KAHV510006742022

IN THE COURT OF 2nd ADDL. SENIOR CIVIL JUDGE & AMACT, RANEBENNUR

<u>PRESENT</u>: SRI. MANJUNATHA M.S., ***B.A. LL.B.***
2nd Addl.Senior Civil Judge & AMACT,
Ranebennur.

DATED THIS 1st DAY OF AUGUST, 2026

<u>MVC No. 205 / 2022 C/W</u>
<u>MVC No.206 / 2022</u>

<u>PETITIONER IN MVC NO. 205 / 2022</u>:

Sri. Darshan M.P.
S/o: M.R. Palakshappa, Age: 22 yrs, Occ: Hotel business, horticulture, animal husbandry and milk vending works (Now nil), R/o: Honnali, Tq: Honnali, Dist: Davangere.

Now at: Ashok Nagar, 2nd Cross, Ranebennur, Dist: Haveri.

<u>PETITIONER IN MVC NO.206 / 2022</u> :

Mr. Bharatha M
S/o: Manjappa M.S., Age: 25 yrs, Occ: Hotel business, horticulture, animal husbandry and milk vending works (Now nil), R/o: Sampige road, behind Anjaneya Temple, Honnali, Dist: Davangere.

Now at: Vinayaka Nagar, 2nd Cross, Ranebennur, Dist: Haveri.

(By Sri. S.C.E, Advocate in both the cases).

V/s

<u>RESPONDENTS IN BOTH THE CASES</u> :

1. Mr. Khayukhan K.P.
   S/o: Himath Khan, Age: Major, Occ: Business, R/o: # 63, Sarathi village, Tq: Harihar, Dist: Davangere.

   (Owner of Bike bearing Reg.No.KA.17/ EJ-5159).

2. The Divisional Manager, New India Assurance Co. Ltd., A.M. Arcada, near Vidyarthi Bhavan, C.G. Hospital road, Davangere.

   (Insurer of Bike bearing Reg.No.KA.17/ EJ-5159).

3. Mr. Bharatha M
   S/o: Manjappa M.S., Age: Major, Occ: Business R/o: Sampige road, behind Anjaneya Temple, Honnali, Dist: Davangere.

   (Owner of Bike bearing Reg.No.KA.17/ ES-6403).

4. The Divisional Manager, National Insurance Co. Ltd., Regional office, 2nd Floor, Arihant Plaza Kusugal road, Hubli.

   (Insurer of Bike bearing Reg.No.KA.17/ ES-6403).

   Policy No: 36140031206701265252.
   Valid from: 28-08-2020 to 27-08-2021.

(R.1 & 3 placed exparte.
R.2 by Sri. S.H.V, Advocate in both the cases.
R.4 by Sri. R.S.S., Advocate in both the cases).

COMMON JUDGMENT

Since, both these petitions have been arising out of the same accident. Therefore, both these petitions have been clubbed together, heard together and common judgment is delivered.

2. These petitions filed by the petitioners U/Sec.166 of the Motor Vehicles Act, 1988, claiming compensation of ₹.36,30,000/- and ₹.35,70,000/- respectively for the injuries sustained by them in the Road Traffic accident.

3. The brief facts of the case of petitioners in nutshell are as under:

On 19-01-2021 the petitioners were going on a Motor Cycle bearing Reg.No.KA.17/ES-6403 as rider and pillion rider towards Raghavendraswamy Temple at Honnali. The petitioner in MVC No.206/2022 was riding the said Motor Cycle in a moderate speed on the left side of the road by observing on coming vehicles. At about 21:15 hours, when the petitioners proceeding infront of Canara Bank on Honnali-Tumminakatte road, at that time, another Motor Cycle bearing Reg.No.KA.17/EJ-5159 came from opposite side by riding the same with high speed in a rash and negligent manner and both the riders have lost control and dashed with each other and caused the accident. Due to impact, both the petitioners have sustained grievous injures and fractures.

4. Immediately after the accident, the petitioners were shifted to Government Hospital, Honnali, wherein they have taken first aid treatment and thereafter they were shifted to Mc-Gann Hospital, Shivamogga for further treatment, wherein they have spent ₹.2,00,000/- each respectively towards medicine and ₹.1,00,000/- each towards conveyance, food, nourishment, attendant and other incidental charges. Still they are under follow up treatment and they are in need of ₹.1,50,000/- each for follow up treatment. Prior to the accident, the petitioners were hale and healthy and were aged 22 and 25 years respectively. Both the petitioners were doing hotel business, horticulture, animal husbandry and milk vending work and earning ₹.40,000/- and ₹.35,000/- p.m. respectively. Due to the injuries sustained in the accident, they became permanently disabled and they are unable to attend their regular work and duties as they were performing prior to the accident. In this regards, the Honnali Police have registered a criminal case in their Cr.No.25/2021 for the offences punishable U/Secs.279, 337 and 338. The petitioner in MVC No.205/2022 has asserts that, the accident was taken place due to the rash and negligent riding of riders of both the Motor Cycles. As such, the respondent Nos.1 and 2 being the owner and insurer of Motor Cycle bearing Reg.No.KA.17/EJ-5159 and respondent Nos.3 and 4 being the owner and insure of Motor Cycle bearing Reg.No.KA.17/ES-6403 are jointly and severally liable to pay compensation to him. The petitioner in MVC No.206/2022 asserts that the accident was occurred due to sole and rash and

negligent riding of the rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159. But the Honnali police have falsely registered the case against him, which is not maintainable and charge sheet filed by them is not at all true and correct. Therefore the respondent No.1 and 2 being the owner and insurer of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 are jointly and severally liable to pay compensation to him. Hence, these petitions.

5. In pursuance of notice issued by this Court, the respondent Nos.1 and 3 not chosen to appear before the court. Hence, they placed exparte in both the cases. The respondent Nos.2 and 4 appeared through their respective counsels and filed their separate objection statements in both the petitions. The respondent No.2 in his objection statement has contended that, the petition is not maintainable in law and on facts. There is no cause of action as against this respondent. The petitions have no merit and the same are liable to be dismissed in limine. They submits that, the policy issued in respect of Motor Cycle bearing Reg.No.KA.17/EJ-5159 is liability policy. This respondent submits that, the Motor Cycle bearing Reg.No.KA.17/EJ-5159 was covered at the material time under the policy of insurance issued by this respondent in the name of Khayum Khan K.P., subject to the terms, conditions, exceptions and limitations thereof covering the period from 21-02-2020 to 20-02-2021 and the same is subject to confirmation of the compliance of Sec.64B of the Insurance

Act, 1938. They specifically denied the date, time and manner of accident and also denied that, the accident had happened due to rash and negligent riding of rider of Motor Cycle bearing Reg.No.KA.17/EJ-5159 and its involvement in the said accident. Further submits that, as on the date of the accident, the rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 did not possessed valid and effective driving license to ride the vehicle on the alleged date of accident. In this regard, the Honnali police have filed charge sheet against the owner and the rider of the insured vehicle as accused Nos.2 and 3 for the offences punishable U/Sec.279, 338 of IPC and Sec.3 R/W Sec.181 and Sec.5 R/W Sec.180 of MV Act. The owner of the said vehicle has violated the policy conditions willfully, intentionally and deliberately and is not acted according to the rules framed under MV Act. This respondent specifically denied the age, occupation, income, medical expenses and all other averments as narrated in both the petitions. Further specifically submits that, the petitioners have filed the petitions by creating the documents and they played fraud, misrepresentation colluding with the respondent No.1 and with the police authorities. Further the liability of this respondent if any is also subject to the provisions of MV Act and Rules framed there under, validity of RC and driving license of the rider of the vehicle with specific endorsement to ride the specific class of vehicle. Further contended that, the accident occurred mainly due to rash and negligent riding of rider of Motor Cycle bearing Reg.No.KA.17/ES-6403. In this regard the Honnali police have filed charge sheet against the rider of the said Motor Cycle as accused No.1 U/Sec.279 and 338 of IPC. Hence, this respondent is not liable to pay any compensation to the petitioners. There is a contributory negligence on the part of the rider of the said Motor Cycle bearing Reg.No.KA.17/ES-6403. Further the rider of the said Motor Cycle did not possessed valid and effective driving license to ride the particular class of vehicle. Further contended that, there is a delay of three days in lodging the complaint and the Motor Cycle bearing Reg.No.KA.17/EJ-5159 is falsely implicated in the said cases to make unlawful gain against them. Further submits that, if any award passed by this court, the rate of interest should be 6% p.a. only. Further contended that, the compensation claimed by the petitioners in respective petitions is highly excessive and exorbitant. Hence prays to dismiss both the claim petitions against them.

