

KACM510003422024



Presented on : 24.10.2024  
Registered on : 24.10.2024  
Decided on : 16.06.2026  
Duration : 01 years, 07 months 22 days

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND  
M.A.C.T. AT.N.R.PURA**

**Present:** Sri. Raghunatha Gowda K.T., B.Com., L.L.B.,  
Senior Civil Judge & M.A.C.T. At.N.R.Pura

**Dated this the 16<sup>th</sup> day of June, 2026**

**M.V.C. No.460/2024**

**PETITIONER:**

Master Francisco Mario Rolins,  
S/o. Rolins U.L.,  
Aged about 1 year 11 months,  
being minor represented by his  
mother natural guardian :  
Smt. Sheela V.J.,  
D/o. Jhony V.K.,  
Aged about 39 years,  
Agriculturist / house wife,  
R/o. Kumbarkoppa,  
Nagalapura Village,  
Narasimharajapura Taluk,  
Chikmagalur District.

**(By Sri. D.R., Advocate)**

**-Versus -**

**RESPONDENTS:**

1. Sri. Mahaboob Pasha @  
Mahaboob Basha,  
S/o. Anwar Sab,  
Aged about 34 years,



R/o. Shetty koppa Village,  
Narasimharajapura Taluk,  
Chikkamagaluru District.

(Driver and R.C. Owner of the vehicle passenger Auto  
bearing registration No.KA.18 / C.8798)

2. The Manager,  
Future General Insurance Company  
Ltd., Branch Office at 3<sup>rd</sup> & 4<sup>th</sup> Floor,  
No.31, Shravanee Krishna Mansion,  
100 Feet Road, 2<sup>nd</sup> Block,  
Jayanagar, Bangaluru.

(Insurer of the vehicle passenger Auto bearing registration  
No.KA.18 / C.8798, Policy No.VB636830 Validity till  
26.04.2024)

**(Respondent No.1 represented by Sri. K.S.S., Advocate,  
Respondent No.2 represented by Sri. C.O.Y., Advocate.)**

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## **:J U D G M E N T:**

This claim petition is filed by the Natural Guardian of petitioner under Section 166 of Motor Vehicles Act 1988 seeking compensation of Rs.20,00,000/- with interest at the rate of 12% per annum on account of injuries sustained by him in road traffic accident occurred on 15.05.2023.



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

a). That on 15.05.2023 at about 4-00 P.M, the petitioner was traveling with his mother and father in a passenger auto bearing registration No.KA.18 - 8798 from Shetty koppa Village to her house at Kumbarakoppa, Hosakere-Nagalapura Village, N.R.Pura Taluk driven by the respondent No-1 said vehicle in Shivamogga - N.R.Pura Road near Hirebisu junction, Kugunda Village in a rash and negligent manner lost the control fall downed / flipped the vehicle on the road. Due to said accident the petitioner has sustained grievous injuries to his left side head, tongue, right side clavicle, right upper limb, left hand, left parietal bone and other parts of the body, his father and mother also sustained simple and grievous injuries. Further he contended that after the accident he was shifted to Government Hospital, N.R.Pura. Thereafter he was shifted to Sarji Hospital, Shivamogga and he taken treatment in the said hospital as a inpatient for a period of one month and he also taken treatment at K.M.C. Hospital, Manipal and he spent an amount of



Rs.3,00,000/- towards medicine and his treatment and he requires an amount of Rs.1,00,000/- for his future medical expenses. The said accident was occurred due to rash and negligent driving of respondent No.1, the said vehicle is owned by him, the respondent No.1 vehicle is insured with respondent No.2. Hence, the respondents are jointly and severally liable to pay compensation. Hence, he prays to allow the petition.

3. Notice duly served to the respondents, the respondents are appear through their respective counsels and filed separate objection statement.

4. **The objection statement of respondent No.1 is as under:**

In the objection statement respondent No.1 has denied the entire contents of petition averments. Further he contended that there was no rash and negligent and excessive speed of respondent No.1 and he has follow the traffic rules, the mother of the petitioner did not care of the petitioner and he fell down from the auto on his own negligence and with influence



to file complaint against himself. Further he contended that the said vehicle is insured with respondent No.2. Hence he prays to reject the petition against him.

