

KADG310006142018



Presented on : 17-11-2018
Registered on : 17-11-2018
Decided on : 20-07-2026
Duration : 07 years, 08 months, 03 days

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND MACT
VIII, HARIHAR**

PRESENT: Smt. Padmashri A. Munnoli,
B.A.L, LL.B.
SENIOR CIVIL JUDGE AND
MACT VIII, HARIHAR

Dated this the 20th day of July, 2026

M.V.C. No. 935/ 2018

PETITIONER:

- Petitioner:
1. Vinayaka, S/o Jayappa, (Aged about 17 Years) Aged about 21 years, , R/o K. Bevinahalli village, Harihar taluk, now residing in Chirastehalli village, Harapanahalli taluk, Davangere District.
 2. Basamma, W/o Jayappa, Aged about 40 years, Household worker, R/o K. Bevinahalli village, Harihar taluk, now residing in Chirastehalli village, Harapanahalli taluk, Davnagere District.

The petitioner No.1 is minor, he is under care and custody of his natural mother who is petitioner No.2. The petitioner No.2 represents the minor petitioner No.1 as a next friend.

(By Sri. M. Nagendrappa, Adv)

-Versus -

RESPONDENTS:

- Respondents:
1. Gopal T., S/o Teerthappa, Aged about 36 years, Owner of bike No. KA-17-EF-3522, R/o Vasana village, Harihar taluk, Davangere District
 2. Chandan Kumar, S/o Kuberappa, Aged about 18 years, Student, R/o Vasana village, Harihar taluk, Davangere District.
 3. Kuberappa Tombali, Aged about 50 years, Agriculturist, R/o Vasana village, Harihar taluk, Davangere District.

The respondent No.2 is minor, his father respondent No.3 represents him as a guardian.

As per the Hon'ble court orders on IA, the respondent No.3 is appointed as a guardian to the respondent no.2.

(R.1 to 3 by Sri. N. Prakasha, Adv.)

=====

:J U D G M E N T:

The present petition is filed by the petitioner against the respondents No.1 to 3 U/s.166 of Motor Vehicles Act, seeking a total compensation amount of Rs.10,00,000/- with interest at the rate of 18% p.a. in respect of injuries suffered by him in a road traffic accident, which took place on 21.02.2018.

2. Brief facts of the case are as under:-

The petitioner avers that on 21.02.2018 at around 7.30 p.m. on Banuvalli – Nandigudi road near the government school of Kadaranayakanahalli village, the petitioner along with others was going for a padayatra of one Basaveshwara Jatre of Abbalur village. That near the said school when petitioner and others were walking by the side of the tar road, on the left side of the road, at that time the rider of the motorcycle bearing Reg. No. KA-17-EF-3522 is averred to have come on a high speed and in a rash and negligent manner and dashed against the petitioner. That as a result of the accident petitioner sustained grievous injuries. Petitioner was first

taken to C.G. Hospital, Davangere and later shifted to A.J. Hospital, Mangalore for further treatment. That petitioner took treatment at the said A.J. Hospital from 24.02.2018 upto 03.03.2018. That a surgery was also conducted on the petitioner at the said hospital. That Rs.1,00,000/- is spent for the treatment of petitioner. That now petitioner is unable to walk and also unable to chew food. Till date petitioner is under treatment. That the petitioner because of the accidental injuries has suffered a permanent disability.

3. That at the time of accident petitioner was aged around 16 years and was a student. That respondent No.1 is the owner of the offending motorcycle. That respondent No.2 was a minor at the time of accident and respondent No.3 is the minor guardian. That the respondents are jointly and severally liable to pay the compensation.

4. In pursuance of the petition notices issued respondent No.1 to 3 appeared through their counsel. Respondent No.3 filed the statement of objections and

same is adopted by respondent No.1 and 2 by a memo.

5. Respondent No.3 denied the petition averments. The occurrence of the accident due to negligence of respondent No.2 is denied. It is contended that the petitioner in collusion with the concerned police got registered a false complaint against the respondent No.2. That the motorcycle of respondent No.1 is falsely implicated in the accident. That no damages were caused to the motorcycle and if at all the accident had taken place, then the motorcycle would have been damaged. That only to get compensation a false story is created. Hence, it was prayed that the petition be dismissed.

6. On the basis of above pleading, the following issues have been framed:

1. Whether the petitioner proves that, he sustained grievous injuries in the road traffic accident which took place on 21.02.2018 at around 7.30 p.m. on Bhanuvalli – Nandigudi road, due to rash and negligent act of the rider of the

motorbike bearing Reg. No.KA-17-EF-3522?