6. The respondent No.4 in his objection statement has stated that, the claim petitions are false, frivolous and vexatious and as such, it is neither tenable under law nor on facts of the case. Hence, the same is liable to be dismissed as against them. This respondent submitted that, the petitioner in MVC No.205/2022 was travelling as pillion rider on the Motor Cycle bearing Reg.No.KA.17/ES-6403 at the time of alleged accident. The policy issued by them to the Motor Cycle bearing Reg.No.KA.17/ES-6403 is liability only policy i.e., act policy and as such, it has not covered the risk of the pillion

rider. The owner of the said Motor Cycle has not paid the additional premium to cover the risk of the pillion rider. Further submits that, the accident has occurred due to the rash and negligent riding of rider of Motor Cycle bearing Reg.No.KA.17/EJ-5159. In this connection, the Honnali police have filed charge sheet against the rider and owner of the said Motor Cycle. Further there is a delay of three days in lodging the complaint in respect of the alleged accident. The petitioners have not given any proper explanation in this connection. As such, this respondent specifically denies the alleged accident. This respondent further submitted that, the policy holder of the Motor Cycle bearing Reg.No.KA.17/ES-6403 has transferred the same to the respondent No.3 without intimating the same to this respondent and violated the terms and conditions of the policy. Hence, the petitions are not maintainable under law. Further the petitions are bad for non-joinder of necessary parties since, the policy holder of the Motor Cycle bearing Reg.No.KA.17/ES-6403 and rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 are not made as parties to both the petitions. Further contended that, the rider of the Motor Cycle bearing Reg.No.KA.17/ES-6403 did not possessed valid and effective driving license at the time of the accident. The owner knowingly violated the terms and conditions of the policy. Hence, the petitions may kindly be dismissed as against them. Further denied the age, occupation and income of both the petitioners and also denied the date, time and manner of accident and injuries sustained by the petitioners and their hospitalization and expenses incurred towards their treatment. Further contended that, the place of accident and place of residence of petitioners is not within the jurisdiction of this Hon’ble court. Hence, the petition is not maintainable under law. They further submits that, the accident was occurred not due to rash and negligence on the part of the rider of Motor Cycle bearing Reg.No.KA.17/ES-6403 as alleged in the petition. In fact the alleged accident occurred due to the gross negligence on the part of the rider of Motor Cycle bearing Reg.No.KA.17/EJ-5159. Hence, the petitioners are not entitle for any compensation from this respondent. They further admits that, the Motor Cycle bearing Reg.No.KA.17/ES-6403 was insured with their company and its validity. The liability of this respondent if any is subject to terms, conditions, limitations and exceptions of the policy and subject to provisions of MV Act and rules framed there under, validity of RC, FC, permit and DL of driver and other vehicular documents as required under law and their genuineness. Further contended that, the compensation claimed by the petitioners in their respective petitions is highly excessive, exorbitant and calculated without any legal basis. Hence prays to dismiss both the claim petitions against them.

7. On the basis of the above pleadings, this Tribunal has framed the following :

ISSUES IN MVC NO.205/2022

1. Whether petitioner proves that, he had sustained grievous injuries in a road traffic accident occurred on 19-01-2021 at about 9:15 hrs, infront of Canara Bank on Honnali-Tumminakatte road, due to rash and negligent riding of riders of motorcycles bearing Reg.No.KA.17/ES-6403 and KA.17/EJ-5159 ?

2. Whether the respondent No.2 and 4 are entitle for exoneration from the liability on the grounds urged in their objection statement ?

3. Whether the petitioner is entitled for compensation as prayed for ? If so, from whom? What is the quantum ? At what rate of interest ?

4. What order or award?

ISSUES IN MVC NO.206/2022

1. Whether petitioner proves that, he had sustained grievous injuries in a road traffic accident occurred on 19-01-2021 at about 9:15 hrs, infront of Canara Bank on Honnali-Tumminakatte road, due to rash and negligent riding of rider of Motor Cycle bearing Reg.No.KA.17/EJ-5159 ?

2. Whether the respondent No.2 is entitle for exoneration from the liability on the grounds urged in his objection statement ?

3. Whether the petitioner is entitled for compensation as prayed for ? If so, from whom? What is the quantum ? At what rate of interest ?

4. What order or award?

ADDITIONAL ISSUE

1. Whether the respondent No.4 is entitle for exoneration from the liability on the grounds urged in his objection statement ?

8. Since both these petitions are clubbed, evidence is adduced in MVC No.205/2022. In support of their case, the petitioners in both the cases examined themselves as PW.1 and PW.2 and they got marked documents at ExP1 to P23. The petitioners also examined the Dr. Nitin A.B. as PW.3 through court commissioner and closed their side of evidence. On the other hand, the Administrative Officer of respondent No.2 examined as RW.1 and got marked Eight documents at Ex.R.1 to R.8. The Branch Manager of the respondent No.4 examined himself as RW.2 and got marked insurance policy as Ex.R.9.

9. Heard arguments of both side and perused the materials available on records. The learned counsel for the respondent No.2 has relied on the judgment of Hon'ble Supreme Court of India in SLP (Civil) No.11757 of 2025 SC, MFA No.7018 of 2023 (MV-D) C/W MFA No.2658 of 2024 (MV-D) of Hon'ble High Court of Karnataka, MFA No.3288 of 2013 (MV-I) C/W MFA No.3287 of 2013 (MV-D) of Hon'ble High Court of Karnataka and MFA No.6154/2019 (MV-D) Hon'ble High Court of Karnataka. The learned counsel for the respondent No.4 has relied on the judgments such as 2009 Kant. MAC 508 (Kant)), 2011 Kant MAC 318 (Kant), 2023 Acci. C.R.544(Gau) and 2023 Kant MAC 468(Kant).

10. My answer to the above **issues in MVC No.205/2022** are as under:

Issue No.1	**:**	**In the Affirmative**
Issue No.2	**:**	**Partly in the Affirmative**
Issue No.3	**:**	**Partly in the Affirmative**
Issue No.4	**:**	**As per final order for the following:**

11. My answer to the above **issues in MVC No.206/2022** are as under:

Issue No.1	**:**	**Partly in the Affirmative**
Issue No.2	**:**	**Partly in the Affirmative**
Issue No.3	**:**	**Partly in the Affirmative**
Addl. Issue No.1	**:**	**In the Affirmative**
Issue No.4	**:**	**As per final order for the following:**

R E A S O N S

12. **ISSUE NO.1 IN BOTH THE PETITIONS :** According to the petitioners, on 19-01-2021 the petitioners were going on a Motor Cycle bearing Reg.No.KA.17/ES-6403 as rider and pillion rider towards Raghavendraswamy Temple at Honnali. The petitioner in MVC No.206/2022 was riding the said Motor Cycle in a moderate speed on the left side of the road by observing on coming vehicles. At about 21:15 hours, when the petitioners proceeding infront of Canara Bank on Honnali-Tumminakatte road, at that time, another Motor Cycle bearing Reg.No.KA.17/EJ-5159 came from opposite side by riding the same with high speed in a rash and negligent manner and both the riders have lost control and dashed with each other and

caused the accident. Due to impact, they were sustained grievous injuries to all over the body. The petitioner in MVC No.205/2022 has specifically contended that, the accident in question has occurred due to rash and negligent riding of riders of both the Motor Cycles. The petitioner in MVC No.206/2022 has contended that, the accident was occurred solely due to rash and negligent riding of rider of Motor Cycle bearing Reg.No.KA.17/EJ-5159. In this regard, a criminal case in Cr.No.25/2021 has been registered by Honnali police. But the Honnali police without conducting proper and fair investigation, have filed the charge sheet even on the petitioner in MVC No.206/2022.

