

KADK500010452022



Presented on : 11-10-2022
Registered on : 11-10-2022
Decided on : 28-07-2026
Duration:3 years 9 month 17 days

**IN THE COURT OF SENIOR CIVIL JUDGE &
M.A.C.T-XV, BELTHANGADY, D.K. DISTRICT**

:PRESENT:

**SRI. MANU B.K., *B.A.L., LL.M.*,
Senior Civil Judge & MACT-XV
Belthangady, D.K. District**

Dated, this the 28th day of July 2026

M.V.C./1447/2022 C/W M.V.C./1448/2022

**PETITIONER IN
MVC No.1447/2022**

Guruprasad,
S/o. Ramachandra Gowda
Aged 31 years,
R/at Kalenja village,
Kayarthadka post,
Belthangady Taluk, D.K.

(By Sri. J.M.T., Advocate)

PETITIONER IN

MVC No.1448/2022

Ananda M.K
S/o. Shanthappa.M.K
Aged 54 years,
R/at Kambadda house,
Niddle village and post,
Belthangady Taluk,D.K.
(By Sri. J.M.T., Advocate)

-Versus-

COMMON RESPONDENTS

IN BOTH THE CASES

1. Dinesh N
R/at Ashwadi house,
1-4/1, Kalanja
village,
Kayarthadka post,
Belthangady Taluk,
D.K. 574 216.
2. The Manager
Tata AIG General
Insurance Ltd.,
Branch office at Essel
Tower,
Near Bunts Hostel,
Mangalore – 3.

(R1 – Sri. C.K.M in MVC
1448/2022, Exparte in MVC
1447/2022, R2 - By
Smt. A.P.R Adv.,)

-: COMMON JUDGMENT :-

Both the petitioners have filed these petitions under section 166 of Motor Vehicle Act, 1988 seeking compensation from the respondents for the injuries sustained by them in a road traffic accident.

2. The facts in brief, now germane, are as follows:-

On 11-12-2021 the petitioners after Pooja at Gundy Gate Temple proceeding towards their house along with Pooja materials in

Mahindra Jeeto Vehicle in National Highway

75. When they reached near Barchina Halla at about 5-20p.m, the said Mahindra Jeeto vehicle fell down, hence the petitioners sustained injuries to the head, face and other parts of the body. Thereafter, both the petitioners were shifted to Ashwini Hospital Nelyadi wherein the petitioner in MVC 1448/2022 was admitted as inpatient from 11-12-2021 to 15-12-2021 and also taken further treatment in SDM hospital, Ujire. The petitioner in MVC 1447/2022 was shifted to Wenlock Hospital, Mangalore and admitted as

inpatient from 11-12-2021 to 27-12-2022. The petitioners have already spent Rs.10,00,000/- each towards treatment and Rs.5,00,000/- each is required for their future medical expenses. The petitioner in MVC No.1447/2022 was a disabled person, but he was hale and healthy prior to the accident and due to the accident he has lost his earning capacity for about one year. The petitioner has also sustained permanent disability and loss of eye sight. Whereas, the petitioner in M.V.C 1448/2022 has sustained injuries. Therefore, the petitioners have contended that the accident

occurred due to the fault on the part of driver of Mahindra Jeeto Vehicle bearing Reg.No.KA-70-0951. Thus, the petitioners sought to allow the petition.

3. As against the petitions filed by the petitioners, the respondent No.2 has filed detailed objection. In the objection, the respondent no.2 has denied all the contentions urged by the petitioners. It is further contended that no additional premium collected to cover the petitioners and the petitioners were traveling as gratuitous passengers in the goods vehicle. Hence, the

respondent no.2 is not liable to indemnify the loss. It is further contended that the respondent no.1 has violated the terms and conditions of the policy and there was no fitness for the said vehicle. The respondent no.2 has further denied the age and occupation of the petitioners. Therefore, the respondent no.2 sought to reject the petitions.

4. The respondent no.2 has tendered his appearance before the Tribunal through its advocate and filed written statement in M.V.C no.1448/2022 by denying all the petition averments as false, frivolous and not

maintainable at law and on facts of the case.

It is contended that the Mahindra Jeeto LMC bearing Reg.No.KA-70-0951 was duly insured with the respondent no.2 and the policy was having validity as on the date of alleged accident, thus the respondent no.2 is not liable to pay the entire compensation amount to the petitioner. Therefore, sought to reject the petition.

