P-1 to P-18. Thereafter the petitioner has closed his side. On the other hand, the Assistant Manager of the respondent No.2 company had got him examined as RW-1 and has also got marked two documents at Ex.R-1 and Ex.R-2. Thereafter the respondent No.2 has closed its evidence. No evidence was lead on behalf of the respondent No.1.

6. Heard arguments. Perused records.

7. On consideration of the oral and documentary evidences placed on record, this court answers the aforesaid issues as hereunder:

Issue No.1:- In the ***affirmative***

Issue No.2:- ***Partly in the affirmative***

Issue No.3:- As per final order

for the following

REASONS

8. **Issue No.1:** It is the case of the petitioner that on 18-08-2021 at about 6 p.m. near Meerasabihalli gate of Challakere taluk, he sustained grievous injuries due to the actionable negligence of driver of the offending vehicle; Manjunath.B, while he was driving the bus bearing Reg.No.KA-16-B-5564. As aforesaid, the petitioner has got him examined as PW-1. In lieu of his examination-in-chief, he has filed his affidavit reiterating the petition averments. The petitioner has also got marked 18 documents to substantiate his case. Among the documents marked, Ex.P-1 is FIR. FIR was registered against the driver of the offending vehicle, Manjunath B. Ex.P-2 is the First Information Statement. Ex.P-4 is the charge sheet submitted against the aforesaid Manjunath B, who is the driver of the offending vehicle. Ex.P-5 is the spot mahazar. Ex.P-3 is the wound certificate, which indicates that the petitioner has sustained grievous injuries in road traffic accident. Ex.P-7 is the MVA report. After a detailed investigation, charge sheet has been placed by the investigating officer against the accused for the offences punishable under sections 279, 337 & 338 of IPC and section 187 of Motor Vehicles Act. The act of negligence is attributed only against the driver of the offending vehicle. No doubt admittedly the petitioner was

standing near the back door of the bus at the time of fall, however the accident had occurred due to rash and negligent driving of the driver of the offending vehicle alone. Though PW-1 was cross-examined at length nothing worth is elicited from him so as discredit the factum of occurrence of accident due to actionable negligence of the driver of the offending vehicle Manjunath.B. Thus for these reasons, this Tribunal answers issue No.1 in the ***affirmative***.

9. **Issue No.2:** Now that this Tribunal has answered the issue No.1 in the ***affirmative***, the next question which arises for the consideration of the Tribunal is as to what should be the quantum of compensation to be awarded to the petitioner. Immediately after the accident the petitioner was rushed to Government Hospital, Challakere. From there he was taken to District Hospital, Chitradurga and then shifted to Kauvery Hospital, Bengaluru for higher treatment. The petitioner claims that he was hospitalized therein for a period of 20 days in the said hospital. However as could be made out from Ex.P-8, the petitioner was hospitalized eleven days between the periods of 21-08-2021 to 31-08-2021. The same is substantiated by hospital bills and disability certificate marked at Ex.P-8 and P-15 respectively. The medical documents marked at Ex.P-3, 9, 12 to 14 16 to 17 are suggestive of the treatment taken by the petitioner in the said hospital. As could be seen from the

injury certificate marked at Ex.P-3, issued by Government Hospital, Challakere, the petitioner had sustained lacerated wound over right chin, abrasion over forehead and cheek, contusion over left temporal parietal region, bleeding injury from left ear and also bleeding from both upper and lower mouth and teeth and also compound mandibular fracture and maxillary fracture. In the opinion of the doctor, the said injuries are grievous in nature. The respondent No.2 does not dispute the contents of this document. Thus the fact which remains undisputed is that the petitioner had sustained grievous injuries in the said accident.

10. **Disability suffered by the petitioner:** The petitioner has submitted his disability certificate. The same is marked at Ex.P-15. As per said certificate, the doctor has assessed the disability of the petitioner to be at 30%. However it is pertinent to refer to the case of ***Raj Kumar Vs. Ajay Kumar*** reported in ***(2011) 1 SCC 343***. In the said case, the Hon'ble Apex court was pleased to hold that, ***“the doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety”***. Just because the doctor has deposed that the disability of the

petitioner is 30%, the Tribunal is not bound to accept the same. The duty to assess the functional disability is casted upon the Tribunal.