2. Whether the petitioner is entitled for compensation? If so to what extent?
3. What order or award?

7. Thereafter, in order to prove his case, the petitioner got himself examined as PW.1. The doctor who issued the disability certificate on commission is examined as PW.2. Ex.P.1 to 31 are marked for the petitioner. Respondent No.3 got himself examined as RW.1.

8. Heard, Perused the material 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.....

:R E A S O N S:

10. Issue No.1:- In order to prove that he has sustained grievous injuries in the road traffic accident which took place on 21.02.2018 due to rash and negligent act of respondent No.2, the petitioner got himself examined as PW.1. The doctor who was issued the disability certificate on commission is examined as PW.2. Ex.P.1 to 31 are marked for the petitioner. Respondent No.3 got himself examined as RW.1.

11. PW.1 in his examination-in-chief affidavit has reiterated the contents of the petition averments. In the cross-examination PW.1 states that he was aged around 16 years at the time of accident. He states that his parents gave the complaint in respect of the accident. That the accident occurred when he was going on a padayatra. On being questioned that the complaint was not immediately lodged on the date of accident, the petitioner has answered that he was not in a position to speak at that time. On being suggested that many vehicles ply on Yakkegundi-

Nandigudi road, PW.1 has answered that the accident occurred in the evening. He states that the rider of the motorcycle after dashing against him, the rider also fell down. He denies the suggestion that the accident was caused by unknown vehicle.

12. Respondent No.3 is examined as RW.1. In the cross-examination RW.1 denies the suggestion that CC No. 826/2018 was registered against him and he has paid the fine. He denies the suggestion that a chargesheet was filed before the Juvenile Justice Board against his son and his son has also paid the fine. He denies the suggestion that only to avoid giving of a compensation he is deposing falsely that no accident occurred due to negligence of his son.

13. Learned counsel for petitioner would argue that petitioner sustained grievous injuries in the accident. He is unable to speak properly. That there is a permanent disability caused to the petitioner. That respondent No.2 was a minor at the time of accident. That it is respondents who are liable to pay the compensation.

14. Learned counsel for respondents would argue that the vehicle of respondent No.1 is falsely implicated in this petition. That there was no negligence on the part on the respondent No.2. Hence, it was prayed that the petition be dismissed.

15. PW.1 in the cross-examination has clearly stated that the accident occurred in the evening while he was going on a Padayatra. PW.1 has also answered that even the rider of the motorcycle fell down after the accident. Ex.P.1 is the copy of the FIR which discloses that the accident has occurred on 21.02.2018 and the complaint is lodged on 08.03.2018. In the complaint given by one Arun D.G., in Ex.P.2 it is stated that on 21.02.2018 at around 5.30 p.m. they started the padayatra from Bhanuvalli village to go towards Abaluru village of Hirekerur. That near the school of Kadaranayakanahalli, the rider of the motorcycle bearing Reg. No. KA-17-EF-3522 came on a high speed and dashed against the petitioner. That the petitioner was first taken to Chigateri Hospital, later

shifted to A.J. Hospital of Mangalore. That as the persons on behalf of the rider intimated that they will bear the medical expenses and requested not to lodge police complaint, hence the complaint was not lodged. That the hospital bills were exorbitant and as the rider of the offending vehicle failed to compensate, there is a delay in lodging the complaint. Ex.P.6 is the wound certificate of the petitioner which shows that he was admitted to A.J. Hospital, Mangalore on 24.02.2018 and discharged on 03.03.2018. In Ex.P.6 there is mention about history of road traffic accident. Ex.P.7 is the chargesheet filed by the concerned police. In the chargesheet there is mention about rider being the minor. Respondent No.3 is shown as accused No.2. If Ex.P.6 is considered, it can be seen that petitioner sustained grievous injuries in the accident thereafter he was taken to Mangalore for treatment. Therefore, if these aspects are considered, it probabalizes the fact that, it might have caused a delay in lodging the complaint. Though respondent No.3 denies the suggestion that no accident was caused due to negligence of respondent No.2, but, the

concerned police after investigation have filed the chargesheet against respondent No.2 and also respondent No.3. Therefore, from the material available on record, the petitioner has established that he sustained grievous injuries in the accident due to rash and negligent act of respondent No.2. Accordingly, for these reasons I answer **issue No.1 in the Affirmative.**

16. Issue No.2: The petitioner has established that he suffered injuries in the accident due to rash and negligent act of respondent No.2, who was a minor at the time of the accident.

