

KADW050048252022



Presented on : 15-07-2022
Registered on : 15-07-2022
Decided on : 06-07-2026
Duration : 3 years, 11 months, 22 days.

THE COURT OF IV ADDL. SENIOR CIVIL JUDGE &

ADDL. M.A.C.T., DHARWAD.

Present : **SRI.RANGASWAMY J,**
B.A.L., LL.M.,
IV Addl. Senior Civil Judge,
& Addl. M.A.C.T., Dharwad.

MVC No.428/2022

Dated this the 6th day of July 2026

Petitioner: Sri.Sharifsab S/o Husensab Sunkad
Age : 52 years, Occ : Mason,
R/o : Rajivgandhi Nagar, Lakamanahalli,
Dharwad – 580004.

(R/by Sri.R.R.K, Adv)

Vs.

Respondents: 1. Sri.Sayyad S/o Babusab Surkod
Age: 33 Years, Occ:Business/owner of the
Tata Ace Magic Iris BS IV bearing
Regn.No.KA-25/AA-0741,
R/o: Malapur, Dharwad.

2. The Divisional Manager,
The United India Insurance Co.Ltd.,
R/o: Srinivas Talkies Complex, Market
Road, Dharwad580001.

Policy No:2407013121P100252085
Valid from: 14.12.2021 to 13.12.2022

(R1 R/by Sri.R.M.A, Adv)
(R2 R/by Sri.C.K, Adv)

J U D G M E N T

This claim petition is filed by the petitioner ***under section 166 of Motor Vehicle Act, 1988*** claiming compensation of ***Rs.15,00,000/-*** from the respondents with interest at the rate of ***18% per annum*** from the date of the petition till the date of realization of the entire amount.

2. The case of the petitioner is that, on 28.04.2022 at about 8.55 pm., when he was proceeding from Karadigudda village towards Dharwad on Dharwad-Savadatti road on his motorcycle bearing Regn.No.KA-25/HF-6300, when he was near Durgadevi temple, the driver of the Tata Ace vehicle bearing

Regn.No.KA-25/AA-0741 negligently parked his vehicle without showing any indicator on the road, therefore petitioner dashed his motorcycle to the said Tata Ace vehicle bearing Regn.No.KA-25/AA-0741, as a result, petitioner had sustained injuries.

2(a). Soon after the accident, petitioner was shifted to Dr.Jotiprakash Sultanpuri Hospital, Dharwad for treatment, thereafter he was shifted to Dr.Shaikh Hospital ie., City Orthopedic Hospital, Dharwad for higher treatment. The petitioner has spent more than Rs.1,00,000/- for his medical and other incidental expenses.

2(b). Prior to the accident, the petitioner was doing mason work and thereby earning Rs.25,000/- per month and same was contributed for maintenance of his family. Due to this unexpected accident, the family members of the petitioner are suffering mentally and financially. Due to impact of this accident, the

petitioner is unable to do his work as he was doing prior to the accident. Therefore on these grounds the petitioner has sought for compensation from the respondents to the tune of **Rs.15,00,000/-** with interest at the rate of **18% *per annum***.

3. On service of notice, the respondent No.1 and 2 had appeared before the Court through their respective counsels. Respondent No.2 filed objections to the main petition by denying the age, occupation and income of the petitioner and injuries sustained and medical expenses incurred by the petitioner, has contended that, petition is bad for non-joinder of necessary parties as owner and insurer of motorcycle bearing Regn.No.KA-25/HF-6300 are not made as parties to the petition. Hence, amongst other grounds respondent No.2 prayed to dismiss the petition against it.

4. On the basis of the above pleadings, this Court has framed the following Issues:

1. Whether petitioner proves that, on 28.04.2022 at about 8.55 pm., when he was proceeding from Karadigudda village towards Dharwad on Dharwad-Savadatti road on his motorcycle bearing Regn.No.KA-25/HF-6300 and when he was near Durgadevi temple, the driver of the Tata Ace vehicle bearing Regn.No.KA-25/AA-0741 negligently without showing any indicator had parked the said vehicle on the road and due to which the petitioner dashed his motorcycle to the said Tata Ace vehicle and sustained injuries ?