5. On the basis of above pleadings, the following issues have been framed by this Tribunal:-

ISSUES IN MVC No.1447/2022

1. Whether the petitioner proves that he has sustained injuries in the road traffic accident that took place on 11-12-2021 at about 5.20p.m in National Highway 75 near Barchina Halli, due to rash and negligent driving of driver of the Mahindra vehicle bearing Reg.No.KA-07-0951?
2. Whether the petitioner is entitled to the relief sought for? If so, how much and from whom?
3. What order or award?

ISSUES IN MVC No.1448/2022

1. Whether petitioner proves that he has sustained injuries in the road traffic accident that took place on 11-12-2021 at about 5-20p.m on Hassain – Mangalore N.H 75, near Barachina Halla, Shiradi

village of Kadaba Taluk, due to rash and negligent driving of driver of Mahendra Jeeto vehicle bearing Reg.No.KA-70-0951?

2. Whether the petitioner is entitled to the relief sought for? If so, how much and from whom?
3. What order or award?

Additional Issues in MVC 1448/2022

4. Whether respondent no.2 proves that driver of Mahendra Jeeto vehicle bearing Reg.No.KA-70-0951 had no valid DL to drive that class of vehicle as on the date of accident?
5. Whether respondent no.2 proves that vehicle bearing Reg.No.KA-70-0951 was not having valid fitness certificate, as on the date of accident?

6. Both the cases are arose out of the same accident. Therefore, the M.V.C. No.1447/2022 was ordered to be clubbed with M.V.C. No.1448/2022 by an order dated:04.12.2024

7. In order to substantiate the case, the petitioner in MVC No.1447/2022 has been examined himself as PW-1 and got marked - 10- documents as Ex.P-1 to Ex.P-10. The petitioner in MVC No.1448/2022 has been examined himself as P.W.1 and got marked 9 documents as Ex.P1 to Ex.P9. The Doctor by name Anitha Kiran, Wenlock Hospital, has

been examined on behalf of petitioner in MVC No.1447/2022 as CW-1.

8. On the other hand, the respondent No.2 has examined its Legal officer as RW1 and got marked a copy of insurance policy as Ex.R-1.

9. Heard the argument of learned counsel for both side.

10. This tribunal has given its anxious consideration to the pleadings and material placed on record.

11. My findings to the above issues **in MVC No.1447/2022 and MVC No.1448/2022** are as under:-

Issue No.1 in both cases: **In the AFFIRMATIVE**

Issue No.2 in both cases: **PARTLY IN THE
AFFIRMATIVE**

Issue no.4 in MVC 1448/2022: IN THE NEGATIVE

Issue No.5 In MVC 1448/2022: IN THE NEGATIVE

Issue No.3 in both cases: **As per final order
for the following:**

R E A S O N S

12. ISSUE No.1 IN BOTH THE CASES: The petitioners have knocked the doors of this court through subject petitions seeking compensation for the injuries sustained by them in the road traffic accident. The issue lies in a narrow compass qua factum of accident. As per the contention of the petitioners, on 11-12-2021 when they were

proceeding in the Maheendra Jeeto vehicle bearing Reg.No.KA-70-0951, the said vehicle fell down and hence, the petitioners have sustained injuries.

13. In order to demonstrate the aforementioned contention of the petitioners, the petitioner of M.V.C No.1447/2022 has filed an affidavit in lieu of his examination in chief and produced as many as 10 documents, which are marked and exhibited as Ex.P1 to Ex.P10. The petitioner in M.V.C.No.1448/2022 has been examined himself as PW1 and produced 9 documents, which are marked and

exhibited as Ex.P1 to Ex.P9. Thereafter, both the witnesses have been subjected to the litmus test of cross examination. In the cross examination of PW1 in M.V.C 1447/2022, he has testified that he was proceeding in the said vehicle as per the instruction of owner of the materials. In the cross examination of both the witnesses, the factum of accident and injuries sustained by the petitioners in the road traffic accident are not disputed. Ergo, the ocular evidence of PW1 in both cases remained immutable qua the factum of accident and injuries sustained by the

petitioners in the accident. Therefore, their evidence would buttress the case of the petitioners.

14. In order to demonstrate the factum of accident, the PW1 in MVC No.1447/2022 has produced a copy of complaint as Ex.P1, F.I.R as Ex.P2. On the other hand, the PW1 in MVC No.1448/2022 has produced a copy of F.I.R as Ex.P1, copy of complaint as Ex.P2. If those documents are read in tendum, it gives a facial insinuation that the factum of accident has been immediately informed to the jurisdictional police. Ergo, the case has been

registered against the driver of Maheendra Jeeto vehicle. As such, those documents would coalesce the contention of the petitioners qua accident.

