



JUDGMENT

1

MVC.No.1452/24 & 1453/24

**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

MVC.No.1452/2024 & MVC.No.1453/2024,

Petitioner/s in
MVC.No.1452/24

Mailari S/o Ganganna Adina,
Age: 42 Years, Occ: Coolie now nil,
R/o Honagunta Village,
Tq: Shahabad, Dist: Kalaburagi.

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

Petitioner/ in
MVC 1453/24:-

Sharanu S/o Chandrakanth Gudaba,
Age: 10 Years, Occ: Student (Since minor
Under guardian of his mother Roopa W/o
Chandrakanth Gudaba, Age: 30 Years,
Occ: Household, R/o Honagunta,
Tq: Shahabad, Dist: Kalaburagi.

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

-Vs-

**Respondents in**

- 2 cases:-**
1. Mallikarjun S/o Gundappa Jeevanagi,
Age: 46 Years, Occ: Owner of Motor Cycle bearing
No.KA-32-HF-5038, R/o Ward No.1 Ambigar
Choudayya, Chowk Old Shahabad,
Tq: Shahabad, Dist: Kalaburagi
 2. Through The Manager,
United India Insurance Co. Ltd.,
2nd Floor, Century Complex,
Opp: Sangam Talkies, Super Market,
Kalaburagi- 585101

Policy No. 2214033123P108635191
Valid from 20.10.2023 to 19-10-2028.

(Respondent No.1- Ex-Parte)
(Respondent No.2 By Sri. S.S.A Advocate)

COMMON JUDGMENT:

1. The petition in MVC.No. 1453/2024 is clubbed in MVC.No.1452/2024, are brought U/s 166 of Motor Vehicles Act for compensation injuries sustained by petitioners in the common accident occurred on 22-08-2024.

2. **The brief facts in all two cases are as under :**



It is the case of the petitioner that on 22-08-2024 the petitioner MVC.No.1453/24 along with father-in-law petitioner in MVC.No.1452/2024 were proceeding on motorcycle bearing No.KA-32-EN-9046 from Honagunta to Jewargi to meet their relatives. The petitioner in MVC.No.1453/24 was pillion rider and petitioner in MVC.No.1452/24 was rider of said motorcycle. At about 01:30 p.m, when petitioner were in front of Rajasthan Dhaba near Jewargi Bus Depot on Jewargi- Kalabuaragi road the petitioner in MVC. No.1452/2024 was riding motorcycle in the proper left side of road by observing traffic rules. At that time rider of motorcycle bearing No.KA-32-HF-5038 came from Kalaburagi side in high speed, in rash and negligent manner endanger to human life lost his control and dashed to their motorcycle. Thereby both petitioners fell down on the road and sustained grievous injuries.

As result of RTA petitioner in **MVC.No.1453/2024** has sustained grievous injuries. Thereby petitioner was shifted at Kural Hospital Kalaburagi and he was treated as in patient from



22-08-2024 fro more than 3 weeks and he has incurred Rs.3,50,000/-. Further required Rs.2,50,000/-.

According to him he was aged about 10 years and he was hale and healthy prior to accident and he was going to school. Now after accident he was unable to attend the school. Hence claimed Rs. 25,50,000/- as compensation from the respondents.

3. According to the petitioner **in MVC.No.1452/2024**, due to accident he has sustained grievous injuries and he was shifted to Kural Hospital Kalaburagi and he was treated as in patient from 22-08-2024 more than three weeks and he has incurred Rs.3,50,000/-. Further require Rs.2,50,000/- For future treatment.

According to him he was aged about 42 years and he was hale and healthy prior to accident and was earning Rs.25,000/- per month by doing Skilled Labour and spending entire income for welfare of his family. Now he is unable to do work. Hence claimed Rs. 28,50,000/- as compensation from the respondents.



4. In two cases the respondent No.1 remained Ex-parte. The respondent No.2 appeared through Sri. S.S.A. advocate. The respondent No.2 has filed common objections in two cases denying the case of petitioners and contended that their liability is subject to terms and conditions of the policy. Delay in lodging FIR. Denied incident The rider of offended motorcycle does not possess valid license. Hence respondent No.1 has violated terms and conditions of policy. There is breach of policy conditions. Age, income, expenses and occupation details given in all four cases are denied as false. Hence sought to dismiss the case against them.

5. In view of the pleadings in above cases, the following issues have been framed;

ISSUES IN MVC No.1453/2024

1. Whether the petitioner proves that he sustained grievous injuries in RTA occurred on 22-08-2024 at 01:30 PM, in front of Rajasthan Dhaba near Jewargi Bus Depot on Jewargi to Kalaburagi, road, due rash and negligent riding of rider of motorcycle bearing Reg.No.KA-32-HF-5038 as alleged in the petition?



- 2. Whether the respondent No.2 proves that as on the date of accident rider of motorcycle bearing No.KA-32-HF-5038 was not holding valid driving license?**
- 3. Whether the petitioner is entitled for compensation? If so, how much and from whom?**
- 4. What order or award?**

ISSUES IN MVC NO1452/2024

- 1. Whether the petitioner proves that he sustained grievous injuries in RTA occurred on 22-08-2024 at 01:30 PM, in front of Rajasthan Dhaba near Jewargi Bus Depot on Jewargi to Kalaburagi, road, due rash and negligent riding of rider of motorcycle bearing Reg.No.KA-32-HF-5038 as alleged in the petition?**
- 2. Whether the respondent No.2 proves that as on the date of accident rider of motorcycle bearing No.KA-32-HF-5038 was not holding valid driving license?**
- 3. Whether the petitioner is entitled for compensation? If so, how much and from whom?**
- 4. What order or award?**



6. Since these two petitions arose out of common incident and respondents are same, MVC.No.1453/2024 is clubbed in MVC.No.1452/2024 and common evidence was recorded. To prove the case in MVC.No. 1452/2024 petitioner is examined as PW-1 and produced Ex.P-1 to P-10 and Ex.P-16 to P-18 documents, next friend of petitioner in MVC.No.1453/2024 is examined as PW-2 and produced Ex.P-11 to P-15 and Ex.P-19 to P-21 documents. The respondent No.2 has not tendered evidence.

