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**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 4th DAY OF AUGUST-2026

M.V.C.No.1387/2024

PETITIONER:

Abhishek S/o Bheemanna, Age: 6 years, Occ: Student. (Since minor under guardian of his natural father Bheemanna S/o Shankar, Age: 35 years, Occ: Coolie, R/o Mustapur cross, Tq: Humnabad, Dist: Bidar, Now at Dandoti village, Tq: Chittapur, Dist: Kalaburagi.

(By Sri. V.S.R Advocate)

V/S

RESPONDENTS:

1. Gangadhar S/o K.Hiremath, Age: 33 years, Occ: Owner of Car bearing No.KA-32-P-0967, R/o H.No.11-366/12 B New Raghavendra Colony Tq and Dist: Kalaburagi.

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2. The Divisional Manager National Insurance Co. Ltd. Divisional Office, 1st floor, Bilgundi Complex, station road Kalaburagi -585 102.

Policy No.27080331236160000801
Valid from 10.08.2023 to 09.08.2024

(Respondent No.1 ex parte)
(Respondent No.2 by Sri. T.V.P Advocate)

JUDGMENT

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 29-05-2024.

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

It is the case of the petitioner that on 29-05-2024 at about 08-30 p.m. petitioner along with his mother and brother was waiting Mustapur cross on Kalaburagi-

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Humnabad road for bus to go to Kodambal village to attend marriage ceremony, at that time that the driver of car bearing No.KA-32-P-0967 came in rash and negligent manner and endanger to human life, dashed to petitioner. As a result petitioner sustained grievous injuries and was shifted to GGH Humnabad Hospital and he was treated as inpatient from 29.05.2024 to 01.06.2024. He has incurred more than Rs.3,50,000/- for treatment and further submitted that Rs.2,50,000/- is required for future treatment.

3. According to the petitioner, he was hale and healthy prior to the accident and he was aged about 6 years, he was studying in school, very active and lovely boy in the family. Due to the injuries sustained in the accident he becomes very dull and inactive and not able to attend the school. Now his

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future will be in dark. Hence claimed **Rs.25,50,000/-** 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, he sustained grievous injuries in RTA caused on 29-05-2024 at 08-30 AM, near Mustapur**



cross on Kalaburagi-Humnabad Road, due to the rash and negligent driving of driver of car bearing Reg.No.KA-32-P-0967 as alleged in petition?

- 2. Whether respondent No.2 proves that as on the date of accident driver of car bearing Reg.No.KA-32-P-0967 was not holding valid license as on the date of accident?**
- 3. Whether the petitioner is entitled for compensation? If so, to what amount and from whom?**
- 4. What order or award?**

6. To substantiate his claim the guardian of minor petitioner has deposed as PW-1 and produced Ex. P-1 to P-14 documents. Also examined doctor through court commissioner as PW-2. On the other hand the respondents have not tendered their evidence.

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 Negative.

ISSUE NO.3: Partly in the Affirmative.

**ISSUE NO.4: 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 driver of car bearing No.KA-32-P-0967, the next father of minor 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 14 documents as per Ex. P-1 to P-14, such as FIR, Complaint, Mahazar, Wound Certificate, I.M.V. Report, Charge Sheet, Discharge summery, Disability Certificate, Medical Prescription, Medical Bills, X-ray Report, X-ray Film, notarized

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copy Aadhar Card of petitioner and notarized copy of Aadhar card of father of minor petition.

10. In the cross examination of PW-1, 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-P-0967, 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 respondent No.2 has taken contention that driver of offending vehicle does not possess driving license Hence the respondent No.2 himself has produced memo with copy of insurance and driving license



of Gangadhar. The said Gangadhar is driver of offended vehicle and charge sheet laid against him as per Ex.P-6. Hence respondent No.2 has failed to prove that as on date of accident driver of offended vehicle does not possess valid license as date of accident. Hence I answered **Issue No.2 Negative.**

12. **ISSUE NO.3:** 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-4 which shows that petitioner has suffered:

1. **Conxasion over occiput**
2. **CLW over right parietal region 3 X 2 cms.**
3. **Swelling left leg**



The Doctor has opined 1 and 2 are simple injuries and 3 is grievous in nature.