15. The PW1 in both the cases have produced Mahazar as Ex.P3, sketch as Ex.P4. On perusal of those documents, it clearly appears that the driver of the vehicle was proceeding in a rash and negligent manner and hence, the said vehicle fell down due to which the petitioners have sustained injuries. Therefore, the mahazar and sketch would delineates the entire factum qua injuries

sustained by the petitioners due to the accident.

16. The petitioners of both cases have produced wound certificates as Ex.P6 and charge sheet has been produced as Ex.P8. On perusal of Ex.P6 wound certificates in both the cases, it reveals that both the petitioners have sustained number of injuries due to the road traffic accident. Whereas, in the Ex.P8, it is clearly mentioned that the driver of the vehicle bearing Reg.No.KA-70-0951 was proceeding in a rash and negligent manner, hence he has lost control over the vehicle,

thus the vehicle fell down and passengers have sustained injuries. The charge sheet is not a conclusive proof to hold the factum of accident, but it clearly buttress the case of the petitioners qua factum of accident and injuries sustained by them in the road traffic accident. Hence, the said document also coalesce the case of the petitioners.

17. In order to turn down the case of the petitioners, the respondent no.2 has examined its Legal Officer as RW1. In the course of her evidence, she has denied the factum of accident and injuries sustained by the

petitioners in the road traffic accident. Even in the cross examination of RW1, the contention of the petitioners qua issue in question is not disputed.

18. If the aforementioned discussion is perused in its entirety, it clearly unravels that the petitioners have manifested their case with respect to issue in question by leading cogent oral and documentary evidence. In fact, if the Ex.P1 to Ex.P8 are perused, it clearly gives a facial insinuation that the petitioners were proceeding in Maheendra Jeeto vehicle as passengers. The driver of the said vehicle was

driving the same in a rash and negligent manner. Therefore, he has lost control over the vehicle, hence, the said vehicle fell down. Ergo, the petitioners have sustained injuries. Therefore, a complaint/F.I.R has been filed/registered as per Ex.P1 and after completion of investigation a charge sheet has been filed as per Ex.P8. The wound certificates and mahazars referred supra would delineates the factum of accident. Moreover, if the cross examination of PW1 in both cases are perused in its entirety, it makes it unequivocally clear that the respondent no.2 has not even denied

the factum of accident. Hence, the oral and documentary evidence placed by the petitioners with respect to factum of accident are remained unquestionably enlivened. Hence,, those documents would buttress the case of the petitioners.

19. At this juncture it is necessary to reassert that in a claim for compensation filed under Section 166 of Motor Vehicles Act, 1988, the claimant is expected to prove the incident on basis of principle of *preponderance of probabilities* and the view taken by this Court is fortified by the decision rendered by

the Hon'ble Supreme Court in *Kusum and others V/s Satbir and others* which is reported in *2011 SAR (CIVIL) 319*. Further the Hon'ble Supreme Court in case of *Bimla Devi and others v. Himachal Road Transport Corporation and others* reported in *(2009) 13 SCC 530* has observed that, *it is necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants are merely required to establish their case on the touchstone of preponderance*

of probability. The standard of proof beyond reasonable doubt could not have been applied.

20. Even in the instant case as already observed, the I.O. has clearly opined that the accident occurred due to the fault of the driver of Maheendra Jeeto vehicle and hence he was charge sheeted. Hence, viewed from any angle this Tribunal does not find any reason to distrust the version of the petitioners herein.

21. On careful perusal of entire oral and documentary evidence available on record, it appears that, the oral testimony of PW-1 in

both the cases regarding accident is remained unchallenged. The injuries sustained by the petitioners in both the cases due to accident is clearly forthcoming in the oral testimony of PW-1 in both the cases as well as documentary evidence produced by the petitioners. Thus, on careful scrutiny of oral and documentary evidence, it reveals that, on 11-12-2021 when the petitioners were proceeding in Mahindra Jeeto vehicle bearing Reg.No.KA-70-0951 in National Highway 75. When they reached near Barchila Halla of Shiradi village, the driver of Maheendra Jeeto

vehicle driven the same in a rash and negligent manner and lost his control over the vehicle due to which the said vehicle fell down. Therefore, the petitioners have sustained injuries as mentioned above. On the basis of complaint lodged by the first informant, the case has been registered and the Investigating Officer has visited to spot and drawn the mahazar and sketch has been prepared, thereafter, the charge sheet has been filed as per Ex.P-8. Therefore, this Tribunal is of the view that, the accident is proved to have been caused due to actionable negligence on part of

the driver of Maheendra Jeeto Vehicle bearing Reg.No.Ka-70-0951. Accordingly, this Tribunal answering issue No.1 in both the cases in the **AFFIRMATIVE.**

