



**IN THE COURT OF THE SENIOR CIVIL
JUDGE AND JMFC AND AMACT AT BYADGI.**

Present: Smt.Rajeshwari.J.Puranik,
B.A.LL.B.(Spl.)
Senior Civil Judge & JMFC and
AMACT., Byadgi.

**Dated:- This 7th day of July, 2026
MVC No.1066 of 2023**

Petitioner : Master. Rachit T. S/o Thyaga
Age: 9 years.
since minor r/by his M/G father
Thyaga S/o Govindappa
Age: 34 years, R/at Kachina Katte,
Koralalhalli village, Tq & Dist:Shivamogga.
Now at: Vidya Nagar Byadgi, Tq: Byadgi,
Dist: Haveri.

[By: Sri. P. S. B., Advocate]

-V/s-

Respondents: 1. Dr. Suma Sachin D/o Sachin D.N..
Age: Major, Occ: Nil,
R/at Sri. Shaila, 1st parallel Road,
Mission compound, Shivamogga.
(Owner of Car bearing
Reg.No.KA-14/P-4275)

2. The Divisional Manager
The New India Assurance Co. Ltd.
Divisional office P.B. No.215,
289/12, 2nd floor AM Arcade,
C G Hospital Road, Davangere.

(Insurer of the vehicle bearing
Reg.No.KA-14/P-4275)

(Policy No.6801031220100001741)
valid from 26.06.2022 to 25.06.2023

[Resp.No.1 by: Sri.P.C.S., Adv.)
(Resp.No.2 by: S.N.B., Adv.)

JUDGMENT

The Petitioner filed this petition under Sec.166 of Motor Vehicles Act-1988 and amended Sec.54 of Motor Vehicles Act-1994 claiming compensation of Rs.7,00,000/- from the respondents due to injuries sustained in a road traffic accident.

2. **Brief facts of Petitioner's case, are as under:**

On 22.01.2023 at about 12.05 PM., the Petitioner was coming back from Netaji SubashChandra Bose Government School after finishing 25th year Silver Jubilee Celebration on SH 57 Shivamogga to NR Pura by walking on the left side of the road, at that time driver of Car bearing No.KA-14/P-4275 driving the vehicle on the wrong side of the road in rash and negligent manner, so as to endangering to human life and dashed to the petitioner, due to this petitioner fell down and caused serious accident. Due to the accident petitioner sustained injuries to all over the body as stated in the wound certificate.

3. The gathered person shifted petitioner to Bhagyaram Hospital, Vinoba Nagar and took first aid, from there he was shifted to Meggan Hospital, Shivamogga, wherein, he took treatment in other private hospitals for about 2 months and spent more than Rs.1,50,000/- towards medical expenses,

attainder charges. Till today he is in follow up treatment of Rs.1,00,000/-.

4. It is contended that, this accident occurred due to rash and negligent driving of the driver of the Car bearing No.KA-14/P-4275. Hence, the Tunga Police Station registered a case against driver of said vehicle in crime No.41/2023.

5. It is contended that, prior to the accident the petitioner was an active child. Due to accidental injuries he became dull in his day to day activities. The family members of the petitioner have sustained great mental agony due to the injuries caused to the petitioner. The petitioner has become permanently disabled and due to the injuries he is unable to walk, sit and unable to discharge his regular work and duties in future as he was performing prior to the accident.

6. The Respondent No.1 being RC owner, Respondent No.2 being Insurer of the offending vehicle, both are jointly and severally liable to pay the compensation to the Petitioner. Hence, this petition was filed against the respondents for claiming compensation.

7. In pursuance to the notice, Respondent No.1 and 2 appeared through their counsel and filed written statement.

8. Brief averments of the Written statement of Respondent No.1 are as under:

The petition para No.1 to 21 are untrue, incorrect and false, respondent No.1 does not admit and puts the petitioner in strict proof of the same and driver of the vehicle, who was driving on the date of alleged accident is necessary party for the petition, since, the driver is not made as party in the petition. Therefore, the petition is liable to be dismissed as non-joinder of necessary parties.

