

KAKB510003072023



**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 25th DAY OF JUNE-2026

M.V.C.No.724/2023

PETITIONER:

Basareddy S/o Venkatreddy, Age: 75
years, Occ: Agriculture, R/o # 3-19,
Burugapally village, Tq: Sedam, Dist:
Kalaburagi Karnataka-585 214. Now at
Dandoti Tq: Chittapur, Dist: Kalaburagi.

(By Sri. V.S.R. Advocate)

V/S

RESPONDENTS:

1. Shyam Prasad S/o Ramulu, R/o
H.No.9-97, Venkateshwar Colony,
Damaragidda, Damaragidda (M), Dist:
Mahaboobnagar-Telangana-State.
2. Through The Manager Bajaj Allianz
General Insurance Co. Ltd. 1st Floor,
Kalburgi Noolvi Majestic, New Cotton
Market Hubli – 580 029

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MVC No.724/2023

Policy No. OG-22-1826-1826-
00000154

Valid from 16.04.2021 to 15.04.2026

(Respondent No.1- Ex-parte)

(Respondent No.2 By Sri. B.S.K. Advocate)

JUDGMENT
(Delivered on 25-06-2026)

This petition is brought U/s 166 of Motor Vehicles Act for the compensation towards the injuries suffered by the petitioner in the accident caused on 29-10-2022.

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

It is the case of the petitioner that on 29-10-2022, at about 03:30 p.m., after completion of his work, he was returning to his village Buragpalli from Yanagundi on his motorcycle bearing No.KA-33-E-7405. When he was near Chandraki cross on Gurmitkal- Kodnagal main road, he was



riding his motor cycle by observing traffic rules on his left of the road, at that time a motorcycle bearing No. TS-06-ALTR-1771 came in rash and negligent manner from Yanagundi side without blowing horn dashed to his motorcycle. Then petitioner fell down from his motorcycle. Thereby he suffered grievous injuries and he was shifted to Government Hospital Gurmitkal, on advise he was taken to Bettadur Hospital Raichur and took treatment from 29-10-2022 to 02-11-2022 and again he was shifted Yashoda Hospital Hyderabad for higher treatment from 02-11-2022 to 17-11-2022. The petitioner has incurred more than Rs.8,50,000/- for treatment and further submitted that Rs.3,50,000/- is required for future treatment.

3. According to petitioner, he was hale and healthy prior to the accident and was earning Rs.15,00,000/- per



annum by doing agriculture and animal husbandry. Now he is unable to earn. Hence claimed **Rs.45,50,000/-** 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 rider 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, he sustained grievous injuries in RTA occurred on 29-10-2022 at 03:30 PM on Gurmitkal Kodangal main road near Buragapalli village he met with an accident and sustained injuries, due to the rash and negligent riding by the rider of Motorcycle bearing Reg.No.TS-06-ALTR-1771?**
- 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-17 documents. Also examined doctor through court commissioner as PW-2. On the other hand the respondent No.2 has examined his authorized officer as RW-1 and marked Ex.R-1 and R-2.

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: In the Partly 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 caused by the negligence of rider of Motorcycle bearing No.TS-06-ALTR-1771. 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 17 documents as per Ex. P-1 to P-17, such as FIR, Complaint, statement of PW-1, crime details, Wound Certificate, IMV report, Charge sheet, Discharge summaries, Disability certificate, Medical bills, X-ray report, X-ray films and Aadhar card.



10. In the cross examination of PW-1, it is suggested that accident was occurred due to his negligence, but the same is denied as false by PW-1.

11. The respondent No.2 has given counter evidence. But he has not disputed the accident. The RW-2, has deposed on the basis of police records. Hence on going through police records and medical records, it is clear that there is charge sheet filed against rider of motorcycle bearing No.TS-06-ALTR-1771. To prove that rider of this offending vehicle is not negligent, no such materials is forthcoming that rider of offended vehicle is not negligence. Even though the respondent No.2 has led evidence. 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 rider of motorcycle bearing No.TS-06-ALTR-1771. I am of the opinion that petitioner is successful in proving this issue. **Hence I answered the issue No.1 in the Affirmative.**

12. 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)

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

1. Abrasion over left knee about 5-6 cms.



2. Blunt Trauma to head.

3. Abrasion over scapular fracture.

The Doctor has opined these injuries are grievous in nature.