22. ADDITIONAL ISSUES No. 4 & 5 IN

MVC 1448/2022: The respondent No.2 has contended that the driver of Maheendra Jeeto vehicle had no valid D.L. to drive that class of vehicle and the said vehicle had no valid fitness certificate as on the date of accident. To find out answer to the said question, this Tribunal has perused the documents produced by the petitioners and respondents. On careful

perusal of material on record, it appears that the respondent No.2 has not produced any documents to show that the driver of Maheendra Jeeto vehicle had no valid D.L. and fitness certificate as on the date of accident. Whereas, the charge sheet i.e., Ex.P8 filed by the Investigating Officer would clearly establish that the driver of the Maheendra Jeeto vehicle had D.L. and the vehicle had fitness certificate and relevant provision is not invoked in the charge sheet. Moreover, the Ex.P.7 produced by the PW1 in MVC No.1447/23 would clearly overturn the

aforementioned defence of the respondent No.2. Therefore, the contention of the respondent No.2 stands rebutted and accordingly, this Tribunal is of the view that these issues are not proved by respondent No.2. Hence, the Addl.issues No.4 & 5 in MVC 1448/2022 are answered in the **NEGATIVE**.

23. ISSUE NO.2 IN BOTH THE CASES: The petitioners are before this court seeking compensation for the injuries sustained by them in the road traffic accident. The petitioners in both the cases have sought compensation to a tune of Rs.25,00,000/-. As

per the contention of the petitioner in MVC 1447/2022, he was proceeding in the said vehicle and due to the accident, he has sustained permanent disability. It is further contended that he was aged about 31 years and he was doing coolie work and due to the accident, he has lost his earning capacity. Whereas the petitioner in MVC 1448/2022 has contended that he has sustained injuries, hence his earning capacity was stalled for a period of one year due to injuries.

24. The respondent No.2 has taken a specific contention that the accident occurred

in a Maheendra Jeeto vehicle and the owner of the said vehicle has not paid premium towards gratuitous passengers, hence they are not entitle for any compensation and also contended that the petitioner are gratuitous passengers. In the course of arguments the learned counsel for the respondent No.2 has relied upon the following judgments:

1. MFA 1462/2013 High Court of Karnataka (The Manager, New India Assurance Co.Ltd., -vs- Boregowda and others)
2. CMA 670 and 671/2019 High Court of Madras (Nagarani and other vs Muthukrishnan and anr)
3. CMA 2388/2018 High Court of Madras (The United India Insurance company Limited -vs- Rajamani and others)
4. MFA 4096/2021 High Court of Karnataka (Sri. Ashwathappa -vs- Sri. Ravichandra T)

25. In the aforementioned judgments, the Hon'ble High Courts have held that the gratuitous passenger in a goods vehicle that too without the consent of the owner or driver of the lorry is not entitle for compensation. If the law laid down by the Hon'ble High Court in the afore-quoted judgments is perused, it is unequivocally clear that the gratuitous passenger who was traveling without the consent of the owner or driver is not entitle for any compensation.

26. Here in this case, in the context of
aforementioned contention of the respondent
no.2, if the cross examination of PW1 in MVC
1447/2022 is seen, he has testified as under:

“22. ಕೆಎ 70-0951 ವಾಹನದ ಮಾಲೀಕರ
ಹೆಸರು ವಸಂತ ಗೌಡ ಅವರು ನಮ್ಮ ಊರಿನವರು
ಹಾಗಾಗಿ ಮೊದಲಿನಿಂದ ಪರಿಚಯ. ಸಾಕ್ಷಿ
ಮುಂದುವರಿದು ವಸಂತ ಗೌಡರವರು ಸದರಿ
ವಾಹನದ ಚಾಲಕರು , ದಿನೇಶ ಎಂಬುವವರು ಸದರಿ
ವಾಹನದ ಮಾಲೀಕರು ಎಂದು ಹೇಳುತ್ತಾರೆ.
ದಿನೇಶವರು ನನಗೆ ಪರಿಚಯ ಇರುವುದಿಲ್ಲ.”

