

KADG020020452023



Presented on : 12-06-2023

Registered on : 12-06-2023

Decided on : 15-06-2026

Duration : 3 years, 0 months, 3 days

**IN THE COURT OF PRL. SENIOR CIVIL JUDGE AND CJM
ADDL. MACT-IV., AT DAVANAGERE**

-:: PRESENT ::-

**Sri. M. MAHESH BABU, B.A.,LL.M.,
Prl. Senior Civil Judge & Addl. MACT-IV,
Davanagere.**

DATED THIS 15th DAY OF JUNE - 2026

MVC.No.343/2023

PETITIONER/S:-

Ravinaik S/o Peerya Naik,
Aged about 40 years,
Occ: Agriculturist and Coolie,
R/o Anekallu Thanda,
Hagaribommanahalli taluk,
Vijayanagara District.
Now R/o #1185, 1st Main 4th Cross,
Vinobha Nagara, Davanagere.

(By Sri. V.D.P., - Advocate.)

// Vs. //

RESPONDENT/S:-

1. Hanumanthappa
S/o Kotrappa Theligi,
Aged about 45 years,
R/o Sattur village,

Harapanahalli taluk,
Vijayanagara district.
(Driver of the tractor bearing Reg.
No.KA-17/TA-0105 and No.KA-17/T-
2661 and No.KA-17/TC-0646).

2. K. M. Mallikarjunahia
S/o Late. Shambulinghaia,
Aged about 74 years,
Occ: Agriculturist,
R/o Sattur village,
Harapanahalli taluk,
Vijayanagara district.
(Owner of the tractor bearing Reg.
No.KA-17/TA-0105)
3. Murugesh N. S/o Narasappa,
Aged about 54 years,
Occ: Agriculturist,
R/o Betur village,
Davanagere taluk and district.
(Owner of the trailer bearing Reg.
No.KA-17/T-2661).

(R-1 to 3 By Sri. C.S., - Advocate)

:-: J U D G M E N T :-:

This claim petition is filed by the petitioner U/Sec.166 of Motor Vehicles Act seeking compensation of Rs.10,00,000/- for the accidental injuries sustained by him in the motor vehicle accident.

2. The case of the petitioner in brief is as under:-

That on 15-12-2022 at about 07.30 pm while the petitioner was moving from Jambulinganahalli village to Harapanahalli, at that time the petitioner was proceeding his motor-cycle bearing

Reg.No.KA-37/ED-0871 in slowly and moderate speed with observing all traffic rules and regulations when he came near Harapanahalli to Davanagere Main road near Sattur village, Buthappa temple Harapanahalli taluk, Vijayanagara district. At that time the respondent No.1 being the driver of Tractor-Trailer bearing Reg. No.KA-17/TA-0105, trailer No.KA-17/T-2661 and No.KA-17/TC-0646 with two trailers and parked the above said vehicle in road side without giving any signal. At that time the petitioner came from Harapanahalli side and dashed against the trailer bearing Reg.No.KA-17/TC-0646 from back side and caused accident. Due to the impact of the said accident the motor-cycle was completely damaged and the petitioner was sustained grievous injures and fracture and multiple injuries and all over the body. After the accident, immediately he was shifted to City Central Hospital Davanagere and he was admitted as inpatient from 15.12.2022 to 19.12.2022 and further, he was admitted on 01.01.2023 for a period of 6 days and further he has taken treatment spending Rs.3,00,000/- towards medicines, attendant, food, conveyance, operation, traveling allowances etc.

3. It is further averred that, the said accident occurred due to the rash and negligent driving of the driver of tractor-trailer baring Reg. No.KA-17/TA-0105, trailer No. KA-17/T-2661 and No. KA-17/TC-0646. The Arasikere police have registered a case in CR.No.142/2022 for the offence punishable U/Sec.279 & 337 of IPC R/w 187 of IMV Act against the driver of respondent No.1. Prior to the accident, the petitioner was hale and healthy and earning Rs.30,000/- per month and he used to contribute the

same to his family. Due to the said accident, he is unable to discharge his duties as earlier which caused him permanent disability. The petitioner and his family suffering from loss of earning, injury, pain, suffering, loss of income, mental agony, loss of amenities and permanent disability. He spent huge amount for medical expenses and other expenses. The respondents are liable to pay the compensation of Rs.10,00,000/- along with interest to the petitioner. Hence the petitioner requested this court to allow the petition with costs and such other reliefs as prayed.