2. Whether the respondent No.2 proves that the petition is bad for non joinder of owner and insurer of motorcycle bearing Regn.No.KA-25/HF-6300 as parties to this petition ?

3. Whether the petitioner is entitled for the compensation as sought for ?

4. What order or award ?

5. In order to prove the case of the petitioner, he got himself examined as **PW.1** and got marked **11 documents** as **Ex.P1 to Ex.P10**. On his behalf, the doctor by name **Dr.Jothiprakash M.Sultanpuri** is examined as

P.W.2 and got marked **Ex.P10 to Ex.P13** documents. On the other hand, the respondent No.2 examined one Thimmappa M, Deputy Manager as **RW.1** and got marked **Ex.R1 and R2** documents.

6. I have heard the arguments of both side and perused the material available on record.

7. My findings on the above Issues are as under:

<i>Issue No.1:</i>	<i>Partly Affirmative.</i>
<i>Issue No.2:</i>	<i>In the Negative.</i>
<i>Issue No.3:</i>	<i>Partly Affirmative.</i>
<i>Issue No.4:</i>	<i>As per final order for the following:-</i>

REASONS

8. **ISSUE NO.1** The petitioner has stated that, on 28.04.2022 around 8.35 pm he was heading towards Dharwad from Karadigudda village on his

motorcycle bearing **Regn.No.KA-25/HF-6300**, when he came near Durgadevi temple, driver of Tata Ace bearing **Regn.No.KA-25/AA-0741** stationed his vehicle without there being any signal or indicator on to notice stationed vehicle.

9. In order to substantiate version, petitioner has been examined P.W.1 by filing affidavit in chief examination reiterating contents of petition. PW.1 has deposed that, to suggests that respondent No.1 turned of parking lights when vehicle was stationed. Further PW.1 has deposed that, parking lights were not on and it is not correct to suggest that accident is not resulted due to fault of respondent No.1.

10. In addition to the evidence, petitioner has produced Ex.P1 certified copy of the FIR registered against respondent No.1 for the offence punishable under Section 279, 283 and 338 of IPC. FIR is also registered against petitioner also. Contents of the FIR

reveals that, on 28.04.2022 around 8.55 pm., the accused No.1/respondent No.1 stationed Tata Ace bearing **Regn.No.KA-25/AA-0741** on Savadatti Road near Durgadevi temple without any signal or indicator. Accused No.2/petitioner riding two wheeler bearing **Regn.No.KA-25/HF-6300** came from Savadatti towards Dharwad dashed the said Tata Ace vehicle stationed on the road. Ex.P6 is charge sheet filed against respondent No.1 and petitioner for the offences punishable under Section 279, 283 and 338 of IPC. In the charge sheet also it is mentioned that respondent No.1 stationed Tata Ace vehicle on the road without any indication.

11. On going through the charge sheet materials, it is clear that Tata Ace vehicle was stationed without there being any indication. Petitioner dashed the stationed vehicle and sustained injuries. At this juncture, the question would arise for determination is that, stationing vehicle on road

without there being any indication amounts to negligence on the part of driver of the vehicle.

12. At this juncture, it is pertinent to refer Judgment of Hon'ble High Court, **Sri.Ramesh S/o Govindappa Arabhavi Vs.Sri.Kaningalu Basavaraj S/o K. Lakshminarayan and others in Miscellaneous First Appeal No.103956/2019 dated 10.10.2023**, wherein Hon'ble High Court in Para No.13 has held that, ***"the duty is casted upon person in charge of vehicle to take sufficient measures when his vehicle is halted at the road. So as to indicate the same to the other road users by signs or indicators"***. In view of the said propositions of law, in this case also driver of the above said truck did not take sufficient measures when his vehicle halted on the road, alone responsible for causing accident. As per the view taken by Hon'ble High Court, it is duty casted on driver, who halts vehicle on road to give indication to the road users enable them to spot stationed vehicle. If there is default on the part of

driver who hauls vehicle on the road without any signs or indicators, such person alone will be responsible for accident, that amounts to negligence on the part of the driver of such vehicle.

