

KACN300002882024



Presented on : 12-08-2024  
Registered on : 12-08-2024  
Decided on : 27-06-2026  
Duration : Year Months Days  
01 10 15

**IN THE COURT OF THE I ADDITIONAL DISTRICT AND  
SESSIONS JUDGE AT CHAMARAJANAGAR (SITTING AT  
KOLLEGAL) AND M.A.C.T**

**DATED THIS THE 27<sup>th</sup> DAY OF JUNE, 2026**

**PRESENT:**

**Sri. T.C. SRIKANTH**, B.Com, LL.B.,  
I Addl. District & Sessions Judge,  
Chamarajanagara [Sitting at Kollegala].

**MVC. No.303/2024**

**Petitioner** : Venkatesha  
S/o Sukranaika  
Aged 55 years,  
R/at K.Gundapura, Suleripalya,  
Hanuru Taluk,  
Chamarajangara District.

[By Sri. V.B.G., Advocate]

**V/s.**

**Respondents** : 1. M.Mahadeva  
S/o Muniswamynayaka  
Dommanagadde village,  
Hanuru Taluk,

Chamarajanagara District.  
(Owner of Bike No.KA-10/EB-4124)

2. Branch Manager (Legal Division),  
Chola M.S. General Insurance Co.  
Ltd.,  
# 230, 5<sup>th</sup> Cross, 12<sup>th</sup> Main Road,  
Saraswathipuram,  
Mysore.

**[Policy No.3397/00884386/000/00]**  
**[Valid from 04-01-2020 to 03-01-2025]**

[R2 By Sri.J.S., Advocate]

[Respondent No.1 - Absent]

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

This is a petition filed by petitioner under Section 166 of Motor Vehicles Act, 1988 ('Act' for short) seeking compensation from the respondents regarding the injuries sustained by him in a Motor Vehicle Accident that took place on 18-12-2023 at about 8.00 pm, near Muneshwara Temple on Ajjipura – Dommanagadde road, Ramapura Taluk.

2. The facts in nutshell as per the petition is that, on 18.12.2023 at about 8.00 p.m., while the petitioner was travelling as a pillion rider in the motorcycle bearing No.KA-10/EB-4124 driven by one Sateesha of Dommanagdde village, near Muneshwara Temple on

Ajjipura – Dommanagadde road suddenly a cow came to the middle of the road and to avoid dashing against the cow, the rider of the motorcycle swerved the motorcycle to the left side swiftly, as a result of which the rider lost the control over the motorcycle and they fell down along with the motorcycle. Due to the accident, the petitioner sustained grievous injury to his right leg. Immediately after the alleged accident, the petitioner took first aid treatment at a private clinic at Hanuru Hospital, where the Doctor informed that petitioner has sustained fracture injury to his right leg. On advice given by petitioner's brother-in-law, the petitioner went to Bangalore and admitted in Bowring Hospital as an in-patient, where the doctor conducted surgery by inserting rod and screw and the petitioner has spent Rs.4,00,000/- and spent Rs.1,00,000/- towards travel, attendant charges etc. The petitioner further requires Rs.2,00,000/- for future medical expenses. The petitioner has also suffered loss of Rs.2,00,000/- during his laid up period.

Further submitted that, prior to the accident, the petitioner was hale and healthy and working as a coolie and had a income of Rs.40,000/- per month.

Due to the said accident, the petitioner is unable to do his previous work, as he has suffered permanent disability. The said accident solely due to the rash and negligent driving of the rider of the Motorcycle bearing No.KA-10/EB-4124. Hence, prays to award compensation of Rs.33,00,000/- with interest of 18% per annum from the date of filing of the petition.

3. After presentation of the petition, the same was registered and notices were issued to the respondents, which were also duly served on the respondents. The respondent No.2 appeared through its counsel and filed their objections. The respondent No.1 has remained absent.

The 2<sup>nd</sup> respondent/insurance company has filed its objection denying all material allegations made in the petition. It is contended that the amount claimed by the petitioner is exorbitant and excessive and without any legal basis. It has contended that the rider of the motorcycle was not holding valid driving license at the time of accident. Further submitted that, the owner of the vehicle violated the terms and condition of the insurance policy. Further this respondent specifically denied the age, occupation

and income of the petitioner. Hence, prays for dismissal of the petition.

4. Upon considering the rival contentions raised by the parties, the following issues have been framed:
  - 1) Whether the petitioner proves that, on 18.12.2023 at about 8.30 p.m., while he was riding as pillion on the motorcycle bearing No.KA-10/EB-4124 on Ajjipura – Dommanagadde road, the driver of the motorcycle suddenly swerved the motorcycle towards left side to avoid accident to the cow, which came abruptly on the middle of the road, due to which the petitioner fell down along with the motorcycle and sustained grievous injuries?
  - 2) Whether the petitioner is entitled for compensation? If so, to what amount? From whom?
  - 3) To what order or award?
5. To substantiate his contention, the petitioner got himself examined as PW1 and got marked documents as Ex.P1 to Ex.P49. The respondent No.2 did not lead any evidence in support of their case.
6. Heard the arguments canvassed by both sides and perused the material documents.