4. In pursuance of the notice, the respondents. The respondents have appeared through their counsel and respondent No.3 has filed his objections and contested the petition and respondent No.1 and 2 have adopted the same objection on main petition filed by the respondent No.3.

5. The brief objections of respondent No.3 are as under:-

That, the petition is not maintainable either in law or on facts and also denied all the averments of the petition. Further in the objections it is contended that, the driver of the tractor-trailer Reg. No.KA-17/TA-0105, trailer No.KA-17/T-2661 and another trailer No. KA-17/TC-0646 respondent No.1 as alleged in claim petition. It is further contended that, the tractor-trailer Reg. No.KA-17/TA-0105, trailer No.KA-17/T-2661 and No.KA-17/TC-0646 was not moved on the road it was parking extremely towards the Davanagere – Harapanahalli road, near Sattur village. Further contended that, there is no rash and negligent act of the driver of

the tractor-trailer and admitted that respondent No.2 is the owner of the tractor-trailers.

6. It is further contended that, the petitioner drove his vehicle bearing Reg.No.KA-37/ED-0871 Hero Honda Shine in rash and negligent manner with High Speed by consuming the alcohol and hit to the back side of the trailer bearing Reg.No.KA-17/T-2661 and he sustained simple injuries and the petitioner colluding with the Arasikere Police have filed false complaint against the respondent No.1. At that time of accident the respondent No.1 was not at all drove this offending vehicle and there is no negligent act of the respondent No.1. It is contended that, the petitioner is wrong doer and he has not having any valid driving license. It is further contended that, the petitioner has not sustained any injuries in a motor accident and the medical bills are created colluding with the medical officer City Central Hospital Davanagere and petitioner has self fall from motor-cycle under the influence of alcohol. The concerned police have influenced and colluded with the petitioner to file the false case against the respondents and concerned police have not properly investigated the case and medical officer has issued false certificate in favour of the petitioner. On these grounds prays to dismiss the petition against the respondent No.3.

7. On the basis of the pleadings of the respective parties, the following issues have been framed which are as under:

-:: I S S U E S ::-

- 1 Whether the petitioner proves that
on 15.12.2022 at about 07.30 pm.,**

while he is go to Jambulinganahalli village from Harapanahalli, he was driving his vehicle Honda Shine bearing Reg.No.KA-37/ED-0871 in slowly and moderate speed with observing all traffic rules and regulations Harapanahalli to Davanagere main road, near Sattur village, Buthappa temple, Harapanahalli taluk, Vijayanagar district, at that time the respondent No.1 being the driver of the tractor-trailer bearing Reg. No.KA-17/TA-0105 and trailer bearing Reg.No.KA-17/TC-0646 from back side, due to the accident the petitioner sustained grievous injuries?

2 Whether the petitioner is entitled for compensation? If so from whom and to what extent?

3 What Order or Award?

8. In order to prove the case of the petitioner, petitioner has been examined himself before the Tribunal as PW-1 and got marked Ex.P1 to Ex.P14 and also examined two witness as PW-2 and got marked Ex.P12(c) and closed his side evidence.

Among them Ex.P1 is the complaint, Ex.P2 is the FIR in Crime No.142/2022 of Arasikere Police station, Ex.P3 is the Spot Mahazar, Ex.P4 is the seizure mahazar, Ex.P5 is the wound certificate, Ex.P6 is the IMV report, Ex.P7 is the Charge-sheet, Ex.P8 and Ex.P9 are the Discharge summaries, Ex.P10 is the Medical bills (Nos. 38), Ex.P11 is the OPD card, Ex.P12 is the disability certificate, Ex.P13 is the medical bills and Ex.P14 is the X-ray film. In order to disprove the case of petitioner respondent No.3 examined one witnesses as RW-2 and got marked two documents as Ex.R1 is the MLC register extract and Ex.R2 is the case-sheet of the petitioner.