9. Further, the respondent no.2 had filed objection statement to the main petition.

The accident has occurred on 22.01.2023, but the complaint was lodged on 25.01.2023, there is 3 days delay in filing the complaint before the police. It creates some doubt regarding the accident. The vehicle number and driver of the vehicle in question are not known in the FIR later the petitioner colluding with police officials has impleaded the vehicle and the driver in charge sheet only grab money from this respondent. The petition filed by the petitioner is false, frivolous and vexatious, as such, neither tenable under law or on facts. The contents of cause title and clause no.3, 4 and 6 of the petition to the effect that the petitioner is aged about 9 years is denied by the respondent and Petitioner is called upon to same with documentary evidence. The respondent denied the other averments of the petition. Further contended that, driver of the said vehicle did not possess valid D.L. as on the date of the accident. Hence, prayed to dismiss the petition.

10. On basis of the Pleadings and materials, this tribunal framed the following:

ISSUES

1. Whether the petitioner proves that, on 22.01.2023 at about 12.05 p.m. when he was returning back from Netaji SubashChandra Bose Government School on SH 57 road the driver of the Car bearing No.KA-14/P-4275 driving the vehicle on the wrong side of the road in rash and negligent manner near the said school and dashed to the petitioner and caused accident and thereby the petitioner sustained grievous injuries?
2. Whether the 2nd respondent proves that, the driver of the car bearing Reg No.KA-14/P-4275 was not holding valid driving license as on the date of the occurrence of accident and thereby the respondent No.1 has violated the policy condition and thereby respondent no.2 is not liable to pay the compensation?
3. Whether the petitioner is entitled for compensation as sought for?
4. What order or award?

11. In order to substantiate the case, Petitioner father got examined as PW.1 and got marked 17 documents as Ex.P1 to Ex.P17 and PW1 examined Doctor as PW2. The Respondent No.1 and 2 appeared before the court and filed written-statement but, not to lead any evidence.

12. Heard the arguments and Perused the materials available on record.

13. For the following reasons, I answer the above Issues as under:-

Issue No.1 :	In the Affirmative,
Issue No. 2 :	In the Negative,
Issue No.3 :	Partly in the Affirmative,

Issue No.4 : As per final order
for the following:

REASONS

14. Issue No.1:- Petitioner filed this petition under against Respondents for claiming compensation amount of Rs.7,00,000/- due to injuries sustained in a road traffic accident.

15. The Petitioner got examined his father as PW.1 and filed affidavit in lieu of chief examination and in the chief affidavit of examination in chief he had reiterated the averments of petition and got marked 17 documents as Ex.P1 to Ex.P17.

16. Ex.P1 is Copy of F.I.R, Ex.P2 is Copy of Complaint. Ex.P3 is the Copy of Spot panchanama, Ex.P4 is Copy of vehicle seizure panchanama, Ex.P5 is copy of IMV report, Ex.P6 is the copy of MLC Intimation, Ex.P7 is charge sheet, Ex.P8 is physically disability certificate, Ex.P9 and 10 are the medical bills, Ex.P11 is Scan report, Ex.P12 is the X-ray's, Ex.P13 is the Adhar card of petitioner, Ex.P14 is the Adhar card of PW1, Ex.P15 is the notarized copy of Bank pass book, Ex.P16 is the Pan card of PW1, Ex.P17 is the certificate given to Bhagyaram Orthopaedic Center, Shivamogga.

17. Dr. Chandrakanth R.M. the Orthopedic Surgeon at Government, Hospital, Byadgi is examined as Pw.2. Further produced one document marked as Ex.P8 which is Disability certificate.

18. On perusal of Charge sheet it appears that, the Car bearing No.KA-14/P-4275 driving the vehicle on the wrong side of the road in rash and negligent manner near the said school and

dashed to the petitioner and caused accident. Hence, Tunga Nagar Police Station filed Charge sheet against driver of the vehicle.

19. In the petition for compensation U/Sec.166 of Motor Vehicles Act.1988 the claimant has to prove the incident only on the preponderance of the probabilities and standard of proof beyond all reasonable doubt is not required as held by the Hon'ble APEX Court in the decision reported in 2011 SAR(Civil) 319 **Kausum and others V/s Satbir and others**.