14. Apart from production of wound certificate, the petitioner has examined Dr. Sanjeev N Chincholi Orthopaedic Surgeon, as PW-2. He has deposed that petitioner has suffered Multiple Ribs fracture, left clavicle fracture, left scapular fracture. According to PW-2 petitioner is having disability of 51% to the entire body and issued disability certificate as per Ex. P-11.

15. Further he has examined Dr. Rajendra Kothari Senior Surgeon as PW-3. He has deposed that petitioner has sustained poly-trauma brain injury and injuries to limbs.



According to PW-3, petitioner is having disability of 42% to the entire body and issued disability certificate as per Ex.P-12.

16. In his cross examination of PW-2, he has admitted that he has examined the petitioner clinically and radiologically. Further admitted that left shoulder and AC joint appear normal. Further admitted petitioner sustained clavicle bone fracture and scapula fracture. Further admitted there is no restriction of shoulder movement and has no disability. Further admitted clavicle bone fracture has no disability. Further admitted muscle strength of all three joints are normal. Further admitted that he has not the treated doctor. Further admitted he has not taken any opinion from treated doctor. Further denied that to helping the petitioner to get more compensation, he has assessed



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

17. Further in cross examination of PW-3, he has admitted that he has treated doctor. Further he has examined the petitioner clinically and radiologically. Further admitted that he has received recent CT Scab Report,. Further admitted he is not Neuro-Surgeon or ENT - Specialist or Orthopaedic Suregon. Further admitted he has not obtained opinion from Neuro-Surgeon. 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.

18. After assessing the evidence of PW-1 to 3, It is noticed that PW-2 has given 51 % disability to whole body. On going through his cross examination, he has admitted



the left shoulder is normal, there is no restriction of shoulder movement and has no disability. Further he admitted there is no disability of clavicle bone. Further 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. PW-1 has given evidence before the Tribunal without any difficulty. Under such circumstances looking to the facts of the case I am of the opinion that the disability of 12% (1/4th) would be feasible. Hence the same is considered. Further on going through evidence of PW-3, he has given the disability upto 42% to entire body but on going through the his cross examination he is not Neuro Surgeon, further he has not obtained opinion from Neuro Surgeon before issuing disability certificate. Under such circumstances looking to the facts of



the case I am of the opinion that the disability of 10% (1/4th) would be feasible. Hence on going through evidence and disability issued by PW-2 and 3, PW-2 has given 51% his disability would be considered 12% and mean while PW-3 has given 42% disability it would be considered 10%. Hence I am of the opinion that disability of petitioner is $10+12=22\%$ same is considered.

19. To prove the age, the petitioner has produced Aadhar card as per Ex.P-17, wherein his date of birth is mentioned as 01-01-1946. Hence the age of petitioner is 77 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 "5" and the same is considered.



20. Though the petitioner claimed that he had earning Rs.15,00,000/- per annum by doing agriculture and animal husbandry work, but on going through cross examination of PW-1, he has admitted that he was retired person and getting pension. But respondent No.2 has not produced any such documents in this regard. Hence there is no evidence that petitioner is having income as alleged in his petition in this regard. Therefore it is hard to believe such thing. 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 22 X 5 /100= Rs.2,04,600/- (Rupees Two Lakhs Four Thousand Six Hundred Only).



21. The petitioner has produced discharge summary as per Ex. P-8 to 10, which shows, he was treated as in-patient from 29-10-2022 to 02-11-2022, from 02-11-2022 to 17-11-2022 and from 05-11-2022 to 06-12-2022. 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.

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

23. 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.**



24. I also deem 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).

25. The petitioner has produced medical bills as per Ex.P-13. 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.18,04,473/- (Rupees Eighteen Lakhs Four Thousand Four Hundred And Seventy Three Only)** towards treatment. Hence I award the same towards medical expenses.