He further testified as under:

“24.ಆ ದಿನ ನಾನು ಚಾಲಕನ ಪಕ್ಕ
ಕುಳಿತಿದ್ದೆ ಹಾಗೂ ಆನಂದ ಹಿಂದೆ ಇದ್ದರು.
ಆನಂದರವರು ನಮ್ಮ ಪಕ್ಕದ ಮನೆಯವರಾಗಿದ್ದು
ಅವರಿಗೆ ದಿನೇಶ ಹಾಗೂ ವಸಂತ ಗೌಡರವರ
ಪರಿಚಯ ಇದೆ. ಆ ದಿನ ವಸಂತರವರು ನಮ್ಮ
ಮನೆಯ ಪಕ್ಕದವರಾದ ಕಾರಣ ನಿಮ್ಮೊಂದಿಗೆ ನಾನು
ಸಹ ಬರುತ್ತೇನೆಂದು ಅವರಲ್ಲಿ ಹೇಳಿ ಆದಿನ

ಅವರೊಂದಿಗೆ ನಾನು ಸದರಿ ವಾಹನದಲ್ಲಿ
ಬಂದಿರುತ್ತೇನೆ. ಪೂಜಾ ಸಾಮಗ್ರಿಗಳು ಇದ್ದ ಕಾರಣ
ವಸಂತರವರು ನನ್ನನ್ನು ಹಾಗೂ ದಿನೇಶರವರನ್ನು
ಸದರಿ ವಾಹನದಲ್ಲಿ ಬರಲು ಹೇಳಿದ್ದರು, ಹಾಗೂ
ನಮಗೂ ಸಹ ಬೇರೆ ಯಾವುದೇ ವಾಹನ ಇರಲಿಲ್ಲ
ಹಾಗಾಗಿ ನಾವು ಅದರಲ್ಲಿ ಬಂದಿರುತ್ತೇವೆ.....”

27. If the above-mentioned ocular evidence of PW1 in MVC 1447/2022 is perused carefully, it clearly reveals that the petitioners of both cases were not traveling as gratuitous passengers, but they were traveling in the said vehicle as caretakers of the goods. Therefore, the petitioner in MVC 1448/2022 was proceeding with the pooja materials. Further, it clearly reveals that with the consent of owner of the goods and driver of the vehicle,

they were proceeding in the said Maheendra Jeeto vehicle. As such, they cannot be considered as gratuitous passengers as contended by the respondent no.2. Further, if the objection of respondent no.2 is perused, the factum of policy and enforcement of the policy as on the date of accident is not disputed. On the other hand, the evidence of PW1 in both the cases would clearly reveals that they were proceeding in Maheendra Jeeto vehicle as passengers with the consent of driver and as per the direction of the owner of the goods. Therefore, the aforementioned

ocular testimony of PW1 would clearly obliterate the very contention of the respondent No.2. At this juncture, it is now germane to mention the Judgment of **Hon'ble High Court of Karnataka in 2018 ACJ 2081 (United India Insurance Co. Ltd., -vs- Muni anjinappa and others)**, has observed that **“dominant nature of work of the claimants was loading/unloading vegetables in the goods vehicle and even though they have been appointed for a limited period, they become employees on the goods vehicle for loading/unloading of vegetables”**.

28. In 2018 ACJ 1288 (SC) (Shivawwa and Another -vs- Branch Manager, National Insurance Co.Ltd., and another) wherein the Hon'ble Supreme Court of India observed that there is coverage for a person who was traveling in the tractor, trailer after unloading the goods.

29. If the law laid down by the Hon'ble Courts in the aforequoted judgments is paraphrased to the case on hand, it is clear that a person who travels with the consent of owner or driver cannot be treated as gratuitous passenger. In this case, the

petitioners of both cases were traveling as per the direction of the owner of the goods and with the consent of driver. Thus, they cannot be terms as gratuitous passengers. As such, the contention of the respondent no.2 qua gratuitous passengers stands obliterated.

30. In this case, the petitioner in MVC 1447/2022 has contended that he was aged about 31 years as on the date of accident. However, on careful scrutiny of documents produced by him, it depicted that he has not produced any authenticated proof to demonstrate his age. Therefore, this court has

considered the medical evidence available on record. On careful scrutiny of disability certificate at Ex.P9, it appears that the petitioner was aged about 32 years. Therefore, the age of the petitioner is considered as 32 years.

31. The petitioner/PW1 in MVC 1447/2022 in his evidence stated that though he is a physically disabled person, but he was doing areca peeling work and earning Rs.300 to 400 per day. But there is no proof to show the exact income of the petitioner. Thus, this Tribunal has to consider the income of the

petitioner as notional income. At this juncture, it is relevant to rely on a decision of Hon'ble High Court of Karnataka rendered by Division Bench in the case of **Ananda v/s Arjun and another** in **MFA.No.101144/2020 (MV)** dated: **05.07.2023**. Wherein the Hon'ble High Court of Karnataka has lay down the following principles in para No.8(b) are as here under :

“(b) The accident is of the year 2017. The Tribunal has assessed the income of the deceased at Rs.7,000/- per month as against the claim of Rs.2,50,000/- per annum. To substantiate the said claim, the injured claimant has not placed any material on record, it is for the Courts and Tribunals to assess the income notionally. The notional income fixed by the Karnataka State Legal Services Authority for the accident of the year 2017 is Rs.10,250/-. In the absence of any material produced by the claimant to prove his

income, it is appropriate to assess the notional income of the injured claimant at Rs.10,250/- per month, and the same is assessed as the monthly income of the injured claimant.