The so-called reason that as the name of Dheeraj Kumar was not mentioned in the FIR, so it was not possible for Dheeraj Kumar to see the incident, is not a proper assessment of the fact- situation in this case. It is well known that in a case relating to motor accident claims, the claimants are not required to prove the case as it is required to be done in a criminal trial. The Court must keep this distinction in mind.

10. Reference in this connection may be made to the decision of this Court in Bimla Devi and others V/s Himachal Road Transport Corporation and others (2009) 13 SCC 530, in which the relevant observation on this point has been made and which is very pertinent and is quoted below:-

"In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. 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 touch stone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied."

20. After careful scrutiny of Ex.P1 is the Copy of F.I.R., Ex.P2 is the Copy of Complaint Ex.P3 is the Copy of Spot Mahazar, Ex.P4 is the vehicle seized panchanama, Ex.P5 is the Copy of IMV report, Ex.P7 is the Copy of Charge sheet, Ex.P8 is the copy of wound certificate it appears that, the accident

occurred due to rash and negligent driving of the driver of car bearing Reg.No.KA-14/P-4275. The Tunga Nagar Police filed Charge sheet against driver of the offending vehicle for the offences punishable U/Sec.279 and 338 of IPC, u/sec.134(a and b), 187 of IMV Act. Accordingly, I answer the **Issue No.1 in the Affirmative.**

21. Issue No.2:- It is contended by the respondent No.2 is that the driver of the Car bearing No.KA-14/P-4275 was not holding valid driving license on the date of accident and thereby respondent No.1 violated the policy conditions, but the respondent no.1 produced coy of the DL of the driver of the said vehicle which was valid the date of accident. The date of validity of license is 03.05.2029, accident occurred on 22.01.2023 hence, driver had valid licensee. Accordingly, **point No.2 answered in the Negative.**

22. Issue No.3:- The Petitioner claimed the compensation amount of Rs.7,00,000/-. The Petitioner had produced Wound certificate. As per Ex.P8, the Petitioner sustained fracture of right lower limb.

23. To prove the assessment of disability, the Petitioner got examined one Doctor Chandrakant R.M. as PW-2. In the chief examination affidavit Doctor deposed that, he examined petitioner on 17.10.2024 with the history of road traffic accident which was occurred on 22.01.2023. On examination of petitioner he found that there was wasting of leg and thigh muscles, he obtained the X-ray and after considering clinical, radiological and functional factors being right lower limb, he opined that

petitioner has around 45% of total permanent physical disability and loss of physical function with respect to the right leg region.

24. The doctor had opined that, the patient has around 45% of total permanent physical disability and loss of physical function with respect to the right leg region.

25. However, by considering the nature of the injuries, condition of the Petitioner and evidence of the doctor.

26. Having regard to the nature of injuries sustained by the minor petitioner and the fracture and having regard to the age of the minor petitioner at the time of accident i.e., 9 years and the facts and circumstances of this case if the physical disability of the petitioner is taken as 11% to the whole body for the purpose of assessing compensation then the ends of justice would be met.

27. To prove the age the petitioner has produced Adhar card at Ex.P13 wherein date of birth is 18-12-2014. So he was aged about 9 years. Therefore the age of the petitioner as on the date of accident is taken as 9 years, in the absence of contrary material on record.

28. As per Ex.P6 treatment summary the petitioner took treatment at Dist Mc.Gann Teaching Hospital, Shivamogga on 24-01-2023 from 12.00 pm. Ex.P9 and 10 two medical bills are of Rs.331 and Rs.450 are produced. Hence, by considering the medical bills, the Petitioner spent more Rs.781/-.

29. Petitioner contended that he has required Rs.1,00,000/- future treatment but he had not produced any estimation issued by the doctor.

30. With this background, I am of the opinion that if the petitioner is granted global compensation of Rs.1,10,000/- towards the pain and suffering, attendant charges, future earning, medical bill etc., then the ends of justice would met.

