

**IN THE COURT OF I ADDL.SENIOR CIVIL JUDGE AND
J.M.F.C., AT HANGAL.**

**Present:- Sri.Amol.J.Hirikude, B.A., LL.B.
I Addl.Senior Civil Judge and
J.M.F.C. Hangal.**

MVC No.956/2024

Dated this the 17th day of June – 2026

Petitioner/s: Shanawaz S/o Nisar Ahmed Goundi
Age : 30 years, Occ : Business, now Nil,
R/o : Manna-Masuti Oni-Hangal,
Tq: Hangal, Dist: Haveri.

(By Sri.T.B.S, Adv)

Vs.

Respondent/s: 1.Munirahammad S/o Vahidsab Tahasildar
Age: 40 years, Occ: Business,
R/o: Kanchinegalur, Tq: Hangal,
Owner of Bolero Pick Up No.KA-31/9424

2. The Branch Manager,
HDFC ERGO General Insurance Co.Ltd.,
1st Floor, Virupaksha Krupa,
Opp.KIMS Main Gate, P.B.Road,
Vidya Nagar Hubballi-580021.

Insurer of Bolero Pick-up No;KA-31/9424
Policy No.2315206005266300000
Period of policy from
03.01.2024 to 02.01.2025.

**(R1 By Sri.A.H.H., Adv)
(R2 R/by Sri.P.S.H, 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.45,00,000/-** 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 24.03.2024 at 01.30 p.m., when he was riding his motorcycle bearing Regd.No.KA-27/ER-4598 towards Haveri on Hangal-Haveri Road and when he reached near Vardi Cross, at that time one Bolero Pick – up vehicle bearing Regd.No.KA-31/9424 came from opposite side and the driver of the said vehicle was driving it in high speed and rash and negligent manner and without following the traffic rules and regulations, endangering the human life and safety and dashed to the motorcycle of petitioner and thereby caused the accident and due to which, the petitioner sustained simple and grievous injuries.

2(a). Soon after the accident, petitioner was shifted to Dist.Hospital Haveri and then shifted to Sanjeeveni Speciality Hospital, Hubballi for treatment and wherein he was admitted as an indoor patient from 24.03.2024 and discharged on 29.03.2024 and he spent more than Rs.5,00,000/- towards medical and incidental expenses and till today he is under treatment.

2(b). Prior to the accident, the petitioner was doing business and thereby earning Rs.1,500/- per day. The entire family is depending upon the income of the petitioner and he is the only bread earning member in his family. However due to this sudden and unexpected accident, the petitioner sustained grievous injuries all over the body and petitioner is unable to do any kind of work as he was doing prior to the accident and as such he is suffering from physical and mentally. Therefore on these grounds the petitioner has sought for compensation from the respondents to the tune of

Rs.45,00,000/- with interest at the rate of **18% per annum.**

3. In response to the notice, the respondent No.1 & 2 have appeared before the Court through their respective counsels and filed objection to the petition. Respondent No.1 denied the age, occupation, income of the petitioner and also denied the factum of accident and the injuries sustained and the treatment taken by the petitioner and prayed to dismiss the petition.

4. The respondent No.2 also denied the age, occupation, income of the petitioner and also denied the factum of accident and the injuries sustained and the treatment taken by the petitioner. Further the respondent No.2 contended that the driver of Bolero of respondent No.1 did not possess valid and effective driving license as on the date of the accident and thereby the respondent No.1 has violated the policy condition, therefore respondent No.2 is not liable to pay compensation to the petitioner. Hence, amongst other

grounds the respondent No.2 prayed to dismiss the petition.

5. On the basis of the above pleadings, my predecessor in office has framed the following issues:

1] Whether the petitioner proves that on 24.03.2024 at 01.30 p.m., petitioner was riding on motorcycle bearing its Regd.No.KA-27/ER-4598 towards Haveri on Hangal-Haveri Road, when he reached near Vardi Cross, at that time one Bolero Pick – up vehicle bearing its Regd.No.KA-31/9424, the driver of vehicle drove it in high speed, rash and negligent manner, without following the traffic rules and regulations, endangering the human life and safety and dashed to the petitioner motorcycle, thereby caused the accident, due to which, the petitioner sustained simple and grievous injuries?

2] Whether the respondent No.2 prove that, rider of the above said vehicle had no valid and effective driving license at the time of an accident, hence there is breach of terms and conditions of policy?

3] Whether the petitioner further proves that, he/she/they is/or entitle for the compensation? If so, to what quantum and

from whom?

4] What order or award?

6. In order to prove the case of the petitioner, he got examined himself as **PW.1** and got marked **Ex.P1 to Ex.P.66** documents. On the other hand, the respondents have not examined any witness on their behalf.

