



IN THE COURT OF SENIOR CIVIL JUDGE AND MACT, CHITTAPUR

P R E S E N T

SRI. **KISHAN B MADALAGI** B.COM., LL.B.,(SPL)
Senior Civil Judge & MACT, Chittapur

DATED THIS THE 26th DAY OF MARCH, 2026

M.V.C.No.577/2023

Petitioner: Chandu S/o Bhikku,
Age: 52 Years, Occ: Driver (JCP) Now nil,
R/o # 4053, Shivaram Naik Tanda,
Post: Salgar, Basanthpur, Tq: Chincholi,
Dist: Kalaburagi-585 306, Now at Dandoti,
Tq: Chittapur, Dist: Kalaburagi.

(By Sri. V.S.Reddy Advocate)

V/S

Respondents: 1. Shivakumar S/o Damla,
Age: 26 Years, Occ: Owner of the Car
bearing No.KA-32-N-8466
R/o # 13, Ramchatt Naik Tanda,
Post: Yetabarpur, Hasargundagi,
Tq: Chincholi – 585 306, Dist: Kalaburagi.

2. Through the Manager,
IFFCO-TOKIO GENINSU CO. LTD.,
1-101/A/TF-2, 3rd Floor,
Kishan Krupa Above Kanva Mart,
Opp: Kannada Bhavan Kalaburagi- 585 103



Policy No.MO636254
Valid from 05.04.2022 to 04.04.2023

(Respondent No.1- Ex-parte)
(Respondent No.2 - by Sri. B.S.K. Advocate)

JUDGMENT
(Delivered on 26-03-2026)

This petition is brought U/s 166 of Motor Vehicles Act for the compensation towards the injuries suffered by the petitioner in the accident occurred on 02 -01-2023.

2. The brief facts of the petitioner's case are as under:-

It is the case of petitioner that on 02-01-2023, after purchasing goods at Chimmanchod Bazzar, he was returning to village at shivaram naik tanda on his motor cycle bearing No.KA-32,W-7828. When he was at Siddapur Tanda cross at about 05:00 p.m., at that time the driver of Car bearing No.KA-32-N-8466 drove, Car in rash and negligent manner and endanger to human life, lost control over



vehicle dashed to his bike from behind. As a result petitioner sustained grievous injuries and he was shifted to Govt hospital Chincholi, then after at GIMS Hospital Kalaburagi and he was treated as inpatient from 06-01-2023 to 25-01-2023. He has incurred more than Rs.4,50,000/- for treatment and further Rs.2,50,000/- is require for future treatment.

3. According to the petitioner, he was hale and healthy prior to the accident and was earning Rs. 35,000/- per month by doing driving job. Now he is unable to earn. Hence claimed **Rs.35,50,000/-** as compensation from the respondents.

4. In response to the notices issued, the respondent No.1 remained absent. Hence placed Ex-parte. The respondent No.2 appeared through counsel and filed objections denying the case of petitioner and contended that their liability is subject to terms and conditions of the policy. The driver of offending vehicle was not holding valid license and there is violation of policy condition. Age,



income and occupation details given are denied as false and sought to dismiss the case against them.

5. Based on the aforesaid pleadings the following Issues are framed:

- 1. Whether the petitioner proves that, on 05-01-2023 at 06:00 PM., on Chimmanchod-Shivaram Naik Tanda Road, near siddapur Tanda cross, he met with an accident and sustained injuries due to rash and negligent driving by the driver of Car bearing Reg.No.KA -32-N-8466?**
- 2. Whether the petitioner is entitled for compensation? If so, to what amount and from whom?**
- 3. What order or award?**

6. To substantiate his claim the petitioner has deposed as PW-1 and produced Ex. P-1 to P-12 documents. Also examined doctor through court commissioner as PW-2. On the other hand the respondent No.2 has not tendered their evidence and got marked DL as per Ex.R-1 with consent.



7. Heard arguments from both sides.
8. My findings to the above issues are as under:

ISSUE NO.1: In the Affirmative

ISSUE NO.2.: Partly in the Affirmative.

ISSUE NO.3: The petition is allowed in part with cost for the following:

REASONS:

9. **ISSUE NO.1 :** To prove the fact that petitioner has suffered severe injuries in the accident occurred by the negligence of driver of Car bearing No.KA-32-N-8466. The petitioner tendered his evidence as PW-1 by reiterating the petition averments in his chief examination filed by way of affidavit. Further he has produced 12 documents as per Ex. P-1 to P-12, such as FIR, Complaint, Mahazar, Wound Certificate, I.M.V. Report, Charge Sheet, Discharge Summary, Disability Certificate, Medical Bills, X-ray Report, X-ray Film and Aadhar Card.