9. Heard the argument on both side. Perused the materials available on record.

10. After hearing the arguments of both the parties and on considering oral and documentary evidence on record, my findings on the above said all the issues are as under:

Issue No.1	:	In the Affirmative .
Issue No.2	:	In the Partly Affirmative .
Issue No.3	:	As per final order, for the following:

-:: REASONS ::-

11. Issue No.1:- It is the allegation of the petitioner that, an alleged accident in question was occurred solely due to actionable negligence of driver of offending tractor-trailer No.KA-

17/TA-0105, trailer No.KA-17/T-2661 and another trailer No. KA-17/TC-0646 vehicle involved in an accident, who is Hanumanthappa S/o Kotrappa Theligi. All these police documents especially Ex.P1 and Ex.P7 which are the FIR & charge sheet submitted by the Arasikere police demonstrates that after proper investigation the police authorities have filed charge sheet against the driver of offending vehicle bearing registration No.KA-17/TA-0105, trailer No.KA-17/T-2661 and another trailer No. KA-17/TC-0646, which are clearly reveals rash and negligent driving of driver of offending vehicle, which is cause for accident.

12. The police having conducted detailed investigation of the case have filed charge sheet by mentioning said accident was due to rash and negligent act of driving of tractor-trailer vehicle, bearing its No.KA-17/TA-0105, trailer No.KA-17/T-2661 and another trailer No. KA-17/TC-0646. Hence, in the absence of any cogent rebuttal materials in this regard from the respondent these police records will have to be accepted as the prima-facie materials to hold that, accident in question was the result of actionable negligence of driving of offending tractor-trailer vehicle bearing No. KA-17/TA-0105, trailer No.KA-17/T-2661 and trailer No. KA-17/TC-0646 involved in an accident.

13. In decision reported in 2009 ACJ 287 (National Insurance Company Vs. Pushpa Rama and others), wherein it was held that, certified copy of the criminal court such as FIR, recovery memo and mechanical inspection of vehicle are documents of sufficient proof to reach the conclusion that, driver

was negligent – proceedings under Motor Vehicle Act are not akin to proceedings in a civil suit. Hence, strict rules of evidence are not required to be followed in this regard.

14. In a claim for compensation under Section 166 of Motor Vehicles Act, 1988, the claimant is to prove the incident only on preponderance of probabilities and the standard of proof beyond reasonable doubt is not required as held by Hon'ble Supreme Court in the decision reported in **2011 SAR (CIVIL) 319 Kusum and others V/s Satbir and others.**

15. Further Hon'ble Supreme Court in case of **Bimla Devi and Others V/s. Himachal Road Transport Corporation and Others (2009)13 SCC 530**, wherein it is held that, it was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied.

16. As per ratio laid down in above decisions and so also in view of the facts and circumstances of the case and testimony of PW-1 and contents of Ex.P.2 and Ex.P7 which are FIR and Charge-sheet, I am of the considered opinion that, due to an actionable negligence of driver of offending tractor-trailers vehicle Reg.No.KA-17/TA-0105, trailer No.KA-17/T-2661 and another trailer No. KA-17/TC-0646, who is Hanumanthappa S/o Kotrappa

Theligi there was an accident which resulted in causing injuries to petitioner. Further the above said tractor-trailer belongs to respondent No.2 & 3.

17. On perusal of the police papers i.e., Ex.P7 which is a charge-sheet submitted by Arasikere police station, Vijayanagara district, wherein after proper investigation the concerned police have submitted charge-sheet. Fact to be noted here, the respondent No.2 & 3 being owners of tractor-trailers involved in an accident and the respondent No.1 being the driver of the tractor-trailer involved in the accident, though both of them have filed their objections to the main petition but they have not taken any pain to enter into the witness box and adduced evidence on their behalf. Further, nowhere in their objections they have not whispered any single word regarding the possessing of valid and effective driving licence by respondent No.1 as on the date of accident. Further in the present case on hand, the respondent No.3 has entered into the witness box and examined himself as RW.2 and examined RW-1 who Dr. Kiran H.Y, but not produced any single document to prove his contention.