13. To substantiate their case, both the petitioners were examined as PW1 and PW.2 by reiterating the petition averments. The petitioners have produced as many as 23 documents marked at Ex.P.1 to P.23. Out of that, Ex.P.1 is the FIR, Ex.P.2 is the complaint, Ex.P.3 and P.18 are the wound certificates, Ex.P.4 is the spot panchanama, Ex.P.5 is the vehicle seizure panchanama, Ex.P.6 & 7 are the IMV reports and Ex.P.8 is the charge sheet etc.,. On perusal of Ex.P.1 and 2, it appears that, the petitioner in MVC No.205/2022 who is the pillion rider of Motor Cycle bearing Reg.No.KA.17/ES-6403 by name M.P. Darshan has lodged the complaint in respect of the accident in question. Based on the said complaint, the Honnali Police have registered a case as per Ex.P1. After completion of the investigation, the Investigating Officer has

filed charge sheet as per Ex.P8 against the petitioner in MVC No.206/2022 for the offences punishable U/Secs.279 and 338 of IPC as accused No.1 and against the rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 for the offences punishable U/Secs.279 and 338 of IPC and Sec.3 R/W Sec.181 of MV Act as accused No.2 stating that, the accident occurred due to rash and negligent riding of riders of both the Motor Cycles and the rider of the said Motor Cycle bearing Reg.No.KA.17/EJ-5159 was not possessed valid driving license to ride the same. They have also filed charge sheet against the owner of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 as accused No.3 for the offences punishable U/Sec.5 R/W Sec.180 of MV Act stating that, he has entrusted the said Motor Cycle to a person who did not possessed the valid and effective driving license to ride the same on the alleged date of the accident.

14. The respondent No.2 specifically contended that, there is a contributory negligence on the part of respective riders of both the Motor Cycles. As such, the entire negligence cannot be fastened on the rider of their insured Motor Cycle in the ends of justice and equity. The respondent No.4 specifically contended that, the alleged accident has occurred due to rash and negligent riding of rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159. The petitioner in MVC No. 205/2022 has contended that, the accident has been caused due to rash and negligent riding of the riders of both the Motor Cycles.

The petitioner in MVC No. 206/2022 contended that, the accident solely due rash and negligent riding of rider of Motor Cycle bearing Reg.No.KA.17/EJ-5159. But the police without conducting proper and fair investigation, have filed the charge sheet even against him. The said charge sheet is not sustainable under law.

15. In view of the above said contentions, I have gone through the charge sheet and other documents produced by the petitioners. In Ex.P.2 complaint, the petitioner in MVC No.205/2022/pillion rider of the Motor Cycle bearing Reg.No.KA.17/ES-6403 has filed complaint to the Honnali Police Station stating that, he is doing work in a hotel owned by his father at Honnali. On 19-01-2021 Tuesday night at about 09-00 p.m., when he was doing work in a push cart hotel, his friend M. Bharath S/o Idligadi Manjappa came there and asked him to go to Raghavendra Swamy Math, hence, he went along with him in his Motor Cycle bearing Reg.No.KA.17/ES-6403 as a pillion rider, Bharath was riding his bike in a high speed, rash and negligent manner and at about 9-05 p.m. when they were going infront of Canara Bank, at that time, another Motor Cycle came from opposite direction in high speed, rash and negligent manner. Due to which, both the Motor Cycles were colluded each other, hence all of them were fell on the ground, immediately the persons who were at the spot, came and treated them. He has sustained injuries to right foot small finger, fracture of bones and other blood

injuries. The rider Bharath had also sustainable injuries to his both legs. The rider of opposite Motor Cycle also sustained injuries to his leg. The register number of the opposite Motor Cycle bearing Reg.No.KA.17/EJ-5159 Hero Ignitor bike and on enquiry the rider stated that his name is Azeej Ahammad, Ranebennur. Thereafter the gathered persons by name Srinivas of Honnali town taken him and Bharath to Honnali Government Hospital for treatment and later informed the same to his father. The said accident had happened due to rash and negligent riding of riders of both the motorcyclists and requested to take legal action against the riders of both the Motor Cycles.

16. On the basis of Ex.P.2, the Honnali Police have registered a case in Cr.No.25/2021 as per Ex.P1 for the offences punishable U/Secs.279, 337 and 338 of IPC against the petitioner in MVC No.206/2022 and the rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 and after thorough investigation, they have filed the charge sheet as per Ex.P.8 against the petitioner in MVC No.206/2022 for the offences punishable U/Secs.279 and 338 of IPC as accused No.1 and against the rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 for the offences punishable U/Secs.279 and 338 of IPC and Sec.3 R/W Sec.181 of MV Act as accused No.2 stating that, the accident occurred due to rash and negligent riding of riders of both the Motor Cycles and the rider of the said Motor Cycle bearing Reg.No.KA.17/EJ-5159 was not possessed valid

driving license to ride the same. They have also filed charge sheet against the owner of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 as accused No.3 for the offences punishable U/Sec.5 R/W Sec.180 of MV Act stating that, he has entrusted the said Motor Cycle to a person who did not possessed the valid and effective driving license to ride the same on the alleged date of accident. In the charge sheet the investigation officer clearly opined that, the accident was occurred due to rash and negligent riding of riders of both the motor cycles. Therefore from the above documentary evidence, it is clear that, the petitioner in MVC No.206/2022 also contributed to the accident. As per Ex.P4 spot mahazar and sketch it appears that, the accident was occurred due to head on collusion of two Motor Cycles on the middle of the road. Therefore, there is a contributory negligence is also attributed on the part of the petitioner in MVC No.206/2022 in the commission of the accident in question. Further, if the rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 rode his motor cycle in a moderate speed, he would have avoided the accident, which caused to the injuries to the petitioners and himself. Upon perusal of the charge sheet it reveals a head-on collision between two motorcycles on open road, coupled with a joint charge sheet strongly supports an inference of shared responsibility and contributory negligence on the part of riders of both the Motor Cycles. The petitioner in MVC No.206/2022 has contended that, the police have not conducted the investigation properly and falsely filed the charge sheet against him also. But he has not challenged the said charge sheet nor examined any independent eye witness to prove that, accident solely occurred due to rash and negligent riding of rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159. Hence, the self serving testimony of petitioner in MVC No.206/2022 cannot be acceptable one. The respondent NO.2 and 4 have examined their officials as RW.1 and RW2, they have deposed as per the police documents and they are not the eye witnesses to the accident.

17. Under the above said facts and circumstances as well as the reasons given, this Tribunal has come to the conclusion that, there is a contributory negligence attributed on the part the petitioner in MVC No.206/2022 and the rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 in riding their motor cycles and caused the accident. The contributory negligence attributed by the rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 and the petitioner in MVC No.206/2022 is fixed at the ratio 50% each for both riders. Therefore, any final compensation determined by this Tribunal shall be reduced by 50% on account of the contributory negligence. Accordingly I answer **issue No.1 in MVC No. 205/2022 in the Affirmative** and **in MVC No.206/2022 partly in the affirmative.**

18. **ISSUE NO.2 IN BOTH THE PETITIONS AND ADDL.ISSUE NO.1 IN MVC NO.206/2022**:- Both issues are inter connected to each other, therefore, they are taken up

together for common discussions, in order to avoid repetition of facts and reasoning.

