

KACM200001852020



**IN THE COURT OF SENIOR CIVIL JUDGE AND
MACT AT KADUR**

Dated this the 26th day of May – 2026.

Present : **SRI.IRFAN**

B.A. LL.B.,

Senior Civil Judge & MACT,
Kadur, Chikkamagaluru District.

M.V.C. No.107/2020

PETITIONER : Sri. H. Manjunath,
S/o Hanumanthappa,
Aged about 30 years,
Coolie Work,
R/o Yarehalli Village,
Bhadravathi Taluk,
Shivamogga District.
Now R/o Subash Nagara,
Kadur Town, Kadur Taluk,
Chikkamagaluru District.

(By: Sri. C.V. Subramanya, Advocate)

V/s

RESPONDENTS : 1. Sri. Kumara B,
S/o Basavarajappa,
Aged about 25 years,



R/o Sasivehalli Village,
Honnali Taluk,
Davanagere District.

[Driver of Mahindra Goods
vehicle bearing Reg.No.
KA-51/B-1079]

2. M/s Cabeles India Exports
Private Limited, Plot No.134-A,
Jigani Industrial Area,
Bommasandra-Jigani link Road,
Bangalore – 561 229.
3. The Manager,
Oriental Insurance Company Ltd.,
Kiran Complex, Below IOB,
U.B. Road, Kadur Town,
Chikkamagaluru District.

[P.No.423101/31/2019/8165]
[Valid upto 30.10.2018 to
29.10.2019]

[Respondent No.1 by: Sri. K.V. Saleem, Advocate]

[Respondent No.2 by: Smt. Manjula M.K.,Advocate]

[Respondent No.3 by: K. Ashok, Advocate]

Date of institution of the petition:	09.03.2020.
Nature of the petition:	Compensation (Injury)
Date of the commencement of recording of the evidence:	21.04.2022.



Date on which judgment was pronounced	26.05.2026.		
Total Duration	Years	Months	Days
	06	02	17

Sd/-
[IRFAN]
Senior Civil Judge
and MACT, Kadur.

JUDGMENT

This petition is filed U/sec 166 of Indian Motor Vehicle Act seeking compensation of a sum of **Rs.10,00,000/-** (Ten Lakhs) together with 21% interest per annum from the date of petition till realization, for the injuries sustained by the petitioner in a Road Traffic Accident at about 5.20 p.m. on 29.05.2019.

2. The case of the petitioners is as follows:

On 29.05.2019, the petitioner was travelling in a motorcycle bearing Reg.No.KA-14/EJ-3015 as a



pillion-rider and the said motorcycle was ridden by his friend by name G. Gurumurthy and when they were visiting the relative of G. Gurumurthy and after having some food at Anaveri, they proceeded towards Sasivehalli village and at that time the 1st respondent being the driver of Mahindra Goods vehicle bearing Reg.No.KA-51/B-1079 came from opposite direction i.e., Sasivehalli to Linglapura village in a rash and negligent manner and dashed to the motorcycle, due to impact, the motorcycle was badly damaged and rider and pillion-rider of the motorcycle sustained grievous injuries. After the accident, the petitioner shifted to Mc.gann Hospital, Shivamogga for first-aid treatment and admitted as an inpatient for 10 days and as per the advice of the doctor, the petitioner was shifted to Wenlock Hospital, Mangaluru, wherein the petitioner took treatment as an inpatient for 21 days



and incurred medical expenses for a sum of Rs.5,00,000/-. Due to the accident, the petitioner has sustained left femur shaft fracture and nailing was done, head injury, frontal region, swelling left foot, thigh and left eye and other parts of the body. After discharge, the petitioner is still under treatment as an out-patient in the said hospital. Due to the accidental injuries, the petitioner is also having permanent disability to the injuries sustained by him, it affects his life and also earnings of the petitioner. Now, the petitioner is not able to work his day to day without the assistance. The petitioner lost his six months earnings i.e., Rs.90,000/-. The petitioner has incurred a sum of Rs.5,00,000/- towards medical expenses.