18. Further as stated supra, in the present case on hand, the respondent No.1 & 2 have not entered into the witness box and not produced any materials before the court to show that as on the date of accident, the respondent No.1 was holding valid and effective driving licence to drive the tractor-trailer. Accordingly, I am of the opinion that, the driver of the offending vehicle was not having valid & effective driving licence to drive the above said

vehicle and the said vehicles were not insured at the time of accident.. **Hence I answer Issue No.1 in the Affirmative.**

19. Issue No.2:- Entitlement of petitioner to claim compensation can be assessed and determined under following heads:

Coming to the aspect of assessment of compensation, the petitioner, who is examined as PW-1, in his evidence has stated that, immediately after an accident, he was shifted to City Central hospital Davanagere. The petitioner contended, he had spent an huge amount for his treatment. As such he has prayed for compensation of a sum of Rs.3,00,000/-.

20. The petitioner in order to show that, he has sustained injuries in an accident relied on wound certificate as per Ex.P.5 and Ex.P8 and Ex.P9 discharge summaries issued by City Central hospital, Davanagere, wherein it is mentioned that, the petitioner has sustained **A/H/O RTA Grade III Liver Injury with Lefort III, Left 2 MC, Mandible with RIBS and LEFOT III Fracture, Mandible Fracture and grievous on all over the body.** In wound certificate it is mentioned injuries are simple and grievous in nature.

21. It is pertinent to note that, compensation in an injury case can never be granted on mathematical precision. A good amount of guesswork is always involved while determining the compensation in bodily injury cases. It has been held in number of

cases that in serious bodily injury cases, the amount of compensation, sometimes, is much higher, as compared to fatal cases. In a fatal case, the victim dies and money goes into the hands of survivors, whereas in case of a permanent disability or serious bodily injury, the victim is left to suffer for the entire life and all these circumstances combined together may reduce his life to lowest ebb of poverty and distress. Under this social legislation, a Tribunal is under statutory obligation to award such compensation to a victim of permanent disability so as to enable him to sustain himself and he has not to beg to lead his life. Compensation is based on two aspects i.e., pecuniary and non-pecuniary damages. While the former pertains to actual loss sustained by the petitioners which can be calculated precisely in terms of money and which requires specific oral or documentary evidence, the latter i.e., non-pecuniary damages pertain to those losses which cannot be calculated accurately in terms of the money and also which cannot be proved by way of any documentary evidence but have only to be assessed on the basis of material on record. The compensation in such cases are required to be granted for pecuniary as well as non-pecuniary loss. The compensation for bodily injury is based on the premises that body injury is a deprivation to the injured to lead a normal and healthy life and he is entitled to be compensated for the same. The amount of compensation varies according to the nature of the injuries. In the present case, the compensation is awarded to the petitioner under different heads as under:

22. Towards pain & suffering:-

The first medical record relied upon by PW.1 is his wound certificate at Ex.P5 and Ex.P8 and Ex.P9 which are the discharge summaries. On perusal of the same, it can be seen that from 15.12.2022 to 19.12.2022 i.e., in total 05 days and on 01.01.2023 1 day and the petitioner has been admitted as inpatient in the City Central hospital, Davanagere. Having regard to nature of injuries as sustained by petitioner, it can be said that he must have undergone some amount of physical pain and suffering for which an award of **Rs.20,000/-** can be held to be a just and reasonable sum under this head.

23. Towards Medical expenses:-

Admittedly the petitioner has taken treatment in City Central hospital, Davanagere. He has produced Medical bills as per Ex.P10 and Ex.P13. Total amount as mentioned in Medical bills comes to Rs.1,80,087/- + Rs.885/-. Hence, petitioner is entitled for total amount of Rs.1,80,972/- under this particular head.

24. Towards diet, food, nourishment, attendant and conveyance charges etc.:-

As stated supra, in the present case on hand, discharge summary has been produced at Ex.P8 and Ex.P9 which demonstrates that from 15.12.2022 to 19.12.2022 and on 01.01.2023, he was admitted as inpatient in City Central hospital, Davanagere. Further as per Ex.P5 wound certificate issued by City Central hospital, Davanagere demonstrates that simple and

grievous injuries. Further, the petitioner took treatment as inpatient about 6 days. Hence he is entitled Rs.2,400/- (Rs.400 X 6 days) towards laid up period. The petitioner when sustained injury he is unable to discharge his own work without any assistant. Hence, he is entitled Rs.2,400/- (Rs.400 X 6 days) towards attendance charge.

