

KAHS010069012023



Presented on : 04-12-2023
Registered on : 07-12-2023
Decided on : 18-07-2026
Duration: 2 years, 7 months, 11 days.

**BEFORE THE III ADDL. DISTRICT & SESSIONS COURT AT
HASSAN**

**PRESENT: Sri. Doddegowda K., B.A., LL.B.,
III Addl. District & Sessions Judge,
Hassan.**

Dated this 18th day of July, 2026

:M.V.C./1769/2023:

Petitioner/s

: Arif Shaik B. @ shaik
Bhakarshebagari Arif,
S/o Shekh Ameer,
Aged about 27 years,
R/o No.3/61, Amareshalu beedi,
Orapenta, Padathuru town,
(Kuddappa) Kadapa district,
Andraprakesh State.
Present R/o C/o Suresh,
Near Venkateshwara temple,
Vijayanagara, Hassan city,
Hassan.

(By Sri. N.N. Advocate)

V/s

Respondent/s

- : 1. Managing Director,
P.H.P.C. Tratake Pvt. Ltd.
1-17/3, Kodikere road, Kulai,
Mangalore, Dakshina Kannada.

(Owner of KA-13-D-4009 Lorry)

2. The Manager,
United India Insurance Co., Ltd.,
C. Vitala Main road, Surathkal,
Mangalore, Dakshina Kannada.
Represented by,
United India Insurance Co., Ltd.,
II Floor, Venkateshwara building,
B.M. Road, Hassan.
(Policy No.0729013122P107611990/1
(Validity date 11-04-2023 till
02-11-2023)

(R-1 Exparte)

(R-2 By Sri. I.A.M., Advocate)

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

The instant Petition has been filed by the Petitioner Under Section 166 of the Motor Vehicles Act seeking to award compensation of Rs. 20,00,000/- to the Petitioner, for the injuries sustained in the alleged road traffic accident.

2. The substance of averments made in the petition is as under:-

On 10.06.2023 at about 12:30 p.m., he was travelling in car bearing registration No. KA-01-M-P-2285, driven by Gopikrishna, along with his friends Suraj and Jayakrishna Deep, towards Chikkamagaluru. When the car was proceeding on the left side of NH-75 near Ganesh Engineering Workshop, Bettagowdanahalli Circle, Hassan, a tanker lorry bearing registration No. KA-19-D-4009, coming from the Mangaluru side towards Bengaluru, was allegedly driven at a high speed and in a rash and negligent manner and collided with the petitioner's car. As a result of the accident, the petitioner sustained grievous injuries to his left hand, head, forehead, face and other parts of the body. He was initially shifted to Hassan Government Hospital and was later admitted to Mahalakshmi Manjappa Hospital for advanced treatment. He remained as an inpatient for about one month, underwent surgery to his left hand with implantation of a rod and screws, and continues to receive follow-up treatment. He claimed to have incurred medical expenses of approximately ₹5,00,000.

Prior to the accident, the petitioner was healthy and employed in a private company, earning about ₹1,00,000 per

month. Owing to the injuries, he alleged that he suffered permanent physical disability, loss of earning capacity, severe pain and suffering, and is unable to perform his previous work or drive vehicles without assistance. The petitioner attributed the accident solely to the rash and negligent driving of the tanker lorry driver and contended that the respondents, being the owner and insurer of the offending vehicle, are jointly and severally liable to compensate him. Accordingly, he sought compensation of ₹20,00,000 together with interest at 18% per annum from the date of the petition until realization, under various heads including pain and suffering, medical expenses, loss of income and future loss of earnings.

3. Consequent upon issuance of notice to the Respondents, the respondent No.1 did not appear before the Court and as such he has been placed *exparte*.

4. The respondent No. 2, insurance company, appeared before the court through its counsel and filed their written statement. In the written statement, the respondent No. 2 has denied the averments of the claim petition in material aspects. It

is further submitted that the accident occurred solely due to the rash and negligent driving of the petitioner's friend, Gopi Krishna Mupeda @ Mupeda Gopi Krishna, who was driving Car No. KA-01-MP-2285. He was solely responsible for the accident. It is further contended that the petitioner's friend did not possess a valid and effective driving licence to drive the said car. Hence, the 2nd respondent is not liable to pay any compensation. The driver of Tanker Lorry No. KA-19-D-4009 did not possess a valid and effective driving licence. It is also contended that the 1st respondent failed to comply with the contractual and statutory requirements by not submitting the claim form, insurance particulars, and other necessary documents as required under Section 134 of the Motor Vehicles Act, 1988. Further, the 2nd respondent states that it had not issued any insurance policy in respect of the said tanker lorry. Therefore, no liability can be fastened on the 2nd respondent.

