



**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. 414/2024

Dated this the 02nd day of April 2026

Petitioner : Smt. Lalitha
W/o. Chandre Gowda H.H.,
Aged about 70 years,
Housewife/coolie,
R/o. Godlumane, Mavinkere Post,
Kalasa Hobli, Mudigere Taluk,
Chikkamagaluru District.

(By Sri. S.D, Advocate)

V/S

Respondents: 1. Sri. H.M. Sudhir,
S/o H.H. Malle Gowda,
Aged about 37 years,
R/o Godlumane, Mavinkere Post,
Kalasa Hobli, Mudigere Taluk,
Chikkamagaluru District.
Driver and owner of the car
Bearing Reg. No. KA-18-Z-4381,
(D.L. No. KA1820120010428
date 17.10.2032



**2. The Manager,
The New India Assurance
Company Limited,
Kalasa Town, Syndicate Bank Road,
Insurer of Car
Bearing Reg. No. KA-18-Z-4381,
(Policy No. 68010231200300008829
from 01.01.2021 to 23.12.2021).**

**(R1 by Sri. H.K.D. advocate
R.2 by Sri. M.Y.S advocate)**

Date of Institution of petition	26.09.2024
Nature of Petition	Claim for compensation
Date of commencement of Recording of evidence	21.07.2025
Date of pronouncement of the Judgment	02.04.2026
Total Duration	Year/s Month/s Day/s 01 06 06

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



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

2. The brief case of the petitioner's is as under:

On 29.06.2021, the petitioner, along with Lakshamma and Kaveremma, was traveling from Kakkunje to Kalasa in a Swift car (Reg. No. KA-18-Z-4381), owned by Respondent No. 1 and driven by him. While proceeding near Charmudi Ghat, Respondent No. 1 drove the car in a rash and negligent manner, dashing it against a bridge. As a result, the petitioner sustained grievous injuries, including a cut wound on the upper lip, swelling on the right lower limb, multiple abrasions on the knee, fractures of the right tibia and wrist, all of which are serious in nature. Immediately after the accident, the petitioner was taken to M.G.M. Hospital, Mudigere, for first aid and then referred to Yashgagan Orthopedic and Trauma Clinic,



Chikkamagaluru, where treatment was continued until 26.07.2021. The petitioner was diagnosed with a Type III-B open fracture of the tibia and underwent necessary treatment, including surgery.

2a. The petitioner incurred expenses of approximately Rs. 2,00,000 for hospital charges and surgery, Rs. 30,000 for travel, and Rs. 20,000 for food and attendant charges. Despite treatment, the petitioner continues to suffer from permanent disability and is unable to carry out daily activities. The accident occurred solely due to the rash and negligent driving of Respondent No. 1, and the Banakal Police have registered a case against him under Crime No. 43/2021.

3. Respondent No.1 is the owner cum driver of the vehicle involved in the accident and respondent No.3 is the insurer of the same. Hence, respondents are jointly severally liable to pay compensation to the petitioner.



4. In response to the notice respondents appeared through their counsels and filed their separate objections.

5. In the objection, Respondent No. 1 denied the entire averments made in the petition. The respondent further stated that the petitioner has created a story and filed a false complaint before the police, and that the police have not properly investigated the matter and have filed a false charge sheet against Respondent No. 1 colluding with the petitioner. The petitioner has filed a false complaint before the police without mentioning the vehicle, for grabbing compensation from the respondent. It is stated that Respondent No. 1 is the driver of the said vehicle and Respondent No. 2 is the registered owner of the vehicle, who obtained a policy of insurance, and the said policy was in force at the time of the incident. If this Court comes to the conclusion that the petitioner is entitled to compensation, then the same may be made liable by Respondent No. 2.



6. In the objection, Respondent No. 2 contended that the vehicle bearing Reg. No. KA-18-Z-4381 was covered under Policy No. 68010231200300008829 for the period from 01.01.2021 to 31.12.2021, subject to the terms, conditions, exceptions and limitations of the policy. The respondent further stated that the owner has not reported the accident and has not submitted the claim form, R.C., D.L., F.C. and original policy for verification, thereby violating the terms and conditions of the policy, and hence Respondent No. 2 is not liable to indemnify. The respondent denied that the driver had a valid and effective driving licence and necessary badge/endorsement to drive the vehicle at the time of the accident. The claim of interest at 12% is stated to be excessive. It is further contended that the petition is not filed within the stipulated period and there is a delay of about one day in lodging the complaint and FIR, creating doubt regarding the alleged accident. Hence, the petition is liable to be dismissed.

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



1. Whether the Petitioner proves that it was due to rash and negligent driving of the driver of Swift Car bearing Reg.No.KA-18-Z-4381 she sustained grievous injuries in the road traffic accident that occurred on 29.06.2021 at about 02.00 P.M near Malaya Marutha, Charmadi Ghati, Tharuve Village, Mudigere Taluk, Chikkamagaluru District?
2. Whether the petitioner is entitled for the compensation? If so, how much and from whom?
3. What order?