32. As such this Tribunal is taking the notional income as prescribed by the Karnataka Legal Service Authority, Bengaluru. The accident was occurred on 11-12-2021. Therefore, in view of the above decision Rs.15,000/- has to be taken into consideration as monthly income of the petitioner.

33. In the petition filed by the petitioner, he has contended that due to the accident, he has suffered permanent disability.

Accordingly, he has examined the doctor as CW1 and produced disability certificate as Ex.P9 in which, it is mentioned that the petitioner has sustained permanent visual impairment of 86% in his left eye. On perusal of ocular testimony of CW1, it clearly goes to show that disability certificate is issued both in respect of visual impairment and physical disability. As per the pleadings, the petitioner in MVC 1447/2022 is already a physically disabled person and another eye of the petitioner is working normally. Thus, by considering the visual impairment of

petitioner, this tribunal considered 50% of visual impairment as permanent visual impairment for the purpose of awarding compensation.

34. The law is well settled that, it is the impact of the physical disability on the particular avocation of the petitioner, which is relevant for the purpose of assessment of compensation under the head of loss of future income as held by the Hon'ble Apex Court in **(2011) 1 SCC 343** in the case of **Rajkumar v/s Ajaykumar and another**, wherein the Hon'ble Supreme Court held as follows;

Therefore, the Tribunal has to first decide whether there is any permanent disability and if so the extent of such permanent disability. This means that the tribunal should consider and decide with reference to the evidence:

(i) whether the disablement is permanent or temporary;

(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement,

(iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is the permanent disability suffered by the person.

If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent

disability has affected or will affect his earning capacity.

Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent ability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.

For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a

driver or a carpenter, the actual loss of earning capacity may virtually be hundred percent, if he is neither able to drive or do carpentry. On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could perform his clerical functions; and in that event the loss of earning capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability, but far less. In fact, there may not be any need to award any compensation under the head of 'loss of future earnings', if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity.

35. By applying the said precedent to the present case on hand, from the petition averments, it would culled out that the petitioner cannot work as effectively as earlier, as such his efficiency in work will decrease and it will indirectly affect his work. Considering the nature of injuries, line of treatment and on appreciation of clinical findings noted by the doctor in Ex.P-9, the possibility of the fact that the petitioner may be having economic and functional disability to the extent of 40% to the whole body cannot be ruled out. Therefore, the disability of the

petitioner is considered as 40%. As already discussed supra, the accident took place due to actionable negligence of the driver of Mahindra Jeeto Vehicle bearing Reg.No.KA-70-0951. Thus, on the basis of oral and documentary evidence available on record, this Tribunal is of the view that the petitioner of MVC No.1447/2022 is entitled for compensation under the following heads:

36. ATTENDANT CHARGES, EXTRA NUTRITIOUS FOOD & CONVEYANCE

CHARGES: The petitioner has contended that he was admitted to the Wenlock hospital as

inpatient from 11-12-2021 to 27-12-2021 i.e. for 17 days. Hence, by considering the stay in the hospital, the petitioner would have incurred expenses towards attendant charges as some family member of the petitioner would have accompanied him to the hospital to take his care by leaving their duties. In the petition, the petitioner has contended that he has appointed an attendant to look after him in the hospital. But, no material evidence is placed on record to prove the aforesaid fact. Therefore, the said contention of the petitioner cannot be accepted. However, the time spent

by the petitioner in the hospital is not disproved by the other side. Therefore, it can infer that during the aforesaid period, the petitioner might have also spent a considerable amount towards special diet, transportation and nutrition. Hence, by considering the rate of inflation and rise in the price index, the same is quantified at Rs.1,000/- per day and a sum of **Rs.17000/- (Rs.1,000 X 17)** is awarded under this head.

37. **PAIN AND SUFFERINGS:** On going through the accidental injuries, the petitioner would have undergone pain and mental agony.

As per the wound certificate and testimony of CW-1, the petitioner has sustained grievous injuries. Having regard to the injuries suffered by the petitioner and such other attending circumstances, this Tribunal is of the view that it is just and proper to award a sum of **Rs.80,000/-** under this head.

38. LOSS OF INCOME DURING LAID UP

PERIOD: Considering the nature of injuries and treatment given during the stay of petitioner in the hospital, it is quite natural that, the petitioner could not have carried out his avocation atleast for a period of three months.