11. The petitioner claims that he is doing agricultural work and also sheep business. It is pertinent to note here that no documents are placed on record by the petitioner to show that he is doing agricultural work and also sheep business. However the fact that the petitioner is a labourer is evident from the charge sheet marked at Ex.P-4. As could be made out by the medical records, the petitioner has suffered aforesaid lacerated wound over right chin, abrasion over forehead and cheek, contusion over left temporal parietal region, bleeding injury from left ear and also bleeding from both upper and lower mouth and teeth and also compound mandibular fracture and maxillary fracture. These injuries are grievous in nature. Though Ex.P-15 discloses that 30% of the disability, the same is not a whole body disability. That apart PW-2 has deposed that he has given treatment only for the teeth of the petitioner. PW-2 does not speak any other bodily disability except for the teeth. No materials placed on record by the petitioner to show that the said facial injuries suffered by the petitioner have in anyway diminished his earning capacity. Thus this Tribunal refrains itself from considering any disability under this head.

12. **Expenses relating to treatment, hospitalization & medicines:-** The petitioner claims that he had incurred expenses of Rs.4,00,000/- for his treatment. The petitioner has produced the medical bills, which are marked at Ex.P-8, 9 and 12 to 15. The total amount paid under these bills is Rs.2,04,177/-. Except these bills, the petitioner has not produced any other documents. All these bills are original bills issued by Kauvery Hospital, Bengaluru and SJM Dental Hospital, Chitradurga. Given the nature of injuries suffered by the petitioner and the period of hospitalization, this Tribunal deems it fit to award the said medical expenses under this head. The same is rounded off to Rs.2,05,000/-.

13. **Loss of earnings during laid up period:** The petitioner has contended that he is doing agricultural work and also sheep business through which he earns a total income of Rs. 35,000/- per month and 5,00,00/- per annum respectively. The petitioner has not produced any documents to show his monthly income. As no materials are placed on record to show the exact earnings of the petitioner, the court has to adjudicate the quantum of income, considering the notional income. As per the chart prepared by the **Hon'ble Karnataka State Legal Services Authority, Bengaluru**, for all the districts coming under the Hon'ble High Court of Karnataka, Principal Bench, Bengaluru the

notional income suggested for the year **2021** is **Rs.15,000/-**. Thus the monthly income of the petitioner is construed to be at Rs.15,000/- per month.

14. As aforesaid the petitioner was hospitalized at Kauvery Hospital, Bengaluru for a period of 11 days. Considering the nature of injuries suffered by him, it can be presumed that the petitioner was laid up for at least a period of two months. Thus at the rate of Rs.15,000/- per month, the loss of income during the laid up period would be **Rs.30,000/-**.

15. **Damages for pain, suffering and trauma as a consequences of the injuries:** The petitioner has suffered compound mandibular fracture and maxillary fracture. He took treatment between the periods 21-08-2021 to 31-08-2021 at Kauvery Hospital. He has also undergone plate fixations on his face. Taking into account the injuries and the disability sustained by the petitioner, this Tribunal awards an amount of **Rs.50,000/-** towards damages for pain, suffering and trauma as a consequence of this injuries.

16. **Loss of amenities:** In so far as loss of amenities is concerned, while granting the loss of amenities, the Tribunal is under the obligation to consider how the quality of life has been affected by an injury. This is a feature of a personal injury claim,

which acknowledges personal adjustments that have been made to the work, social and domestic lifestyle, which are not financial. As opined by the doctor, the petitioner has suffered compound mandibular fracture and maxillary fracture. He has difficulty in chewing, continuous headache and deviation of the mandible. Thus considering the same, this Tribunal deems it fit to award an amount of **Rs.30,000/-** under the head of loss of amenities.