19. The respondent No.2 contended that, the rider of their insured Motor Cycle rode the same without holding the valid and effective driving license as on the date of the accident, thereby insured/respondent No.1 has violated the terms and conditions of the policy. Hence, the insurance company/the respondent No.2 is not liable to indemnify the respondent No.1 to pay compensation.

20. On this aspect the respondent No.2 has examined RW.1 who is none other than the Administrative Officer of the respondent No.2, in his chief examination has reiterated the contents of the objection statement. During the cross-examination he has admitted that, he is deposing on the basis of police documents. Except Ex.R 1 to R.8 documents he has not produced any other documents. On behalf of their company, they have not conducted any enquiry regrading the accident. He denied the suggestion that, since they have issue a policy to the vehicle of the respondent No.1, they are liable to pay compensation to the extent of 50% of their liability. He admitted that the policy issued by them is a liability policy and the petitioners herein are the third parties to their company. He denied the suggestion that, since the petitioners are third parties and the policy issued by them is a liability policy, they are liable to pay compensation to them. He further states that, there is a violation of policy condition, therefore, they are not

liable to pay compensation. He denied the suggestion that, he is falsely deposing that, the rider of the 1st respondent's Motor Cycle has not possessed valid and effective driving license. He denied the suggestion that, to Ex.R.2 notice, the petitioners have given reply. They have not collected information from the RTO office regarding non holding of driving license and further states that, since the rider of has not possessed driving license hence, question of collecting information from RTO does not arise at all. He denied the suggestion that, even though the rider possessed driving license, without verifying the same, he is deposing falsely before the court. He denied the suggestion that, after verifying all documents, they were issued policy. He denied the suggestion that, they are liable to pay compensation to the petitioners. He further states that, the accident was occurred due to the negligence of both the rides.

21. In support of oral testimony of RW.1, the respondent No.2 has produced as many as Eight documents marked at Ex.R1 to R8. Ex.R1 is the insurance policy, Ex.R2 is the office copy of the notice issued to the owner and rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159, Ex.R3 and R4 are postal receipts, Ex.R5 is the postal acknowledgment, Ex.R6 is the notice, Ex.R7 is the office copy of legal notice and Ex.R8 is the postal acknowledgment. On perusal of Ex.R.2 to R8 it appears that, the respondent No.2 insurance company has issued notice to the owner/ insured and rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 to produce valid

driving license of the rider at the time of the alleged accident. Ex.R.5 and R.8 disclose that, the said notice has been served to the respondent No.1. But despite of the service of notice, the respondent No.1 being the owner/ insured of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 has not come forward to produce driving license of the rider.

22. In Ex.P8 charge sheet it is stated that, the rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 rode the motor cycle without holding the valid and effective driving license as on the date of the accident. Therefore, the Investigating Officer has filed the charge sheet against the rider of the respondent No.1's Motor Cycle as accused No.2 for the offence punishable U/Secs.279 and 338 of IPC and Sec.3 R/W Sec.181 of MV Act and against the respondent No.1 as accused No.3 for the offences punishable U/Sec.5 R/w Sec.180 of MV Act stating that, he has entrusted his Motor Cycle to a person who did not possessed the valid and effective driving license. What assumes significance in the case is that, despite of the owner of the Motor Cycle having been party in the case, has neither produced any DL extract nor stepped into witness box to depose that, he has entrusted the vehicle to a person having a valid driving license. Therefore, an adverse inference has to be drawn against the respondent No.1 U/Sec.114 Illustration (g) of the evidence Act that, he has entrusted the vehicle to a person who did not possessed valid and effective driving license to ride the Motor Cycle as on the date of the accident.

In this aspect, it is appropriate to refer the judgment of the **Hon'ble Supreme Court** in **SLP (Civil) No.11757/2025** in the case of **Mahaveer V/s Branch Manager United India Insurance Co. Ltd, and others,** wherein the Hon'ble Supreme Court has observed that, the tribunal found in favour of the insured and held that, the insurance company has failed to establish that, the owner did not entrust the vehicle with a person having a valid driving license. The High court found that, since in the investigation, police had filed the charge sheet, there was sufficient evidence to show that, the owner of the vehicle had not entrusted the vehicle to a person having driving license. We cannot accede to the reasonings since it is neither for the insurance company to prove the negative nor is it possible to presume, based only on the charge sheet filed, the entrustment of the vehicle by the owner, which charge is on the rash and negligent driving of the driver. What assumes significance in the above case is that, despite the owner of the vehicle having been a party before the tribunal, no evidence was given. The owner did not mount the box nor was any license produced either of the person who was driving the vehicle or the person to whom it was entrusted. The owner thus failed to prove that, the vehicle was entrusted to a person having valid driving license. In the case on hand also, the owner of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 is arrayed as respondent No.1 in the case, but he did not stepped into witness box nor produced any driving license extract. As such, it is clear that, the rider of the respondent No.1 has not possessed any driving license to ride the motor cycle as on the date of the accident. The respondent No.1 being the owner of the vehicle has violated the terms and condition of the policy by entrusting his Motor Cycle to a person who did not possessed valid and effective driving license at the time of the accident.

23. As per Section 149 of MV Act, no sum shall be payable by an insurer under Sub-Section-1 in respect of any judgment or award unless the person who has not been disqualified or obtaining a driving licence and who is not duly licenced. In the instant case as per Ex.P.8 it is very much clear that, as on the date of accident, the rider of the respondent No.1 was not holding the valid and effective driving licence. As per Section 3 of MV Act, no person shall drive the motor vehicle in any public place, unless he holds the effective driving licence issued to him, authorizing to drive the vehicle. So, on close reading of the above provision it is clear that, no person shall drive the motor vehicle in any public place unless he holding an effective driving licence. In the instant case, the evidence of RW-1 as well as Ex.P.8 are taken into consideration it is clear that, as on the date of alleged accident, the rider of the respondent No.1 was not holding the valid and effective driving license to ride the Motor Cycle bearing Reg.No.KA.17/EJ-5159. If this aspect is taken into consideration, the respondent No.1 has contravened the terms and conditions of the policy by authorizing the person who has no driving license to ride the Motor Cycle.

24. The learned counsel for the petitioners has submitted even it is established that the rider of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 was not holding a valid and effective driving licence to ride the Motor Cycle, even then the insurance company shall pay compensation and to recover the same from the owner as the petitioners who are the third parties as on the date of the accident, as the respondent No.1 has insured his vehicle with the respondent No.2 and the policy was in existence as on the date of the accident. On this aspect it is appropriate to refer the judgment of the **Hon'ble Supreme Court** reported in **(2018) 9 SCC 650** in the case of **Shamanna and another V/s The Divisional Manager, The Oriental Insurance Co, Ltd., & Ors**. On careful perusal of the said judgment, in the said judgment the claimants were filed the claim petition for seeking compensation and the insurance company has taken up the contention that the driver of the jeep had no valid driving licence, but the claim petition was came to be allowed and directing the insurance company to pay the compensation and to recover the same from the owner of the offending vehicle, aggrieved by the said judgment the insurance company has challenged the award before the Hon'ble High Court of Karnataka in MFA No.24534/2010 and the said appeal was came to be allowed and reversed the award passed by the Tribunal for pay and recover holding that the owner of the vehicle is liable to pay the compensation to the claimants. Thus, the appeal has been filed before the Hon'ble Supreme Court and his lordship held

that, even where the insurer is able to prove breach on the part of the insured concerning the policy condition regarding holding of a valid licence by the driver or his disqualification to drive during the relevant period, the insurer would not be allowed to avoid its liability towards the insured and where driver did not possess the valid driving licence and there are breach of policy conditions, pay and recover can be ordered in case of third party risks, thus the judgment of the Hon'ble High Court in so far as enhancement of the compensation has been affirmed and in so far as direction to the claimant to recover the compensation from the owner of the vehicle has been set aside and directing the insurance company shall pay the enhanced compensation to the claimants along with interest and shall recover the same from the owner of the vehicle.