The petitioner is doing coolie work and was getting income of Rs.15,000/- per month and he has



to maintain his large family. The petitioner is still not in a position to do his normal work and suffered a lot. The said accident had occurred due to rash and negligent driving of 1st respondent, 2nd respondent is the owner and 3rd respondent is the insurer of the Mahindra Goods Vehicle bearing Reg.No.KA-51/B-1079. Hence, all the respondents are jointly and severally liable to pay the compensation. Hence, the petition.

3. In response to the service of notices, the respondents No.1 to 3 appeared through their counsel and filed separate objections.

4. The case of the 1st respondent is as follows:-

He has specifically denied the age, occupation of the petitioner, accident in question and also the injuries sustained by the petitioner in the accident.



He has further denied the entire case of the petitioner as false and frivolous. In addition to the same, it is contended that there is no such accident had taken place in the manner narrated in the petition as well as in the police record. There is no negligence on the part of 1st respondent in causing the accident. The said accident had occurred due to sole negligence of G. Gurumurthy himself, who rode his motorcycle in a rash and negligent manner and dashed to the Goods vehicle and caused the accident, even though there is no negligence on the part of 1st respondent in causing the accident. The petitioner and the rider of motorcycle colluded with the police authorities have managed to register the case against 1st respondent and the petitioner has filed the false petition making false claim and false allegations against the 1st respondent.



The 1st respondent further contends that he has purchased the said Goods vehicle bearing Reg.No.KA-51/B-1079 from the 2nd respondent and at the time of purchase, the 2nd respondent has insured his vehicle with the 3rd respondent and the said policy was in-force as on the date of accident. The 1st respondent has got transferred the RC of the said vehicle to his name from the name of 2nd respondent, but the insurance policy of the said vehicle has been continued in the name of 2nd respondent and same was in-force as on the date of accident. Now, the 1st respondent is the driver-cum-owner of the said vehicle and he has got valid driving licence to drive the said vehicle as on the date of accident. The accident was occurred due to sole negligence on the part of rider of motorcycle. The petitioner has not made the rider, owner and insurer of the said



motorcycle as a party to the petition. There is a contributory negligence on the part of the rider of motorcycle in causing the accident. Hence, the 1st respondent sought to assess the ratio of negligence on the part of 1st respondent and rider of the motorcycle and fix the compensation in accordance with law. The compensation and interest claimed thereon is excessive and exorbitant. Accordingly, sought to dismiss the petition.

5. The case of the 2nd respondent is as follows:-

The claim petition filed by the petitioner is mischievous, vexatious, untenable claim set up with ulterior motive to enrich by false ways, the petition is not sustainable either in law or on facts and same is liable to be dismissed. Further, it has specifically denied the age, occupation of the petitioner, accident



in question and also the injuries sustained by the petitioner in the accident. It has denied the entire case of the petitioner as false and frivolous. In addition to the same, the 2nd respondent herein is the owner of the Mahindra Goods Vehicle bearing Reg.No.KA-51/B-1079 until 30.11.2018 only. It is further stated that as on 30.11.2018, the 2nd respondent sold the said vehicle to 1st respondent for a sum of Rs.2,25,000/- and on the said day itself 2nd respondent has handed over the said vehicle to the 1st respondent by receiving the relevant documents and on the said day itself i.e., 30.11.2018, the 1st respondent executing to whom it may concern, he satisfied with the said vehicle and he received RC, Insurance Policy, Tax receipt, Fitness certificate etc., 1st respondent undertaking he is responsible / liable for the said vehicle from 30.11.2018 and on that day,