13. Respondent No.2 has contended that, accident has been resulted due to contributory negligence of the petitioner also. Since it is clearly established by the petitioner that vehicle was stationed without any indication. On the other hand, accident taken place around 8.55 pm., therefore it cannot be held that, accident has been resulted due to contributory negligence of the petitioner. Therefore, for the above stated reasons I have answered **Issue No.1** “in **the affirmative**”.

14. **ISSUE NO.2:-** This issue casts burden on the respondent No.2 to prove petition is bad for non joinder of owner and insurer of motorcycle bearing Regn.No.KA-25/HF-6300. The claim petition has been

filed against owner and insurer of Tata Ace vehicle **Regn.No.KA-25/AA-0741**. Petitioner is third party to the policy. It has already been held that, accident has been occurred due to rash and negligent act of driver of Tata Ace vehicle, compensation claimed against insurer of the Tata Ace vehicle. Owner and insurer of motorcycle of petitioner neither necessary nor proper party to the petition. In their absence, petition can also be adjudicated effectively. As such, for the above stated reasons Court answers **Issue No.2 “in Negative”**.

15. **ISSUE NO.3:-** It is the case of the petitioner that, he has sustained grievous injuries in the said accident and he took treatment at Dr.Jotiprakash Sultanpuri Hospital, Dharwad, thereafter he had taken treatment at Dr.Shaikh Hospital ie., City Orthopedic Hospital, Dharwad. To prove the same, the petitioner apart from his oral evidence has relied upon **Ex.P13 ie., case sheet** issued by Doctor of Amarjyothi Hospital, Dharwad. On perusal of the

Ex.P13, it is seen that, petitioner admitted as an inpatient from 25.04.2022 to 05.05.2022 ie., for **10 days** and he underwent operation to left leg fracture of Tibia and Fibula fracture both bones.

15(a). The petitioner has alleged that he has suffered physical disability by sustaining injuries in the said accident and to corroborate his averment, he has examined the treated doctor as **P.W.2** namely **Dr.Jothiprakash M.Sultanpuri**. PW.2 has issued the disability certificate pertaining to the petitioner and who is a signatory on the disability certificate of the petitioner which is at Ex.P11. In the said Ex.P11, the doctor has stated that the petitioner is suffering from **31.33% physical disability with respect to left lower limb**. It is mentioned in the petition that, the petitioner was doing mason work. Therefore, having regard to the nature of work of the petitioner, his age and injuries sustained by him, I am of the opinion that if the functional disability of petitioner is taken as **10%** to the

whole body then it would serve the purpose.

15(b). So far as the age of the petitioner is concerned, it is mentioned in the petition as 52 years. To substantiate the same, the petitioner has not produced any documents. On perusal of the Ex.P1 FIR, Ex.P5 Medicolegal certificate, Ex.P13 medical document, issued by Amarjyothi Hospital, Dharwad, the age of the petitioner is mentioned as 60 years. Therefore, in the absence of documentary evidence, age of the petitioner is taken as **60 years** to assess compensation.

15(c). Petitioner has averred in the petition that, he was doing mason work and thereby by earning Rs.25,000/- per month. To substantiate his contention, he has not produced documents. Under such circumstances, having regard to the year of the accident and the age of the petitioner, if his notional income is taken as **Rs.15,500/-** per month, then the

ends of justice would be met.

15(d). With this background, the quantum of compensation to which the petitioner is entitled may be adjudicated. For the injuries suffered and treatment taken the petitioner is entitled for the compensation under the following heads.

16. Let me appreciate both oral and documentary evidence under the different heads:-

I) PAIN AND SUFFERINGS:

The petitioner has stated, he has sustained grievous injuries. Wound certificate has been produced in this regard. The petitioner has been hospitalized for 10 days. In view of the above said reason, the Court is of the opinion that, the petitioner is entitled for compensation of **Rs.50,000/-** towards paid and sufferings.