It is further contends that the claim petition must be filed within the period prescribed under Section 166(3) of the Motor Vehicles Act, as amended, and if found barred by limitation, the petition is liable to be dismissed. The claim for interest at 10%

per annum is denied as excessive. It is contended that, in view of the Interest Act, 1978 and the decisions of the Hon'ble High Court of Karnataka, the applicable rate of interest, if any, should not exceed 6% per annum. The 2nd respondent denies the petitioner's age, occupation, income, nature of employment, alleged permanent disability, period of treatment, medical expenses, and monthly income of ₹1,00,000/-, and puts the petitioner to strict proof thereof. The compensation of ₹20,00,000/- with interest and costs claimed by the petitioner is excessive, speculative, and unsupported by evidence. The petitioner is therefore not entitled to any compensation from the 2nd respondent. Hence, the Respondent No. 2 sought to dismiss the petition.

5. On the basis of the averments of the petition and objections, my learned Predecessor in office has framed the following:

:: ISSUES ::

1. *Whether the Petitioner proves that, the accident occurred on 10-06-2023 at 12.30 p.m. is due to the actionable negligence on the part of the driver*

of the Lorry bearing Registration No.KA-19-D-4009 and in the accident, the petitioner sustained grievous injuries?

2. *Whether petitioner is entitled to compensation? If so, what is the quantum and from whom?*
3. *What order/award?*

6. In order to prove his case, the Petitioner examined himself as PW.1 and got marked Exs.P.1 to P.11 and closed his side. In support of his case, the petitioner examined Dr. Umesh, who has been examined as PW-2 and got marked Exs.P.12 to P.14. On the other hand, the respondent No.2 has not led any evidence nor produced any documents.

7. Heard arguments from both the sides. Perused the materials placed on record.

8. My finding to the above issues are as follows:

*Point No.1: In the **affirmative**,*

Point No.2: In the affirmative, as per discussion;

Point No.3: As per final order, for the following;

::REASONS::

9. Issue No.1:- In order to prove his case, the Petitioner examined himself as P.W.1 and filed affidavit in lieu of oral

evidence wherein he has reiterated the petition averments and got marked Ex.P-1 to P-14. Ex.P-1 is the F.I.R. Ex.P-2 is the Complaint. Ex.P-3 is the MV report. Ex.P-4 is the charge sheet. Ex.P-5 is the medical bills. Ex.P-6 is the discharge summary of petitioner. Ex.P-7 is the notarized copy of Aadhaar card of petitioner. Ex.P-8 is the Notarized copy of PAN card of petitioner. Ex.P-9 is the Bank pass book of petitioner issued by Karnataka grameen bank. Ex.P-10 is the wound certificate of the petitioner. Ex.P-11 is the crime details form along with spot and seizure mahazar and spot sketch. Ex.P-12 is the MLC register extract, Ex.P-13 is the X-ray films, Ex.P-14 is the Case sheet.

10. Ex. P-1 to P-4 and P-10 & 11 being the certified copies of F.I.R., complaint, M.V. report, charge sheet, Wound certificate and spot mahazar would go to show that on the relevant date, time and place, the petitioner was going in a Car bearing No. KA-01-M-2285, driven by Gopikrishna, along with his friends Suraj and Jayakrishna, in which he was proceeded towards Chikkamagaluru. At that time, due to the negligent and reckless driving of driver of Lorry bearing its Reg. No. KA-19-D-4009, the Lorry collided with petitioner's Car. As a result of which, the

petitioner, fell onto the road and sustained grievous injuries to his left hand, head, forehead, face and other parts of the body. The respondents have not specifically denied the alleged accident. The standard of proof required in MVC claim petitions is proof by preponderance of probabilities.

