

KAHS010027622025



Presented on : 17-04-2025
Registered on : 21-04-2025
Decided on : 29-06-2026
Duration : 1 years, 2 months, 12 days

**IN THE COURT OF IV ADDL DISTRICT AND SESSIONS
JUDGE HASSAN SITTING AT CHANNARAYAPATNA**

PRESENT

SMT. KALPANA M.S.

B.Sc., LL.M., PGDCLCF.,

IV Addl. District and Sessions Judge,
Hassan (Sit at Channarayapatna)

DATED 29th DAY OF JUNE 2026

M.V.C./644/2025

Claimant : Krishnappa
S/o Giriyabovi,
Aged about 55 years,
R/o Akkanahalli Village,
Nuggehalli Hobli,
Channarayapatna Taluk,
Hassan District.

(By Sri. A.G.D., Advocate)

V/s

Respondents: : 1. Abhishek H.N
S/o Ningegowda,
Om Ganesha Prot Jos,
N.J.D Building,
Kamanahalli,
Bengaluru-560084,
And Thoti Village,
Hirisave Hobli,
Channarayapatna.

2. Branch Manager
Acko General Insurance,
Hustle Hub Tech Park Building,
36/5 Hustle Hub One East,
Somasandrapalya,
27th Main road, Sector 2,
ITI Layout, 1st Range,
H.S.R. Layout,
Bengaluru-560102.

(R1 - Exparte
R2 by Sri M.L., Advocate)

J U D G M E N T

This petition U/s.166 of Motor Vehicle Act (herein after called as M.V. Act) is filed by the claimant for award of compensation of 20,00,000/- from the date of petition till realization, towards the injuries suffered in road traffic accident.

2. The sum and substance of averments made in the petition is as follows;

That on 08.02.2025 at 00.30 hours, when he was proceeding by walk on the left side of Nuggehalli road, at that time, the rider of the motorcycle bearing registration No.KA-04-JQ-6953 came from hind side with high speed in a rash and negligent manner and hit the claimant, as a result, he fell on the road and sustained severe injuries. Immediately, his brother Rangappa shifted him to Hirisave Government Hospital and again on the advise of the doctor, he was shifted to Channarayapatna Government Hospital for higher treatment.

2(a). It is averred that before the accident, claimant was hale and healthy and was doing business and agriculture and earning Rs.35,000/- per month. The entire family of claimant are dependents on him. After the accident the claimant is not able to do any work and lost income. The

accident is occurred due to the rash and negligent riding of bike by its rider. The respondent No.1 and 2 being the owner and insurance company of the offending bike are liable to pay the compensation.

3. In pursuance of the notice, the respondent No.1 remained absent and placed exparte. Respondent No.2 has appeared before the court through counsel and filed written statement which may be summarized as under:

This respondent No.2 categorically denied the petition averments and also taken formal objections. It is denied that the rider of the motorcycle bearing No.KA-04-JQ-6953 was holding valid and effective driving licence at the time of the accident and further has not satisfied the requirements of the Rule No.3 of Central Motor Vehicles Rules, 1989. The respondent no.1 has handed over the possession of the vehicle to the said rider and therefore, has contravened the proviso of the M.V.Act and the Rules framed there under and

have committed breach of the terms and conditions of the policy. The petition is bad for non joinder of necessary parties as the rider of the motorcycle bearing registration NO.KA-04-JQ-6953 has not been made as a party whose presence is very much necessary. This respondent denied the age, avocation and income of the claimant. The claimed compensation is exorbitant. The respondent No.2 is not liable to pay the compensation. With all these contentions, it is prayed to dismiss the claim petition.

4. On the basis of the pleadings, the following issues were framed :

ISSUES

1. Whether the claimant proves that on 08.02.2025, at about 00.30 hours, when he was proceeding by walk on the left side of Nuggehalli Road, at that time, the rider of the Motorcycle bearing registration No.KA-04-JQ-6953 came from hind side with high speed in a rash and negligent manner and hit the

claimant, as a result, he fell on the road and sustained severe injuries?

2. Whether the 2nd respondent proves that the owner of the Motorcycle has violated the terms and conditions of the policy, therefore, the 2nd respondent is not liable to indemnify the owner of the Motorcycle?

3. Whether the 2nd respondent proves that the petition is bad for non-joinder of necessary and proper parties as contended in para 14 of written statement?