8. The petitioner has examined herself as PW-1 and has marked documents Ex.P1 to Ex.P19. Respondents No. 1 and 2 have not adduced any evidence. However, with the consent of the counsel for Respondent No. 2, the documents produced by Respondent No. 1 have been marked as Ex.R1 to Ex.R3.

9. Heard the counsel for petitioner and respondents.



10. 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

11. Issue No. 1: It is the specific case of the petitioner that On 29.06.2021, the petitioner, along with Lakshamma and Kaveremma, was traveling from Kakkunje to Kalasa in a Swift car (Reg. No. KA-18-Z-4381), owned by Respondent No. 1 and driven by him. While proceeding near Charmudi Ghat, Respondent No. 1 drove the car in a rash and negligent manner, dashing it against a bridge. As a result, the petitioner sustained grievous injuries. Immediately after the accident petitioner was taken to M.G.M. Hospital, Mudigere and then to Yashgagan Orthopedic center Chikkamagaluru for higher treatment.

12. In respect of the said accident, a criminal case has been registered against respondent No.1 in Crime



No. 43/2021 for the offences punishable under Sections 279, 337 and 338 of IPC.

13. At the time of the accident, respondent No.1 was the driver cum owner and respondent No.2 was the insurer of the offending Swift car bearing registration No. KA-18-Z-4381 Hence, all the respondents are jointly and severally liable to pay compensation to the petitioner.

14. In order to substantiate her claim, the petitioner has filed her affidavit in lieu of examination-in-chief and reiterated the contents of the claim petition. She was examined as PW-1. Apart from oral evidence, PW-1 has relied upon documentary evidence, namely, the ExP1 is the certified copy of accident intimation report, Ex.P.2 is the certified copy of FIR. ExP3 is the certified copy of complaint, Ex.P.4 is the certified copy of spot mahazar, Ex.P8 is the certified copy of the charge sheet. Ex.P9 is the wound certificate. Ex.P12 is the certified copy of IMV report. Ex.P10 is the out patient card.



15. Ex.P1 to 4, Ex.P9, 10 and 11 disclose that the Sub-Inspector of Police, Banakal registered the case against the driver of the offending bus. After investigation, the Investigating Officer filed a charge sheet against Respondent No.1 for the offences punishable under Sections 279, 337 and 338 of IPC.

16. The respondent No.1 and 2 have denied the date, time and place of accident, involvement of the vehicle and also injuries caused to the petitioner in R.T.A. To prove the same, the respondents have not placed any material before the tribunal and not entered the witness box to prove his statement on oath. Even though the learned counsel for the respondents have filed objections have 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.”

17. Keeping in view the law declared in the above cited decision, once again I reiterate that the respondents have not entered the witness box and stated their own case on oath and does not offer themselves 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 respondents is not correct.

18. Even though the learned counsel for the respondent No.2 has cross examined PW1 at length, but nothing has been elicited from the mouth of the witness which is against the evidence of PW1. Thus, the evidence on record clearly establishes that the accident was occurred on account of actionable negligence on the part of the driver of the Swift car bearing registration No. KA-18-Z-4381. Accordingly, I answer **Issue No.1 in the Affirmative.**



19. Issue No.2: The PW.1 has deposed that, she sustained grievous injuries. After the accident she was shifted to M.G.M. hospital, Mudigere and then shifted to Yashgagan Orthopedic Center, Chikkamagaluru, here was admitted to the on 29.06.2021 and spent Rs.2,00,000/- for medical and operation charges. Rs.30,000/- for traveling expense and Rs.20,000/- towards food and attendant charges.

20. Injuries and Medical expenses: To prove the factum of injuries, medical expenses and compensation amount, the PW-1 has produced the Ex.P9 wound certificate, which discloses that petitioner was diagnosed for the following injury:

1. Cut wound over the upper lip measuring 6x1x1 cm.
2. Swelling over the right lower limb.
3. Multiple abrasions over the right knee skin measuring 2x2 cm.
4. X-ray right lower limb AP – Lateral indicating both bone fracture at mid-shaft and fracture of medial condyle of proximal end of right tibia.



5. X-ray right wrist – AP – Lat indicating collies fracture.

As per the doctor opinion injury No.1, 2, 3 are the simple in nature and injury No.4 and 5 are the grievous in nature.

21. PW-1 has produced 19 medical bills, collectively marked as Ex.P13, which indicate that the petitioner has incurred medical expenses amounting to **Rs.46,650/- (rounded off to Rs.46,700/-)**. The petitioner is entitled to this amount. It is noted that Bill No. 19, amounting to Rs. 52,500/-, is an estimate and therefore has not been included in the total calculation.

22. **Income:** The PW.1 has deposed in his evidence that she was doing coolie and earning Rs.15,000/- per month. Due to the accident and injuries sustained now she cannot do any work as she permanently disabled to do any work.