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

Issue No.1 : In the Affirmative.

Issue No.2 : In the Negative.

Issue No.3 : In the Partly Affirmative.

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

REASONS

8. **ISSUE NO.1:-** In order to prove the negligence on the part of the driver of the Bolero Pick-up vehicle bearing Regd.No.KA-31/9424 of respondent No.1 in causing the said accident, the petitioner got himself examined as P.W.1 by filing his affidavit and got marked **66** documents as **Ex.P1 to Ex.P.66**.

8(a). In the affidavit filed in lieu of his examination in chief the P.W.1 has reiterated the averments of the petition and stated that he suffered grievous injuries on 24.03.2024 due to the rash and negligent driving of the driver of one Bolero Pick-up vehicle bearing Regd.No.KA-31/9424 of the respondent No.1. In this regard to substantiate the oral evidence the petitioner has produced 66 documents ie., ***Ex.P.1 Certified Copy of complaint in Cr.No.55/2024 dated 24.03.2024 of Adur Police station, Ex.P.2 certified copy of FIR, Ex.P3 is the copy of discharge summary in Cr.No.55/2024 of the Adur police station, Ex.P4 certified copy of Spot panchanama, Ex.P.5 is the copy of hand sketch. Ex.P.6 is the copy of photos. Ex.P.7 is the vehicle seizure panchanama. Ex.P.8 is the copy of photos. Ex.P.9 is the IMV Report. Ex.P.10 & 11 are the wound certificates. Ex.P.12 is the copy of charge sheet, Ex.P.13 to 42 are the medical bills. Ex.P.43 to 64 are the medical prescriptions. Ex.P.65 is the copy of aadhar card. Ex.P.66 is the copy of driving license.***

8(b). On perusal of the ***Ex.P1, 2, 4 to 12***, it is clear

that the **Adur police** have registered the case in **Cr.No.55/2024** of their police station against the driver of the Bolero Pick-Up bearing Reg.No.KA-31/9424 for the offences punishable under section **279, 338 of IPC** and after investigation have filed charge sheet against him for the offences punishable under section under section **279, 338 of IPC** for causing accident and thereby causing grievous injuries to the petitioner. From the above documents it is clear that the accident has been caused prima facie by the rash and negligent driving of the driver of the Bolero Pick Up of the respondent No.1. Therefore the initial burden cast on the petitioner to prove the rash and negligent on the part of the driver of the Bolero Pick-up of the respondent No.1 in occurring the said accident has been discharged by the petitioner.

9. The respondent No.1 cross examined PW.1 suggesting him that the accident is not at all taken place due to the rash and negligence on the part of

driver of vehicle of respondent No.1 and it is occurred due to the rash and negligent driving of petitioner himself but the said suggestion has been denied by the P.W.1. Further nothing worth was elicited from the cross examination of P.W.1 so as to attribute negligence on his part in occurring the said accident. Therefore having regard to the oral and documentary evidence on record and for the reasons stated above, I am of the opinion that the petitioner has proved **Issue No.1**, as such I have answered the **Issue No.1** **“in affirmative”**.

10. Issue No.2:- Though the respondent No.2 has contended that, the driver of vehicle of respondent No.1 had no valid driving license as on the date of the accident. But the respondent No.2 did not produce any to substantiate the said contention. Even the police have not invoked the relevant section of Motor Vehicles Act against the driver of vehicle of respondent No.1, this goes to show that the driver of vehicle of respondent No.1 had valid driving license as on the date of the accident, otherwise the

police could have invoked the relevant section of Motor Vehicles Act for not possessing valid driving license as on the date of the accident. **Hence, for the above stated reason, I have answered issue No.2 in Negative.**

11. ISSUE No.3:- In order to determine the compensation to which the petitioner/P.W.1 viz. **Shanawaz S/o Nisar Ahmed Goundi** is entitled, it is necessary to peruse the wound certificates of P.W.1. Ex.P.10 is the wound certificate issued by District Hospital Haveri. On perusal of the same it can be seen that the petitioner sustained abrasion over forehead and swelling in right foot and the injury No.2 has been mentioned as grievous in nature. Likewise Ex.P.11 is the wound certificate issued by the Sanjeeveni Hospital Hubballi wherein also it is mentioned as there is fracture in the head region and the said injury has been mentioned as grievous in nature. The petitioner has produced 30 medical bills totally amounting to Rs.64,887/-. On perusal of Ex.P.13 to Ex.P.42 it can

be seen that the Ex.P.39 and Ex.P.41 are the advance payment receipts and the total amount of which comes to Rs.30,250/-. If the said amount is deducted in Rs.64,887/-, then the amount payable under the medical bills to the petitioner would come to Rs.34,637/-. Further, in the absence of evidence of treated doctor, it can be inferred that the injury sustained by the P.W.1 is though grievous in nature, but considering his age and occupation, the injury sustained by him is recoverable and do not cause any obstruction in continuing of his avocation. Therefore taking into consideration the expenses incurred by the P.W.1 for his treatment and the nature of the injury sustained by him, if the petitioner/P.W.1 is awarded a global compensation of **Rs.60,000/-** towards his medical expenses, pain and suffering etc then, the purpose would be served.