**5. The objection statement of respondent No.2 is as under:**

Respondent No.2 filed objection statement wherein contended that all the material allegations made in the above petition are false and the petition is not maintainable either in law or facts against this respondent. Further he contended that the petition filed by the petitioner is barred by law of limitation. Further he contended that respondent No.1 is not holding valid and effective driving licence at the time of accident. Further he admitted the issuance of policy pertaining to auto rickshaw bearing registration No.KA.18 – C.8798, the said policy covering the risk of the policy and the liability of this respondent if any as per the terms and conditions mentioned in the policy. Further he contended that respondent No.1 nor the owner of the auto rickshaw are not reported the accident to the insurance company. Further he seeking protection under Section 147 and 149 of Motor Vehicle Act. Further interest claimed by the petitioner is



highly excessive. Hence he prays to dismiss the petition against respondent No.2.

6. On the basis of above pleading, my predecessor in office framed the following issues;

1. Whether the petitioner proves that on 15.05.2023 at about 4-00 pm when he traveling with his mother Smt. Sheela V.J. and his father Rolins U.L. in a vehicle Passenger Auto bearing registration No.KA.18 – C.8798 from Shetty koppa Village to his house at Kumbarkoppa, Hosakere, Nagalapura Village, Narasimharajapur Taluk and the respondent No.1 being driver of Passenger Auto bearing registration No.KA.18 – C.8798to driven the said vehicle with great speed, rash and negligent manner lost the control fall downed / flipped the vehicle on the road and dashed against him, due to said accident he was sustained grievous injuries?

2. Whether petitioner is entitled for compensation, how much and from whom?

3. What order or award?



7. Thereafter, in order to prove his case, the natural guardian of petitioner examined herself as PW2 and got marked 95 documents as Ex. P1 to P95 and close his side. Per contra with the consent of petitioner counsel 4 documents were marked as Ex. R1 to R4.

8. Heard the arguments on both side and perused the materials placed on record.

9. My findings on the above Issues are as under;

Issue No.1 : **In the Affirmative.**

Issue No.2 : **Partly in the Affirmative.**

Issue No.3 : As per final order

for the following.....

**:REASONS:**

10. **Issue No.1:** It is the case of the petitioner that on 15.05.2023 at about 4-00 P.M, the petitioner was traveling with his mother and father in a passenger auto bearing registration No.KA.18 - 8798 from Shetty koppa Village to her house at Kumbarakoppa, Hosakere - Nagalapura Village, N.R.Pura Taluk driven by the respondent said vehicle in Shivamogga - N.R.Pura Road



near Hirebisu junction, Kugunda Village in a rash and negligent manner lost the control fall downed / flipped the vehicle on the road. Due to said accident the petitioner has sustained grievous injuries to his left side head, tongue, right side clavicle, right upper limb, left hand, left parietal bone and other parts of the body, his father and mother also sustained simple and grievous injuries. Further he contended that after the accident he was shifted to Government Hospital, N.R.Pura. Thereafter he was shifted to Sarji Hospital, Shivamogga and he taken treatment in the said hospital as a inpatient for a period of one month and he also taken treatment at K.M.C. Hospital, Manipal and he spent an amount of Rs.3,00,000/- towards medicine and his treatment and he requires an amount of Rs.1,00,000/- for his future medical expenses.

11. In order to prove the case, the natural guardian of the petitioner got examined herself as PW2 and she filed her affidavit in lieu of her examination-in-chief and she has reiterated the contents of petition averments in her examination in chief. In support of her



oral evidence to prove the issue No.1, she relied on Ex.P1 to P95 documents. Ex.P1 is the accident information report, Ex. P2 is the certified copy of the F.I.R., Ex. P3 is the certified copy of the complaint, Ex. P4 is the certified copy of the final report, Ex. P5 is the certified copy of crime detail form, Ex. P6 is the certified copy of the I.M.V. Report, Ex. P7 is the certified copy of the wound certificate, Ex. P8 is the discharge summary, Ex. P9 is the certified copy of the order sheet in C.C. No.262/2023, Ex. P10 to P85 are the medical bills, Ex. P86 is the letter, Ex. P87 is the birth certificate of petitioner, Ex. P88 is the notarized copy of the aadhaar card of petitioner mother, Ex. P89 is the notarized copy of the aadhaar card of petitioner, Ex. P90 to P94 are the photos and compact disk and Ex. P95 is the notarized copy of the bank passbook of the petitioner mother.

12. On careful perusal of Ex. P3 on 17.05.2023 the petitioner mother by name Smt. Sheela lodge a complaint alleging that the driver of the Auto rickshaw bearing Reg. No.KA.18 – C.8798 drove the said auto in a rash and negligent manner and lost the control and fall



down the vehicle on the road. In the said accident her son, herself and her husband are sustained grievous injuries. Further as per Ex. P4 the investigation officer filed the final report against the respondent No.1 for the offence punishable under Section 279 and 338 of I.P.C.