II) COMPENSATION TOWARDS MEDICAL EXPENSES :-

The petitioner has produced **18 medical bills** which is at **Ex.7** totally amounting to **Rs.12,229/-**. Petitioner also produced **3 medical bills** which is at **Ex.10** totally amounting to **Rs.77,707/-**. Therefore, the petitioner is totally entitled for **Rs.89,936/-** under this head.

III) COMPENSATION TOWARDS FUTURE MEDICAL EXPENSES :-

The PW.2 being doctor who examined the petitioner also deposed that, petitioner required Rs.75,000/- for removal of implants. Accordingly he issued certificate which is marked as **Ex.P12**. Therefore, the petitioner is entitled for **Rs.75,000/-** under this head.

IV) COMPENSATION TOWARDS CONVEYANCE, FOOD, NOURISHMENT, ATTENDANT CHARGES AND OTHER INCIDENTAL CHARGES:-

Petitioner was inpatient in SDM Hospital, Sattur,

Dharwad from 25.04.2022 to 05.05.2022 he has suffered fracture. Therefore, **Rs.30,000/-** is awarded under the heads of Compensation towards conveyance, food, nourishment, attendant charges and other incidental charges.

V) COMPENSATION TOWARDS LOSS OF INCOME DURING PERIOD OF TREATMENT:-

The petitioner has not produced any documents to show his income. Therefore notional income of Rs.15,500/- is considered. The Court is of the opinion that, he could not work for 4 months. Therefore an award amount of **Rs.15,500/- x 4 = Rs.62,000/-** awarded under the head loss of earning during that period.

VI) COMPENSATION TOWARDS LOSS OF AMENITIES:-

Age of the petitioner is 60, as per wound certificate he has suffered grievous injuries. Therefore, the petitioner is entitled for **Rs.40,000/-** towards loss of

amenities in life.

VII) COMPENSATION TOWARDS LOSS OF FUTURE EARNINGS:-

18. Petitioner has alleged that due to the injuries sustained by him in the accident, he has suffered permanent physical disability and he is not able to do his work as he was doing prior to the accident. In order to prove this fact, he has examined **Dr.Jothiprakash M.Sultanpuri as PW2**, who issued disability certificate. As held supra, the functional disability of the petitioner is assessed at **10%** to the whole body.

17. As per the ratio laid down by the Hon'ble Apex court in the case of **Smt.Sarala Verma and others Vs.Delhi Transport Corporation and another**, the multiplier applicable to the petitioner is **09**. With multiplier **09**, the per month income of the petitioner i.e **Rs.15,500/-** is worked out (**Rs.15,500 X 12 = Rs.1,86,000/-**, **Rs.1,86,000 X 09 (multiplier) = Rs.16,74,000/-**, **10% (disability) of Rs.16,74,000/- = Rs.1,67,400/-**. Thus the petitioner is

entitled for compensation of **Rs.1,67,400/-** under this head.

TOTAL QUANTUM OF COMPENSATION TO WHICH THE PETITIONER IS ENTITLED.

18. To sum up, the petitioner is entitled for compensation under the following heads:

1.	Pain and suffering	Rs.50,000/-
2.	Medical expenses	Rs.89,936/-
3.	Future Medical expenses	Rs.75,000/-
4.	Conveyance, food, nourishment, attendant charges and other incidental charges	Rs.30,000/-
5.	Loss of income during period of treatment	Rs.62,000/-
6.	Loss of Amenities	Rs.40,000/-
7.	Loss of future earnings	Rs.1,67,400
	Total	Rs.5,14,336/-

19. **Regarding Liability:** This court has arrived at the conclusion that the accident occurred due to rash

and negligent act of the driver of the Tata Ace bearing Reg.No.KA-25/AA-0741. Respondent No.1 is the owner of the motorcycle bearing **Reg.No.KA-25/HF-0408**. Respondent No.2 being the insurer is to indemnify the respondent No.1 and pay compensation to the petitioner of the above mentioned petition.