25. Towards loss of income during laid-up period: -

According to PW-1 prior to the accident he was agriculturist, he used to earn Rs.30,000/- p.m. In order to prove his income petitioner has not produced any material. As per the guidelines issued KSLSA, Bangalore dated 26-02-2022 the notional income for the year 2022 has been mentioned as Rs.15,500/- for the courts coming under Hon'ble High Court of Karnataka, Principle Bench, Bangalore. Accordingly the notional income of the petitioner in the year **2022**, the petitioner might have earned Rs.15,500/- per month. Having considered the injuries sustained by petitioner as mentioned in Ex.P5 and also Ex.P8 and Ex.P9 i.e., wound certificate and discharge summaries, this court is of the opinion that, he might have taken rest for one month due to injuries sustained by him in an accident. Hence, petitioner is entitled for **Rs.15,500/-** under this particular head.

26. Towards loss of future earning capacity on account of Permanent Physical Disability:-

PW.1 has alleged that, the accidental injuries have rendered him permanently disabled. In order to substantiate same, the petitioner has produced disability certificate as per Ex.P12. He has

produced wound certificate as per Ex.P5 and discharge summaries as per Ex.P8 and Ex.P9. The petitioner has examined one Dr. Nitin A. B. as PW.2 who has treated the petitioner. The PW.2 in his examination-in-chief has deposed that he has treated the petitioner and he has given disability of 35%. In the chief-examination PW.2 Doctor has not mentioned how disability has been calculated. Further, in the present case on hand, the petitioner has produced the disability certificate before this court which has been marked as Ex.P12. Considering all these facts, disability as mentioned by PW2 is on higher side. Considering all these aspects disability of petitioner would be 1/3rd of 35% will be 12% compare are to his whole body.

27. In the present case on hand, the petitioner was working as a agricultural and he used to earn Rs.30,000/- per month. It is pertinent to note that in order to prove the income of the petitioner, he has not produced any single piece of document. Further, he has not taken any pain to examined to prove his contention. In the absence of the above said material. The notional income of the petitioner for the year 2022 to be considered as Rs.15,500/- per month as per the directions given by KSLSA, Bangalore dated 26.02.2022. Accordingly his yearly income would be Rs.1,86,000/-. As per wound certificate and other documents, age of petitioner is mentioned as 45 years. If age of petitioner as on date of accident is 45 as admitted by him, as per table given in **Sarala Verma case, the multiplier would be 14.** Hence, loss of future earning on account of disability would be $\text{Rs.15,500} \times 12 \times 14 \times 12\% = \text{Rs.3,12,480/-}$, if same is multiplied by

14 it would be Rs.3,12,480/-. Under this head the petitioner is entitle for an amount of **Rs.3,12,480/-**.

28. Towards loss of amenities and enjoyment of life:-

As petitioner has suffered **A/H/O RTA Grade III Liver Injury with Lefort III, Left 2 MC, Mandible, With RIBS and Lefot III Fracture, Mandible Fracture and grievous on all over the body**, he may not be able to work in the same manner as he was doing before. This feeling of deprivation will certainly cause mental stress and agony which take away the enjoyment and amenities in life. So considering his injury, I further grant him **Rs.20,000/-** under this head.

29. Thus the petitioner shall be awarded compensation amount under following head as mentioned below:-

1	Towards Pain suffering	Rs. 20,000/-
2	Towards Medical Expenses	Rs. 1,80,972/-
3	Towards Diet and attendant charges	Rs. 4,800/-
4	Towards loss of income during laid-up period	Rs. 15,500/-
5	Towards loss of future earning capacity	Rs.3,12,480/-
6	Towards loss of Amenities	Rs. 20,000/-
	TOTAL:	Rs.5,53,752/-
	W Which rounded of	Rs.5,53,760/-

30. The respondent No.1 is the driver, respondent No.2 & 3 are the owner of the tractor-trailer vehicle, bearing its No.KA-17/TA-0105, trailer No.KA-17/T-2661 and another trailer No. KA-17/TC-0646. In the present case on hand fact to be considered is that the respondent No.2 & 3 being the owners of the offending vehicles have entrusted the said vehicle to the respondent No.1 with all knowledge that he is not having valid driving license to drive the above said vehicle. The Charge sheet produced by the petitioners at Ex.P7 shows that the driver of the tractor-trailer vehicle, bearing its No.KA-17/TA-0105, trailer No.KA-17/T-2661 and another trailer No. KA-17/TC-0646 did not have driving license and the respondent No.2 & 3 have not insured the above said offending vehicles at the time of the accident. Hence, it is necessary to ascertain if the liability is to be fixed on the owner of the tractor-trailer or on the insurance company. At this juncture, I would like to place reliance on the judgments as under;