2nd respondent got clearance certificate in respect of the said vehicle. The 2nd respondent noway concerned to the said vehicle from 30.11.2018 on-wards. The 2nd respondent herein is the owner of the said vehicle as on 30.11.2018 and duly insured with the 3rd respondent and the said policy was in-force with effect from 30.10.2018 upto 29.10.2019. The 1st respondent without conceding the petition allegations and without prejudice to the objections stated above the claim and compensation if any made by petitioner liable to be paid by the 1st respondent and 3rd respondent insurer company, but not the 2nd respondent. The insurance policy is very much in-force as on alleged date of accident and the 2nd respondent is not liable to pay any compensation to the petitioner. Hence, the claim petition in so far as against the 2nd respondent is liable to be dismissed.



The 1st respondent is the driver and the 2nd respondent is the owner of Mahindra Goods vehicle bearing Reg.No.KA-51/B-1079 are utterly false. It is submitted that on the date of accident the 1st respondent is the owner cum driver of the said vehicle, this fact clearly admitted by the 1st respondent on executing indemnity bond on 07.06.2019 to Honnali Police Station on taking Mahindra Goods Vehicle bearing Reg.No.KA-51/B-1079 in his custody. The claim and compensation if any made by the petitioner is liable to be paid by the 1st respondent owner cum driver and 3rd respondent insurer company, but not the 2nd respondent. The petition filed by the petitioner is only to harass the respondent. The 2nd respondent producing the policy bearing No. 423101/31/2019/8165 previous policy No.423101/31/2018/8133 issued by 3rd respondent



covering then 2nd respondent vehicle bearing Reg.No.KA-51/B-1079 and the said policy is validated and force with effect from 30.10.2018 upto 29.10.2019. The compensation and interest claimed by the petitioner is excessive and exorbitant. On these grounds, sought to dismiss the petition.

6. The case of the 3rd respondent is as follows:-

It is a Insurance Company. In the objections, it has admitted that the 3rd respondent has issued the insurance policy in the name of 2nd respondent covering the risk of the Mahindra Goods Vehicle bearing Reg.No.KA-51/B-1079 and liability if any is governed by the terms and conditions of the insurance policy. Further, it has specifically denied the age, occupation of the petitioner, accident in question and also the injuries sustained by the



petitioner in the accident. It has denied the entire case of the petitioner as false and frivolous. In addition to the same, the 1st respondent and the rider of motorcycle have no valid and effective driving licence to drive the Goods vehicle and motorcycle respectively as on the date of accident. There is no negligence on the part of 1st respondent in causing the accident, the said accident was happened due to sole negligence of the rider of the motorcycle by name Gurumurthy, who rides the said motorcycle in a rash and negligent manner and himself came and dashed to the Goods vehicle and caused the accident. Despite of this fact, the petitioner and the rider of motorcycle colluded with the police authorities have managed to register the case against 1st respondent even though there was no negligence on the part of 1st respondent in causing the accident. The petitioner is not the



resident of Subash Nagar of Kadur Town. The alleged accident was taken place within the jurisdiction of Honnali Taluk i.e., Sasivehalli – Anaveri Road and the petitioner is residing at Bhadravathi Taluk, hence, this Tribunal has no jurisdiction to try the petition. The petitioner in order to file this petition before this Tribunal has given the address at Kadur Town, even though the petitioner is not residing at Kadur Town. There is a contributory negligence on the part of the rider of motorcycle in causing the accident, hence sought to assess the ratio of negligence on the part of the rider of motorcycle and 1st respondent in causing the accident and fix the liability in accordance with law. The petition filed by the petitioner is bad for non-joinder of necessary party as the petitioner has not made the rider, owner and insurer of the motorcycle as a party to the petition. The compensation amount



and interest claimed by the petitioner is excessive and exorbitant. Apart from above, the respondent No.2 has taken shelter under Section 158(6) and Section 134(c) of the Motor Vehicle Act by seeking permission to contest U/S 170 of IMV Act and accordingly, sought to dismiss the petition.