20. **INTEREST**: The petitioner has claimed compensation with interest at the rate of 18% per annum. On the other hand the respondent No.2 has contended that the interest claimed by the petitioner is highly excessive and exorbitant. At the time of awarding compensation, courts should see that the compensation amount should carry reasonable rate of interest considering the rapid loss of value of money due to inflation and market situation. Considering the same and having regard to the attending circumstances, this court is of the opinion that it would be just and proper if the interest at the rate of **6% per annum** is awarded. Therefore for the above

stated reasons I have answered Issue No.3 “**in Affirmative**”.

21. **ISSUE No.4:-** For the above stated reasons and the reasons stated while discussing **Issue No.1 to 3**, Court proceed to pass the following:

ORDER.

The petition filed under section 166 of Motor Vehicles Act is hereby partly allowed with costs.

The petitioner is entitled for compensation of Rs.5,14,336/- along with interest at the rate of 6% per annum from the date of the petition till the date of deposit of the award amount.

The respondent No.2 is liable to pay the compensation amount to the petitioner with interest at the rate of 6% per annum within 30 days from the date of this Award.

After deposit, the award amount together with interest, shall be released in favour of the petitioner by way of E-payment on proper identification and confirmation.

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

Draw Award accordingly.

(Dictated to the Stenographer directly on computer, corrected and then pronounced by me in the open court, this the **6th day of July 2026**)

(Rangaswamy J)
IV Addl. Senior Civil Judge,
& J.M.F.C., DHARWAD.

A n n e x u r e

<u>Witnesses examined on behalf of the Petitioner:</u>	
<i>P.W.1 :</i>	<i>Sharifsab H.Sunkad.</i>
<u>Documents marked as Exhibits for the Petitioner:</u>	
<i>Ex.P-1:</i>	<i>Certified copy of FIR.</i>
<i>Ex.P-2:</i>	<i>Certified Copy of Complaint.</i>
<i>Ex.P-3:</i>	<i>Certified Copy of Spot mahazar.</i>
<i>Ex.P-4:</i>	<i>Certified Copies of MV report.</i>
<i>Ex.P-5:</i>	<i>Certified Copies of Medico legal certificate.</i>
<i>Ex.P-6</i>	<i>Certified Copy of Charge sheet.</i>
<i>Ex.P-7:</i>	<i>18 Medical bills.</i>
<i>Ex.P-8:</i>	<i>17 Medical prescriptions.</i>
<i>Ex.P-9:</i>	<i>5 X-rays.</i>
<i>Ex.P-10:</i>	<i>3 Amarjyothi Hospital bills.</i>

<i>Ex.P-11:</i>	<i>Disability certificate.</i>
<i>Ex.P-12:</i>	<i>Future medical expenses certificate.</i>
<i>Ex.P-13:</i>	<i>Medical documents and X-rays.</i>
<u>Witnesses examined on behalf of the Respondents:</u>	
<i>RW.1:</i>	<i>Thimmappa M.</i>
<u>Documents marked as Exhibits for the Respondents:</u>	
<i>Ex.R1:</i>	<i>Authorization letter.</i>
<i>Ex.R2:</i>	<i>Certified copy of insurance policy copy.</i>

(Rangaswamy J)
 IV Addl. Senior Civil Judge,
 & J.M.F.C., DHARWAD.

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For Judgment
06-07-2026

(Judgment pronounced in the open Court vide separate Judgment)

ORDER

The petition filed under section 166 of Motor Vehicles Act is hereby partly allowed with costs.

The petitioner is entitled for compensation of Rs.5,14,336/- along with interest at the rate

of 6% per annum from the date of the petition till the date of deposit of the award amount.

The respondent No.2 is liable to pay the compensation amount to the petitioner with interest at the rate of 6% per annum within 30 days from the date of this Award.

After deposit, the award amount together with interest, shall be released in favour of the petitioner by way of E-payment on proper identification and confirmation.

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

Draw Award accordingly.

(Rangaswamy J)
IV Addl. Senior Civil Judge,
& J.M.F.C., DHARWAD.