11. Having regard to the entire materials on record, I am of the considered opinion that the accident had occurred due to the rash and negligent driving of the driver of Lorry bearing registration No. KA-19-D-4009. Accordingly, without deliberating much on this aspect, **I answer Issue No.1 in the affirmative.**

12. Issue No. 2:- While answering Issue No.1, I have held that on the relevant date, time and place the accident had occurred due to the rash and negligent driving of the driver of Lorry bearing registration No. KA-19-D-4009. Now, it is to be seen as to whether the Petitioner is entitled for compensation? if so, how much and from whom?

13. Ex.P.10 - Wound Certificate goes to show that the Petitioner sustained with two grievous injuries and one simple injury. As per discharge summaries at Ex.P.6, the Petitioner was admitted to Mahalakshmi Manjappa Multispeciality Hospital and

Research centre for a total period of 7 days i.e., from 10-06-2023 to 16-06-2023 at Hassan. PW-2 - treated Doctor at Mahalakshmi Manjappa Multi-speciality Hospital, has deposed that the total disability in respect of left upper limb is 23.64%. Though, PW-2 was cross examined, nothing worth is elicited so as to discard his testimony given in the chief examination. PW-2 has denied to the suggestion that he has assessed to the disability in order to help the Petitioner.

14. In so far as the age of the Petitioner is concerned, he has stated in the petition that he is aged about 27 years. But as per the wound certificate of the petitioner at Ex.P.10, the age of the petitioner is mentioned as 26 years. If wound certificate of the petitioner is considered, his age is 26 years as on the date of accident. Therefore, if the age of Petitioner is taken as 26 years, the multiplier applicable as per Sarla Varma's case (Sarla Varma & Ors. V/s Delhi Transport Corporation & Another AIR 2009 SC 3104) for the persons aged between 26 to 30 years is 17.

15. In so far as the income of Petitioner viz-a-viz the loss of future income is concerned, in the petition, the occupation of Petitioner is shown as he is working in a private company and he

claims to have earning a sum of Rs.1,00,000/- per month. However, there are no materials on record to show that the Petitioner was getting a sum of Rs.1,00,000/ per month. The petitioner has not substantiated the same with corroborative evidence and not examined any witnesses. In the absence of cogent document as regards to proof of income, a notional income of Rs. 16,250/- will have to be taken. Having regard to year of accident coupled with the notional income guidelines issued by the Karnataka State Legal Services Authority in respect of Lok Adalath, the above notional income is just and reasonable.

16. In so far as the loss of income is concerned, PW-2/Doctor has deposed that, due to the accident the petitioner had open comminuted fracture of left radius at distal end with bone loss, closed displaced fracture of left ulna at distal 1/3rd, lacerated wound over anterior aspect of distal forearm 2X2cm. These aspects would clearly go to show that the Petitioner is entitled for loss of future earnings. In so far as the assessment of disability of the petitioner is concerned, based on the medical evidence presented by PW-2, it is evident that the petitioner has suffered severe injuries and disabilities as a result of the accident. PW-2 has as-

sessed the total disability in respect of whole body at 23.64%. Considering the severity of the injuries and the limitations described, it is reasonable to conclude that the petitioner's overall disability should be assessed at 8%. This calculation is based on 1/3rd of 23.64%. Therefore, as already observed, monthly income of Rs.16,250/ and the percentage (%) of the total disability taken as 8% [being 1/3rd of 23.64%] would be $\text{Rs.16,250} \times 12 \times 8\% / 100 \times 17 = 2,65,200/-$ and the same is rounded off to **Rs.2,66,000/-** which would be the **loss of future income**.

17. In so far as the pain and agony is concerned, the medical records coupled with the oral evidence of P.W.1 and PW-2 would go to show that the Petitioner has open comminuted fracture of left radius at distal end with bone loss, closed displaced fracture of left ulna at distal 1/3rd, lacerated wound over 4 anterior aspect of distal forearm 2X2cm. Though, P.W.1 and PW-2 were cross-examined, nothing worth is elicited so as to discard their testimony as regards to **pain and sufferings** and therefore, he is entitled for a sum of **Rs.60,000/-**.

18. In so far as the loss of amenities is concerned, the Petitioner has sustained with two grievous injuries and one simple

injuries. As already observed, according to PW-2/Doctor, the Petitioner has suffered disability with respect to his whole body 23.64%. Due to the injuries, the Petitioner has to carry the disability throughout his life and therefore he has lost some amenities as is available to normal person and therefore I just deem it appropriate to award a sum of **Rs.40,000/** towards **loss of amenities**.

