



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
MACT., AT MUDIGERE**

: Present :

**Sri. Prakash P.M., M.B.A., L.L.B.,
Senior Civil Judge & JMFC,
Mudigere.**

M.V.C No. 437/2023

Dated this the 02nd day of April 2026

**Petitioner : Sri. Rajesh,
S/o Late. Chandru,
Aged about 42 years,
Driver,
Muthigepura,
Halemudigere Village,
Kasaba Hobli,
Mudigere Taluk,
Chikamagalur District.**

(By Sri. M.M.R., Advocate)

V/S

**Respondents: 1.Sri. Rakshith. S.R,
S/o Rajesh.C,
Aged about 21 years,
R/o Halemudigere Village,
Kasaba Hobli,**



Mudigere Taluk,
Driver of the Auto Rikshaw
bearing Registration
No. KA-18, C-4730.
(D.L.No. KA-18 20210000862)

2. Sri. George,
S/o Late Devaraju,
Aged about 42 years,
R/o Bilagula Village,
Kasaba Hobli,
Mudigere Taluk,
Owner of the Auto Rikshaw
bearing Registration
No. KA-18, C-4730

3. The manager,
Cholamandalam MS General Insurance
Company Limited, 1st Floor,
Essel Willcon Bendoorwell,
Kankanadi, Mangalore.
Insurer of the Auto Rikshaw
bearing Registration
No. KA-18, C-4730
(Policy No, 3368/01334905/000/01

**(R1 and 2 exparte,
R3 By Sri. J.P.L., Advocate)**



Date of Institution of petition	26.10.2023
Nature of Petition	Claim for compensation
Date of commencement of Recording of evidence	05.08.2024
Date of pronouncement of the Judgment	02.04.2026
Total Duration	Year/s Month/s Day/s 02 05 06

(Prakash P.M.)
Senior Civil Judge and JMFC,
Mudigere

J U D G M E N T

The petitioner has filed this petition U/s 166 of MV Act for compensation of Rs.15,00,000/- together with interest at the rate of 18% per annum with costs from the date of petition till realization, for having sustained injury in road traffic accident.

2. Brief Facts of the Petitioner's Case:

On 25.03.2022, at around 12:15 PM, the petitioner was walking near his house when an auto-rickshaw



bearing Registration No. KA-18/C-4730, driven rashly and negligently by Respondent No. 1, struck the petitioner, causing him grievous injuries. The petitioner was first taken to MGM Hospital, Mudigere, for first aid and was later shifted to Tejashvini Hospital, Mangaluru, where he was diagnosed with a left tibia-fibula shaft fracture. The petitioner underwent surgery on 26.03.2022 and remained hospitalized until 31.03.2022. He spent over Rs. 5,00,000 on medical expenses, Rs. 1,00,000 on travel, and Rs. 1,00,000 on food and attendant charges. Despite treatment, the petitioner remains unable to perform daily tasks and continues to undergo regular medical review.

3. The petitioner claims the accident occurred solely due to the rash and negligent driving of Respondent No. 1, and a case has been registered by the Mudigere Police (Cr. No. 52/2022). As a result, the petitioner has suffered both physical and mental



pain.

4. In response to the notice respondent No.3 appeared through his counsel and filed his objection. Inspite of service of summons respondent No.1 and 2 remained exparte.

5. In the objection filed, Respondent No. 3 has denied all the allegations made in the petition. The respondent is currently unable to confirm whether the auto-rickshaw bearing Registration No. KA-18/C-4730 was insured with them at the relevant time, unless the petitioner provides further and clearer details regarding the insurance coverage. It is also contended that the petitioner was the author of the accident, which occurred due to his own rash and negligent actions. Additionally, it is stated that the driver of the auto-rickshaw was not holding a valid driving license at the time of the accident, and the vehicle did not possess a permit for operation. Moreover, the rate of interest claimed at 18% per annum is deemed



excessively high. Therefore, Respondent No. 3 prays for the dismissal of the petition.

6. The following issues have been framed on the basis of above rival pleadings:

1. Whether the petitioner proves that, on 25.03.2022 at 12.15 p.m. petitioner was walking near his house, at that time an Auto – Rikshaw bearing Reg. No. KA-18-C-4730 driven by respondent No.1 in a rash and negligent manner and hit the petitioner and due to the said accident petitioner sustained injuries?

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

3. What order or award?

7. The petitioner has examined himself as PW-1 and got documents marked at Ex.P1 to P45. The petitioner examined Dr. M Shantharam Shetty



Orthopedic surgeon as CW-1 through the aid of court commissioner and got documents marked at Ex.C1 to C6. Respondent No.3 has not adduced his side evidence.