4. Whether the claimant is entitled compensation, if so, at what extent?

5. What order?

5. To prove his case, claimant got examined himself as P.W.1 and examined the treated doctor as P.W.2 and got marked in all 15 documents as Ex.P.1 to Ex.P.15. On behalf of respondent No.2-Insurance company, the Senior Associates is examined as R.W.1 and got marked 3 documents as per Ex.R.1 to Ex.R.3.

6. Heard the arguments of learned counsel appearing on behalf of the claimant. The learned counsel for respondent has filed written arguments and perused the materials on record.

7. For the reasons to be stated herein after, this court answer the above issues as follows:

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

Issue No.2 : In the **Negative**

Issue No.3 : In the **Negative**

Issue No.4 : Partly **in the Affirmative**

Claimant is entitled for compensation of Rs.1,90,000/- with interest @ 6% p.a. from the respondent No.1 and 2

Issue No.5 : As per the final Order for the following:

REASONS

8. **Issue No.1:** This claim petition is filed by the injured-claimant seeking compensation from the rider, and insurer of the bike bearing registration No.KA-04-JQ-6953

(hereinafter called as offending vehicle) for the grievous injuries sustained by him in the road traffic accident.

9. In order to prove that accident was occurred due to actionable negligence of the rider of the offending vehicle and sustainment of injuries by him in the said accident, the claimant/injured entered into witness box and filed affidavit in lieu of examination in chief and reiterated the petition averments. He has relied on the complaint, FIR, head of the charge sheet, spot mahazar, sketch, seizure mahazar, IMV report, wound certificate as per Ex.P.1 to Ex.P.8. Ex.P.3-charge sheet indicates that after due investigation, police have filed charge sheet against the rider of the offending vehicle. Ex.P.8-wound certificate shows that claimant has sustained 1 grievous injury and 1 simple injury. The medical documents and discharge summary shows that claimant was inpatient from 8.02.2025 to 17.02.2025.

10. In the cross-examination, it has been elicited that claimant has taken treatment in the government hospitals. He further admitted that Ex.R.1-Adhar card belongs to him.

11. The treated doctor examined as P.W.2 has stated that injury no.1 suffered by claimant is grievous in nature. He was operated on 13.02.2025 with tension band wiring and plates and screws and discharged on 17.02.2025 and advised him to come for check-up on OPD basis on and off regularly and advised physiotherapy. On recent examination on 03.12.2025 x-ray taken shows the malunited fracture with implant tissue with restricted ankle movements, soft tissue swelling left ankle. The doctor has assessed that the claimant is having 27.75% partial and permanent disability to left lower limb.

12. In the cross-examination, it has been elicited that the injured claimant has taken the entire treatment in the government hospital, Channarayapatna. By oversight in

discharge summary, he has written that claimant has suffered injury due to self fall.

13. The learned counsel for respondent No.2 would contend that Ex.P.11-discharge summary states that claimant has suffered injuries due to self fall. It presupposes that the offending vehicle was not at all involved in the accident. It was subsequently included in collusion with the police authorities through belated complaint filed after 3 days from the date of accident.

14. To counter this contention, the learned counsel for the claimant invited the attention of the court to the Ex.P.13-MLC register extract and Ex.P.14-entire case sheet of the claimant. It goes without saying that first information of the RTA will be immediately entered in the MLC register. This document which comes into existence immediately after the accident could be considered as genuine document. According to this document, claimant was hit by the bike while walking. It supports the contention of the claimant.

Moreover PW.2 has clarified in his evidence that by oversight while issuing discharge summary, it is written as self fall. In the light of the MLC register extract and the evidence of PW.2, this Court has no hesitation to hold that the claimant has suffered injuries due to hit by offending vehicle.

15. From the over all consideration of the materials on record, more particularly the police documents and medical documents of the claimant coupled with the oral testimony of the claimant, it is abundantly clear that he met with an accident due to actionable negligence on the part of the rider of the offending vehicle. The wound certificate further establishes that claimant sustained 1 grievous injury and 1 simple injury and taken treatment in the hospital.

16. It is worth to note that this is summary proceedings and it is suffice to prima-facie establish the accident. The claimant need not to establish the accident beyond all reasonable doubt as required under Criminal cases. Therefore, scrutiny of oral and documentary evidence makes

it clear that claimant has proved that accident was occurred due to fault of the rider of offending vehicle. He has suffered simple and grievous injury in the accident. The respondents have failed to prove that accident took place on account of rash and negligent act of the claimant. Hence, issue No.1 under consideration is answered in the **Affirmative**.