26. Considering the facts of the case in my opinion there will be requirement of future treatment and hence I deem it fit to award **Rs.20,000/-** for future medical expenses. Therefore the petitioner is entitled for total compensation of

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Rs.21,35,600/-(Rupees Twenty One Lakhs Thirty Five

Thousand Six Hundred Only) as under:

1	Loss of Future income	Rs.2,04,600-00
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.18,04,473-00
7	Future Medical expenses	Rs.20,000-00
	TOTAL	Rs.21,35,573-00 It is rounded off to Rs.21,35,600/-

27. Regarding liability: The respondent no.2 admitted issuance of policy as date on accident but they have specifically contended as date on accident rider of offended motor cycle does not possess driving license. Hence there is a clear violation of terms of policy. In order to prove the same the company has examined his



authorized officer as RW-1. He deposed that the petitioner does not possess driving license and he did not wear helmet. Hence there is clear violation of policy by the petitioner. Since it is an third party claim. Hence at this stage whether the petitioner possess driving license or not cannot be considered. On the other hand they have specifically contended that rider of offended vehicle does not possess driving license, hence on going through Ex.P-7 charge sheet laid against the rider of motorcycle. It clearly goes that rider of motorcycle Sec. 181 of M.V. Act and he does not possess driving license. Hence on this ground company has contended that since there is a clear violation of policy. Hence they are not liable to pay the compensation. But it is not disputed offended vehicle covers the policy. Hence I have gone



through point of pay and recovery when there is no driving license for the driver of offending vehicle. In all these judgments the pay the recover principle is applied and in this case same can be applied because there is reference to full bench judgment of Hon'ble High Court of Karnataka in the case of **New India Assurance Co. Ltd vs Smt Yellawwa and others**, the pay and recover principle can be followed. Hence in my opinion the respondent no.1 is liable to pay the amount awarded but the insurance company can be ordered to pay first and recover later. Further in **New India Assurance Co. V/s Yallawwa** reported in 2020 ACJ-2560, also the Hon'ble Supreme Court Judgment in **Pappu & Others V/s Vinod Kumar & Others, Parminder Sing V/s New India Assurance Co. Ltd., & Others Shamanna & Another V/s Divisional Manager.**



Considering all these judgments of Apex Court and Hon'ble High Court. I am of the opinion that in this case also the petitioner is third party and even if there is no license for offending vehicle driver, insurance company can be directed to pay first and then recover it from the owner. Hence from the above discussion the respondent No.2 being Insurance company is liable to pay first, then recovered from respondent No.1. **Hence this issue is answered partly in the affirmative.**

28. **ISSUE NO.3:** 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.21,35,600/-(Rupees Twenty One Lakhs Thirty Five Thousand Six Hundred Only) along with interest at the rate of 6% p.a** from the date of petition till the date of deposit. **(The interest is not applicable to future medical expenses of Rs. 20,000-00).**

The respondent No.1 is liable to pay the amount awarded. However the 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, first and later recover it from owner.

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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 3 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, transcribed by him on computer, corrected by
me and print out is taken by Stenographer, then signed and pronounced
by me in the open Court on this the 25th Day of June-2026)

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



ANNEXURE

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

PW-1 : Basreddy S/o Venkatreddy
PW-2 : Dr. Sanjeev N. Chincholi
PW-3 : 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 Statement
Ex.P.4 : C/c of Crime Details Form
Ex.P.5 : C/c of Wound Certificate
Ex.P.6 : C/c of I.M.V Report
Ex.P.7 : C/c of Charge Sheet
Ex.P.8 to 10: Discharge Summaries
Ex.P.11 & 12: Disability Certificates
Ex.P.13 : Medical Bills
Ex.P.14 & 15: X-ray Reports
Ex.P.16 : X-ray Films
Ex.P.17 : Attested Copy of Aadhar Card

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

RW-1 : MD Jameer S/o MD Yusuf

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

Ex.R-1 : Authorization Letter
Ex.R-2 : Policy Copy

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