1) Hon'ble Supreme Court of India reported in 2004 (3) SCC 297 between National Insurance Company Vs. Swaran Singh and others, wherein it is held that, "Under the Motor Vehicles Act, holding of a valid driving licence is one of the conditions of contract of insurance. Driving of a vehicle without a valid licence is an offence. However, the question herein is whether a third party involved in an accident is entitled to the amount of compensation granted by the Motor Accidents Claims Tribunal although the driver of the vehicle at the relevant time might not have a

valid driving licence but would be entitled to recover the same from the owner or driver thereof. It is trite that where the insurers relying upon the provisions of violation of law by the assured takes an exception to pay the assured or a third party, they must prove a wilful violation of the law by the assured. In some cases violation of criminal law, particularly, violation of the provisions of the Motor Vehicles Act may result in absolving the insurers but, the same may not necessarily hold good in the case of a third party. In any event, the exception applies only to acts done intentionally or "so recklessly as to denote that the assured did not care what the consequences of his act might be".

“WHEN ADMITTEDLY NO LICENCE WAS OBTAINED BY A DRIVER: We have analysed the relevant provisions of the said Act in terms whereof a motor vehicle must be driven by a person having a driving licence. The owner of a motor vehicle in terms of Section 5 of the Act has a responsibility to see that no vehicle is driven except by a person who does not satisfy the provisions of Section 3 or 4 of the Act. In a case, therefore, where the driver of the vehicle admittedly did not hold any licence and the same was allowed consciously to be driven by

the owner of the vehicle by such person, the insurer is entitled to succeed in its defence and avoid liability. The matter, however, may be different where a disputed question of fact arises as to whether the driver had a valid licence or where the owner of the vehicle committed a breach of the terms of the contract of insurance as also the provisions of the Act by consciously allowing any person to drive a vehicle who did not have a valid driving licence. In a given case, the driver of the vehicle may not have any hand at all, e.g. a case where an accident takes place owing to a mechanical fault or vismajor.”

In the said judgment, the Hon'ble Supreme Court of India gave summary of findings as under;

(i) Chapter XI of the Motor Vehicles Act, 1988 providing compulsory insurance of vehicles against third party risks is a social welfare legislation to extend relief by compensation to victims of accidents caused by use of motor vehicles. The provisions of compulsory insurance coverage of all vehicles are with this paramount object and the provisions of the Act have to be so interpreted as to effectuate the said object.

(ii) Insurer is entitled to raise a defence in a claim petition filed under Section 163 A or Section 166 of the Motor Vehicles Act, 1988 inter alia in terms of Section 149(2)(a)(ii) of the said Act.

(iii) The breach of policy condition e.g., disqualification of driver or invalid driving licence of the driver, as contained in subsection (2)(a)(ii) of section 149, have to be proved to have been committed by the insured for avoiding liability by the insurer. Mere absence, fake or invalid driving licence or disqualification of the driver for driving at the relevant time, are not in themselves defences available to the insurer against either the insured or the third parties. To avoid its liability towards insured, the insurer has to prove that the insured was guilty of negligence and failed to exercise reasonable care in the matter of fulfilling the condition of the policy regarding use of vehicles by duly licensed driver or one who was not disqualified to drive at the relevant time.

(iv) The insurance companies are, however, with a view to avoid their liability must not only establish the available defence(s) raised in the said proceedings but must also establish breach' on the part of the owner of the

vehicle; the burden of proof wherefore would be on them.

(v) The court cannot lay down any criteria as to how said burden would be discharged, inasmuch as the same would depend upon the facts and circumstance of each case.

(vi) Even where the insurer is able to prove breach on the part of the insured concerning the policy condition regarding holding of a valid licence by the driver or his qualification to drive during the relevant period, the insurer would not be allowed to avoid its liability towards insured unless the said breach or breaches on the condition of driving licence is/ are so fundamental as are found to have contributed to the cause of the accident. The Tribunals in interpreting the policy conditions would apply "the rule of main purpose" and the concept of "fundamental breach" to allow defences available to the insured under section 149(2) of the Act.