7. My findings on above issues are as follows for the reasons stated herein below:

Issue No.1: In the affirmative.

Issue No.2: Partly in the affirmative and as per the final order.

Issue No.3: As per final order.

### **REASONS**

8. **Issue No.1:** The petitioner filed this petition for seeking compensation amount for Rs.33,00,000/- together with interest at the rate of 18% per annum from the date of petition till the date of realization regarding the fact that, he has sustained injury in the alleged motor vehicle accident that took place on 18-12-2023 at about 8.30 pm, due to the rash and negligent driving of rider of Motorcycle bearing No. KA-10/EB-4124 near Muneshwara Temple on Ajjipura – Dommanagadde road. The 1<sup>st</sup> respondent is the owner and the 2<sup>nd</sup> respondent is the insurer of said offending vehicle.
9. To prove his case, the petitioner himself examined as PW1. Ex.P1 is the FIR. Ex.P2 is the complaint. Exs.P3 and P4 are the Spot Mahazars. Ex.P5 is the

I.M.V. Report. Ex.P7 is the charge sheet. After completion of the investigation the police have filed the charge sheet against the rider of the motorcycle stating that he drove the motorcycle in a rash and negligent manner and caused the accident, wherein the petitioner was travelling as a pillion rider. If at all the rider was riding the bike slowly and cautiously, he could have applied the brakes while cow came in front of the bike. The petitioner in his evidence has categorically stated that he was travelling as a pillion rider in the motorcycle involved in the accident. The respondent No.2 did not examine the rider of the motorcycle. Nothing has been elicited in the cross examination of PW-1/Petitioner to disbelieve his evidence. As per the contents of the charge sheet, the rider of the motorcycle drove the same in high speed in negligent manner endangering to human life and caused the accident. The respondent No.2 has not denied the accident. The respondent No.2 has also not challenged the contents of the charge sheet. They have not examined any of the witnesses in support of their contention. The burden of proving the accident on the petitioner is only preponderance of probabilities. In order to discharge the burden, the petitioner has mainly relied on the investigation

papers. As per the investigation of the police, the accident was due to rash and negligent driving of the rider of the motorcycle. Contrary to this, no evidence is adduced by the respondent No.2. Hence, this court can safely come to the conclusion that the petitioner has proved that the accident had occurred due to rash and negligent driving of the rider of the motorcycle. Hence, I answer issue No.1 in the affirmative.

10. **Issue No.2:** As per the discussion and reason stated in issue No.1, the alleged accident occurred due to the rash and negligent act of the rider of the motorcycle. Respondent No.1 is the owner of the Car. The 2<sup>nd</sup> respondent is the insurer of the offending Motorcycle bearing No.KA-10/EB-4124 and in the said accident, the petitioner had sustained injuries. Ex.P6 is the Wound Certificate. As per Ex.P6, the petitioner has sustained grievous injury to his right lower limb and right thigh due to the accident. Petitioner has also produced hospital records.
11. As per the petition, the petitioner/injured was working as a Coolie and had a monthly income of Rs.40,000/-. Due to the injury sustained in the Motor Vehicle Accident, he has suffered permanent

disability and unable to do his normal work as earlier. In order to prove the disability, the petitioner has examined the Doctor, through the Court Commissioner. The Doctor has also produced the Hospital records before the Court Commissioner at the time of evidence. As per the evidence of the Doctor, the petitioner has sustained total disability of 47%. The petitioner has not produced any documents to prove the loss of income due to the accident.

12. Though the petitioner has stated that he was working as a Coolie, but in order to substantiate the income he has not produced any documents. Further, the petitioner has not produced any evidence to prove his income before the accident.
13. As per the wound certificate, the age of the petitioner is shown as 45 years. But on verification of Ex.P49, Aadhaar card copy of the petitioner, his date of birth is shown as 01.01.1969, hence the petitioner's age is taken as 55 years, instead of 45 years. The petitioner has not produced any documents to prove his income. Further, he did not produce any evidence to prove his avocation. He just stated that he was

working as a Coolie. The accident had occurred in the year 2024. Hence, the notional income as per the guidelines of NALSA has to be considered. The notional income is Rs.15,500/- p.m. The petitioner has examined the Doctor through Court Commissioner. The Doctor has assessed the disability as 47%. Further, the Doctor has assessed the function disability of the petitioner as 16%. **16% of Rs.15,500/- would come to Rs.2,480/-.** Multiplier 11 is applicable. **Hence, Rs.2,480/- x 12 x 11 = 3,27,360/-** can be granted under this head to the petitioner.