17. **Issue No.2:** The 2nd respondent has taken contention that the owner of motorcycle bearing registration No.KA-04-JQ-6953 has violated the terms and conditions of the policy, therefore, the 2rd respondent is not liable to indemnify the owner of motorcycle. But, Ex.P.3-charge sheet does not indicate that rider of the offending motorcycle by name Manjunatha was not holding the driving licence at the time of accident. Therefore, this contention of the respondent no.2 unsupported with the cogent evidence does not hold water. Accordingly, this issue under consideration is answered in the **Negative**.

18. **ISSUE No.3:-** The 2nd respondent has also contended that the application is bad for non joinder of necessary parties i.e. the rider of motorcycle bearing registration No.KA-04-JQ-6953 is to be made as party to this proceedings, as such the petition is liable to be dismissed on this score alone.

19. It is worth to mention that in a claim petition owner and insurance company of the offending vehicle are necessary parties. The claimant has produced charge sheet filed by the jurisdictional police i.e. Hirisave Police against the rider of motorcycle bearing registration No.KA-04-JQ-6953 after due investigation that, his negligent riding was the reason for the accident. Hence, without discussing much, I answer issue No.3 under consideration in the **Negative.**

20. **Issue No.4:-** For the reasons stated and discussed in issue No.1, it is clear that the claimant had met with an accident and sustained injuries due to rash and negligent

act attributable to the rider of the offending vehicle. Such being the case, the next point for consideration of this tribunal is award of compensation to the victim of the accident. It goes without saying basis of assessment of all damages for personal injury is compensation. The whole idea is to put the claimant in the same position as they were in so far as money can. Perfect compensation is hardly possible, but one has to keep in mind that the victim has done no wrong. He has suffered at the hands of wrong doer and court must take care to give him full and fair compensation for what he had suffered. Each case has to be considered in the light of its own facts and at the end one must ask whether the sum awarded is fair and reasonable sum. Having this principle in mind, I proceed to award compensation to the claimant under the following heads:

a. **PAIN AND SUFFERING**: Claimant has deposed that due to impact of the accident, he has sustained 1 grievous injury and 1 simple injury. P.11-the discharge summary

indicates that he was inpatient for a period of 10 days from 08.02.2025 to 17.02.2025 and now also taking follow up treatment as an outpatient. Looking into the nature of treatment and duration of the treatment undergone by the claimant, the probabilities cannot be ruled out that claimant might have undergone pain and sufferings due to accidental injuries. Therefore, he is awarded with compensation of **Rs.30,000/-** towards pain and suffering.

b. **MEDICAL EXPENSES** : The claimant has asserted that he has taken treatment at Government Hospital. Hence, this court is not inclined to award amount under this head.

c. **CONVEYANCE, NOURISHMENT, TRANSPORTATION AND OTHER MISCELLANEOUS EXPENSES** : As per the medical records, the claimant was admitted to Channarayapatna government hospital on 08.02.2025 and discharged on 17.02.2025 with advice to take follow up treatment. Therefore, he might have spent around Rs.10,000/- towards food, nourishment,

transportation, attendant charges and other miscellaneous expenses. Accordingly, awarded an amount of **Rs.10,000/-** under this head.

d. **LOSS OF FUTURE INCOME DUE TO PERMANENT DISABILITY** - According to the claimant, he has suffered permanent disability due to the accident. The claimant has placed his oral testimony and also examined treated Dr. Mahesh as P.W.2. This witness states that due to the accidental injuries claimant has suffered partial and permanent disability about 27.75% to left lower limb. Doctor states that due to the accidental injury he has malunited fracture with implant tissue with restricted ankle movements, soft tissue swelling left ankle, he has difficulty in walking, sitting and climbing stairs and he is having restricted ankle and knee movement. In the cross-examination he has denied the suggestion that though petitioner has not suffered any disability he is giving false evidence. By looking into the oral testimony of P.W.1 and 2

and medical records placed, it is evident that claimant has suffered physical disability of 27.75% to the left lower limb. He cannot work as he was doing before the accident. Hence, it could be safely taken that the claimant is having functional disability 9.25% to the whole body.

