

KACD210007202022



Presented on : 15-06-2022
Registered on : 15-06-2022
Decided on : 22-04-2026
Duration : 03 Years 10 Months 07 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 22nd DAY OF APRIL 2026

M.V.C.No.529/2022

Between:

Sapota W/o Koti @ Sanneerappa,
Aged about 28 years,Occ:Labourer,
R/o Maddanakunta Village,
Amarapuram Mandal, Madaksira Taluk,
Andhra Pradesh State
(Rep. By Sri JD, Adv)

.....Petitioner

And:

1. Panduranga G.N. @ Pandappa.G.N.
S/o Late Sri Naganna,
Aged about 50 years,

R/o Reddyhalli Gopanahalli Village,
Challakere Taluk,
Chitradurga District.

2. The Branch Manager
Chola MS General Insurance Co. Ltd.
No.116/17, Nirmal Building,
Opp to Cosmo Politan Club,
Ballary
(R-1 Rep by Sri MSV, Adv.)
(R-2 Rep by Sri SV, Adv.)

.... Respondents

Date of petition	09-06-2022
Nature of petition	Compensation for Injuries
Date of evidence	22-02-2024
Date of Judgment	22-04-2026
Total Duration	<u>Years Months Days</u> 03 10 03

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 05-10-2021 at about 1.30 p.m. near Halagodanahalli gate of Challakere taluk, the petitioner sustained grievous injuries due to actionable negligence of driver of lorry bearing Reg.No.KA-16-D-5221 (*herein after referred as 'offending vehicle'*), which collided TVS XL motro

cycle driven by her. The deceased Abhinanda and G.Ramu were the pillion riders. The petitioner took initial treatment at Government Hospital, Challakere and then was shifted to District Government Hospital, Chitradurga. The petitioner had also taken treatments at other private hospitals situated at Chitradurga and Davanagere. The petitioner was earning Rs.20,000/- p.m. by doing coolie work. 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 and 2 have appeared through their counsel and filed their objection statements denying the entire petition averments. It is specifically contended by the respondent No.2 that the accident had occurred due to negligence of drivers of both the vehicles.

4. On the basis of rival pleadings, this Tribunal has framed the following:-

ISSUES

- 1. Whether the petitioner proves that petitioner has sustained severe injuries on her left leg and her son was died in the road accident that occurred on 05-10-2021 at about 1.30 p.m. near***

Halagondanahalli gate, Challakere taluk, due to rash and negligent driving of driver of lorry bearing Reg.No.KA-16-D-5221?

- 2. Whether the petitioner is entitled for compensation? If so, how much? From whom?***
- 3. What order or award?***

ADDITIONAL ISSUE

Whether the respondent No.2 proves that as on the date of accident driver of the lorry bearing Reg.No.KA-16-D-5221 has not having valid license to drive the lorry?

5. The petitioner has got her examined as PW-1 and got marked 23 documents at Ex.P-1 to P-23. The petitioner has also got examined one Dr.N.Venkateshivareddy as PW-2 with the aid of court commissioner. Thereafter the petitioner has closed her 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.
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***

Additional Issue :- In the ***negative***

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 05-10-2021 at about 1.30 p.m. near Halagodanahalli gate of Challakere taluk, she sustained grievous injuries due to the actionable negligence of driver of the offending vehicle; Dileep Kumar.N. The offending vehicle had collided with the TVS motor cycle driven by the petitioner. Further it is contended that both the pillion riders by names Abhinandan and G.Ramu died in the said collision. As aforesaid, the petitioner has got her examined as PW-1. In lieu of her examination-in-chief, she has filed her affidavit reiterating the petition averments. The petitioner has also got marked 23 documents to substantiate her case. Among the documents marked, Ex.P-1 is FIR. FIR was registered against the driver of the offending vehicle, Dileep Kumar. Ex.P-2 is the FIS. Ex.P-6 is the charge sheet submitted against the aforesaid Dileep Kumar, who is the driver of the offending vehicle. Ex.P-3 is the spot & vehicle inspection mahazar. Ex.P-5 is the wound certificate, which indicates that the petitioner has sustained

grievous injuries in road traffic accident. Ex.P-4 is the MVA report. After a detailed investigation, charge sheet has been placed by the investigating officer against the driver of the offending vehicle Dileep Kumar for the offences punishable under sections 279, 337, 338 and 304-A of IPC. The police have also submitted the charge sheet against the petitioner and the owner of the TVS motor cycle for the offences punishable under 181 and 180 of Motor Vehicles Act respectively. However the act of negligence is attributed only against the driver of the offending vehicle. Thus the materials on record suggest that the accident had occurred on account of actionable negligence of the driver of the offending vehicle. Though PW-1 was cross-examined at length nothing worth is elicited from her so as discredit the factum of occurrence of accident due to actionable negligence of the driver of the offending vehicle. Thus for these reasons, this Tribunal answers issue No.1 in the ***affirmative***.