8. The counsel for the respondent No.3 has furnished written notes of arguments. The arguments of the counsel for the petitioner was heard.

9. My answers to the above issues are as under:

Issue No.1: In the Affirmative

Issue No.2: Partly in the Affirmative

Issue No.3: As per the final order for the following:

R E A S O N S

10. **Issue No.1:** It is the case of petitioner that on 25.03.2023 at 12.15 P.M. petitioner walking near his house, while an Auto Riksha bearing Reg. No. KA-18/C-4730 driven by the respondent No.1 in a rash and negligent manner hit the petitioner. Due to which petitioner sustained grievous injury.



11. To substantiate his claim the petitioner has filed affidavit in lieu of his examination in chief evidence and reiterated the said facts in his evidence as PW1. Besides oral evidence to prove that the accident occurred due to the fault of the driver of the Auto Rikshaw bearing Reg. No. KA-18/C-4730 has relied upon some of the prosecution papers i.e., the Ex.P1 is the certified copy of police notice detailed of accident, Ex.P2 is certified copy of charge sheet, Ex.P3 is the copy of FIR, Ex.P4 is certified copy of complaint. Ex.P5 and 6 are certified copies of mahazar. Ex.P8 is certified copy of wound certificate. Ex.P9 is IMV report. Ex.P10 to 29 are the medical bills.

12. The Ex.P1 to Ex.P9 are discloses that, the Sub Inspector of Mudigere police have registered the case against the driver of the Auto Riksha bearing Reg. No. KA-18/C-4730 in connection with an accident, it appears that the I.O. has submitted charge



sheet for the offenses punishable U/Sec. 279, 338 of IPC against the driver of offending vehicle i.e., against respondent No.1.

13. Respondent No.3 denied the date, time and place of accident, involvement of the vehicle and also injuries caused to the petitioner in R.T.A. respondent No.3 specifically stated that accident occurred contributory negligence of petitioner, to prove the same, the respondents have not placed any material before the tribunal. Respondent No.3 specifically stated that respondent No.1 the driver of the Auto had no valid driving licence to drove the above said vehicle, to prove the same, the respondent No.3 has not placed any material before the tribunal.

14. The counsel for respondent No.3 even though has cross examined the PW-1 at length nothing worth has been elicited from the mouth of the witness which falsifies the case of the petitioner.



15. Learned Counsel for Respondent No. 3, in his written notes of arguments, has submitted that there is a delay of 168 days in the filing of the complaint. However, upon perusal of the documents on record, specifically Exhibit P-4 (the complaint) and Exhibit P-3 (the FIR), it is observed that the accident in question occurred on 25.03.2022. The complainant, being the daughter of the petitioner, lodged the complaint with the police on 26.03.2022, which indicates that the complaint was filed promptly the very next day after the incident. Therefore, there is no inordinate delay in the registration of the complaint, and the contention of delay raised by the learned counsel for the respondent does not hold merit in the present case.

16. Learned Counsel for Respondent No. 3 has contended that, according to the letter received from the Administrative Medical Officer of MGM Hospital, Mudigere, the petitioner did not receive any treatment



at their hospital on 25.03.2023. The letter further indicates that there is no corresponding entry in the medico-legal case register of the hospital for the said date. However, it is crucial to note that the date of the accident, as per the police records, is 25.03.2022, and not 25.03.2023, as mentioned in the letter from the medical officer. Additionally, Respondent No. 3 has not sought or produced any records from the hospital to substantiate their claim. It is further contended by Respondent No. 3 that the petitioner may have fallen at some other location and, in collusion with the police, has registered a false case and filed a baseless claim application. However, such an assertion lacks evidence and is without merit. Moreover, the letter from the Administrative Medical Officer of MGM Hospital, Mudigere, specifically pertains to the year 2023, which appears to be a clerical error. Therefore, the contention raised by Respondent No. 3 that the petitioner did not receive



treatment on 25.03.2022 is not substantiated and holds no merit in the present case.

17. The Respondent No.3 has not placed any material before the tribunal and not entered the witness box to prove his defence on oath. Even though the learned counsel for the respondent No.3 filed in his objection, but failed to convert the defence into evidence. Here I seek to cite a decision reported in **AIR 1999 Supreme Court of India Page No. 1441, between Vidyadhar V/s Manikrao**, wherein it is held as follows.

“Where a party to the suit does not appear into the witness box and states his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up by him is not CORRECT.”