25. It is further appropriate to refer the recent decision of the **Hon'ble High Court of Karnataka** in **MFA No.105407/2023** C/W **MFA No.105015/2023** in the case of **Divisional Manager V/s Smt. Tarawwa (NC:2024 KHC-D9166 DB) (Decided on 04-07-2024)**, in the said decision, the Division Bench of the Hon'ble High Court of Karnataka has observed that, the finding recorded by the tribunal holding that, the insurance company is liable to pay compensation at first instance with liberty to recover the same from the owner of the offending vehicle by applying the principles laid down in the case of Shamanna supra, is just and proper which does not warrant interference at the hands of this court. Thus, we are of

the considered view that, the contention of the insurance company in so far as pay and recovery is concerned is liable to be rejected and it is rejected.

26. It is further appropriate to refer the judgment of **Hon'ble Supreme Court** in the case of **Parmindar Singh V/s New India Assurance Co. Ltd., & Others** reported in (**2019)7 SCC 217.** On careful perusal of the said decision, in the said decision the claimant filed the claim petition for seeking compensation against the owners and drivers of the two offending trucks along with insurer of the two offending trucks and the insurance company taken up the contention that the drivers of the two offending vehicles were driving the trucks without valid driving licence and the MACT held the owners and drivers of the two offending trucks jointly and severally liable to pay the compensation to the claimant and the insurance company was absolved from its liability for paying compensation, aggrieved by the said award the claimant has filed the appeal before the Hon'ble Punjab and Haryana High Court for enhancement of compensation awarded by the MACT and the said appeal was came to be allowed in partly and enhanced the compensation and directed the insurance company to pay the compensation to the claimant in the first instance and to recover the same from the owners and drivers of the two offending trucks. Thus, the appeal has been filed before the Hon'ble Supreme Court by the claimant for enhancement of compensation and the said appeal was came to

be allowed and directing the insurance company to make out a demand draft in the name of the opponent and the insurance company to recover said amount from the owners and drivers of two offending trucks.

27. The learned counsel for the respondent No.2 has referred the judgment of **Hon’ble High Court of Karnataka** in **MFA No.7018/2023 C/W MFA No.2658/2024** in the case of **M/s TATA AIG Gen.Insurance Co. Ltd., V/s Manjunath and others**, Judgment in **MFA No.3288/2013 C/W MFA No. 3287/2013** in the case of **M/S Sriram General Insurance Co. Ltd., and others V/s Mrs. Sunita @ Nagaveni and others** and Judgment in **MFA No.6154/2019** in the case of **Hemalata @ Hema @ Hemavati and others V/s Bajaj Allianz General Insurance Co. Ltd., and others.** In the said judgments the Hon’ble High Court has held that, when the owner has violated the terms and condition of the policy by entrusting the vehicle to a person who did not possessed the valid driving license, the insurer is not liable to pay and recover the compensation from the insured. On this aspect, it is just and necessary to refer the **Full Bench Judgment** of **Hon'ble High Court of Karnataka** which passed in **MFA 30131/2010** dtd 12-05-2020 in between **New India Assurance Co., Ltd., V/s Yallavva and Anr**. On careful perusal of the said decision, in the said decision the claimant has filed the claim petition for seeking compensation for the injuries sustained in a road traffic accident and the said claim petition was came to be allowed and directing the

insurance company to pay the compensation and to recover the same from the owner on the ground that the owner has contravened the terms and conditions of the policy which fall under sub section 2 (2) of Sec.149 of Motor Vehicles Act and the said award has been challenged by the insurer of the vehicle before the Hon'ble Single Bench and the Hon'ble Single Bench held in view of the decision of the Division Bench, the insurance company can avoid the liability and it cannot be asked to pay and recover and the said issue having not been considered it will be necessary to refer it to a larger bench to decide the legal aspect on Secs.145, 147 & 149 of M.V. Act. Accordingly a special bench has been constituted and the said appeal was came to be dismissed and directed the insurance company to deposit the compensation with interest and to recover the same from the insured. In the instant case also, the respondent No.1 has contravened the terms and conditions of the policy, but by virtue of the decisions of the **Hon’ble Apex Court** in Shamanna’s case, Parmindar Singh’s case and the judgments of Hon’ble High Court of Karnataka in Divisional Manager V/s Smt. Tarawwa’s and in New India Assurance Co., Ltd., V/s Yallavva and Anr, which referred above, the respondent No.2 insurance company shall pay the compensation with interest and recover the same from the owner of the vehicle/Respondent No.1 in respect of their liability to the extent of 50%. Therefore, the insurance company cannot avoid its liability to pay the compensation to the extent of 50% of their liability with interest, even though the insured/ respondent No.1 has contravened the terms and conditions of the policy by authorizing the person who having no valid and effective driving license to ride the Motor Cycle. So, the respondent No.2 insurance company shall pay the compensation to the extent of 50% of their liability with interest to the petitioners at the first instance and recover the same from the respondent No.1 as the Ex.R.1 insurance policy was in force as on the date of the accident and the petitioners are the third parties to their insurance company.

28. The respondent No.4 contended that, the petitioner in MVC No.205/2022 was travelling as pillion rider on the Motor Cycle bearing Reg.No.KA.17/ES-6403 at the time of alleged accident. The policy issued by them to the Motor Cycle bearing Reg.No.KA.17/ES-6403 is liability only policy i.e., Act policy and as such, it has not covered the risk of the pillion rider. The owner of the said Motor Cycle has not paid the additional premium to cover the risk of the pillion rider. The petitioner in MVC No.206/2022 being the owner of the Motor Cycle bearing Reg.No.KA.17/ES-6403 is not a third party and police does not cover the risk of the petitioner. Hence, the petition is liable to be dismissed against them.

29. In support of their contention, the respondent No.4 has examined its Branch Manager as RW.2 and produced insurance policy which is marked as Ex.R.9. During his chief examination, RW.1 has reiterated the averments made in the

objection statement and contended that, the petitioner in MVC No.205/2022 was travelling as a pillion rider on the Motor Cycle bearing Reg.No.KA.17/ES-6403 at the time of alleged accident. Further submitted that, the policy issued to the Motor Cycle bearing Reg.No.KA.17/ES-6403 is liability only policy i.e., Act policy. As such, it has not covered the risk of pillion rider. The owner of said Motor Cycle has not paid the additional premium to cover the risk of pillion rider. Hence, the petition may kindly be dismissed as against them. The petitioner in MVC No.206/2022 was the owner of the Motor Cycle bearing Reg.No.KA.17/ES-6403 at the time of alleged accident. Further the petitioner was riding the said Motor Cycle at the time of accident. The police records go to show that, there is a contributory negligent on the part of the petitioner also in the alleged accident. He further submits that, the petitioner being the owner of the Motor Cycle bearing Reg.No.KA.17/ES-6403 is not a third party and the policy does not cover the risk of the petitioner. Hence petition may kindly be dismissed as against this respondent. He has been subjected to cross-examination by learned counsel for petitioners. During his cross-examination he has admitted that, except the insurance policy, he has not produced any documents. He admitted that, the driving license of the respondent No.3 was valid as on the date of the accident. He admitted that, the person who holds the insurance policy will be a first party, they are second parties, except them, all other will be third parties. He denied that, the respondent No.3 has obtained insurance / Ex.R.9, they are liable to pay compensation to petitioner Darshan. He further stated that, since the respondent No.3 has not violated the policy conditions, they are liable to pay compensation. He denied that, the contents of his affidavit are false. He further stated that, the respondent No.3 has possessed driving license.