9. ***Additional Issue:*** The respondent No.2 has contended that the driver of the offending vehicle did not possess valid and effective driving license. The burden to prove this aspect was upon the respondent No.2. The respondent No.2 except examining its Assistant manager has not examined any other witness. Furthermore the investigation officer after a detailed investigation has submitted the charge sheet against the

driver of the offending vehicle only for the offences punishable under sections 279, 337, 338 and 304-A of IPC. The offence of section 181 of Motor Vehicles Act is attributed against the petitioner. No such offence is attributed against the driver of the offending vehicle Dileep Kumar for having driver of the vehicle, without possessing any driving license. As such this contention of the respondent No.2 is acceptable. Accordingly this Tribunal answers additional issue in the **negative**

10. **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 she was taken to District Hospital, Chitradurga and Basaveshwara Hospital, Chitradurga. No documents are placed on record by the petitioner to show that she was hospitalized during any period. The discharge card issued by District Hospital, Chitradurga, marked at Ex.P-19 goes to show that the petitioner had taken treatment only on one day i.e. on 05-10-2021. The medical documents marked at Ex.P-7 to 18, 20 to 23 are suggestive of the treatment taken by the petitioner in this hospital. As could be seen from the injury certificate

marked at Ex.P-5, issued by Government Hospital, Challakere, the petitioner had sustained fracture of both bones of left leg, injury between great toe and 2nd toe and abrasion injury over left eye. 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.

11. **Disability suffered by the petitioner:** The petitioner has submitted his disability certificate. The same is marked at Ex.P-20. As per said certificate, the doctor has assessed the disability of the petitioner to be at 42%. 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 42%, the Tribunal is not bound to accept the same. The duty to assess the functional disability is casted upon the Tribunal.

12. The petitioner claims that she is a labourer. The petitioner has nowhere disclosed the nature of coolie work done by her. It is pertinent to note here that no documents are placed on record by the petitioner to show that she is doing coolie work. However the fact that the petitioner is a coolie is evident from the charge sheet marked at Ex.P-6. As could be made out by the medical records, the petitioner has suffered aforesaid fracture of both bones of left leg and fracture of proximal phalanx of 2nd toe left foot. Though PW-2 i.e, Dr.N.Venkashivareddy has admitted that the disability assessed by him pertains only to left leg i.e. to the particular limb. Thus considering the nature of injuries suffered by the petitioner and the nature of work of the petitioner, if the functional disability is assessed at **10%**, the same will suffice the cause of justice.

13. **Expenses relating to treatment, hospitalization & medicines:-** The petitioner claims that she had incurred expenses of Rs.2,00,000/- for her treatment. The petitioner has produced 17 medical bills, which are marked at Ex.P-7. The amount paid under the said bill is **Rs.6,491/-** excluding the bill, which does not bear the name of the petitioner. Except these bill, the petitioner has not produced any other documents.

Given the nature of injuries suffered by the petitioner and the fact that the petitioner was hospitalized in a Government Hospital, this Tribunal deems it fit to award the said medical expenses under this head. The same is rounded off to **Rs.7,000/-**.

14. **Loss of earnings:** The petitioner has contended that was earning a monthly income of Rs.20,000/- by doing coolie work. As discussed *supra*, the petitioner has not produced any documents to show her exact earnings from her coolie work. In the absence of any such materials, the contention of the petitioner that her monthly income is Rs.20,000/- cannot be accepted. As no materials are placed on record to show the exact earnings of the petitioner, the Tribunal 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/-**. The loss of earning is to be calculated by multiplying the annual income with appropriate multiplier and with the percentage of disability.

15. The petitioner claims that she was aged about 28 years as on the date of the accident. The same is substantiated from the

medical records. Thus this Tribunal construes the age of the petitioner to be 28 years. The multiplier applicable is 17 for the age group of 26 to 30 years. The total percentage of functional disability is accepted to be 10%. Thus the calculation would be Rs.15,000/- X 12 Months X 17 multiplier X 10% disability = **Rs.3,06,000/-**.

16. **Loss of earnings during the laid up period:** As aforesaid the petitioner was hospitalized at District Hospital, Chitradurga for a period of 15 days. Considering the nature of injuries suffered by her, it can be presumed that the petitioner was laid up for at least a period of one month. Thus at the rate of Rs.15,000/- per month, the loss of income during the laid period would be **Rs.15,000/-**.

