

KAHS300006972022



Presented on : 16-11-2022

Registered on : 16-11-2022

Decided on : 14-08-2025

Duration : 02 years, 08 months, 29 days

**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
MOTOR ACCIDENT CLAIMS TRIBUNAL,
ARAKALAGUD**

PRESENT

SRI NAGESH MURTHY B.K.,

B.A., LL.B.,

Senior Civil Judge & Member, M.A.C.T.,
Arakalagud

DATED THIS THE 14th DAY OF AUGUST - 2025

M.V.C. NO.1698/2022

PETITIONER :

K.N. Kumara S/o Ningappa,
Aged about 38 years,
R/o: Keralapura Village,
Ramanathapura Hobli, Arakalagudu Taluk,
Hassan District.

(Rep. By Sri. B.T.C., Advocate)

-V/s-

RESPONDENTS :

1. Ravishankar P.V.,
S/o Late Vidyashankar P.N.,
No.50, 4th Stage, M.Srirampuram,
Bengaluru North,

Bengaluru.

2. Divisional Manager,
Navi General Insurance Co-Co Drive Private Car
Package.

(R-1 Rep. By Sri. N.G.D., Advocate)

(R-2 Rep. By Sri. U.M.C., Advocate,

: J U D G M E N T :

The petitioner has filed this petition under Section 166 of Indian Motor Vehicles Act, 1989 seeking compensation of Rs.30,00,000/- from the respondents with interest at the rate of 18% per annum from the date of petition till realization on account of injuries sustained by him in a road traffic accident.

2. Case of the petitioner in brief is as under :

The petitioner has averred in his petition that on 11.06.2022 at about 11.45 a.m., when he was returning to Keralapura Village from Konanur on Konanur-Keralapura road, when he was proceeding on Hero Splendor Plus motorcycle bearing registration No.KA-113-EC-3512 as a rider and he was proceeding near Sri.Basaveshwara Temple, Vadavana Hosahally Village, at that time Renault Duster Car bearing No.KA-51-MJ-9364 driven by its driver in a rash and negligent manner and dashed against the motorcycle of the petitioner, due to which he fell down and sustained injuries over his head, and there was fracture to

tibia and fibula bones of left leg, sustained injuries over left shoulder, neck, chest, face, hands, legs, back and all over the body.

3. It is further averred in the petition that after the accident, the injured petitioner was taken to Government Hospital, Konanur and from there for further treatment shifted to Government Hospital, Hassan, wherein he took treatment as an inpatient for a period of 15 days and till now he is taking treatment as an outpatient.

4. It is further averred that, prior to the accident, the petitioner was hale and healthy, doing coolie, agriculture, growing flowers by acquiring land on lease basis such as kanakambara and sevanthige, dairy farming and was earning of Rs.35,000/- per month and from this income, he was maintaining his family, but due to the accidental injuries, he has become incapable to work and as such, he and his family have been put to irreparable loss. The petitioner alleged in the petition that the accident in question has taken place due to rash and negligent driving of Car bearing registration No.KA-51-MJ-9364 by the respondent No.1 and as such, the respondent No.1 and 2 being the driver and insurer of the said car, are jointly and severally liable to pay compensation of Rs.30,00,000/- to him along with interest and accordingly, he prayed to allow his petition.

5. After service of notice of the petition, the respondents No.1 and 2 appeared through their respective counsel and filed their separate objections.

6. The respondent No.1 resisted the claim of petitioner in his objection statement denied the averments of petition. He denied that the accident in question has taken place due to rash and negligent driving of the Car bearing registration No.KA-51-MJ-9364, which was come from opposite side. He specifically contended that, if this court comes to a conclusion that the accident in question has taken place due to rash and negligent driving of the car and the petitioner is entitled for compensation, then liability to pay the same may be saddled on the respondent No.2. Hence, on these and other grounds, the respondent No.1 prayed for dismissal of the claim petition against him.