30. Admittedly, the petitioner in MVC No.205/2022 was travelling as a pillion rider in the Motor Cycle bearing Reg.No.KA.17/ES-6403. So far as the coverage of the pillion rider is concerned the learned counsel for the respondent No.4 has relied on the judgment of the **Hon'ble High Court of Karnataka** reported in **2009 Kant MAC 508 (Kant)** in the case of **National Insurance Co. Ltd. V/s Parvatamma and others**, wherein the Hon'ble High Court has observed that, when insurance policy issued by the appellant is pursued liability of the insurance company is confined to third party claim, loss of property of third party and workman. The policy does not cover any risk for the injury to the owner. The learned counsel for the respondent No.4 has also relied on the another ruling of **Hon'ble High Court of Karnataka** reported in **2023 Kant MAC 469 (Kant)** in the case of **The Divisional Manager V/s B. Anjaneyalu and others,** wherein it is observed that, the insurance policy was Act policy/ liability only policy. The deceased and injured were travalling in the private Maruti Omni Car as occupants of the Car, whose risk is not covered as they are not third parties unless, additional

premium is paid for covering the risk. In this aspect to it is appropriate to refer the judgment of **Hon'ble High Court of Karnataka** in **MFA No.174/2018 C/W MFA No.6621/2018** in the case of **National Insurance Co. Ltd., V/s Samiulla Khan and others,** wherein the Hon'ble High Court has observed that, it is evident from the authoritative decisions that, the risk of the pillion rider was not covered under the 'Act only policy'. It was held that, the insurance company can cover the higher risk by accepting additional premium. Under these circumstances, it is clear that, the deceased was pillion rider and no extra premium was collected for the occupant of the vehicle other than the driver and therefore, the risk of the pillion rider was not at all covered under the policy. Under these circumstances, the Hon'ble High Court has observed that, the tribunal has erred by holding that policy mentioned about the seating capacity of 1+1 and that itself would be the coverage of policy. The finding of the tribunal that, the liability has to be fastened upon the respondent No.2 is not sustainable under law.

31. In the present case also the policy issued by the respondent No.4 marked at Ex.R9 is two wheeler liability only policy and additional premium was collected to cover the risk of the pillion rider. Therefore in view of the law laid down by the Hon'ble High Court of Karnataka in the aforesaid judgment, the petitioner in MVC No.205/2022 being the pillion rider is not covered under Ex.R9 policy. As such, the

petition against the respondent No.4 is not maintainable and liable to be dismissed.

32. The petitioner in MVC No.206/2022 is the owner of the said Motor Cycle. The said Motor Cycle was insured with the respondent No.4. The petitioner in MVC No.206/2022 made himself as respondent No.3 in the said case, which is against to the contract of indemnity and he is not come under the category of third party. Sec.147 of Motor Vehicle Act does not mandate coverage for injury or death of the owner unless specifically contracted. Since the petitioner in MVC No.206/2022 is not a third party, the insurer's liability could not extend the contractual limit. Admittedly Ex.R9 policy is a two wheeler liability only policy. No additional premium was paid for personal accident coverage of the owner of the vehicle. As such, the respondent No.4 is not liable to pay compensation to the petitioner in MVC No.206/2022. Hence, the petition against the respondent No.4 is liable to be dismissed. Accordingly, **Issue No.2 in both the cases is answered partly in the Affirmative** and **Addl. Issue in MVC No.206/2022 is answered in the Affirmative**.

33. **ISSUE NO.3 IN MVC NO.205/2022:-** While discussing the Issue No.1, this tribunal has come to the conclusion that, the contributory negligence attributed by the petitioner in MVC No.206/2022 and the rider of the opposite Motor Cycle bearing Reg.No.KA.17/EJ-5159 is taken into consideration to the

extent of 50:50 respectively based on the materials available on record. As such, the petitioners are entitled for compensation to the extent of 50% from respondent Nos.1 and 2.

(i). **Quantum of Compensation:-** According to the petitioner he has sustained grievous injuries to all over the body and degloving injury to 4th and 5th toes of left leg, fracture of distal phalans of 4th and 5th toes, fracture of tibial condyle of lower 1/3rd left side. As such he has taken treatment at Government Hospital, Honnali, Mc- Gann Hospital, Shivamogga and Metro United Health Care Hospital, Shivamogga and spent ₹.2,00,000/- towards medical treatment and other diet expenses. To substantiate this aspect, he has produced hospital and medicine bills which are marked at Ex.P.11 and Ex.P.12. To assess the disability, he got examined Dr. Nitin A.B., Medical Practitioner, Davangere as PW.3, who deposed in his chief examination that, the injured petitioner has come to him for assessing disability, on examination he has issued disability certificate marked at Ex.P.13. In the cross-examination he has admitted that, he has not given treatment to the petitioner and he has assessed the disability by taking X-ray of the petitioner. He admitted that, as per Ex.P.9 discharge summary, the petitioner discharged on 20-01-2021. After discharge, he has not taken treatment as inpatient in any other hospitals. He denied the suggestions that, since petitioner has completely recovered, therefore, he has not taken any treatment as inpatient in any other hospital. He has denied the suggestions that, in order to help the petitioner he has issued a false disability certificate. On perusal of Ex.P.13 it appears that, PW.3 has assessed the disability of the petitioner at 35% to the affected limb. Ex.P9 is the discharge summary issued by Metro United Health Care Hospital, Shivamogga, wherein it is mentioned that, crush injury to 4th and 5th toe of left foot, complete digloving skin exposing bone. Vascularity doubtful as both capillary were crushed. Bone fixed, stay sutures were put and dressing was done, BK POP slab applied and discharged on the same day. The discharge summary further reveals that, total amputation of two toes of left foot and only abrasion injury over left knee and left palm and right knee. There is no reference in the disability summary regarding the fracture of tibial condyle of lower 1/3rd left side. Therefore, the evidence of PW.3 is not corroborates with the discharge summary. However, in the wound certificate Ex.P.3 there is reference regarding the fracture of tibial condyle of lower 1/3rd left side. But there is no supportive document for the same. On meticulous scrutinizing the oral as well as documentary evidence it appears that, the injured petitioner has sustained amputation of 4th and 5th toes of left foot.

34. Though PW-3 is not the treated doctor, but his expertization in the field of Ortho cannot be ruled out. Fracture injuries would cause complications in the body. It requires special supervision and follow up treatment from time to time otherwise it causes complications in the body. The amputation of 4th and 5th toes of left foot, definitely affect the working

capacity of the petitioner. As per the 1st Schedule of Employees Compensation Act, for fracture of two toes of one foot through metatarso- phalangeal joint, 5% disability has to be considered. In the present case, the petitioner has lost two toes of left foot, but the doctor has assessed disability at 35% to the affected limb which appears to be very higher side. Therefore, by considering the age of the petitioner, nature of the injuries sustained and effect on lower limb, I feel it proper and necessary to consider **8%** disability to his whole body and the same would meet the ends of justice. That apart, the provisions contained in Chapter 12 of Motor Vehicles Act, are social beneficial legislation and this court shall award just compensation to meet the intention of the legislatures for inserting chapter 12 to the Motor Vehicles Act, 1988. The petitioner has not produced any proof of documents with regard to his age and income. However, in Ex.P-15/ Adhar card, the date of birth of the petitioner is shown as 24-02-2001. As per Ex.P.15 the age of the petitioner is 19 years 10 months 26 days as on the date of the accident. The petitioner has completed only 19 years age as on the date of the accident. Hence, the Tribunal has considered the age of the petitioner as 19 years as per the law laid down by the **Hon'ble Supreme Court** in the case of **Shashikala & Ors Vs. Gangalashmamma & Anr. (2015) 9 SCC 150.** The multiplier for the age group above 15 to 20 years is "18" as per the dictum of Hon'ble Supreme Court of India in Smt. Sarala Verma case and this age is to be taken for computing the loss of future earnings. The petitioner has not produced any documents regarding his exact monthly income. Therefore in the absence of cogent evidence it is difficult to believe the contention of the petitioner he is earning ₹.40,000/- p.m. from hotel business, horticulture, animal husbandry and milk vending work. Hence, this tribunal will consider the notional income. The Hon'ble Karnataka State Legal Services Authority has fixed the notional income of the year 2021 at ₹.14,250/- for determination of income before Lok Adalat for the Districts coming under the Hon'ble High Court of Karnataka, Dharwad Bench. Case on hand the petitioner has not produced any relevant document to prove his income. Hence, in the absence of any such documents, income of the petitioner is taken as ₹.14,250/- p.m.,. Hence, the petitioner is entitled for compensation amount under different heads:

(a). **Pain and sufferings:-** The petitioner has suffered pain due to injuries. Taking into account of this fact, this tribunal has awarded **₹.20,000/-** which is just and proper under this head.