14. Apart from production of wound certificate, the petitioner has examined Dr. Marthand Kulkarni, DNB Ortho (Mumbai) D Ortho, as PW-2. He has deposed that petitioner has suffered from swelling and deformity of left leg and fracture of left tibia and fibula. According to PW-2, petitioner is having disability of 40.3% to the entire body and issued disability certificate as per Ex. P-8.

15. In his cross examination he has admitted that he has examined the petitioner clinically and radiologically, he has not verified discharge summary and have not got any opinion or reference from treated doctor. He has admitted he has not shown separate percentage neurological disability of 20%. Further denied there is no permanent



disablement. Further denied that petitioner has no damage to cranial Auditory. 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.

16. 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 13% (1/3rd) would be feasible. Hence the same is considered.

17. To prove the age, the petitioner has produced Aadhar card as per Ex.P-13 wherein his date of birth is mentioned as 24-12-2018. Hence the age of petitioner is 6



years as on the date of accident. The issue of a minor becoming injured due to a road accident and the adequate compensation to be awarded for particular percentage of disability is considered by Hon'ble Apex Court in the case of **Master Mallikarjun Vs Divisional Manager, The National Insurance Company Limited & Another reported in AIR 2014 Supreme Court 736 wherein the Hon'ble Apex Court in paragraph 12 held as follows:**

"Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the



disability is above 10% and up to 30% to the whole body, Rs.3 lakhs; up to 60%, Rs.4 lakhs; up to 90%, Rs.5 lakhs. For permanent disability upto 10%, it should be Re.1 lakh, unless there are exceptional circumstances to take different yardstick. In the instant case, the disability is to the tune of 18%. Appellant had a longer period of hospitalization for about two months causing also inconvenience and loss of earning to the parents."

18. As in this case it is held that the disability is around 13%, in view of judgment of Hon'ble Apex Court in the case of Master Mallikarjun stated supra, petitioner is entitled for compensation of **Rs.3,00,000/- (Rupees Three Lakhs only)** towards the pain and suffering under gone, to be suffered in future, mental and physical shock, hardship



inconvenience and discomfort, loss of amenities etc. Hence I award the same.

19. Further I also deem it fit to award **Rs.20,000/- (Rupees Twenty Thousand Only)** towards medical and incidental expenses during hospitalization. Hence I award the same.

20. The petitioner has produced medical bills as per Ex.P-10 (26 Bills) supported with medical prescriptions as per Ex.P-9. On going through the bills it is seen that counsel for petitioner has filed calculation sheet. On perusal of the same it could be seen that the petitioner has incurred **Rs.1,34,052/-**. Hence I award the same.

21. Therefore the total compensation comes to **Rs.4,54,052/-(Rupees Four Lakhs Fifty Four Thousand Fifty**



two Only) the same is rounded off to **Rs.4,54,100/- (Rupees Four Lakhs Fifty Four Thousand One Hundred Only)**

22. **REGARDING LIABILITY:** The 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.

23. **ISSUE NO.4:** In view of my findings on Issues No.1 to 3 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.4,54,100/- (Rupees Four Lakhs Fifty Four Thousand One Hundred Only)** from the date of petition till the date of deposit.

The respondent No.1 and 2 jointly and severally are 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.

Soon after deposit made by respondent No.2 out of said compensation amount 30% of the amount shall be released in favor of next friend of

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minor petitioner through E-payment on proper identification.

The remaining 70% compensation amount shall be kept as FD in minor petitioner's name till he attain the age of majority and next friend of minor petitioner is at liberty to withdraw the accrued interest periodically for the benefit of minor.

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 4th Day of August-2026)

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



ANNEXURE

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

- PW-1 : Bheemanna S/o Shankar
PW-2 : Dr. Marthand Kulkarni

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 Wound Certificate
Ex.P.5 : C/c of IMV report
Ex.P.6 : C/c of Chargesheet
Ex.P.7 : Discharge summary
Ex.P.8 : Disability Certificate
Ex.P.9 : Medical Prescription
Ex.P.10 : Medical Bills (26)
Ex.P.11 : X-ray Report
Ex.P.12 : X-ray Film
Ex.P.13 : Notarized copy of Aadhar card petitioner
Ex.P.14 : Notarized copy of Aadhar card of petitioner father

3. List of witnesses examined on behalf of the Respondents:

-NIL-

4. List of documents marked on behalf of the Respondents:

-NIL-

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