12. **REGARDING LIABILITY:-** This court has arrived at the conclusion that the accident occurred

due to rash and negligent driving of the Bolero Pick Up bearing Reg.No.KA-31/9424. The petitioner has alleged that the respondent No.2 is the insurer of the vehicle of respondent No.1 as on the date of the accident. Though the respondent No.2 has denied the same but did not put any questions to P.W.1 in his cross examination in that regard. Therefore it has to be held that the vehicle of respondent No.1 was insured with respondent No.2 insurance company as on the date of the accident. Hence the respondent No.1 being the owner and the respondent No.2 being the insurer are jointly and severally liable to pay the compensation to the petitioner. The respondent No.2 being the insurer of the offending vehicle, it shall indemnify the respondent No.1 and shall pay the compensation.

13. **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 **8% per annum** is awarded. Therefore for the above stated reasons I have answered **Issue No.3** "**in Affirmative**".

14. **Issue No.4:-** In view of the above discussion, I am of the opinion that the petitioner is entitled for global compensation of **Rs.60,000/-** with interest at the rate of **8% per annum** from the date of the petition till the realization of entire amount. In the result, I proceed to pass the following:

ORDER

The claim petition filed by the

petitioner against the respondents under section 166 of Motor Vehicles Act is hereby allowed partly.

The petitioner is entitled for compensation of Rs.60,000/- along with interest at the rate of 8% 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. The respondent No.2 shall deposit the award amount with interest within 60 days from the date of the Award.

On deposit of the Award amount with interest by the respondent No.2, considering the medical expenses incurred by the petitioner, the entire compensation amount with interest is ordered to be released in favour of the petitioner after proper identification.

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 17th day of June 2025)

(Amol Jayakumar Hirikude)
I Addl.Senior Civil Judge & JMFC,
Hangal.

A n n e x u r e

<u>Witnesses examined on behalf of the Petitioner:</u>	
<i>P.W.1 :</i>	<i>Shanwaz S/o Nissarahammad Goundi</i>
<u>Documents marked as Exhibits for the Petitioner:</u>	
<i>Ex.P-1:</i>	<i>Copy of complaint</i>
<i>Ex.P-2 :</i>	<i>Copy of FIR</i>
<i>Ex.P-3 :</i>	<i>Discharge card</i>
<i>Ex.P-4:</i>	<i>Certified Copy of Spot panchanama.</i>
<i>Ex.P-5:</i>	<i>Certified Copy of Hand sketch</i>
<i>Ex.P-6:</i>	<i>Certified copy of photos</i>
<i>Ex.P-7:</i>	<i>Certified copy of seizure panchanama</i>
<i>Ex.P-8:</i>	<i>Certified copy of photo</i>
<i>Ex.P-9:</i>	<i>Certified copy of IMV Report</i>
<i>Ex.P-10 & 11:</i>	<i>Certified copy of wound certificates</i>
<i>Ex.P-12</i>	<i>Certified copy of Charge sheet</i>
<i>Ex.P-13 to 42</i>	<i>31 Medical bills.</i>
<i>Ex.P-43 to 64</i>	<i>Medical prescriptions.</i>
<i>Ex.P-65</i>	<i>Copy of aadhar card</i>
<i>Ex.P-66</i>	<i>Certified copy of DL.</i>

<u>Witnesses examined on behalf of the Respondents:</u>	
<i>NIL</i>	
<u>Documents marked as Exhibits for the Respondents:</u>	
<i>NIL</i>	

(Amol Jaykumar Hirikude)
I Addl. Senior Civil Judge & JMFC
Hangal.

For Judgment
22-09-2022

(Judgment pronounced in the open Court vide separate Judgment)

ORDER

The claim petition filed by the petitioner against the respondents under section 166 of Motor Vehicles Act is hereby allowed partly.

The petitioner is entitled for compensation of Rs.40,000/- along with interest at the rate of 8% 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. The respondent No.2 shall deposit the award amount with interest within 60 days from the date of the Award.

On deposit of the Award amount with interest by the respondent No.2, considering the medical expenses incurred by the petitioner, the entire compensation amount with interest is ordered to be released in favour of the petitioner after proper identification.

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

Draw Award accordingly.

(Amol Jayakumar Hirikude)

IV Addl. Senior Civil Judge,
& Addl. M.A.C.T. Dharwad.