7. The respondent No.2 Insurance Company also resisted the claim of petitioner thereby denying the averments of petition. The car is not involved in the accident. The petitioner is put to strict proof as to the name, age, address, occupation, monthly income, place, date, time and cause of accident, the nature of injuries, period of treatment, expenditure incurred. The driver of the car was not having valid and effective driving licence at the material time of alleged accident. The respondent No.2 does not admit that car bearing registration No.KA-51/MJ-

9364 was involved in the alleged accident and it was driving in a rash and negligent manner. The amount of compensation claimed at Rs.30,00,000/- is highly excessive and exorbitant and exaggerated and the petitioner is not entitle for the same. Further, respondent No.2 denied the manner in which the accident taken place on 11.06.2022 at about 11.45 a.m. when the petitioner was proceeding in a motorcycle bearing registration No.KA-13/EC-3512 as a rider and he was proceeding near Basaveshwara Temple, Vadavana Hosalli on Konanur-Keralapura road, Arakalagud Taluk, at that time car bearing registration No.KA-51/MJ-9364 driven by its rider in a rash and negligent manner and dashed against the motorcycle in which the petitioner was proceeding and caused accident. Due to which, the petitioner was sustained grievous injuries all over the body and the petitioner is put to strict proof of the same with documentary evidence. Immediately, after the accident, he was shifted to Government Hospital, Konanur, thereafter shifted to Government Hospital at Hassan for further treatment are denied as false. The petitioner was earning Rs.35,000/- per month are all denied as false.

8. It is further submitted that, the respondents No.1 has not intimated the accident and has not submitted policy particulars, vehicle documents such as R.C. Book, D.L., Policy pertaining to the respondents No.1 as per

Section 134 of M.V. Act, hence they are not liable to pay compensation. They do not admit the policy of the offending vehicle i.e., car bearing registration No.KA-51/MJ-9364 thus they are not liable to pay compensation. It is submitted that, as per Section 158(6) of M.V. Act, it is the mandatory duty of the concerned police I.O. to forward all the relevant documents to the concerned insured within 30 days from the date of information, but the jurisdictional police not provided documents, hence the respondent No.2 is not liable to pay compensation. Thus, they seeks protection under Section 147 and 149 of M.V. Act, hence sought for dismiss the petition.

9. On the strength of above pleadings, this Tribunal has framed the following:

: I S S U E S :

1. Whether petitioner proves that on 11.06.2022 at about 11.40 a.m., when he was proceeding as a rider on a Hero Splendor Plus motorcycle bearing Reg.No.KA-13/EC-3512 by the left side of Konanuru-Ramanathapura road in order to go to Keralapura Village from Konanur and when he reached beside Basaveshwara Temple located in Vadavanahosahalli Village, the driver of Renault Duster Car bearing registration No.KA-51-MJ-9364 came from hind side by driving the same in a rash and negligent manner and suddenly dashed against the motorcycle of petitioner

and caused an accident resulting in grievous injuries to the petitioner?

2. Whether petitioner is entitled for compensation? If so, at what quantum and from whom?

3. What order or award?

10. Thereafter, the petitioner got examined himself as P.W.1 and got marked documents as per Ex.P1 to Ex.P19. Dr. Ajith Kumar K.S., Associate Professor in Orthopedics, HIMS Hospital, Hassan got examined himself as C.W.1 and got marked documents at Ex.C.1 to C.7. On the other hand, the respondents No.1 and 2 have not adduced any oral or documentary evidence.

11. Subsequently, this Tribunal heard arguments of the counsel for petitioner and respondents No.1 and 2 and perused record of the case.

12. On hearing the arguments and perusal of the record, my findings to the above issues are as follows :

Issue No.1: In the Affirmative

Issue No.2: In the Affirmative

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

: R E A S O N S :

13. **ISSUE NO.1** : In order to prove his case, the petitioner has got examined himself as P.W.1 and got marked as many as documents as per Ex.P1 to Ex.P19. P.W.1 has testified that on 11.06.2022 at about 11.45 a.m., when he was returning to Keralapura Village from Konanur on Konanur-Keralapura road, when he was proceeding on Hero Splendor Plus motorcycle bearing registration No.KA-113-EC-3512 as a rider and he was proceeding near Sri.Basaveshwara Temple, Vadavana Hosahally Village, at that time Renault Duster Car bearing registration No.KA-51-MJ-9364 driven by its driver in a rash and negligent manner and dashed against the motorcycle of the petitioner, due to which he fell down and sustained injuries over his head, and there was fracture to tibia and fibula bones of left leg, sustained injuries over left shoulder, neck, chest, face, hands, legs, back and all over the body.