18. Keeping in view the law declared in the



above cited decision, once again I reiterate that the respondent No.3 has not entered the witness box and stated his own case on oath and does not offer himself to be cross-examined. Thus, the law declared in the above cited decision is aptly applicable to the facts and circumstances of this case. Therefore, a presumption must be drawn to the effect that the case set up by the respondent No.3 is not correct.

19. Thus, the evidence on record clearly establishes that, the accident occurred on account of actionable negligence on the part of the driver of the Auto Riksha bearing Reg. No. KA-18/C-4730 i.e., respondent No.1. Accordingly, I answer **Issue No.1 in the affirmative.**

20. Issue No.2: It is well settled principle of law that the tribunal is required to make an award determining the amount of compensation which is to be in the real sense “damages” which in turn appears



to it to be “just and reasonable”. It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the compensation is not expected to be a bonanza; windfall and not a source of profit; but the same should not be a pittance.

21. Keeping in mind the above law, I would like to marshal the evidence on record **regarding compensation.** The PW.1 has deposed that, he sustained grievous injuries. After the accident he was shifted to MGM Hospital, Mudigere and then shifted to Tejashwini Hospital, Mangaluru, wherein he took treatment as an inpatient from 25.03.2022 to 31.03.2022. Petitioner has undergone operation. Petitioner and his family have spent more than Rs.7,00,000/- for medical and other expenses.

22. Injuries and medical expenses: To prove the



factum of injuries, medical expenses and compensation amount, the PW1 has produced the Ex.P8 wound certificate, which discloses that petitioner was diagnosed after examining disability certificate from Tejasvini Hospital Mangaluru, petitioner sustained open fracture of left tibia and fibula bones. As per the doctor opinion said injury is grievous in nature.

23. PW1 has produced the Ex.P10 to 28 medical bills and contended he has spent Rs.81,111/- (**which is rounded off Rs.81,200/-**). Hence petitioner is entitled amount of **Rs.81,200/-**

24. Income: PW.1 has deposed in his evidence that he was working as a driver for a car owned by one Mahesh and was earning Rs. 50,000/- per month. Due to the accident and injuries sustained, now he cannot do any work as he permanently disabled to do any work. In support of his income he has not placed any documents to prove his income.



25. On careful perusal of the entire evidence on record it appears the PW-1 has not produced any document to prove his income. Wherefore, this tribunal is required to resort to the notional income chart prepared by the Hon'ble Karnataka legal services Authority, Bengaluru,. As per the said chart, the monthly income for the year **2022** is **Rs.15,500/-**. Therefore, considering all these aspects. I have no hesitation to fix the income of the deceased person at **Rs.15,500/-** per month.

26. Loss of earnings during the laid up period:
The CW-1 has produced Ex.C1 to 6 issued by Tejasvini Hospital, Mangaluru, wherein PW-1 admitted on 25.03.2022 and discharged on 31.03.2022 i.e., 7 days. As aforesaid the petitioner was hospitalized for a period of 7 days. He was under the rest, post his discharge. Thus if the period of loss of earning is reckoned to be for 30 days, the same will suffice the cause of justice. As such, the **loss of earnings during**



the laid up period is assessed at Rs. 15,500/-.

27. Disability: In order to prove the injuries and disability sustained by the petitioner, he has examined the doctor, namely Dr. Shantharama Shetty, as CW-1, with the aid of a Court Commissioner. The disability certificate has been marked as Ex.C1. CW-1, in his examination-in-chief, deposed that on 25.03.2022, the petitioner was brought with a history of a road traffic accident. On examination, the petitioner was found to have sustained left leg pain and deformity of left leg and inability stand or bear weight on left lower limb no H/O, Loe ent heel, vomiting, no h/o abdominal pain, just pain, difficulty in breathing, no H/o injuri to other body. The petitioner was admitted to their hospital with a history of RTA. After clinical examination, the fracture of the open fracture of left tibia and fibula bones was confirmed. CW-1 further deposed that the petitioner was operated on the same and an external fixator was applied. Subsequently,



Tibia CRIF with IMIL nailing was done, and the petitioner was discharged from the hospital on 31.03.2022. Though the fracture has united, the petitioner is presently suffering from difficulties in climbing stairs, standing on both legs, standing on the affected leg, walking on slopes, walking on plain surfaces, squatting on the floor, sitting cross-legged, kneeling, and taking turns. Considering these difficulties, CW-1 assessed 26% permanent disability of the affected left lower limb. The disability certificate is marked as Ex.C1, the K-sheets are marked as Ex.C2, and the X-rays are marked as Ex.C3 to C6.