21. According to the claimant, he was earning Rs.35,000/- per month out of agriculture and business. To prove the same, absolutely the claimant has not produced any income proof. Hence, this court has no other option except to rely on the slab. The Hon'ble Karnataka State Legal Services Authority has fixed the notional income in the absence of any evidence with regard to the income of the injured. Accident in question was of the year 2025. According to the slab, the notional income of the claimant is taken as Rs.17,000/- per month. As per Ex.P.12- Adhar card, the claimant was aged '55' years at the time of accident, but Ex.R.1-Adhar card is admitted document and as per this document, the claimant was aged '62' years as on

the date of accident. Therefore, the multiplier applicable would be '7'. Hence, the loss of future income comes to **Rs.1,32,090/-** (Rs.17,000 x 12 x 7 x 9.25%).

e. **LOSS OF INCOME DURING LAID UP PERIOD:** As discussed above, the claimant was admitted as an inpatient for about 10 days and taken treatment. Considering the nature of injuries, claimant might have taken rest for one month and also taken follow up treatment. Therefore, it is just and proper to award compensation of one month income under this head. Accordingly, the claimant is entitled for **Rs.17,000/-** towards loss of income during laid up period.

It is to be noted that P.W.2-doctor has stated that claimant is in need of any future surgery and also it can be done in the government hospitals at free of cost. Hence, this court is not inclined to award future medical expenses.

Accordingly, I proceed to award compensation as under:

1	Pain and Sufferings	Rs.30,000-00
2	Conveyance, Nourishment, Transportation and other Miscellaneous expenses	Rs.10,000-00
3	Loss of future income due to permanent disability	Rs.1,32,090-00
4	Loss of income to during laid up period	Rs.17,000-00
	Total	Rs.1,89,090-00

Liability:

22. So far as the liability is concerned, there is no dispute that offending vehicle has insurance coverage of respondent No.2-Insurance company in policy No. DBCR10154509752/00 valid from 29.03.2024 to 28.03.2025. Hence, the respondent No.1 and 2 are jointly and severally liable to pay the compensation amount to the claimant. The respondent No.2-insurance company shall indemnify the respondent no.1-owner of the offending vehicle. Accordingly, I answer this issue No.4 under consideration **partly in the affirmative** by holding that the claimant is entitled for compensation of Rs.1,89,090/-

rounded off to Rs.1,90,000/- from the respondent No.1 and 2 along with interest @ 6% p.a.

23. **ISSUE NO.5:-** For the reasons assigned in the foregoing issues, I proceed to pass the following;

ORDER

Petition filed under Section 166 of Motor Vehicle Act is allowed in part with cost.

Claimant is entitled for compensation of Rs.1,90,000/-(One lakh ninety thousand) with interest at the rate of 6% P.A. from the date of petition till realization.

Respondent No.2 shall deposit the compensation amount with interest, within 30 days from the date of award, failing, which the award amount shall carry interest at the rate of 9% per annum from the date of default.

On deposit, considering the quantum of compensation, the entire amount is ordered

to be released in favour of claimant on proper identification.

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

Draw award accordingly.

(Dictated to Stenographer Grade-III, directly on computer, typed by her, transcript revised, corrected, print-out, signed and then pronounced by me in the open court on this **29th** day of **June, 2026**)

(Kalpana M.S.)
4th Additional District and
Sessions Judge, Hassan District.
(Sit at Channarayapatna.)

ANNEXURE

WITNESSES EXAMINED FOR CLAIMANT:-

P.W.1 : Krishnappa
P.W.2 : Dr. Mahesh V

DOCUMENTS MARKED FOR CLAIMANT:-

Ex.P.1 : Certified copy of complaint
Ex.P.2 : Certified copy of FIR
Ex.P.3 : Certified copy of head of charge sheet
Ex.P.4 : Certified copy of Spot mahazar
Ex.P.5 : Certified copy of sketch
Ex.P.6 : Certified copy of Seizure mahazar

- Ex.P.7 : Certified copy of IMV report
Ex.P.8 : Certified copy of wound certificate
Ex.P.9 : Certified copy of MLC intimation
Ex.P.10 : Certified copy of order sheet in Crime
No.23/2025/CC No.537/2025
Ex.P.11 : Discharge summary
Ex.P.12 : Notarized copy of Aadhar card of claimant
Ex.P.13 : Attested copy of MLC register extract
Ex.P.14 : Entire case sheet
Ex.P.15 : X-ray

WITNESSES EXAMINED FOR RESPONDENTS:-

- R.W.1 : Dharanesh Naik

DOCUMENTS MARKED FOR RESPONDENTS:-

- Ex.R.1 : Aadhar card of Krishnappa
Ex.R.2 : Authorization letter dated 27.02.2026
Ex.R.3 : Policy

(Kalpana M.S.)
4th Additional District and
Sessions Judge, Hassan District.
(Sit at Channarayapatna)