10. In the cross examination of PW-1, it is suggested that accident is not occurred as alleged by him, same was denied. Further he deposed that he was taken to hospital by driver of offending car. Further it was suggested that he is colluding with driver of the car filed false case, same was denied. Further there was delay of two days to lodge FIR same was admitted by him. Further he deposed FIR was lodged his wife. Further it was suggested that the accident was occurred due to his negligence and he has filed false complaint to claim compensation same was denied. To prove that no such incident is occurred, no rebuttal evidence is led. Considering the facts in my opinion when the wound certificate and other medical records would show that petitioner suffered severe injuries in the accident alleged and police records show that it was negligent act of driver of Car bearing No.KA-32-N-8466, I am of the opinion that petitioner is successful in proving this issue. **Hence I answered the issue No.1 in the Affirmative.**



11. **ISSUE NO.2:** The heads under which compensation is awarded in personal injury cases are the following:

Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured. Comprising:

(a) Loss of earning during the period of treatment:

(b) Loss of future earnings on account of permanent disability:

(iii) Future medical expenses.

Non Pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage)



(vi) Loss of expectation of life (shortening of normal longevity)

12. In this case the petitioner has produced wound certificate as per Ex.P-5 which shows that petitioner has suffered:

1. Diffuse Swelling noted over Left parieto-opceipital area measuring about 6 X 2 cm

2. Superficial irregular abrasion over left foot 2x0.5 cm

3.Diffuse swelling over right orbit with color change of skin over right eye.

4. Displaced fracture of right Zygomatic arch

5.Fracture of lesser win of spheniod bone on right side

6.small 8 X 5 mm hemmorrhagi contusion inter peduncular cistern.

7. soft tissue injury in right parieto temopral.

The Doctor has opined these injuries are grievous in nature.



13. Apart from production of wound certificate, the petitioner has examined Dr.Rajendra Kothari , senior Surgeon, as PW-2. He has deposed that petitioner has suffered TBI and craniofacial. According to PW-2, petitioner is having disability of 42% to the entire body and issued disability certificate as per Ex. P-8.

14. In his cross examination he has admitted that he has examined the petitioner clinically and radiologically, further admitted that he has not got any opinion or reference from treated doctor. He admitted as per X-Ray report there old fracture of right zygomatic arch and right orbit is healed. He admitted other skull bones are intact and normal. Further admitted that neurological disability of 40% to each heads in respect to postural giddiness, reading, sensation, headache restriction of neck movements and neck pain, sense of weakness in arms sudden fusing of force etc, are not separately calculated as mentioned in his disability certificate.. Further denied that to helping the petitioner to get more



compensation he as assessed disability. However he has denied that disability assessed is on higher side.

15. After assessing the evidence of PW-1 and 2, It is noticed that there is no comparison with functional disability like in what way disability affects the work of petitioner and to what extent. Further PW-2 is not treated doctor. Under such circumstances looking to the facts of the case I am of the opinion that the disability of 14% (1/3rd) would be feasible. Hence the same is considered.

16. To prove the age, the petitioner has produced Aadhar card as per Ex.P-12, wherein his date of birth is mentioned as 03-08-1970. Hence the age of petitioner is 53 years as on the date of accident. **As per Sarla Varma and others Vs Delhi Transport Corporation and others case reported in 2009 ACJ 1298** the multiplier applicable is "11" and the same is considered.

17. Though the petitioner claimed that he was working as JCB operator and he had income of Rs.35,000/- per month but he has



not produced any document. Hence in the absence of such proof notional income has to be considered at **Rs.15,500/-** per month.

Therefore petitioner is entitled for **Loss of Future Income** as under:

Rs.15,500 X 12 X 14 X 11 /100= Rs.2,86,440/- (Rupees Two Lakhs Eighty Six Thousand Four Hundred and Forty Only).

18. The petitioner has produced discharge summary at Ex.P-7 which shows he was treated as in-patient from 06-01-2023 to 25-01-2023. Hence looking to the nature of injuries suffered and treatment under gone, I deem it fit to award **Rs.20,000/- (Rupees Twenty Thousand Only)** towards pain and suffering undergone. Hence, I award the same.

19. I also deem it fit to award **Rs.20,000/- (Rupees Twenty Thousand Only)** towards loss of amenities and nutritious food.