17. **Damages for pain, suffering and trauma as a consequence of the injuries:** The petitioner has suffered fracture of both bones of left leg at distal 1/4th and fracture proximal of 2nd toe of left foot. She has also undergone surgery. She took treatment at District Government Hospital, Chitradurga and Basaveshwara Hospital Chitradurga and other private hospitals. Taking into account the injuries and the disability sustained by the petitioner, this Tribunal awards an amount of **Rs.30,000/-** towards damages for pain, suffering and trauma as a consequence of this injuries.

18. **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 discussed *supra*, the petitioner has undergone surgery of reduction and internal fixation with intramedullary interlocking nail. She had to undergo various lifestyle modifications, so as to recover from the severe injury suffered by her. Thus considering the same, this Tribunal deems it fit to award an amount of **Rs.10,000/-** under the head of loss of amenities.

19. **Nourishing food, transportation and miscellaneous expenditure:** The petitioner was hospitalized for a period of 15 days along with an attendant. Thus, under the facts and circumstances of the case, it could be inferred by the Tribunal the petitioner having suffered fracture of both bones of left leg at distal 1/4th and fracture proximal of 2nd toe of left foot, was in requirement of nourishing food. It can also be inferred that the petitioner would have incurred transportation and other incidental expenses throughout her hospitalization. She was in need of assistance of attendant also as stated *supra*. Thus for these reasons, if this Tribunal awards Rs.15,000/- the

same would suffice the cause of justice. Accordingly and amount of Rs.10,000/- is awarded under this head.

20. The compensation awarded in favour petitioner under aforesaid various heads is summed up as hereunder:

No.	Heads	Amount in Rs.
1	Expenses relating to treatment, hospitalization & medicines, transportation	10,000/-
2	Loss of Earnings (a) During treatment & (b) Future earnings on account of permanent disabilities	15,000/- 3,06,000/-
3	Damages for pain, suffering & trauma	30,000/-
4	Nourishing food & miscellaneous expenditure	10,000/-
5	Loss of Amenities	10,000/-
	Total	3,81,000/-

Thus the petitioner is entitled to total compensation amount of **Rs.3,81,000/-**

21. **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.

22. **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 on consent at Ex.R-2. The insurance was valid for the period between 22-10-2020 to 21-10-2021. The alleged accident occurred on 5-10-2021. Thus, as on the date of accident, the offending vehicle was duly insured.

23. Though the respondent No.2 company has contended that the driver of the offending vehicle did not possess valid and effective driving license as on the alleged date of accident, it has failed to prove the same as discussed under issue No.2. Further though the petitioner did not possess a valid driving license as on the alleged date of accident, the same is no ground to reject his claim. In this regard it is pertinent to refer to a decision reported in **2008 ACJ 1834 (SC); Sudhir Kumar Rana V/s Surinder Singh & Ors.** In the said case, the Hon'ble Supreme court has held that “***If a person drives a vehicle***

without a license, he commits an offence. The same by itself may not lead to a finding of negligence as regards the accident". Similar view was also expressed by Hon'ble High Court of Karnataka in a decision reported in **2013 SCC Online Kar 3221** in the matter of ***G.T.Mahesha Vs. Karnataka State Road Transport Corporation***.

24. As stated *supra*, it is the respondent No.2, who is negligent in driving the offending vehicle. As such mere non-possession of driving license by the driver of the motor cycle, cannot be ground to attribute negligence against him. Even if claimant did not possess driving license, it had no nexus with the accident. Non possession of valid driving license by itself is no reason for non- granting of compensation, if accident is proved to be caused by rash and negligent driving of the driver of the offending vehicle. As such the contention raised by the respondent No.2 cannot be accepted. 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***.

25. **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.3,81,000/- [Three lakhs, seventy six 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.

After the deposit of the aforesaid compensation amount, the petitioner is entitled for release of 50% of the same. The remaining 50% compensation amount shall be deposited in her favour, in any nationalized bank, 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 22nd day of April 2026)

[SHAMEER.P.NANDYAL]
Senior Civil Judge & AMACT
Challakere

ANNEXURES

Witnesses examined for the petitioner:

PW-1 : Sapota
PW-2 : Dr. Venkateshiva Reddy

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 Spot & Vehicle inspection mahazar
Ex.P-4 : C/C of MVA report
Ex.P-5 : C/C of Wound certificate
Ex.P-6 : C/C of Charge sheet
Ex.P-7 : 17 Medical bills
Ex.P-8 : 10 Medical prescriptions
Ex.P-9 & 10 : Out patient records
Ex.P-11 to 13 : Medical advisory slips
Ex.P-14 : Medical prescription slip
Ex.P-15 to 18 : Lab reports
Ex.P-19 : Discharge card
Ex.P-20 : Disability certificate
Ex.P-21 to 23 : X-ray films

Witness examined for the respondents:

RW-1 : Pavan Kumar

Documents got marked for the respondents:

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

Senior Civil Judge & AMACT
Challakere