7. On the basis of the pleadings, the following issues were framed;

1. Whether the Petitioner proves that the accident occurred on 29-05-2019 at 5-20 P.M. near Sasivehalli Anaveri road, Honnali taluk, Davanagere district, due to rash and negligent driving of the driver of Mahendra bearing Reg.No.KA-51-B-1079, due to which, he was sustained grievous injuries?
2. Whether the respondents prove that suit is bad for non-joinder of necessary party?



3. Whether the Petitioner is entitled for compensation? If so, to what extent and from whom?

4. What order or award?

8. In order to substantiate the case of the petitioner, he himself got examined as PW-1 and got marked documents under Ex.P-1 to 22 and examined Dr. K.P. Hebbar, Orthopedic Surgeon, Chikkamagaluru as CW-1 and got marked 02 documents as Ex.C-1 and 2 and closed his side. On the contrary, the Assistant Manager of 3rd respondent – Insurance Company got examined as RW-1 and got marked 05 documents under Ex.R-1 to 5 and closed its side.

9. Heard the arguments of the learned Counsel for the petitioner and respondents. Perused the materials available on record.



10. On consideration of oral and documentary evidence made available on records, the issues are answered as follows:

Issue No.1:- In the Affirmative;

Issue No.2:- In the Negative;

Issue No.3:- Partly in the Affirmative'

Issue No.4 :- As per final order,
for the following;

REASONS

11. **Issues No.1 and 2:-** These issues are taken together for common discussion to avoid repetition of facts.

Before proceeding to discuss upon the merits of the case, it is just to mention about the jurisdiction aspect. As per petition averments, it is stated that at the time of filing of the petition, the petitioner is the local resident within the jurisdiction of this Tribunal.



The 3rd respondent in its objections raised a specific contention that this Tribunal has no jurisdiction to try this petition by contending that the petitioner is neither a resident nor the accident taken place within the jurisdiction of this jurisdiction. The petitioner in order to establish that he is residing within the jurisdiction of this Tribunal has produced the Residential Certificate under Ex.P-20, which demonstrate that the petitioner is the resident of Subash Nagara, K.M. Road, Kadur, which is within the jurisdiction of this Tribunal. Sec.166(2) of Motor Vehicles Act, 1988 provides that any application U/S 166 of the said Act shall be made at the option of the claimant either to file petition in the Tribunal over the area in which the accident occurred or to the claims Tribunal within the local limits of whose jurisdiction, the claimant resides or carries or



business or within the local limits of whose jurisdiction, the respondent resides. In consideration of the establishment of the fact that as on the date of filing of this petition, the petition is resident within the jurisdiction of this Tribunal, U/S 166(2) of the Motor Vehicle Act, 1988, this Tribunal has got jurisdiction to try this case.

12. It is the contention of the petitioner that on 29.05.2019, he was travelling in a motorcycle bearing Reg.No.KA-14/EJ-3015 as a pillion-rider and the said motorcycle was ridden by his friend by name G. Gurumurthy and when they proceeded towards Sasivehalli village, at that time the 1st respondent being the driver of Mahindra Goods vehicle bearing Reg.No.KA-51/B-1079 [hereinafter called as offending vehicle] came from opposite direction i.e., Sasivehalli to Linglapura village in a rash and



negligent manner and dashed to the motorcycle, due to impact, the motorcycle was badly damaged and rider and pillion-rider of the motorcycle sustained grievous injuries. It is the contention of the petitioner that the said accident occurred due to rash and negligent act of the 1st respondent. In order to prove the same, the petitioner got himself examined as PW-1 and has produced the FIR, FIS, Charge-sheet and Spot mahazar under Ex.P-1 2, 6 and 3 respectively. On perusal of the First Information Statement, it is seen that by narrating the alleged accident, one G. Gurumurthy (rider of motorcycle) has lodged the First Information Statement before the jurisdictional police regarding the said accident. The perusal of charge sheet produced under Ex.P-6 goes to show that the driver of the offending vehicle / 1st respondent has been charge sheeted for the offenses