20. Looking to the days of treatment undergone I deem it fit to award **Rs.20,000/-(Rupees Twenty Thousand Only) towards attendant charges and conveyance.**

21. I also deem it it fit to award **Rs.46,500-00/-(Rupees Forty Six Thousand Five Hundred Only) towards loss of income during the laid up period (3 months).**

22. The petitioner has produced medical bills at Ex.P-9 (103 Bills). On perusal of the bills it is seen that the learned counsel for petitioner has produced calculation sheet wherein it is mentioned as petitioner has incurred total of **Rs.4,69,351/- (Rupees Four Lakh Sixty nine Thousand Three Hundred and Fifty one Only)** towards treatment. Hence I award the same towards medical expenses. Further he has claimed future medical expenses. Hence I deem it fit to award **Rs. 10,000/-** for future medical expenses. Therefore the petitioner is entitled for total compensation of **Rs.8,72,300/-(Rupees Eight Lakhs Seventy Two Three Hundred Only)** as under:



1. Loss of Future income	Rs. 2,86,440-00
2. Pain and Agony	Rs. 20,000-00
3. Loss of amenities and nutritious food	Rs. 20,000-00
4. Attendant charges and conveyance	Rs. 20,000-00
5. Loss of income during laid up period	Rs. 46,500-00
6. Medical Expenses	Rs. 4,69,351-00
7. Future Medical expenses	Rs. 10,000-00
8. TOTAL	Rs.8,72,291-00 It is rounded off to Rs.8,72,300/-

23. Regarding liability: The respondent No.2 has admitted the policy issuance and contended that the driver of vehicle does not possess valid license. But at the time of respondent evidence driving license of offended vehicle is marked as Ex.R1. Hence driver of offending vehicle was holding valid license at time of incident. Respondent no.2, has taken another defense of delay in lodging FIR and suspected involvement of vehicle. As per request of respondent No.2, MLC



of petitioner was produced by Medical officer Government hospital Chincholi. Hence, respondent No.2 has failed to prove their defense and admitted the issuance of policy and hence in my opinion Respondent no.1 and 2 are liable to pay the amount awarded jointly and severally. Hence I answered this issue partly in affirmative.

24. **ISSUE NO.4:** In view of my findings on Issues No.1 and 2 as above and with regard to awarding the interest is concerned, the petitioner is entitled for simple interest at the rate of 6% per annum from the date of petition till deposit. As such I proceed to pass the following:

ORDER

The petition filed U/S 166 of M.V. Act by the petitioner is allowed with cost by granting compensation of **Rs.8,72,300/- (Rupees Eight Lakhs Seventy Two Thousand Three Hundred Only)** from the date of petition till the date of deposit. **(The**



interest is not applicable to future medical expenses of Rs. 10,000-00).

The respondent No.1 and 2 are jointly and severally liable to pay the amount awarded and respondent No.2 being Insurance company is directed to deposit the compensation amount with interest within the time stipulated under section 168(3) of M.V.Act.

Soon after deposit made by respondent No.2 out of said compensation amount 60% of the amount shall be released in favor of petitioner through E-payment on proper identification.

The remaining 40% compensation amount shall be kept as FD in his name in any nationalized bank of his choice for a period of 5 years and he is at liberty to withdraw the accrued interest periodically.

The advocate fee is fixed at Rs.500-00.

Draw award accordingly.



(Dictated to Stenographer directly on computer, typed by him, corrected by me and then signed and pronounced by me in the open Court on this the 26th Day of March, 2026)

(KISHAN B MADALAGI)
Senior Civil Judge & MACT,
Chittapur

ANNEXURE

1. List of witnesses examined on behalf of the Petitioner/s:

PW-1 : Chandu S/o Bhikku
PW-2 : Dr. Rajendra Kothari

2. List of documents marked on behalf of the petitioner/s:

Ex.P.1 : C/c of FIR
Ex.P.2 : C/c of Complaint
Ex.P.3 : C/c of Mahazar
Ex.P.4 : C/c of I.M.V. Report
Ex.P.5 : C/c of Wound Certificate
Ex.P.6 : C/c of Charge Sheet
Ex.P.7 : Discharge Summary
Ex.P.8 : Disability Certificate
Ex.P.9 : Medical Bills
Ex.P.10 : X-ray Report
Ex.P.11 : X-ray Film
Ex.P.12 : Aadhar Card (Notarized)

3. List of witnesses examined on behalf of the Respondent/s:

-NIL-

4. List of documents marked on behalf of the Respondent/s:

-NIL-

Senior Civil Judge
& MACT, Chittapur