31. The learned counsel for the respondent argued that complaint was lodged after three days of the accident, but PW1 deposed that immediately after the accident he was taken to the Bhagyaram Hospital Vinoba Nagar Shimogga. Ex.P11 and Ex.P12 which are the X-ray report issued by the Nava Sanjeevini Hospital. Ex.P11 discloses date as 22.01.2023 and timing 12.45 p.m. referred by Dr. Thyagaraj Y.A. that means the petitioner was taken to Thyagaraj who referred into Nava Sanjeevini Hospital on 22.01.2023 the accident took place around 12.05 p.m. on 22.01.2023, so he was taken to the hospital within 40 minutes. Ex.P17 is the certificate issued by the Bhagyaram Arthopedic Center wherein it is disclose that the petitioner took treatment as out patient bases so they do not keep OPD records in that hospital and petitioner sustained grievous injuries, hence, the petitioner took treatment immediately after the accident though MLC was not recorded but as per Ex.P11 and Ex.P12 medical records petitioner took the treatment on 22.01.2023 within 40 minutes hence, lodging of complaint after three days is not fatal to the case of the petitioner. PW1 also deposed that he was

engaged in taking his son petitioner to the hospital so he lodged complaint after three days.

32. Interest:- For awarding interest, in MFA. No. 103557/2016 (between Sriram General Insurance Co. ltd., V/s Smt. Lakshmi & others, dd 20-03-2018) the Hon'ble High Court of Karnataka, held that as per Sec.34 of CPC the rate of interest can be awarded in MVC Cases, cannot be more than 6% p.a. Hence, I am of the opinion that, the petitioner is entitled for interest @ 6% p.a., from the date of petition till the date of payment.

33. Liability:- The Respondent No.1 is the RC Owner & Respondent No.2 is the Insurer of the Car bearing No.KA-14/P-4275. As already discussed in the issue No.1 it is proved that, the accident occurred due to rash and negligent driving of the driver of the offending vehicle. Hence the Respondent No.1 and 2 jointly and severally liable to pay compensation to the Petitioner. Further the Respondent No.2 is being Insurer of the offending vehicle is primarily held liable to pay the compensation amount with interest to the Petitioner. Accordingly, I answer **Issue No.3 Partly in the Affirmative.**

34. Issue No.4: For the foregoing reasons, I proceed to pass the following:-

ORDER

The claim petition filed by the Petitioner under Section 166 of the Motor Vehicles Act is hereby Partly allowed with cost.

The Petitioner is entitled for compensation amount of Rs.1,10,000/- (Rupees One Lakh and Ten Thousand only) interest @ 6% p.a., from the date of petition till its realization.

The Respondent No.1 & 2 jointly and severally liable to pay compensation to the Petitioner.

Further, Respondent No.2 being insurer of the offending vehicle is directed to deposit the compensation amount together with 6% interest within 60 days from the date of this order.

After deposit, entire compensation amount with interest shall be released in favour of the Petitioner with proper identification.

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

Draw the award accordingly.

(Dictated to the Stenographer directly on computer, then corrected by me and pronounced in open court on this the 7th day of July 2026)

(Rajeshwari J. Puranik)
Senior Civil Judge & JMFC.,
Byadgi.

ANNEXURE:

List of witnesses examined for Petitioner:

PW.1 : Thyaga S/o Govindappa
PW2 : Dr. Chandrakanth R.M.

List of documents marked for Petitioner:

Ex.P1 : Copy of F.I.R
Ex.P2 : Copy of Complaint,
Ex.P3 : Copy of spot panchanama
Ex.P4 : Copy of vehicle seizure panchanama
Ex.P5 : IMV report
Ex.P6 : MLC Intimation
Ex.P7 : Charge sheet

Ex.P8 : Wound certificate
Ex.P9&10 : Medical Bills
Ex.P11 : Scan report
Ex.P12 : X-rays
Ex.P13 : Copy of Adhar card of petitioner
Ex.P14 : Copy of Adhar Card of PW1
Ex.P15 : Notarized copy of Bank Pass book
Ex.P16 : Copy of Pan Card
Ex.P17 : Certificate given to Bhagyaram Hospital,
Shivamogga.

List of witnesses examined for Respondents:

- Nil -

List of documents marked for Respondents:

- Nil -

(Rajeshwari.J.Puranik)
Senior Civil Judge & JMFC.,
Byadgi.