punishable under Sections 279, 338 of IPC and U/S 134(a) and (b), 187, 146 and 196 of IMV Act. The rider of motorcycle bearing Reg.No.KA-14/EJ-3015 by name G. Gurumurthy was charge-sheeted for the offences punishable U/S 146 R/w Sec.196 of IMV Act. The 3rd respondent has taken a dual stand defence wherein at the one instance, it is claimed that it was the sole negligence of aforesaid G. Gurumurthy resulting in accident and at the second instance, it is claimed that there is a contributory negligence on the part of said G. Gurumurthy and 1st respondent being the driver of offending vehicle. Though the PW-1 was elaborately cross-examined by the 3rd respondent, but nothing worthwhile is elicited to disbelieve the oral evidence of PW-1, which is supported by the documentary evidence. At this juncture, it is pertinent to refer the judgment



rendered by the Hon'ble Apex Court reported in **(2009)13 SCC 530 between Vimaladevi and others V/s Himachal Pradesh Transport Corporation,** wherein it has been held that “strict proof of accident may not be required to be done by the claimants. The claimants merely to establish their case on the touch-stone of preponderance of probability”. The standard ratio beyond reasonable doubt could not have been applied. The Hon'ble High Court of Karnataka in a judgment reported in **ILR 2003 KAR 493 between Mallamma V/s Balaji and others** had also held that “strict rules of Evidence Act need not be applied in a case of Motor Vehicle Accident to prove the rash and negligent driving. At this stage, it is also necessary to mention that the charge-sheet has been filed against both Sri. Gurumurthy and 1st respondent, but the charge-



sheet is filed against Gurumurthy U/S 146 R/w Sec.196 of IMV Act and same cannot be considered that there was rash or negligence even on the part of said Gurumurthy in causing the accident in question. Thus, considering the fact that in consequence of the accident, a criminal case has been registered against the 1st respondent being the driver of offending vehicle and he has been charge sheeted for the offences punishable under Sections 279, 338 of IPC and U/S 134(a) and (b), 187, 146 and 196 of IMV Act Act and also in the light of the rulings referred above and the evidence of PW-1, it has to be held that the said accident had occurred only due to rash and negligent driving of the offending vehicle by the 1st respondent. Under such circumstances, since the rash and negligence on the part of 1st respondent being the driver of offending



vehicle has been established, the owner and insurer of the motorcycle bearing Reg.No.KA-14/EJ-3015 are not proper and necessary parties. Accordingly, the **issue No.1 under consideration is answered in the Affirmative and issue No.2 is answered in the Negative.**

13. **Issue No.3:-** The petitioner in all has claimed compensation of a sum of Rs.10,00,000/- together with 21% interest per annum from the date of petition. In the petition, the petitioner claims that at the time of accident he was aged about 30 years and to substantiate the same, the petitioner has not produced any documents. A reference to the charge-sheet under Ex.P-6, wound certificate under Ex.P-4, the age of the petitioner has been shown as 30 years and in the absence of any material produced by the respondents to demonstrate the age of petitioner as



more than 30 years, it has to be accepted that the age of petitioner at the time of accident was 30 years. As per the petition averments, the petitioner is doing coolie and getting income of Rs.15,000/- per month. To substantiate the same, the petitioner has not produced any piece of document to prove his income. Under such circumstances, the notional income as per the guidelines of the Karnataka State **Legal Services Authority** could be taken into consideration and since the said accident had occurred in the year 2019, the monthly income could be taken as Rs.14,000/-. If the same is taken into consideration, the annual income of the petitioner is Rs.1,68,000/-. Considering the age of the petitioner, the multiplier which is applicable to the case on hand, is **17**.