19. In so far as the medical bills are concerned, Petitioner has stated that he has spent Rs.5,00,000/. However, as per Ex.P.5, the Petitioner spent a sum of Rs.2,18,991/- towards **medical expenses** and the same is rounded off to **Rs.2,19,000/-** as such the P.W.1 is entitled for the said amount.

20. In so far as the loss of income during the laid-up period is concerned, due to admission for a period of 7 days in the Hospitals i.e., from 10-06-2023 to 16-06-2023. Due to the injury suffered and for the treatment, the Petitioner would have lost his income for a period of at least 15 days. Accordingly, I find that he is entitled for **Rs. 8,125/-** (15 days income) **towards loss of income during the laid-up period**.

21. In so far as the rest, nourishment and attendant charge is concerned, the discharge summary at Ex.P.6 goes to show that the Petitioner was hospitalized for 7 days i.e., from 10-06-2023 to 16-06-2023. Therefore, he is entitled for a sum of **Rs.1,400/** (200 x 7 days) under this head.

22. Having regard to entire materials on record, I am of the considered opinion that the Petitioner is entitled for compensation under the following heads:

Compensation Heads	Compensation amount (Rs.)
1. Towards pain and agony	60,000/-
2. Loss of amenities	40,000/-
3. Loss of income during laid up period	8,125/-
4. Medical bills	2,19,000/-
5. Loss of future income	2,66,000/-
6. Nourishment and attendant charge	1,400/-
Total	5,94,525/-
Rounded off	5,95,000/-
(Rupees Five Laksh Ninety Five Thousand only)	

23. In so far, the liability to pay compensation is concerned, the Respondent No. 1 and 2 being the owner and the Insurance Company of the offending vehicle are jointly and severally liable to pay the compensation to the Petitioner. However, as the issuance

of Policy is effective as on the date of accident, the Respondent No.2 is directed pay the entire compensation to the Petitioner together with interest. **Accordingly, I answer issue No.2 in the affirmative.**

24. Issue No.3:- In view of my discussion made supra, I proceed to pass the following:

::O R D E R::

The Petition filed by the Petitioner under Section 166 of Motor Vehicles Act is hereby, partly allowed with cost.

*The Petitioner is entitled for Compensation of **Rs.5,95,000/- (Rupees Five Lakhs Ninety Five Thousand Only)** along with interest at the rate of 6% P.A., from the date of Petition till the date of deposit of the Award amount.*

The Respondent No.2, being the Insurance Company, is directed to deposit the Award Amount and interest before this Tribunal within 30 days from the date of this Judgement.

On deposit of the Award amount and interest, 30% of the compensation amount shall

be kept in FD in a Nationalized Bank of his choice for a period of three years with a liberty to withdraw the interest accrued thereon. Remaining 70% of the compensation amount shall be released in favour of the petitioner after his proper identification and verification.

The petitioner is directed to furnish his bank account details (account number, IFSC code, name of the bank and branch) and a copy of his Aadhaar card and Pan Card, as per the directions of the Hon'ble Supreme Court to facilitate direct transfer of the compensation amount into his account.

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

Draw award accordingly.

*(Dictated to the Stenographer, transcribed and typed by him, corrected and then pronounced by me in the open Court, on this the **18th day of July, 2026**)*

[Doddegowda K.]

*III Additional District & Sessions
Judge and Addl. MACT at Hassan*

:: A N N E X U R E ::**1. List of witnesses examined for Petitioner/s side:**

PW-1 : Areef Shaik B.

PW-2 : Dr. Umesh M.

2. List of documents got marked for Petitioner/s side:

Ex.P-1 : FIR

Ex.P-2 : Complaint

Ex.P-3 : M.V. Report

Ex.P-4 : Charge sheet

Ex.P-5 : Medical bills

Ex.P-6 : Discharge summary

Ex.P-7 : Aadhaar card

Ex.P-8 : PAN card

Ex.P-9 : Bank passbook

Ex.P-10 : Wound certificate

Ex.P-11 : Crime details form

Ex.P-12 : MLC register extract

Ex.P-13 : X-ray films

Ex.P-14 : Case sheet

3. List of witnesses examined for Respondent/s side:

NIL

4. List of documents got marked for Respondent/s side:

NIL

*III Additional District & sessions
Judge and Addl. MACT at Hassan.*