14. In support of the above testimony, the petitioner has relied upon police documents such as First Information Report, Complaint and Charge Sheet, etc., certified copies of which, are produced in this petition. On perusal of all these documents reveals that there was a road traffic accident on 11.06.2022 wherein, the petitioner sustained injuries. The documents further reveal that the

accident was caused by the driver of Car bearing registration No.KA-51-MJ-9364 by the respondent No.1 in a rash and negligent manner as claimed by the petitioner. In view of causing the accident, Konanur Police Station have registered a criminal case against the driver of Car bearing registration No.KA-51-MJ-9364. Further, after due investigation into the said offence, the police have charge sheeted the driver of Car bearing registration No.KA-51-MJ-9364 for causing the accident by rash and negligent driving of his car i.e., the respondent No.1. The police papers show that the accident was caused due to the fault of driver of the car i.e., respondent No.1, the claim of petitioner that the accident was caused due to rash and negligent driving of the said car by the respondent No.1 cannot be disbelieved.

15. At this juncture, it is relevant to refer to a ruling of the Hon'ble High Court of Karnataka reported in **ILR 2003 KAR 493** in the case of **Mallamma Vs. Balaji & Others** wherein it was held as under:

“Motor Vehicles Act, 1988 –
Sec.173(1) - Whether the provisions
of Evidence Act apply strictly in a
case of motor vehicle.

Held – No - Strict rules of
Evidence Act need not be applied in
a case of motor vehicle accident case
to prove rash and negligent.”

16. In another judgment reported in **2006(1) KCCR 107** in the case of **United India Insurance Co. Ltd. Raichur D.O. Vs. Hussien Sab & Others**, the Hon'ble High Court of Karnataka has clearly held as under:

“Strict rules of Evidence Act do not apply to trials and enquiry relating to the motor accident claims tribunal. The only criteria to accept the documentary evidence would be to see whether the document is genuine and whether its veracity is acceptable. If these two conditions are satisfied, the court can rely on such documentary evidence to adjudicate the rights of the parties”.

17. Thus, in view of the above rulings, the above referred police papers particularly the charge sheet marked as Ex.P2 is sufficient enough to prove rashness and negligence on the part of driver of car to cause the accident in question. All these pieces of evidence collectively support the contention of petitioner.

18. The respondent No.2 had denied rashness and negligence on the part of driver of the car in causing the accident in its objections. It is alleged negligence on the part of petitioner at the time of accident and have contended that a false case is registered by the petitioner against the driver of offending car.

19. Further, the petitioner has produced wound certificate as per Ex.P11, which reveals that he has sustained grievous injury. The respondent No.2 has denied negligence on the part of driver of the car in causing the accident. As such, looking to all these aspects, it is very much clear that the petitioner has sustained injuries in the accident and not due to any other reason. Therefore, for all these reasons, I hold that the petitioner has sustained injuries suffered in the accident. Hence, the petitioner has proved **issue No.1** and accordingly, I answer the same in the **AFFIRMATIVE**.

20. **ISSUE NO.2** : P.W.1 has testified that, in the accident, he has sustained grievous injury for which, he has spent huge amount and which have resulted into disability to him. He has produced his wound certificate at Ex.P11, which shows that he has sustained i.e., left leg fractured both bones accordingly, the doctor has opined in the said certificate that, the injury No.1 is grievous in nature.

21. In addition to his self-testimony, the petitioner has also got examined doctor as C.W.1 in order to prove his physical disability. C.W.1 testified that, he is the Associate Professor in Orthopedics at HIMS Hospital, Hassan treated the petitioner for his accidental injuries. He testified that the petitioner was admitted with history of RTA on

11.06.2022 and has sustained left leg fractured both bones and was treated with C.R.I.E, with interlocking nail on 16.06.2022 and was discharged on 19.06.2022 and the petitioner was on regular follow up, the petitioner developed pain and discharging sinus and was admitted on 29.05.2024 and had undergone implant removal on 03.06.2024. The recent follow up on 27.11.2024 and there was pain in left ankle and stiffness of ankle and knee and difficulty to do daily activities and professional activities, x-ray taken shows malunited both bone legs with ankle OA changes and that the petitioner has sustained physical disability of 19% with respect to his right lower limb.