(b). **Medical expenses:-** Hospital and Medical bills listed to the tune of **₹.34,559/-** at Ex.P11 and P.12. I have carefully perused all the hospital bills, medicine bills, prescriptions, discharge summary it is noticed that, they had come into existence after the date of the accident and in all the bills, the name of the petitioner does find place. Thus, I do not see any reason to doubt the information available in the said Hospital bills and medicine bills. Hence it is just and proper to award **₹.34,559/-** under this head.

(c) **<u>Loss of earning during laid up period</u>:-** The petitioner has produced discharge summary marked at Ex.P9 proving his length of treatment, wherein it appears that the petitioner has admitted to Metro United Health Care, Shivamogga on 20-01-2021 and discharged on the same day. But he might have taken rest at least for one month. Hence considering the nature of injuries it is just and proper to award **₹.14,250/-** under this head.

(d). **<u>Loss of future earning on account of permanent disability</u>:-** This tribunal has assessed 8% permanent functional disability of petitioner's whole body. Therefore, loss of future earning on account of permanent disability works out: ₹.14,250 X 12 X 8 X 18/100 = **₹.2,46,240/-**. This amount is awarded under this head.

(e). **<u>Loss of amenities and future unhappiness</u>:-** The injured petitioner has sustained amputation of 4^{th} and 5^{th} toes of left foot. Hence he has to suffered pain and inconvenience throughout his life. Therefore I award a sum of **₹.30,000/-** under this head which is just and proper.

(f). **<u>Attendant charges, diet, conveyance & other charges</u>:-** Though the petitioner has not produced any other documents to show the exact amount spent for attendant charges, diet, conveyance & other charges, but considering the nature of injuries and treatment taken for such injuries, it is just and proper to award **₹.20,000/-** under this head which appears to be just and proper.

35. The petitioner has claimed some amount for future follow up treatment, but he has not produced any documents to that effect. Hence, the petitioner is entitled for total compensation under the following heads;

Sl. No.	Different heads	Compensation Amount
1	Pain & sufferings	₹. 20,000-00
2	Medical bills	₹. 34,559-00
3	Loss of earning during laid up period	₹. 14,250-00
4	Loss of future earning on account of permanent disability	₹. 2,46,240-00
5	Loss of amenities and future unhappiness	₹. 30,000-00
6	Attendant, diet, conveyance and others charges	₹. 20,000-00
	Total	**₹. 3,65,049-00**

36. In view of the finding on issue No.1, this Tribunal has come to conclusion that, the contributory negligence attributed on both riders is fixed at the ratio 50% each for both riders. Therefore, any final compensation determined by this Tribunal shall be reduced by 50% to the account of the contributory negligence of the rider of the Motor Cycle bearing Reg.No.KA.17/ES-6403 to the accident, in which the petitioner was travelling as a pillion rider. Therefore, the petitioner is entitle for compensation of **₹.1,82,524/-**.

37. **<u>ISSUE NO.3 IN MVC NO.206/2022</u>** :- While discussing the Issue No.1, this tribunal has come to the conclusion that, the contributory negligence attributed by the petitioner in MVC No.206/2022 and the rider of the opposite Motor Cycle bearing Reg.No.KA.17/EJ-5159 is taken into consideration to the extent of 50:50 respectively based on the materials available on record. As such, the petitioner is entitled for compensation to the extent of 50% from respondent Nos.1 and 2.

(i). **<u>Quantum of Compensation</u>:-** According to the petitioner he has sustained grievous injuries to all over the body and fracture of tibia and fibula proximal end on left side and also other injuries. As such he has taken treatment at Government Hospital, Honnali and Mc-Gann Hospital, Shivamogga and spent ₹.2,00,000/- towards medical treatment and other diet expenses. To substantiate this aspect, he has not produced prescriptions, hospital/medicine bills and discharge summary. To assess the disability, he got examined Dr. Nitin A.B., Medical Practitioner, Davangere as PW.3, who deposed in his chief examination that, the injured petitioner has come to him for assessing disability, on examination he has issued disability certificate marked at Ex.P.19. In the cross-examination he has admitted that, he has not given treatment to the petitioner and he has assessed the disability by taking X-ray of the petitioner. He denied the suggestions that, since the petitioner has completely recovered, therefore, he has not taken any treatment as inpatient in any other hospital. He has denied the suggestions that, in order to help the petitioner he has issued a false disability certificate. On perusal of Ex.P.19 it appears that, PW.3 has assessed the disability of the petitioner at 40% to the affected limb. In the wound certificate marked at Ex.P.18 it is stated that, the petitioner has sustained abrasion over left knee joint and fracture of tibia fibula proximal on left side. But the petitioner has not produced any discharge summary or case sheet to show that, he has taken treatment in the said hospitals for the aforesaid injuries. However, in the wound certificate Ex.P.18 there is reference regarding the fracture of tibia fibula proximal on left side. But there is no supportive document for the same. As such, the disability assessed by PW.3 appears to be very higher side without any corroborative medical evidence.

38. Therefore, by considering the age of the petitioner, nature of the injuries sustained and effect on lower limb, I feel it proper and necessary to consider **8%** disability to his whole body and the same would meet the ends of justice. That apart, the provisions contained in Chapter 12 of Motor Vehicles Act, are social beneficial legislation and this court shall award just compensation to meet the intention of the legislatures for inserting chapter 12 to the Motor Vehicles Act, 1988. The petitioner has not produced any proof of documents with regard to his age and income. However, in Ex.P-21/ Adhar card, the date of birth of the petitioner is shown as 07-09-2000. As per Ex.P.21 the age of the petitioner is 20 years 04 months

12 days as on the date of the accident. The petitioner has completed only 20 years age as on the date of the accident. Hence, the Tribunal has considered the age of the petitioner as 20 years as per the law laid down by the **Hon’ble Supreme Court** in the case of **Shashikala & Ors Vs. Gangalashmamma & Anr. (2015) 9 SCC 150.** The multiplier for the age group above 15 to 20 years is “18” as per the dictum of Hon'ble Supreme Court of India in Smt. Sarala Verma case and this age is to be taken for computing the loss of future earnings. The petitioner has not produced any documents regarding his exact monthly income. Therefore in the absence of cogent evidence it is difficult to believe the contention of the petitioner he is earning ₹.35,000/- p.m. from hotel business, horticulture, animal husbandry and milk vending work. Hence, this tribunal will consider the notional income. The Hon'ble Karnataka State Legal Services Authority has fixed the notional income of the year 2021 at ₹.14,250/- for determination of income before Lok Adalat for the Districts coming under the Hon'ble High Court of Karnataka, Dharwad Bench. Case on hand the petitioner has not produced any relevant document to prove his income. Hence, in the absence of any such documents, income of the petitioner is taken as ₹.14,250/- p.m.,. Hence, the petitioner is entitled for compensation amount under different heads:

(a). **Pain and sufferings:-** The petitioner has suffered pain due to injuries. Taking into account of this fact, this tribunal has awarded **₹.20,000/**- which is just and proper under this head.