28. On perusal of the deposition of CW-1/Doctor, it is evident that he has assessed the permanent disability in respect of the left lower limb at 26%, but has not assessed the percentage of disability with respect to the whole body. On considering the evidence of CW-1, this Tribunal is of the opinion that the petitioner has suffered 26% permanent disability



to the left lower limb, which would translate to 9% permanent disability to the whole body. Hence, this Tribunal is of the considered opinion that taking 9% whole body disability into consideration for the injuries sustained by PW-1 would meet the ends of justice. Though the learned counsel for Respondent No.1 cross-examined CW-1 at length, nothing has been elicited from his evidence to disbelieve the contents of Ex.C1.

29. AGE: In this case the PW-1 has produced the Ex.P8 wound certificate the age of the petitioner is 42 years. Thus as on the date of accident the petitioner is aged about 42 years. Hence, the age of the petitioner at the time of the accident can be considered as 42 years. Due to 9% disability annual loss of income to the petitioner would be **Rs.(15,500 x 9% = 1,395/-x12= 16,740/-**. Since the age of the petitioner is 41 to 45 years at the time of the accident multiplier applicable for his age is **14**, if



16,740/- is multiplied by **14** it would be **Rs.2,34,360/-** which is the actual compensation under the head loss of future income due to disability.

30. Damages for pain, suffering and trauma as a consequence of injuries: The petitioner has suffered open fracture of left tibia and fibula bones. Taking into account of the injuries sustained by the petitioner, this tribunal awards an amount of **Rs.40,000/-** towards damages for pain, suffering and trauma as a consequence of injuries.

31. Loss of Amenities: In so far as loss of amenities is concerned, while considering 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 aforesaid the petitioner has sustained open fracture of left tibia and fibula



bones. Thus considering the same, this tribunal deems it fit to award an amount of **Rs.10,000/-** under the head of loss of amenities.

32. Attendant Charges and miscellaneous Expenditure: As aforesaid the petitioner was hospitalized at Tejashwini Hospital, Mangaluru, wherein he took treatment as an inpatient from 25.03.2022 to 31.03.2022 for period of 7 days. During the said period, it can be presumed that the petitioner was in need of an attendant, given the nature of injuries sustained by him. At the least, an amount of Rs.1000/ per day is to be awarded to the petitioner towards the attendant's charges. Inclusive of Miscellaneous expenses, if an amount of **Rs.7000/-** is awarded in favour of the petitioner, same will suffice the case of justice.

33. Transport and nourishment: As stated supra, the petitioner was hospitalized at Tejashwini Hospital, Mangaluru, wherein he took treatment as an inpatient



from 25.03.2022 to 31.03.2022 for 7 days. Given the nature of injuries suffered by him, the petitioner was in need of nourishing food. Thus taking into consideration, the duration of hospitalization, if an lump-sum amount of **Rs.10,000/-** is awarded towards the transportation, nourishment and miscellaneous expenditures, the same would suffice the cause of justice.

34. Future medical expenses: On perusal of deposition of CW-1/Doctor, Ex.C1 disability certificate it discloses that petitioner was underwent left tibia ORIF done and CW-1 stated in his evidence that the petitioner needs one more surgery under general / Anaesthesia / spinal for removal of implant from left tibia bones. This surgery costs Rs.41,000/- in their hospital. Apart from oral say the CW-1 has not produced any estimate for removal of implant and thus the future medical expenses stated by the CW.1 in the affidavit appears to be too high. Hence, it



appears that petitioner has to under go two more surgery for removal of implant. wherefore, to meet the ends of justice petitioner is entitled for **Rs.35,000/-** for further medical treatment that is for removal of implants from leg. However, it is made clear that future medical expenses will not carry any future interest.

35. In view of the above evidence on record, I am of the opinion that the petitioner is entitled for **compensation under aforesaid heads summarized as hereunder.**

36. Hence, the petitioner is entitled for the following compensation.

1.	Pain and sufferings.	40,000/-
2.	Attendant charges and miscellaneous expenses	7000/-
3.	Medical expenses	81,200/-
4.	Future Medical expenses	35,000/-
5.	Loss of future income due to	2,34,360/-



	disability	
6.	Loss of income due to laid period	15,500/-
7.	Loss of amenities	10,000/-
8.	Transportation, Nourishment and Misc. Expenditure	10,000/-
Total		4,33,060/-

Thus the total compensation amount, to which the petitioner is entitled to is **Rs.4,33,060/- (Four Lakhs Thirty three thousand sixty Rupees only)**.