As already discussed supra, the notional income of the petitioner is considered as Rs.15000/- p.m. Thus, by taking into account of the notional income of the petitioner, this Tribunal awards as sum of **Rs.45000/-** (**Rs.15000 x 3**) under this head.

39. MEDICAL EXPENSES: The petitioner has produced 11 medical bills to a tune of Rs.21,931/-. However, out of those bills, bill no.6 is not issued in the name of petitioner. Hence, the claim of Rs.40/- mentioned in the bill no.6 of Ex.P10 is not granted to the petitioner. Whereas, other bills found to be

genuine. Hence, an amount of Rs.21,891/- is granted towards medical expenses, which is rounded as Rs.21,890/-.

40. LOSS OF FUTURE INCOME DUE TO

DISABILITY: The age of the petitioner is considered as 32 years as on the date of accident. As per Sarla Verma's case, the multiplier '16' is to be applied. This Tribunal has already considered the notional income of the petitioner at Rs.15,000/- per month and visual impairment of the petitioner is assessed as 40%. Hence, the petitioner is entitled for a

sum of Rs.11,52,000/- (Rs.15,000 x 12 x 16 x 40/100) under this head.

41. LOSS OF FUTURE AMENITIES AND

HAPPINESS: The disability referred above would have necessarily cause physical deformity with which the petitioner has to live the rest of his life. Hence a sum of Rs.20,000/- is awarded under this head.

42. FUTURE MEDICAL EXPENSES: No

evidence or documents are produced to show that the petitioner needs any further treatment for his visual impairment. Thus, no compensation is awarded under this head.

43. The calculation table stands as follows:

1.	Attendant charges, extra nutritious food and conveyance charges	Rs.17,000-00
2.	Pain and sufferings	Rs.80,000-00
3.	Loss of Income during laid up period	Rs.45,000-00
4.	Loss of future income due to disability	Rs.11,52,000-00
5.	Medical expenses	Rs.21,890-00
6.	Loss of future amenities and happiness	Rs.20,000-00
7.	Future medical expenses	---
	Total	Rs.13,35,890/-

44. IN MVC No.1448/2022: The petitioner is entitled for compensation under the following heads:

45. ATTENDANT CHARGES, EXTRA
NUTRITIOUS FOOD & CONVEYANCE

CHARGES: The petitioner has contended that he was admitted to the Ashwini Hospital, Nelyadi as inpatient from 11-12-2021 to 15-12-2021 i.e. for 5 days. Hence, by considering the stay in the hospital, the petitioner would have incurred expenses towards attendant charges as some family member of the petitioner would have accompanied him to the hospital to take his care by leaving their duties. In the petition, the petitioner has contended that he has appointed an attendant

to look after him in the hospital. But, no material evidence is placed on record to prove the aforesaid fact. Therefore, the said contention of the petitioner cannot be accepted. However, the time spent by the petitioner in the hospital is not disproved by the other side. Therefore, it can infer that during the aforesaid period, the petitioner might have also spent a considerable amount towards special diet, transportation and nutrition. Hence, by considering the rate of inflation and rise in the price index, the same is quantified at Rs.1,000/- per day and a sum

of **Rs.5000/- (Rs.1,000 X 5)** is awarded under this head.

46. **PAIN AND SUFFERINGS**: On going through the accidental injuries, the petitioner would have undergone pain and mental agony. Having regard to the injuries suffered by the petitioner and such other attending circumstances, this Tribunal is of the view that it is just and proper to award a sum of **Rs.20,000/-** under this head.

47. **MEDICAL EXPENSES**: The petitioner has produced discharge summary as Ex.P7 and 24 medical bills to a tune of **Rs.49,688/-** at

Ex.P8. On perusal of those documents, it clearly appears that those bills are genuine bills. Hence, an amount of Rs. 49,688/- which is rounded off to Rs.49,700/- is granted towards medical expenses.

48. The calculation table stands as follows:

1.	Attendant charges, extra nutritious food and conveyance charges	Rs.5000-00
2.	Pain and sufferings	Rs.20,000-00
3.	Medical expenses	Rs.49,700-00
	Total	Rs.74,700/-

49. REGARDING INTEREST AND

LIABILITY IN BOTH THE CASES: The

petitioners have claimed the compensation

with interest at the rate of 12% p.m. However, no material is placed on record to award such interest. Having regard to the nature of the claim and current bank rate of interest, this Tribunal is of the view that if interest at the rate of 6% p.a. is awarded it would meet the ends of justice.