(b). **<u>Loss of earning during laid up period</u>:**- No discharge summary produced to prove the length of treatment taken in the hospital as inpatient. But he might have taken rest at least for one month. Hence considering the nature of injuries it is just and proper to award **₹.14,250/-** under this head.

(c). **<u>Loss of future earning on account of permanent disability</u>:-** This tribunal has assessed 8% permanent functional disability of petitioner's whole body. Therefore, loss of future earning on account of permanent disability works out: ₹.14,250 X 12 X 8 X 18/100 = **₹.2,46,240/-**. This amount is awarded under this head.

(d). **<u>Loss of amenities and future unhappiness</u>:-** The injured petitioner has sustained fracture of tibia fibula proximal on left side. Hence he has to suffered pain and inconvenience throughout his life. Therefore I award a sum of **₹.30,000/-** under this head which is just and proper.

(e). **<u>Attendant charges, diet, conveyance & other charges</u>:-** Though the petitioner has not produced any other documents to show the exact amount spent for attendant charges, diet, conveyance & other charges, but considering the nature of injuries and treatment taken for such injuries, it is just and proper to award **₹.20,000/-** under this head which appears to be just and proper.

39. The petitioner has claimed some amount for future follow up treatment, but he has not produced any documents to that effect. Hence, the petitioner is entitled for total compensation under the following heads;

Sl. No.	Different heads	Compensation Amount
1	Pain & sufferings	₹. 20,000-00
2	Loss of earning during laid up period	₹. 14,250-00
3	Loss of future earning on account of permanent disability	₹. 2,46,240-00
4	Loss of amenities and future unhappiness	₹. 30,000-00
5	Attendant, diet, conveyance and others charges	₹. 20,000-00
	Total	**₹. 3,30,490-00**

40. In view of the finding on issue No.1, this Tribunal has come to conclusion that, the contributory negligence attributed by the petitioner in MVC No.206/2022 and the rider of Motor Cycle bearing Reg.No.KA.17/EJ-5159 is fixed at the ratio 50% each for both riders. Therefore, any final compensation determined by this Tribunal shall be reduced by 50% to the account of the contributory negligence of the petitioner. Therefore, the petitioner is entitle for compensation of **₹.1,65,245**/-.

41. **<u>INTEREST</u>**:- Petitioners claimed the compensation with interest at the rate of 12% per annum. On the other hand, Respondents have contended that the interest claimed by the petitioners is highly excessive. But the compensation amount

shall carry a reasonable rate of interest considering the loss of value of money rapidly due to inflation and market situation. In the decision of Hon'ble High Court of Karnataka rendered in the case of **Mis. Joyeeta Bose and others V/s Venkateshan V and others in MFA No. 5896 of 2018 (MV) C/W 4444/2018** and **4659/2018 (MV) the Hon'ble High Court** held that claimant is entitled interest @ 6% p.a. Considering the prevailing bank rate of interest, I deem it proper to award interest at the rate of 6% per annum on the above compensation amount.

42. **LIABILITY**:- While discussing issue No.1, 2 and Addl. Issue No.1, this tribunal has already observed and come to conclusion that, it is a contributory negligence case, the riders of both the vehicles are responsible for the accident to the extent of **50 : 50.** In view of the findings recorded on aforesaid issues, the respondent No.2 is liable to pay compensation to the extent of 50% i.e. **₹.1,82,524/- and ₹.1,65,245/**- respectively with interest at the rate of 6% p.a. to the petitioners in both the petitions at first instant and recover the same from the Respondent No.1. The petition against the respondent Nos.3 and 4 is liable to be dismissed.

43. **APPORTIONMENT OF COMPENSATION**:

Since the compensation amount is meager one, on deposit, the entire amount is directed to release in favour of the petitioners. Hence **issue No.3** in both the petitions is answered **partly in the affirmative**.

44. **ISSUE NO.4 IN BOTH CASES**: For the forgoing reasons and in view of above discussion, this Tribunal proceed to pass the following:

ORDER

The petitions filed by the petitioners U/Sec.166 of Motor Vehicles Act, is allowed in part.

The petition against the respondent Nos. 3 and 4 is dismissed.

The petitioner in MVC No.205/2022 is entitled for compensation of **₹.1,82,524/- (**Rupees One Lakh Eighty-Two Thousand Five Hundred and Four Only) with interest at 6% p.a., from the date of petition till the date of realization.

The petitioner in MVC No.206/2022 is entitled for compensation of **₹.1,65,245/**- **(**Rupees One Lakh Sixty-Five Thousand Two Hundred and Forty-Five Only) with interest at 6% p.a., from the date of petition till the date of realization.

The respondent No.2 being the insurer of the Motor Cycle bearing Reg.No.KA.17/EJ-5159 shall pay compensation amount with interest at the rate of 6% per annum from the date of the claim petition till its realization within a period of 30 days from the date of this order to the petitioners at first instance and **recover the same from the owner of the said vehicle i.e. respondent No.1.**

Hence the respondent No.2 is directed to deposit the compensation amount directly to the account of petitioners through NEFT/RTGS within 30 days from the date of award if details are furnished. Otherwise the award amount shall be deposited to the tribunal within thirty days from the date of award.

Since the compensation awarded in MVC Nos.205/2022 and 206/2022 is meager one, on deposit of compensation amount, the entire amount shall be released in favour of the respective petitioners through NEFT/RTGS on proper identification and proof.

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

Draw award accordingly.

The original judgment shall be kept in MVC No.205/2022 and copy of the said judgment shall be kept in MVC Nos.206/2022.

(Directly dictated to the stenographer on computer, typed by her, corrected and then pronounced by me, in the open Court on this **1st day of August, 2026**).

(**MANJUNATHA M.S.**)
2nd Addl. Senior Civil Judge & AMACT,
Ranebennur.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PETITIONERS:-

PW.1	:	Darshan M.P.
PW.2	:	Bharatha M
PW.3	:	Dr. Nitin A.B.

LIST OF DOCUMENTS MARKED ON BEHALF OF THE PETITIONERS:-

Ex.P1	:	T.Copy of FIR
Ex.P2	:	T.Copy of complaint
Ex.P3	:	T.Copy of wound certificate
Ex.P4	:	T.Copy of spot panchanama
Ex.P5	:	T.Copy of vehicle seizure panchanama

Ex.P6 & 7	:	T.Copies of IMV reports
Ex.P8	:	T.Copy of charge sheet
Ex.P9	:	Discharge summary
Ex.P10	:	Prescriptions
Ex.P11	:	Hospital bills
Ex.P12	:	Medical bills
Ex.P13	:	Disability certificate
Ex.P13(a)	:	Signature of PW.3
Ex.P14	:	X-ray films
Ex.P15	:	Notarized copy of Adhar card
Ex.P16	:	Notarized copy of PAN Card
Ex.P17	:	Notarized copy of Bank pass book
Ex.P18	:	Wound certificate
Ex.P19	:	Disability certificate
Ex.P19(a)	:	Signature of PW.3
Ex.P20	:	X-ray film
Ex.P21	:	Notarized Copy of Adhar card
Ex.P22	:	Notarized Copy of PAN card
Ex.P23	:	Notarized Copy of Bank pass book.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE RESPONDENT:-

RW.1	:	Vikram C.R.
RW.2	:	N.Vimalan

LIST OF DOCUMENTS MARKED ON BEHALF OF THE RESPONDENT:-

Ex.R1	:	Copy of Insurance policy
Ex.R2	:	Office copy of notice
Ex.R3 & 4	:	Postal receipts
Ex.R5	:	Postal acknowledgment
Ex.R6	:	Notice copy
Ex.R6(a)	:	Postal cover
Ex.R7	:	Office copy of notice
Ex.R8	:	Postal acknowledgment
Ex.R9	:	Insurance policy copy.

2nd Addl. Sr. Civil Judge & AMACT,
Ranebennur.