23. On careful perusal of the entire evidence on record it appears the PW-1 has not produced any document to show that she is getting income Rs.15,000/- per month from the said works. 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 **2016 is Rs.15,000/-**. Therefore, considering all these aspects. I have no hesitation to fix the income of the petitioner at **Rs.15,000/-** per month.

24. The PW1 has produced Ex.P11 which is the report of Yashgagan Orthopedic and Trauma Clinic, Chikkamagaluru, wherein the PW-1 has took treatment as an out-patient on several days. Thus, the **PW1 is entitled for one month income of Rs.15,000/- under the head of Loss of income due to laid period.**

25. Disability: In order to prove the injuries and disability of petitioner, she has not placed any documents nor examined any doctor. Ex.P12 wound certificate discloses that petitioner has sustained grievous injuries. But she has not examined any doctor who treated her. Hence, it is clear that petitioner has not suffered any disability.



26. Damages for pain, suffering and trauma as a consequence of injuries: As per the Ex.P11, the petitioner has suffered both leg injuries. She took treatment at Yashgagan Orthopedic and Trauma Clinic, Chikkamagaluru, where she underwent expert tibia nail install over the right tibia with 4.5 mm X 60.mm CC Screw with with washer over proximal tibia and proximally nail locked with 3 screws and distal medio laterally 2 screws and anteatere posterior one screw. Taking into account of the injuries sustained by the petitioner, this tribunal awards an amount of Rs.50,000/- towards damages for pain, suffering and trauma as a consequence of injuries.

27. 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 injury to both leg. Thus considering the same, this tribunal deems it fit to award an **amount of Rs.25,000/- under the head of loss of amenities.**

28. Transport and nourishment Expenditure : As stated supra, the petitioner was took treatment at Yashgagan Orthopedic and Trauma Clinic, Chikkamagaluru for 6 to 7 days. Given the nature of injuries suffered by her, 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.

29. 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.**

1.	Pain and sufferings.	50,000/-
2.	Attendant charges, extra nutritious food conveyance expenses	Nil
3.	Medical expenses	46,700/-



4.	Future medical expenses	Nil
5.	Loss of future income due to disability	Nil
6.	Loss of income due to laid period	15,000/-
7.	Loss of amenities	25,000/-
8.	Transportation, Nourishment and Misc. Expenditure	10,000/-
Total		1,46,700/-

Thus the total compensation amount, to which the petitioner is entitled to is **Rs.1,46,700/-**. (Rupees one lakh forty six thousand seven Hundred Only).

30. 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.

31. As aforesaid the respondents No.1 is the driver cum owner and respondent No.2 is the insurer of the offending Vehicle. The insurance policy of the offending vehicle produced by the respondent No.1 i.e., Ex.R.2



discloses that the offending Maruthi Swift Car bearing registration No KA-18-Z-4381 was insured with respondent No.2 and policy was valid from 01.01.2021 to 31.12.2021 and the date of accident is 29.06.2021. The Ex.R.3 shows the respondent No.1 did possess valid driving license as on the alleged date of the accident. Thus, it is clear that as on the date of accident the offending vehicle was insured with respondent No.2 company. Hence, I am of the opinion that the respondent No.1 and 2 being the driver cum owner and insurer are jointly and severally liable to pay the compensation, but the 2nd respondent being the insurer of the offending vehicle has to indemnify the driver and owner of the offending vehicle. Accordingly, I answer **issue No.2 partly in the affirmative.**

32. 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.1,46,700/-**. (Rupees one



lakh forty six thousand seven Hundred Only). with interest at the rate of 6% p.a. from the date of petition till the amount is deposited before the tribunal.

The respondent No.1 and 2 are jointly and severally liable to pay the compensation, but the 2nd respondent is directed to deposit the compensation amount within 30 days from the date of this order.

After depositing the compensation amount of **Rs.1,46,700/-**. (**Rupees one lakh forty six thousand seven Hundred Only**) by respondent No.2 along with interest entire amount shall be released in favour of petitioner through E-payment under K2 system.

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

I. Witness examined on behalf of Petitioner:

PW-1	Smt. Lalithamma
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II. Witnesses Examined on behalf of Respondents:

None

III. Documents marked on behalf of the petitioner.

Ex.P1	c/c of Police notice
Ex.P2	c/c of FIR
Ex.P3	c/c of Complaint
Ex.P4	c/c of Spot mahazar
Ex.P5	c/c of Znapana patra
Ex.P6	c/c of Seizure mahazar
Ex.P7	c/c of Witness statement
Ex.P8	c/c of FIR
Ex.P9	c/c of Wound certificate
Ex.P10	c/c of Out patient card
Ex.P11	c/c of Doctor report
Ex.P12	c/c of IMV
Ex.P13	19 medical bills
Ex.P14 to 19	X-rays

**IV. Documents marked on behalf of the respondents:**

Ex.R1	RC
Ex.R2	Insurance policy
Ex.R3	DL

V. Documents marked on behalf of the Commissioner
Nil

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