50. The respondent No.2 has produced the copy of insurance policy which is marked as Ex.R-1. On careful perusal of insurance policy, it appears that, the offending Maheendra Jeeto vehicle was insured with the respondent No.2 and the insurance policy was valid from

09-10-2021 to 08-10-2022. The alleged accident took place on 11-12-2021. As such, it is clear that, the alleged vehicle had valid insurance policy at the time of accident. Further, on meticulous reading of the terms mentioned in the said document, there is no violation with respect to policy. Therefore, the respondent No.2 being the insurer of the Maheendra Jeeto vehicle and respondent No.1 being the owner thereof are jointly and severally liable to pay the aforesaid award amount to the petitioners in the both the cases together with interest @ 6% per annum from

the date of claim petition till the date of realization of the entire amount. However, the respondent No.2 being the insurer is primarily liable to satisfy the award amount together with interest within 30 days from the date of this order. Hence, this Tribunal answering Issue No.2 in both the cases as **PARTLY IN THE AFFIRMATIVE.**

51. ISSUE No.3 IN BOTH THE CASES:- In view of findings on the above issues in both the cases, this Tribunal proceed to pass the following;

-: O R D E R :-

The petition filed by the petitioners in MVC No.1447/2022 and MVC 1448/2022 u/s 166 of Motor Vehicles Act, 1988 are hereby partly allowed with costs.

The petitioner in MVC No.1447/2022 is entitled for compensation of Rs.13,35,890/- with interest at the rate of 6% p.a. from the date of this petition till the date of realization of entire award amount.

The petitioner in MVC No.1448/2022 is entitled for compensation of Rs.74,700/- with interest at the rate of 6% p.a. from the date of this petition till the date of realization of entire award amount.

The respondent no.2 is directed to deposit the compensation amount directly to the Bank account of the petitioners by way of NEFT or RTGS mode within 30 days from the date of this judgment. The petitioner shall

submit bank account details to the respondent.

Out of the awarded amount of Petitioner in MVC 1447/2022, a sum equal to 25% shall be deposited in his name in any Nationalized or Scheduled Bank of his choice for a period of 01 year and the remaining 75% shall be released to him on proper identification and verification. However, the petitioner is at liberty to withdraw the periodical interest accrued on his deposit amount from time to time.

Further, to ensure credit/remittance of the award sum by way of direct Bank transfer to the specified Bank account of the claimants/petitioners, the respondent no.2 shall deliver prior information i.e. one week prior to the remittance of amount in writing to the claim tribunal/Court and the counsel for claimant/petitioner shall submit necessary document about the said

remittance of the amount by way of compliance of the award.

The petitioners are directed to furnish the following documents in two sets, one to be maintained in the records of the court and another to be received by the counsel for respondent no.2 from the court office.

1. Self attested copy of Bank passbook with photo attested by the Bank Manager.

2. Self attested copy of Aadhar card, Pan Card/Form no.60, all relating to the petitioners and to be identified by his counsel.

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

Draw award accordingly.

Keep the copy of Judgment in MVC No.1448/2022.

(Dictated to the stenographer, transcribed by her, transcript then corrected by me and pronounced in the Open Court on this the 28th day of July 2026).

(MANU B.K.)

Senior Civil Judge & MACT-XV,
Belthangady, D.K.

-: A N N E X U R E :-

List of witnesses examined for the petitioners:

PW-1 : Guruprasad
PW-1 : Ananda M.K
CW-1 : Dr. Anitha Kiran

List of the documents marked for the petitioners:

In MVC 1447/2022:

Ex.P-1: First information in Cr.No.158/2021
Ex.P-2: True copy of F.I.R.
Ex.P-3: True copy of spot mahazar
Ex.P-4: True copy of sketch
Ex.P-5: True copy of IMV Report
Ex.P-6: True copy of Wound certificate
Ex.P-7: True copy of Information u/s 160 MV
Act
Ex.P-8: Charge sheet
Ex.P-9: Disability certificate

Ex.P-9(a): Signature

Ex.P-10: Medical bills

In MVC 1448/2022:

Ex.P1: First information in Cr.No.158/2021

Ex.P2: C.C of complaint

Ex.P3: C.C of Mahazar

Ex.P4: C.C of sketch

Ex.P5: C.C of notice

Ex.P6: C.C of wound certificate

Ex.P7: Discharge summary

Ex.P8: Medical bills

Ex.P9: Certified letter

List of witnesses examined for the respondents:

RW1: Pruthvi K

List of documents marked for the respondent's side:

Ex.R-1: Copy of Insurance Policy.

(MANU B.K.)

Senior Civil Judge & MACT-XV,
Belthangady, D.K.