14. The petitioner contended that due to the impact of the accident, he has suffered permanent disability and in order to prove the said aspect, he has produced the wound certificate under Ex.P-4 and a reference to the same would go to disclose that due to impact of the accident, the petitioner has suffered the following injuries:-

- (1) A cut lacerated wound over the left eyelid.
- (2) Swelling over the left thigh.
- (3) A cut lacerated over the frontal region.

The said injuries are classified as grievous in nature. Further the petitioner has also got examined the treating Doctor as CW-1, who has issued disability certificate under Ex.C-1 and he deposed that due to impact of the aforesaid injuries, the petitioner has suffered disability of left lower limb at 32.40% and produced the disability certificate under



Ex.C-1. He has been elaborately cross-examined by the respondents, but nothing worthwhile is elicited to discredit the oral evidence. On a reference to the evidence of CW-1, it is obvious that the initial treatment was given by the Doctors of Wenlock Hospital, Mangaluru and Mc.gann Hospital, Shivamogga, where, the petitioner was got operated for the aforesaid injuries, but since CW-1 had given continuous follow-up treatment and also being a Orthopedic Surgeon is competent to issue disability certificate. At this stage, it is also relevant to refer the findings of ***Division Bench of Hon'ble High Court of Karnataka reported in ILR 2017 KAR 3045 between Shri. Iqbalahamed V/s Vice Chairman, M/S Patel Integrated Logistics Ltd,*** and another, wherein, it is held as follows:-



8. In the case of Shri. Iqbalahamed vs. Vice Chairman, M/s. Patel Integrated Logistics Ltd. and Another [ILR 2017 KAR 3045], this Court, has clearly observed that in cases where the claimants are unable to examine the treating doctors as witness, the presiding Officer of the Tribunal shall play a pro-active role in ensuring the presence of the doctors by invoking the power under Section 165 of the Evidence Act. Paragraphs-8 and 9 of the said decision is relevant and the same is extracted hereunder:

"8.This case is a classic example of the lackadaisical performance of many Tribunals dealing with motor accident claims while discharging their judicial duty. Repeatedly it has come to the notice of this Court that in large number of claim petitions, the claimants are unable to produce either the treating Doctor, or the Doctor who has issued the Disability Certificate, as a witness. The claimants may be prevented from producing such witness either because of their poverty, ignorance, illiteracy, or because such witness, being doctors, are invariably too busy to appear before the Tribunals. But in these circumstances, which are beyond the control of the claimant, invariably, it is the claimant who suffers for no fault of his or her.



Considering the fact that the treating Doctor, and the Doctor who has issued the Disability Certificate are material witnesses in a claim petition, it is essential that their presence be ensured by the Presiding Officers of the Tribunal by invoking the power under Section 165 of the Evidence Act.

9. In the case of Raj Kumar (supra), the Hon'ble Supreme Court has reminded the Presiding Officers of the Tribunals, dealing with claim petitions, that they should function neither as a neutral umpire, nor as a silent spectator. In fact, a pro-active role needs to be played by the Presiding Officers of the Tribunals. Since the Tribunal has ample powers under Section 165 of the Evidence Act to summon a court witness, the learned Tribunals are expected to exercise such powers in favour of the claimants. The Presiding Officers cannot shy away from exercising the said power on the flimsy ground that, in case such a power were to be exercised, the learned members of the Bar get agitated. Both the learned members of the Bar, and the Presiding Officers must realize that the duty of the Bar and the Bench is not only to discover truth, but is also to do justice to the parties. If the Presiding Officers were to call any person as court witnesses, the



Presiding Officers are merely adopting a means to discover the truth. By no stretch of imagination, it can be said that by calling a court witness, the Presiding Officer is revealing his partiality in favour of the claimant. Therefore, no valid objection can be taken by the learned members of the Bar when the power vested in the Presiding Officer under Section 165 of the Evidence Act is invoked in favour of the claimant.