13. Further on perusal of the entire records during the course of cross-examination of PW2, she deposed that due to negligence of driver of the auto rickshaw the accident was occurred. Further as per Ex. P9 the respondent No.1 admitted the accident by pleaded guilty and pay the fine amount.

14. Further it is the case of the petitioner that in the said accident he has sustained grievous injuries. To prove that he has sustained grievous injuries in the said accident, petitioner relied on Ex. P7 i.e., wound certificate. As per this document petitioner has sustained following injuries.

**(1) Lacerated cut wound over anterior 1/3rd of tongue 3 x 0.5 c.m. x 0.5 c.m.**

**(2) Brucise present below lateral end of clavicle right side of size 3 x 2 c.m.**



**(3) Abrasion present over left hand 4 x 3 c.m.**

**(4) Cramal vault fracture on left parietal bone with bleeding of brain center.**

The above said injuries are grievous in nature. Thus it is clear from the discharge summary and wound certificate that petitioner has sustained grievous injury. On perusal of the record the accident occurred due to rash and negligent driving of respondent No.1, the said fact establish by the petitioner by producing the cogent documentary as well as oral evidence. Hence for the above said reason my findings to **issue No.1 in the affirmative.**

15. **Issue No.2:** Petitioner filed this claim petition seeking compensation of Rs.20,00,000/- on account of grievous injury sustained by him in the road traffic accident occurred on 15.05.2023. As discussed in issue No.1, it is clear that petitioner has sustained grievous injury in the said accident. Thus, he is entitled to get compensation on the following heads.

16. **Pain and suffering:** PW2 deposed that in the road traffic accident occurred on 15.05.2023, he has



sustained injuries to left side head, tongue, right side clavicle, right upper limb, left hand and left parietal bone and he took treatment as an inpatient in Sarji Hospital, Shivamogga and he took follow up treatment and petitioner suffered pain due to accidental injury.

17. As per Ex. P8 discharge summary it is clear that petitioner taken a treatment as a inpatient in Sarji Hospital Shivamogga from 15.05.2023 to 05.06.2023 in the hospital for a period of 22 days. Further it is clear from the Ex. P7 wound certificate that petitioner has sustained **(1) Lacerated cut wound over anterior 1/3 of tongue 3 x 0.5 c.m. x 0.5 c.m. (2) Bruise present below lateral end of clavicle right side of size 3 x 2 c.m. (3) Abrasion present over left hand 4 x 3 c.m. (4) Cramial vault fracture on left parietal bone with bleeding of brain center.** Further as per Ex. P86 it discloses that the petitioner has diagnosis of traumatic brain injury, presently he has expressive speech delay and mild right hemipraesis and he need to be continued on physiotherapy, speech therapy and by multi-sensory stimulation. Hence by considering the nature of injury



sustained by him and treatment taken by him this tribunal is of the opinion that it is just and proper to award an amount of Rs.1,00,000/- on the head of pain and suffering.

18. **Medical bills, Hospital expenses and future Medical expenses:** PW2 deposed that she incurred more than Rs.3,00,000/- towards medical expenses. To prove that she has incurred medical expenses for treatment of petitioner, she has produced Ex. P10 to P85 i.e., 76 medical bills. Further as per above said documents PW2 has incurred medical bills an amount of Rs.92,824/- and hospital final bill as per Ex. P85 an amount of Rs.1,89,870/- in total the petitioner has spent an amount of Rs,2,82,694/-. Further petitioner has sought future medical expenses of Rs.2,00,000/-. In this regard the petitioner has not produce any cogent document to show that he requires an amount of Rs.2,00,000/- for future medical expenses. Hence petitioner is not entitle for any future medical expenses. Hence, it is just and proper to award an amount of **Rs.2,82,694/-** on the head of medical bills.



19. **Attendant charges, special food, nourishment and conveyance charges etc:** As discussed in issue No.1 and above said heads it is clear that petitioner has sustained injury on the head and other parts of the body, petitioner took treatment for a period of 22 days as inpatient. Thus it reveals that he was on special diet and he was attended by his attendant. Further it is clear that the said accident was occurred near Hirebisu Junction, Karagunda Village and thereafter he might have shifted to Sarji Hospital, Shivamogga and might have been taken rest. Thus by considering nature of injury and treatment taken by the petitioner this court is of the opinion that it is just and proper to award an amount of Rs.50,000/- on the head of attendant charges, special diet and nourishment. Hence, the petitioner is entitle to get compensation an amount of **Rs.50,000/-** under the head of attendant charges, special diet, nourishment and conveyance charges.