(vii) The question as to whether the owner has taken reasonable care to find out as to whether the driving licence produced by the driver, (a fake one or otherwise), does not fulfill the requirements of law or not will have to be determined in each case.

(viii) If a vehicle at the time of accident was driven by a person having a learner's licence, the insurance companies would be liable to satisfy the decree.

(ix) The claims tribunal constituted under Section 165 read with Section 168 is empowered to adjudicate all claims in respect of the accidents involving death or of bodily injury or damage to property of third party arising in use of motor vehicle. The said power of the tribunal is not restricted to decide the claims inter se between claimant or claimants on one side and insured, insurer and driver on the other. In the course of adjudicating the claim for compensation and to decide the availability of defence or defences to the insurer, the Tribunal has necessarily the power and jurisdiction to decide disputes inter se between insurer and the insured. The decision rendered on the claims and disputes inter se between the insurer and insured in the course of adjudication of claim for compensation by the claimants and the award made thereon is enforceable and executable in the same manner as provided in Section 174 of the Act for enforcement and execution of the award in favour of the claimants.

(x) Where on adjudication of the claim under the Act the tribunal arrives at a conclusion that the insurer has satisfactorily proved its defence in accordance with the provisions of section 149(2) read with subsection (7), as interpreted by this Court above, the Tribunal can direct that the insurer is liable to be reimbursed by the insured for the compensation and other amounts which it has been compelled to pay to the third party under the award of the tribunal. Such determination of claim by the Tribunal will be enforceable and the money found due to the insurer from the insured will be recoverable on a certificate issued by the tribunal to the Collector in the same manner under Section 174 of the Act as arrears of land revenue. The certificate will be issued for the recovery as arrears of land revenue only if, as required by subsection (3) of Section 168 of the Act the insured fails to deposit the amount awarded in favour of the insurer within thirty days from the date of announcement of the award by the tribunal.

(xi) The provisions contained in subsection (4) with proviso thereunder and subsection (5) which are intended to cover specified contingencies mentioned therein to enable the insurer to recover amount paid under

the contract of insurance on behalf of the insured can be taken recourse of by the Tribunal and be extended to claims and defences of insurer against insured by relegating them to the remedy before regular court in cases where on given facts and circumstances adjudication of their claims inter se might delay the adjudication of the claims of the victims. 2) Hon'ble High Court of Karnataka reported in 2022 Live Law (KAR) 421 between A. Banuprakash Vs. Thimma Shetty and others, wherein it is held that, "When the claimants/ the victims of the motor accident are third parties, then rights of the third party is statutorily protected as per sub section (1) of Section 149 of the M.V. Act. Therefore, this right of the third party cannot be fluctuated or oscillated according to the conduct of the owner or any other parties." It added, " The owner may contest the claim petition or not, or may prefer an appeal or may not prefer appeal, that cannot decide the rights of a third party. The principle of pay and recovery is a beneficial provision to the victims who are third parties. The Motor Vehicle Act is a beneficial legislation to the claimants being third party who are sufferers of the motor vehicle accident. They are not concerned with whether the owner has

contested or not contested before the Tribunal or in the appeal. But the paramount thing is to be considered is the rights of the third parties are to be protected as per Statute.”

31. However in the instance case as per the police documents it is crystal clear that the respondent No.2 & 2 being the owners of the offending vehicles with all knowledge has handed-over the offending vehicle to the respondent No.1 who is not having driving license. Further, at the time of accident the offending vehicles were not insured.