17. **Transportation, Nourishment, Attendant Charges and Miscellaneous Expenditure:** As aforesaid the petitioner was hospitalized in Kauvery Hospital, Bengaluru for 11 days. Prior to that he has taken treatment at Government Hospital, Challakere and District Hospital, Chitradurga. Given the fractures suffered by the petitioner, he was in need of one attendant during the said period. Further being a permanent resident of Junjaragunte village of Challakere taluk, he had taken treatment at Chitradurga and Bengaluru. He has even visited the said hospital for follow up treatment. Given the nature of injuries he was in need of nourishment also. Thus taking into consideration, the duration of hospitalization, if a lump-sum amount of **Rs.20,000/-** is awarded towards the transportation, nourishment, attendant charges and miscellaneous expenditures, the same would suffice the cause of justice. Thus the petitioner is entitled for compensation under aforesaid heads summarized as hereunder:

Sl	Heads	Amount of Rs.
1.	Expenses relating to Treatment Hospitalization & Medication	2,05,000
2.	Loss of Earnings during <i>laid up period</i>	30,000
3.	Loss of Earnings/Future earnings on account of permanent disability	-NIL-
4.	Damages for pain, suffering and Trauma as a consequence of this injuries	50,000
5.	Loss of Amenities	30,000
6.	Transportation, Nourishment & Miscellaneous Expenditure	20,000
Total		3,35,000/-

18. **INTEREST:** In so far as award of interest in concerned, the petitioner has claimed an interest at the rate of 18% p.a. from the date of petition. In view of decision of Hon'ble High Court of Karnataka, in **Vijay Ishwar Jadhav & Ors. V/s Ulrich Belchior Fernandes & Anor.** i.e. in **M.F.A.No.100090/2014 [MV]** dated 07.03.2018, it is held that “in the absence of any law relating to interest on judgment , the MACT has to follow the provision of Sec.34 of CPC”. Thus this Tribunal deems it proper to award interest at the rate of 6% p.a. on the aforesaid compensation amount.

19. **Liability:** The fact that the offending vehicle was insured with respondent No.2 company as on the alleged date of accident is not in dispute. The respondent No.2 has produced the insurance

policy and the same is marked at Ex.R-2. The insurance was valid for the period between 26-11-2020 to 25-11-2021. The alleged accident occurred on 18-08-2021. Thus, as on the date of accident, the offending vehicle was duly insured. The said policy is a package policy. As the offending vehicle in question was duly insured with the respondent No.2, it is the respondent No.2 company, which needs to indemnify the respondent No.1. Accordingly issue No.2 is answered ***partly in the affirmative.***

20. **Issue No.3:** In the light of foregoing discussions, this Tribunal proceeds to pass the following:

ORDER

The petition filed under section 166 of the Motor Vehicles Act is hereby allowed in part.

Petitioner is entitled for total compensation of Rs.3,35,000/- [Three lakhs, thirty five thousand rupees] along with interest at the rate of 6% p.a. from the date of the petition till realization entire amount.

The respondents Nos.1 and 2 are jointly liable to pay the compensation amount. The respondent No.2 being the insurer is liable to indemnify the respondent No.1 and to deposit the compensation awarded within a period of 30 days.

On deposit of the compensation amount, the petitioner is entitled for the release of 50%

amount. The remaining 50% amount shall be deposited in any nationalized bank, of his choice, in fixed deposit for a period of 3 years.

Advocate fee is fixed at Rs.1,000/-.

Draw award accordingly.

(Dictated to the Stenographer directly on the computer, printouts taken, corrected by me and then pronounced, in presence of both the learned counsel, on this the 27th day of April 2026)

[SHAMEER.P.NANDYAL]

Senior Civil Judge & AMACT
Challakere

ANNEXURES

Witnesses examined for the petitioner:

PW-1 : Halaswamy

Documents marked for the petitioner:

Ex.P-1 : C/C of FIR
Ex.P-2 : C/C of FIS
Ex.P-3 : C/C of Wound certificate
Ex.P-4 : C/C of Charge sheet
Ex.P-5 : C/C of Spot Mahazar
Ex.P-6 : C/C of Vehicle inspection mahazar
Ex.P-7 : C/C of MVA report
Ex.P-8 : Medical bills
Ex.P-9 : Medical bill
Ex.P-10 & 11 : 2 Photographs
Ex.P-12 : 7 Medical bills
Ex.P-13 & 14 : 2 Medical bills

Ex.P-15 : Disability certificate
Ex.P-16 : Out Patient Card
Ex.P-17 : X-ray film
Ex.P-18 : Medical Prescription

Witness examined for the respondents:

RW-1 : Dharshan Kumar

Documents got marked for the respondents:

Ex.R-1 : Authorization letter
Ex.R-2 : Insurance Policy

Senior Civil Judge & AMACT
Challakere