17. Ex.P.6 is the wound certificate of the petitioner. The same is issued by A.J. Hospital of Mangaluru. The injuries mentioned are: 1) contusion on the left side of the lower face with underlying fracture of condyle of mandible and tympanic plate with dento-alveolar fracture with fracture of right upper incisor and canine teeth. 2) Fracture of tibia of the right leg. Therefore, if this Ex.P.6 is considered, it can be seen that petitioner suffered grievous

injuries in the accident. The cross-examination by respondent's side, PW.1 denies the suggestion that he suffered simple injuries in the accident.

18. PW.2 is the doctor who has issued the disability certificate at Ex.P.8.

19. Ex.P.6 is the wound certificate of petitioner. Ex.P.25 is the discharge summary of A.J. Hospital, Mangaluru, which discloses that petitioner got admitted to the said hospital on 24.02.2018, he is discharged on 03.03.2018. In Ex.P.25 there is mention about fracture of the right fibula bone and also of mandible fracture.

20. Petitioner is averred to be aged around 17 years at the time of accident. The petitioner has produced his study certificate along with IA No.13, for discharge of minor guardian, wherein the date of birth is mentioned as 23.06.2002. Therefore, if this study certificate is considered petitioner can be said to be around 16 years at the time of the accident. Therefore, as per Sarala Verma's case, the multiplier applicable will be 18. As petitioner is aged above 15

years, the notional income will have to be considered at Rs.12,500/- as per the chart of KSLSA as per letter dated; 30.06.2026.

21. Therefore, as petitioner has established that he sustained grievous injuries in the accident, he is entitled for compensation under the following heads. Hence, I proceed to determine compensation under the following heads:

22. PAIN AND SUFFERING:- Ex.P.6 is the wound certificate of PW.1 which discloses that petitioner suffered a fracture of the right fibula bone and also mandible fracture. The accident has taken place on 21.02.2018. The discharge summary of A.J. Hospital at Ex.P.25 discloses that he took treatment at the said hospital upto 03.03.2018. Also petitioner has produced documents to have taken treatment at Manipal hospital, as per Ex.P.31 and as per Ex.P.13, petitioner was first taken to the district hospital of Davangere on 21.02.2018. As such considering the said fact, petitioner is entitled for a sum of Rs.30,000/- towards the head of pain and suffering.

23. LOSS OF INCOME DURING LAID UP

PERIOD:- Ex.P.6 is the wound certificate which discloses that there are fractures suffered by PW.1.

24. PW.1 suffered fracture of the right fibula and also there is a mandible fracture. Therefore, if the said fact is considered, petitioner might have taken rest for about 6 months. Therefore, petitioner is entitled for a sum of Rs.12,500/- X 6 = 75,000/- under the said head.

25. COMPENSATION FOR DISABILITY, LOSS OF FUTURE EARNINGS, HAPPINESS AND FUTURE AMENITIES:

PW.2 the doctor has spoken about he issuing the disability certificate as per Ex.P.8. He has assessed the disability at 30%. The accident has taken place in the year 2018, for disability, petitioner is examined on 26.11.2022, same is merely after 4 years from the date of accident. PW.2 in the cross-examination admits that he is not the treated doctor. He has also not stated how the disability affects the petitioner but, only in Ex.P.8 states that there is functional disability

of 30%. Admittedly, the petitioner was a student at the time of accident. Therefore, the said fact will also have to be appreciated. Considering the fact that petitioner suffered fracture of the mandible and also fracture of the fibula, in my opinion the disability can be taken up at 8% to the whole body. As petitioner was aged around 16 years at the time of accident, the multiplier applicable will be, 18 as settled by the Hon'ble Supreme court in the case of Sarla Verma and others -Vs- Delhi Transport Corporation (2009) 6 SCC 121. It is already observed that, the monthly income of the petitioner at the time of accident would have been Rs.12,500/- per month. Hence, petitioner is entitled for compensation of **Rs.2,16,000/-** (**Rs.12,500 x 12 x 18 x 8/100 = Rs.2,16,000/-** towards future income on account of permanent disability).

26. MEDICAL EXPENSES INCLUDING EXTRA FOOD FOR NOURISHMENT, ATTENDANT CHARGES, CONVEYANCE CHARGES AND OTHER INCIDENTAL EXPENSES:- PW.1 has produced

medical bills at Ex.P.12 and 31. Therefore, from the acceptable medical bills petitioner appears to have spent around Rs.52,632/- for his treatment.