Motor Vehicle Act is a beneficial legislation which caters to the needs of the claimants. The very object of the act while dealing with the claim is to protect and promote the interest of the claimants. The act tries to compensate both the injured and the dependents of the deceased by providing certain benefits under the Act. With the backdrop of the aforesaid findings, there is no any specific mandate to only examine the treating Doctors to assess the disability, but there is also an option available for the petitioner to examine the Doctor, who had issued the



disability certificate. Under this case, as it is evident from records, CW-1 has not initially treated the petitioner for the accidental injuries, but has given subsequent follow-up treatment and based on his assessment, he had issued the disability certificate under Ex.C-1. What the Tribunal requires to assess is the veracity and acceptability of the oral evidence of CW-1 based on the documentary evidence and surrounding circumstances and there is nothing worthwhile is elicited by the 3rd respondent to disbelieve the evidence of CW-1.

15. Now, it is the duty of Tribunal to assess whether such injuries suffered by the petitioner affects the earnings of the petitioner. As per the petition averments, he was working as a coolie and as per the evidence of CW-1, the petitioner has suffered left femur shaft fracture and femur nailing



was also done. The petitioner has also suffered disability on his left hip component. The evidence of CW-1 further discloses that with such injuries, it is very difficult for the petitioner to sit, stand, squat and carry heavy substances. In consideration of the nature of injuries and also the evidence of CW-1 with reference to the disability certificate, it would be appropriate to hold that due to impact of the accident, the petitioner has suffered 25.00% functional disability. Thus, 25.00% of functional disability could be taken into consideration. If the **functional disability** of 25.00% is considered, the **loss of future earnings** would be $\text{Rs.}14,000 \times 12 \times 17 \times 25\% = \text{Rs.}7,14,000/-$.

16. The petitioner has produced the medical bills under Ex.P-11 to 17, wherein it is apparent that the petitioner has spent a sum of **Rs.2,328/-** (The



Ex.P-11 and 17 are one and the same bill for purchase of folding walker) and hence, the petitioner is entitled for the said sum under the medical bills. As per Discharge summary marked under Ex.P-7 and Case sheet of Wenlock Hospital, Mangaluru under ExP-22, the petitioner has taken treatment from 29.05.2019 to 20.06.2019 for 23 days. Therefore, the petitioner is also entitled for the loss of earnings for laid up period along with attendant charges, which can be assessed as **Rs.21,482/-** (Rs.466.67/- Rounded of to Rs.467/- per day X 02 X 23 days). Apart from above, the petitioner also would be entitled for a sum of **Rs.1,00,000/ towards pain and suffering, a sum of Rs.50,000/ towards loss of amenities, a sum of Rs.10,000/- towards nourishment charges and a sum of Rs.5,000/- towards travelling**



expenses. Therefore, the petitioner is entitled for a total compensation of **Rs.9,02,810/-(Rupees Nine Lakhs Two thousand and Eight hundred and ten only)** under the following heads;

Towards loss of future earnings	Rs.7,14,000/-
Towards medical bill and hospital charges.	Rs.2,328/-
Loss of earnings during laid up period along with attendant charges.	Rs.21,482/-
Towards Pain and suffering	Rs.1,00,000/-
Towards loss of amenities	Rs.50,000/-
Towards food and nourishment charges	Rs.10,000/-
Towards Travelling expenses	Rs.5,000/-
Total	Rs.9,02,810/-