22. Though C.W.1 was cross-examined by the counsel for respondent No.2 at length, nothing worth was elicited from his mouth. The respondents No.1 adopted the cross-examination of respondents No.2. In the cross-examination it was elicited that, when the injured was came for treatment the injury was fresh. Before coming to their hospital the first aid treatment was given at Konanur Government Hospital and when they came to hospital injured was in conscious state and elicited that, as per x-ray the fractured bones were united. Further, elicited that, as per their prescription if the injured undergone for physiotherapy and had taken further treatment, the joints of the injured will get active. There are no documents in their hospital regarding the treatment taken by the

petitioner as an outpatient. As per the recent x-ray the fractured bones are reunited, but there is disfigurement, but he has not calculated the percentage of disfigurement. Noting is elicited to disbelieve the evidence of the CW-1.

23. However, though the doctor has given disability to an extent of 19%, the same is in relation to a particular limb and therefore, $1/3^{\text{rd}}$ of the same i.e. 6% would be to the whole body in view of the law laid down by the Hon'ble High Court of Karnataka in a decision reported in **2014(3) TAC (Karnataka) 216** in the case of **New India Insurance Co. Ltd. Vs. Yousuf Basha** wherein, it was held that only $1/3^{\text{rd}}$ of the percentage of permanent disability of particular both limbs will be the disability to the whole body and therefore, it would be proper to assess the disability of petitioner at 6%.

24. With regard to income of the petitioner, though he claimed that he was doing doing agriculture, growing flowers by acquiring land on lease basis such as kanakambar and sevanthige, dairy farming by transporting cows and thereby he was earning Rs.35,000/- per month and but, he has not produced any documents pertaining to his earnings. Thus, absolutely, there are no documents to prove income of the petitioner in this case and therefore, looking to the year of accident i.e. 2022, this Tribunal takes income of the petitioner at Rs.10,000/- per month. Regarding age of the petitioner, has not produced any

documents and shown his age as 38 years in the petition. During the course of cross-examination of PW-1 nothing is elicited to disbelieve the age of the petitioner. With this, the Tribunal proceeds to assess the compensation as under:

(i) **Pain & Sufferings, Shock & Agony:**

Since the petitioner has sustained grievous injuries, he must have undergone lot of **pain and suffering** for the same and therefore, and therefore, he is entitled for **Rs.30,000/-** under this head.

(ii) **Medical Expenses, Attendant, Food, Diet, Conveyance, Nourishment & incidental expenses:**

The petitioner has claimed that he has spent more than Rs.2,00,000/- towards medical and other expenses. In order to establish this claim, he has produced 5 medical bills as per Ex.P14 to Ex.P18 and 9 medical prescriptions at Ex.P13. The said bills show that he has spent Rs.633/- towards the treatment. Therefore, the petitioner is entitled to **Rs.700/-** (rounded off) under the head of **medical expenses**.

(iii). As per the evidence of C.W.1-doctor, the petitioner was inpatient in HIMS Hospital, Hassan from 11.06.2022 till 19.06.2022 i.e. for a period of 8 days and he has been under follow treatment. He has not produced any definite material for computation of compensation for food, diet, attendant, conveyance, etc. However, by

considering the nature of the injuries, period of hospitalization, pain and agony, gravity of the injuries, out patient treatment and other circumstances, the petitioner might have spent some amount towards **food & diet, attendant, conveyance/traveling expenses**. Hence, this tribunal holds that he is entitled for **Rs.1,000/-** towards the said expenses.

(iv) **Loss of income during treatment period:**

As per the records, the petitioner has undergone in-patient treatment and out-patient treatment for the injuries and as such, he has lost his income during hospitalization. From this, it can be inferred that he was on bed rest for at least two months. Therefore, he is entitled for compensation of Rs.10,000X2=**Rs.20,000/-** under this head.