27. As petitioner was said to be inpatient from 21.02.2018 to 03.03.2018, in my opinion the petitioner might have spent for attending charges, food towards nourishment for speedy recovery, conveyance charges in making trips to hospital during laid up treatment and other incidental expenses. As such, in my opinion grant of an amount of Rs.1,00,000/- under this head would be just and proper. Thus the total award stands as follows;

Pain and suffering.	:	30,000/-
Loss of income during laid up period	:	75,000/-
Loss of future earning and amenities.		2,16,000/-
Medical and incidental expenses.	:	1,00,000/-
Total	:	4,21,000/-

28. Therefore, petitioner is entitled for a total compensation of Rs. 4,21,000/-. The accident having taken place in the year 2018 and considering the fact of the time taken to lead evidence and other aspects, in my opinion awarding of interest at the rate of 6% p.a. on the compensation awarded from the date of petition till realization will be just and proper. Accordingly, for these reasons, I answer **issue No.2 partly in the Affirmative.**

Regarding Liability:

29. Respondent No.1 is the owner of the offending vehicle. Respondent No.2 was a minor at the time of accident and respondent No.3 is the minor guardian. Therefore, respondents No.1 to 3 are jointly and severally liable to pay the compensation.

30. Issue No.3 - For findings given on the above said issues and reasons discussed therein I proceed to pass the following:-

ORDER

The petition filed by the petitioner U/Sec.166 of Motor Vehicles Act, 1988 is hereby allowed in part with costs.

The petitioner is entitled for a total compensation of Rs.4,21,000/- (Rupees Four Lakhs Twenty One Thousand Only) with interest at the rate of 6% p.a. from the date of petition till the realization.

Respondent No.1 to 3 are jointly and severally liable to pay the above award amount.

Respondent No.1 to 3 are directed to deposit the said award amount within 3 months from the date of award.

On deposit of the award amount, 50% shall be released in favour of petitioner by creating a recipient I.D. as per Khajane-2 after due verification and remaining 50% shall be kept as a fixed deposit in any nationalized bank of the choice of petitioner for a period of 3 years, but however, the petitioner can withdraw the periodical interest that would accrue on the said deposit.

The Advocate fees is fixed at Rs.500/-.

Draw Award accordingly.

(Smt. Padmashri A. Munnoli)
Sr. Civil Judge and VIII MACT, Harihar

(Part of dictation dictated to the stenographer, transcribed and typed by him and part of dictation dictated to the Stenographer directly on computer, corrected and signed by me, then pronounced in the open court on this the 20th day of July 2026).

(Smt. Padmashri A. Munnoli)
Sr. Civil Judge and VIII MACT, Harihar

ANNEXURE

Witness examined for the petitioner/s:

P.W.1 : Vinayaka
P.W.2 : Dr. Nithin A.B.

Documents marked for the petitioner/s:

Ex.P.1 : True copy of FIR
Ex.P.2 : True copy of FIS
Ex.P.3 : True copy of spot panchanama
Ex.P.4 : True copy of vehicle panchanama
Ex.P.5 : True copy of motor vehicles accident report
Ex.P.6 : True copy of wound certificate
Ex.P.7 : True copy of chargesheet
Ex.P.8 : Disability certificate of MR. Vinayaka
Ex.P.8(a) : Signature of Dr. Nithin A.B.
Ex.P.9 : X - ray
Ex.P.10 & : RTC extracts
11
Ex.P.12 : Medical bills (68 Nos.)
Ex.P.13 : Outpatient record

- Ex.P.14 : Progress report
Ex.P.15 : Dr. Prescriptions (10 Nos.)
Ex.P.16 : Lab test given by doctor
Ex.P.17 : Laboratory report
Ex.P.18 : Two Consultation records
Ex.P.19 : Two prescriptions
Ex.P.20 : Out patient record
Ex.P.21 : OPD initial assessment
Ex.P.22 : Prescription
Ex.P.23 : Lab report
Ex.P.24 : Progress sheet
Ex.P.25 : Discharge summary
Ex.P.26 : X-ray films (11 Nos.)
Ex.P.27 : Copy of College certificate
Ex.P.28 : Copy of Aadhar card of Chandan Kumar
Ex.P.29 : RTC extracts (2 Nos.)
and 30
Ex.P.31 : Bus bills, doctor prescriptions and bills

Witnesses examined for the respondent/s:

RW.1 : Kuberappa Thambali

Documents marked for the respondent/s:

- Nil -

(Smt. Padmashri A. Munnoli)
Sr. Civil Judge and VIII MACT, Harihar