32. I would like to rely on the decisions as follows:-

1. Hon’ble High Court of Karnataka between Smt. Adilakshamma and others V/s Raju B. and another in MFA No.3297/2019, dated 13-04-2023,

2. MFA No.6154/2019 (MV) Hon’ble High court of Karnataka dated 14-12-2023.

3. MFA No.9827/2012 (MV) Hon’ble High court of Karnataka dated 12-01-2024.

4. MFA No.3288/2013 (MV) Hon’ble High court of Karnataka dated 29-01-2024.

5. MFA No.2014/2014 (MV) Hon’ble High court of Karnataka dated 15-04-2024.

6. MFA No.3390/2015 (MV) Hon'ble High court Karnataka dated 22-04-2024.

33. The dictum of the above decisions is as follows:-

“The respondent No.1 owner who who consciously handed-over his vehicle to a person who did not possess Driving Licence, cannot take the benefit of his own wrong, and the Insurance Company is entitled to raise a defense under Section 149(2) of M.V. Act. Admittedly in the instant case, respondent No.1 Insured did not chose to contest the matter and it is evident from the records, especially the reply given by respondent No.1/owner, that rider, was not possessing valid and effective Driving Licence. Under such circumstances, the Insurance company cannot be fastened with liability of pay and recover when there is clear; breach of policy conditions and liability to pay compensation is on respondent No.1/owner himself.”

34. The above decisions are aptly applicable to the present case on hand the liability is to be fixed on respondent NO.1 to 3 jointly to pay compensation to the present petitioner herein. Therefore, respondent No.1 being the driver of the offending vehicle and respondent no.2 & 3 being the owners of the offending vehicles are jointly and severally liable to pay compensation amount of Rs.5,53,760/- with interest at the rate of 6% p.a. from the date of petition till realization. **Accordingly, I answered issue No.2 partly in the affirmative.**

35. Issue No.3:- In view of my above said observation and findings, I proceed to pass the following:-

-:: O R D E R ::-

✍. The claim petition filed by the petitioner U/s 166 of M.V Act is hereby partly allowed with costs.

✍. The petitioner is hereby held entitled to the compensation of Rs.5,53,760/- (Rupees Five Lakhs Fifty Three thousand Seven hundred Sixty only) together with interest at the rate of 6% p.a from the date of the claim petition, till the date of realization of the amount.

✍.The respondent No.1 to 3 being the driver and owners of the offending vehicles and they are jointly and severally liable to pay the compensation amount. Hence respondent No.1 to 3 shall deposit the said compensation amount within 01 month.

✍.The advocate fee is fixed at Rs.1,000/-.

✍. Draw award accordingly.

(Judgment dictated to stenographer, directly on computer and typed by her, corrected and pronounced by me in the open court on this the 15th day of June - 2026)

(M. Mahesh Babu)
Prl. Senior Civil Judge
& Addl. MACT-IV, Davanagere.

-:: ANNEXURE ::-**Witnesses examined for the Petitioner:-**

PW1	Ravinaik
PW2	Dr. Nithin A.B.

Witnesses examined for the Respondents:-

RW-1	Dr. Kiran H.Y.
RW-2	Murigesh.

Documents exhibited by the Petitioners:-

Ex.P1	Complaint
Ex.P2	FIR
Ex.P3	Spot Mahazar
Ex.P4	Seizure mahazar
Ex.P5	Wound certificate
Ex.P6	IMV report
Ex.P7	Charge-sheet
Ex.P8 & 9	Discharge summaries
Ex.P10	Medical bills (Nos. 38)
Ex.P11	OPD card
Ex.P12	Disability certificate
Ex.P12(a)	Signature of PW-2
Ex.P13	Medical bills
Ex.P14	X-ray film

Documents exhibited by the Respondents:-

Ex.R1	MLC register extract
Ex.R2	Case-sheet of the petitioner.

(M. Mahesh Babu)
Prl. Senior Civil Judge
& Addl. MACT-IV, Davanagere.

(Judgment pronounced in open Court, vide separate order)

:ORDER:

✓. The claim petition filed by the petitioner U/s 166 of M.V Act is hereby partly allowed with costs.

✓. The petitioner is hereby held entitled to the compensation of

Rs.5,53,760/- (Rupees Five Lakhs Fifty Three thousand Seven hundred Sixty only) together with interest at the rate of 6% p.a from the date of the claim petition, till the date of realization of the amount.

✍.The respondent No.1 to 3 being the driver and owners of the offending vehicles and they are jointly and severally liable to pay the compensation amount. Hence respondent No.1 to 3 shall deposit the said compensation amount within 01 month.

✍.The advocate fee is fixed at Rs.1,000/-.

✍. Draw award accordingly.

**(M. Mahesh Babu)
Pri. Senior Civil Judge
& Addl. MACT-IV, Davanagere.**