(v) **Loss of future income on account of permanent disability:**

In the light of the above discussion, this tribunal has assessed physical disability of the petitioner at 6%, his age at 38 years and his income at Rs.10,000/- per month. Hence, the appropriate multiplier would be 15 as per guidelines of the Hon'ble Apex Court laid down in **Sarala Verma & Others Vs. Delhi Transport Corporation & Others** reported in **2009 ACJ 1298**. Hence, the loss of

future income would be
 $\text{Rs. } 10000 \times 12 \times 15 \times 6 / 100 = \text{Rs. } 1,08,000/-$

(vi) **Disappointment, Discomfort, Frustration & Loss of Amenities:**

The petitioner has met with the accident at the age of 38 years and on account of this, he has suffered lot of disappointment, discomfort, etc. at young age and therefore, he deserves **Rs.10,000/-** under this head. Hence, he is entitled for compensation as per below table:

Pain, shock and agony	Rs.	30,000-00
Medical expenses	Rs.	700-00
Food, diet, attendant, nourishment, conveyance & other incidental expenses	Rs.	1,000-00
Loss of income during treatment period	Rs.	20,000-00
Loss of future income due to permanent disability	Rs.	1,08,000-00
Disappointment, discomfort & loss of amenities	Rs.	10,000-00
Total	Rs.	1,69,700-00

25. So, the compensation payable to petitioner comes to **Rs.1,69,700/-** in this case.

26. **Interest** : With regard to interest, in view of guidelines laid down in **Sarala Verma's** case, it is just and proper to award interest at the rate of 6% per annum from the date of petition till the date of deposit on the above said compensation amount.

27. **LIABILITY** : Admittedly, the respondent No.1 is owner and driver of the car, respondent No.2 is insurer of the offending car. The respondent No.2-Company has not disputed the validity of insurance policy on the date of accident and that the policy was in force on the relevant date of accident. The insurance policy is also inforce. Thus there is no violation of the terms and conditions of the insurance policy. Thus, the respondent No.2 being the insurer is liable to pay compensation to the petitioner. Hence, for all these reasons, I answer **issue No.2** in the **AFFIRMATIVE**.

28. **ISSUE NO.3** : In view of findings recorded on the above issues, it is needless to say that the petitioner is entitled to succeed with costs in this petition but in part. In the result, I proceed to pass the following:

: O R D E R :

Claim petition filed by petitioner under Section 166 of Motor Vehicles Act is **ALLOWED IN PART WITH COSTS**.

Petitioner is entitled to receive a total compensation of **Rs.1,69,700/-** (Rupees One Lakh Sixty Nine Thousand Seven Hundred Only) along with interest at 6% per annum from the date of petition till its entire realization from respondent No.2.

Respondent No.2 being the insurer of the Car bearing registration No.KA-51-MJ-9364 is hereby directed to deposit the entire compensation amount along with accrued interest thereon within two months from the date of award.

On deposit of the compensation amount, 50% of the amount awarded to petitioner shall be released in his favour and the remaining 50% shall be deposited in his name in the form of fixed deposit in any nationalized bank of his choice for a period of 3 years.

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

Draw award accordingly.

*(Dictated to the Stenographer Grade - III directly on computer, transcribed by him, revised by me and after corrections pronounced in the open court on this the **14th day of August, 2025**).*

**(NAGESH MURTHY B.K.)
SENIOR CIVIL JUDGE & MACT,
ARAKALAGUD.**

: A N N E X U R E :

LIST OF WITNESSES EXAMINED FOR THE PETITIONER:

P.W.1 : K.N.Kumara

LIST OF EXHIBITS MARKED FOR THE PETITIONER:

Ex.P1 : True Copy of FIR
Ex.P2 : True Copy of Charge Sheet
Ex.P3 : True copy of Spot Mahazar
Ex.P4 to 7 : Statements of witnesses
Ex.P8 : True Copy of Complaint
Ex.P9 & 10: 2 IMV Reports
Ex.P11 : Wound Certificate
Ex.P12 : Outpatient Record
Ex.P13 : 9 Medical Prescriptions
Ex.P14to18: 5 Medical Bills
Ex.P19 : X-ray Film

LIST OF WITNESSES EXAMINED FOR THE RESPONDENTS:

- NIL -

LIST OF EXHIBITS MARKED FOR THE RESPONDENTS:

-NIL-

LIST OF WITNESSES EXAMINED AT THE INSTANCE OF COURT:

C.W.1 : Dr. Ajith Kumar K.S.

LIST OF EXHIBITS MARKED AT THE INSTANCE OF COURT:

Ex.C1 & 2: Case Sheets
Ex.C3 : X-rays – 3 Nos.
Ex.C4 : X-ray
Ex.C5 : MLC Extract
Ex.C6 : Outpatient Record
Ex.C7 : X-ray - 1

**SENIOR CIVIL JUDGE & MACT,
ARAKALAGUD.**