20. **Loss of income during laid up period:** The petitioner being the minor at the time of accident and he



was aged about 6 months baby. Hence, petitioner is not entitled any amount under the head of loss of income during the laid up period.

21. **Towards Future loss of income:** The petitioner being the minor at the time of accident and he was aged about 6 months baby. Further the petitioner has not produce any disability certificate to show that due to accidental injuries the petitioner is loss of future income and not examine the doctor before the court. Hence, petitioner is not entitled any amount under the head of future loss of income.

Thus, petitioner is entitled to get compensation as under;

|  |                       |
|--|-----------------------|
| <b>1) Towards pain and suffering-</b>  | <b>Rs. 1,00,000/-</b> |
| <b>2) Towards Medical bills, hospital expenses and future medical expense</b>            | <b>Rs. 2,82,694/-</b> |
| <b>3) Towards attendant charges, special food and nourishment and conveyance charges</b> | <b>Rs. 50,000/-</b>   |
| <b>Total-</b>  | <b>Rs.4,32,694/-</b>  |



22. **Liability:** There is no dispute that the respondent No.1 vehicle is duly insured with respondent No.2. Further as Ex. R4 at the time of accident the respondent No.1 is holding effective driving licence to drove the auto-rickshaw. Further as per Ex. R1 the respondent No.2 issued a insurance policy the vehicle belongs to respondent No.1. Further as per Ex. R3 the respondent No.1 is holding the permit in respect of contract carriage permit. Thus the liability is fixed on respondent No.2. Hence, respondent No.2 is liable to pay said compensation amount with interest @ 8% p.a., to the petitioner from the date of this petition till its realization. Further directed the respondent No.2 deposit the said compensation amount with interest to the natural guardian of petitioner account as per Ex. P95. Thus, I answer to **issue No.2 partly in the affirmative.**

23. **Issue No.3:** In view of the above reasons, I proceed to pass the following :



## **ORDER**

*The claim petition filed by the natural Guardian of petitioner under Section 166 of M.V. Act is hereby partly allowed with cost.*

*The petitioner is entitled for compensation an amount of **Rs.4,32,694/-** with interest at the rate of 8% p.a from the date of petition till its realization.*

*The respondent No.2 liable to pay entire compensation amount to petitioner within 30 days from the date of this order. Further directed the respondent No.2 deposit the entire compensation amount with interest to the natural guardian of petitioner account and submit a compliance report to this Court.*



*The Advocate fee is fixed at  
Rs.1000/-.*

*Draw award accordingly.*

(Dictated to the Stenographer transcribed and typed by him corrected by me and then pronounced in the open court on this the 16<sup>th</sup> day of June, 2026)

**(Raghunatha Gowda K.T.)**  
Senior Civil Judge and M.A.C.T.  
N.R.Pura.

### **ANNEXURE**

#### **Witnesses examined for the petitioner:**

PW.2 : Smt.Sheela.

#### **Documents marked for the petitioner:**

Ex.P1 : Accident information report.  
Ex.P2 : Certified copy of the F.I.R.,  
Ex.P3 : Certified copy of complaint.  
Ex.P4 : Certified copy of the final report.  
Ex.P5 : Certified copy of the crime detail form.  
Ex.P6 : Certified copy of I.M.V. report.  
Ex.P7 : Certified copy of the wound certificate.  
Ex.P8 : Discharge summary.  
Ex.P9 : Certified copy of the order sheet in C.C.  
No.262/2023.  
Ex.P10-85 : Medical bills.  
Ex.P86 : Letter.  
Ex.P87 : Birth certificate of petitioner  
Ex.P88 : Notarized copy of the aadhaar card of  
petitioner mother.



- Ex.P89 : Notarized copy of the aadhaar card of petitioner.  
Ex.P90-94 : Photos and compact disk.  
Ex.P95 : Notarized copy of the bank passbook of the petitioner mother.

**Witnesses examined for the respondents:**

----- Nil -----

**Documents marked for the respondents:**

- Ex.R1 : Insurance policy.  
Ex.R2 : True copy of R.C.,  
Ex.R3 : True copy of permit.  
Ex.R4 : True copy of D.L.,card.

**(Raghunatha Gowda K.T.)**  
Senior Civil Judge and M.A.C.T.  
N.R.Pura.