14. Petitioner has produced medical bills. The total amount of medical bills is Rs.6,100/-. There is no dispute in respect of the medical bills. Hence, petitioner is entitled for **Rs.6,100/-** under the **head of medical expenses**.
15. In view of the nature of the injuries sustained by the petitioner, Rs.**50,000/-** can be awarded under the **head of pain and suffering**. Further, Rs.**25,000/-** can be awarded under the **head of loss of amenities**. Further, the petitioner was admitted to the hospital on 19.12.2023 and discharged from the hospital on

29.12.2023. Hence, one month income can be awarded to the petitioner under the **head of loss of income** during laid up period. Accordingly, petitioner is entitled for **Rs.15,500/-**.

Hence, petitioner is entitled for the global compensation as follows:

|              |                                                                    |                       |
|--------------|--------------------------------------------------------------------|-----------------------|
| 1.           | <i>Towards loss of income, future income, permanent disability</i> | Rs. 3,27,360.00       |
| 2.           | <i>Towards medical expenditure [as per medical bills]</i>          | Rs. 6,100.00          |
| 3.           | <i>Towards pain, suffering and mental agony</i>                    | Rs. 50,000.00         |
| 4.           | <i>Towards loss during laid up period</i>                          | Rs. 15,500.00         |
| 5.           | <i>Towards loss of amenities</i>                                   | Rs. 25,000.00         |
| <b>Total</b> |                                                                    | <b>Rs.4,23,960.00</b> |

16. Further, as per the discussion and reason stated in issue No.1, the alleged accident occurred due to the rash and negligent act of the rider of the motorcycle bearing No.KA-10/EB-4124. The 1<sup>st</sup> respondent is the owner and 2<sup>nd</sup> respondent is the insurer of said offending vehicle. The 2<sup>nd</sup> respondent has admitted the Insurance in respect of the offending motorcycle. As on the date of accident, the motorcycle was having valid insurance. Considering the said facts with interest of justice and equity, the respondent No.2 is liable to pay awarded amount to the petitioner as awarded supra.

17. The petitioner has claimed interest at 18% per annum from the date of petition till the date of realization, but it is not commercial transaction. Considering the rate of interest prevailing in nationalized bank at present, the Tribunal is of the view that interest at 6% per annum from the date of petition till the date of realization is just and reasonable. Hence, the respondent No.2 is liable to pay above said awarded compensation amount to the petitioner. Hence, issue No.2 partly in the affirmative.
18. **Issue No.3:** For the forgoing reasons and in view of the above discussion, I proceed to pass the following order:

### **ORDER**

The petition filed by the petitioner under Section 166 of Motor Vehicle Act, is hereby partly allowed with cost.

The petitioner is entitled for global compensation of **Rs.4,23,960/-** (Rupees Four Lakh Twenty Three Thousand Nine Hundred and Sixty only) with interest at **6% p.a.** from the date of petition i.e., 15.5.2024 till the date of realization.

The respondent No.2 who is the insurer of the offending vehicle is liable to pay compensation amount within 30 days from the date of this judgment.

Out of the said total compensation, the petitioner is entitled to receive 50% of the total compensation amount along with proportionate interest forthwith and the balance 50% of the award amount is to be deposited as fixed deposit in any nationalized bank, close to his place, for a period of 03 years without encumbrances. The petitioner would be entitled for interest that accrues on fixed deposit periodically.

The cost of the petition is fixed Rs.1,500/-.

*[Dictated to the Stenographer directly on the computer, typed by him and matter revised, corrected and then pronounced by me in the open Court on this the 27<sup>th</sup> day of June, 2026].*

**[T.C. Srikanth]**

I Addl. District and Sessions Judge,  
Chamarajanagara [Sitting at Kollegala].  
Member, MACT.

### **ANNEXURE**

Witnesses examined for petitioner:

PW1 : Venkatesha

Documents exhibited for petitioner:

Ex.P1 : Certified copy of FIR  
Ex.P2 : Certified copy of complaint  
Ex.P3 & P4: Certified copy of Mahazars  
Ex.P5 : Certified copy of IMV Report.  
Ex.P6 : Certified copy of Wound Certificate.  
Ex.P7 : Certified copy of Charge Sheet.  
Ex.P8-22 : Medical bills  
Ex.P23-39: Doctors' Prescriptions  
Ex.P40-42: Hospital Records  
Ex.P43-44: Medical bills  
Ex.P45-46: Photographs  
Ex.P47-48: Medical bills  
Ex.P49 : Aadhaar copy.

Witnesses examined for respondent/s:

N I L

Documents exhibited for respondent/s:

Ex.R1 : Insurance policy

Witnesses examined through Court Commissioner:

Dr. Shivanna

Documents marked through Commissioner (through Dr.Shivanna):

Ex.C1: Case Sheet  
Ex.C2: O.P.D. Slip  
Ex.C3: X-Rays

I Addl. District and Sessions Judge,  
Chamarajanagara [Sitting at Kollegala].  
Member, MACT.