37. Interest: In view of decision of Hon'ble High Court of Karnataka, in Vijay Ishwar Jadhav & Ors. V/ s Ulrich Belchior Fernandes & Anor. i.e. M.F.A.No.100090/2014 [MV] dated 07.03.2018, in this tribunal awards interest at the rate of 6% p.a. on the aforesaid compensation amount.

38. Liability: As aforesaid the respondent No.1 is driver, respondent No.2 is owner and respondent No.3 is the insurer of the offending vehicle. Learned Counsel for Respondent No. 3 has contended in his



objections that the accident occurred due to the rash and negligent act of the petitioner himself and that the driver of the offending vehicle was not holding a valid driving licence to operate the vehicle in question. Consequently, it is argued that Respondent No. 3 is not liable to indemnify the first respondent. However, it is pertinent to note that Respondent No. 1, the driver of the auto-rickshaw, and Respondent No. 2, the owner of the auto-rickshaw, have not appeared before the Court and have been placed ex parte.

39. The charge sheet, which is a part of the police records, reveals that after a thorough investigation, the police have registered a case against Respondent No. 1 for the offences punishable under Sections 279 and 338 of the Indian Penal Code (IPC). However, no charge has been framed against Respondent No. 1 for allegedly driving the vehicle without a valid driving licence. Further, Column 16 of



the claim petition discloses that the insurance policy for the offending vehicle (Policy No. 3368/01334905/000/01) was valid from 24.09.2021 to 23.09.2022, and the date of the accident is 25.03.2023. This clearly establishes that, on the date of the accident, the offending vehicle was indeed insured with Respondent No. 3. It is also noteworthy that Respondent No. 3 has not denied the validity of the insurance policy as reflected in Column 16 of the claim petition. Therefore, it is evident that, as of the date of the accident, the offending auto-rickshaw was insured under the policy with Respondent No. 3.

40. Thus it is clear that as on the date accident the offending vehicle was insured with respondent No.3. Hence, I am of the opinion that the respondent No.1 to 3 being the driver, owner and insurer are jointly and severally liable to pay the compensation, but the 3rd respondent has to indemnify the owner of the offending vehicle. **Accordingly, I answer issue**



No.2 partly in the affirmative.

41. Issue No.3: In the light of foregoing discussions, this tribunal proceeds to pass the following:

ORDER

The petition is allowed in part with cost.

The petitioner is entitled for compensation of **Rs.4,33,060/- (Four Lakhs Thirty three thousand sixty Rupees only)**. with interest at the rate of 6% p.a. from the date of petition till the amount is deposited before the tribunal. It is made clear that future medical expenses will not carry any future interest.

The respondent No.1 to 3 are jointly and severally liable to pay the compensation, but the 3rd respondent is directed to deposit the compensation



amount within 30 days from the date of this order.

After depositing the compensation amount of **Rs.4,33,060/- (Four Lakhs Thirty three thousand sixty Rupees only)**. by respondent No.3 along with interest 50% of the amount shall be released in favour of petitioner through E-payment under K2 system on proper identification.

The remaining 50% amount shall be kept in the name of petitioner in any nationalized bank of his choice for a period of three years.

Draw award accordingly.

(Dictated directly to the stenographer on the computer, typed by her and corrected by me and then pronounced in the open court on this the day of 2nd day of April 2026.)

(Prakash P.M.)
Senior Civil Judge and JMFC,
Mudigere



ANNEXURE

1. Witness examined on behalf of Petitioner:

PW-1	Sri. Rajesh
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2. Witnesses Examined on behalf of Respondents:

Nil

3. Documents marked on behalf of the petitioner.

Ex.P1	Police notice
Ex.P2	Charge sheet
Ex.P3	FIR
Ex.P4	Complaint
Ex.P5 & 6	Mahazars
Ex.P7	Police Notice
Ex.P8	Wound certificate
Ex.P9	IMV report
Ex.P10 to 28	Medical bills
Ex.P29 to 30	Prescriptions
Ex.P31 to 33	X-rays
Ex.P34 to 40	Photographs
Ex.P41	CD
Ex.P42 to 45	Medical receipts



4. Documents marked on behalf of the respondents:

Nil

5. Witness examined on behalf of petitioner through Court Commissioner:

CW.1 : Dr. M. Shantharam Shetty

6. Documents marked on behalf of the Commissioner

Ex.C1 : Disability Certificate

Ex.C2 : K Sheet

Ex.C3 to 6: X-rays

(Prakash P.M.)

**Senior Civil Judge and JMFC,
Mudigere**