17. It is an admitted fact that as on the date of accident, the offending vehicle was insured with the 3rd respondent and the policy was in force. The 2nd respondent contended that he has sold the offending



vehicle in favour of 1st respondent and since 30.11.2018 he seized to be the owner of the offending vehicle. This contention has been admitted by the 1st respondent and he has specifically claimed that he has purchased the offending vehicle from the 2nd respondent as stated above. Irrespective of the said facts, it is just to note that the offending vehicle was insured and the policy was in-force as on the date of accident. Though the 3rd respondent contended that the 1st respondent had no valid and effective driving licence and to substantiate the said aspects had relied upon the charge-sheet produced under Ex.R-3, but it is necessary to note that the said charge-sheet does not disclose anything which suggests that the 1st respondent being the driver of the offending vehicle had no valid and effective driving licence at the time of accident. Moreso, the 3rd respondent has



not summoned the RTO concerned in order to substantiate its contentions. Under such circumstances, the 1st respondent being the owner and 3rd respondent being the insurer of the offending vehicle are jointly and severally liable to pay the compensation to the petitioners. However, the 3rd respondent being the insurer shall indemnify the insured i.e. 1st respondent. However, the 3rd respondent is liable to pay the aforesaid compensation amount to the petitioner. As far as the interest is concerned, the petitioner is entitled for 6% interest per annum from the date of petition till realization. Hence, the **issue No.3 under consideration is answered partly in the Affirmative by fixing the liability upon the 3rd respondent.**



18. **ISSUE No.4** :- In view of the discussions in the foregoing issues, the petition is to be allowed in part with costs. In the result, the following;

ORDERS

The petition filed by the petitioner under Section 166 of the Motor Vehicles Act is allowed in part with costs.

The petitioner is entitled for compensation of a sum of **Rs.9,02,810/-(Rupees Nine Lakhs Two thousand and Eight hundred and ten only)** with interest @ 6% per annum, from the date of petition till the date of realization.

The 3rd respondent is held liable to pay the compensation amount. It shall deposit the compensation amount within



30 days from the date of this order.

In the event of deposit of the compensation by the 3rd respondent, 60% shall be released in favour of petitioner through K2 process and the remaining amount of 40% shall be deposited in the name of petitioner in any of the Nationalized Bank or Scheduled Bank of his choice for a period of 2 years with liberty to draw periodical interest.

Advocate fee is fixed at Rs.500/-.

Draw award accordingly.

(Dictated to the Stenographer directly on computer, typed by him, printout taken, corrected and then pronounced by me in the open court on this the 26th day of May – 2026)

Sd/-

[IRFAN]

Senior Civil Judge
and MACT, Kadur.



ANNEXURE

I List of witnesses examined on behalf of petitioner:-

PW-1 : Sri. Manjunath.
CW-1 : Dr. K.P. Hebbar.

II List of exhibits marked on behalf of petitioner:-

Ex.P.1 : Copy of First Information Report.
Ex.P.2 : Copy of Complaint. (FIS).
Ex.P.3 : Copy of Spot mahazar.
Ex.P.4 : Copy of Wound certificate.
Ex.P.5 : Copy of IMV report.
Ex.P.6 : Copy of Charge-sheet.
Ex.P.7 : Discharge-summary.
Ex.P.8 : Out-patient record.
Ex.P.9&10: Medical Prescriptions.
Ex.P.11-17: Medical Bills.
Ex.P.18: 06 Medical Prescriptions.
Ex.P.19: X-ray film.
Ex.P.20: Residential Certificate.
Ex.P.21: Discharge Summary issued by
Wenlock Hospital, Mangaluru.
Ex.P.22: Entire Case sheet of the petitioner
issued by Wenlock Hospital, Mangaluru.
Ex.C.1 : Disability Certificate.
Ex.C.2 : X-ray film.



III List of witnesses examined on behalf of respondents:

RW-1 : Sri. Vikas K.K.

IV List of exhibits marked on behalf of respondents:

- Ex.R.1 : Copy of Authorization letter.
Ex.R.2 : Copy of Insurance Policy.
Ex.R.3 : Copy of Charge-sheet.
Ex.R.4 : Copy of Spot mahazar.
Ex.R.5 : Copy of Motor Vehicles Accident Report.

Sd/-

[IRFAN]

Senior Civil Judge
and MACT, Kadur.