7. I have heard the arguments from both sides.

8. My findings to the above Issues are as under:

IN MVC.NO.1452/2024

ISSUE NO.1: In the Affirmative

ISSUE NO.2: In the Affirmative

ISSUE NO.3: Partly in the Affirmative.

ISSUE NO.4: The petition is allowed in part with cost.

**IN MVC.NO.1453/2024****ISSUE NO.1: In the Affirmative****ISSUE NO.2: In the Affirmative****ISSUE NO.3: Partly in the Affirmative.****ISSUE NO.4: The petition is allowed in part with cost.****REASONS**

9. **ISSUE NO.1 in MVC.No.1452/2024 & 1453/2024:-** To prove that petitioners of MVC.No.1452/2024 & 1453/2024 they have suffered injuries due to rash and negligence riding of rider of motorcycle bearing No.KA-32-HF-5038, the petitioner in MVC.No.1452/2024 is examined as PW-1 and produced documents as per Ex.P-1 to P-10 and Ex.P-16 to Ex.P-18. The next friend of petitioner in MVC.No. 1453/2024 is examined as PW-2 and produced documents as per Ex.P-11 to 15 and Ex.P.19 to P-21 such as FIR, Complaint. Charge sheet Crime detail form, Wound certificate, IMV Report, Disability Certificates, Medical Prescriptions, Medical Bills, X-ray films, X-ray Reports and Aadhar cards of Petitioners,



10. It is noticed that PW-1 and 2 have deposed that petitioner in MVC.No.1452/2024 and petitioner in MVC.No.1453/2024 were proceeding on motorcycle bearing No.KA-32-EN-9046 towards Jewargi when they near Rajasthan Dhaba on Jewargi-Kalaburagi road, rider of offended vehicle lost his control dashed to their bike from back side. Further they have denied that the accident was occurred due to their negligence.

11. The respondent No.2 has not given evidence in counter. Though in the objections filed, they have suspected the involvement of their insured vehicle but they have failed to prove the same with cogent material. On going through the charge sheet and other materials it is noticeable that the I.O. has found that rider of motorcycle bearing No.KA-32-HF-5038 was negligent in causing this accident. So in my opinion the medical records coupled with police records would establish that the rider of motorcycle bearing No.KA-32-HF-5038 is



responsible for this accident and causing injuries to petitioners.

Hence I answered ISSUE No.1 In MVC.No.1452/2024 & 1453/2024 in the Affirmative.

12. **ISSUE NO.2 MVC.No.1452/2024 & 1453/2024:** The respondent No.2 has taken contention that rider of the offending vehicle does not possess driving license the respondent No.1 who being owner of the offended vehicle and remained absent. In spite of notice issued by this court the respondent No.1 as not appeared before this court. Further on going the Ex.P-2 C/c of FIS it shows that the rider of offended vehicle KA.No.32-HF-5038 was ridden by one Prabhurao who is brother of the petitioner in MVC.No.1452/2024. Since the rider of the offending vehicle was brother of petitioner and one of the relative but petitioner themselves have not produced driving license of rider of offended vehicle. Hence the petitioner nor respondent No.1 have produced the driving license. Hence as date on accident rider of offended vehicle



does not possess valid license. Hence I answered **Issue No.2** in MVC.No.1452/2024 & 1453/2024 in the Affirmative.

13. **ISSUE No.3 IN MVC.No.1452/2024,**

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)

14. To prove the injuries the PW-1 has produced the Wound certificate of as per Ex.P-4 and it shows that he has sustained:

1. Fracture of Right radius.

2. Fracture of left humerus.

The doctor has opined that these injuries are grievous in nature.

15. Apart from production of wound certificate, the petitioner has adduced evidence of Dr. Marthand Kulkarni Orthopaedic Surgeon, as PW-3. He has deposed that petitioner has sustained Fracture of right radius and fracture of left humerus and assessed disability at 60% to whole body and



issued disability certificate as per Ex.P-16. His signature marked as Ex.P-16(a).

16. In his cross examination he admits that he is not the treated doctor he admitted that he has examined petitioner clinically and radiologically. Further admitted wounds are healed but there is malunion. Further admitted he has not taken any opinion from treated doctor. Further denied disability assessed is on higher side.

17. After assessing the evidence of PW-3, 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-3 is not treated doctor. Under such circumstances looking to the facts of the case I am of the opinion that the disability of 20% (1/3rd) would be feasible. Hence the same is considered.

18. To prove the age, the petitioner has produced Aadhar card as per Ex.P-10 wherein his date of birth is



mentioned as 01-01-1979. Hence the age of petitioner is 45 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 “14” and the same is considered.

19. Though the petitioner claimed that he was doing labour and skilled labour work and he had income of Rs.25,000/- 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 20 X 14 /100= Rs.5,20,800/- (Rupees Five Lakhs Twenty Thousand Eight Hundred Only).

20. The petitioner has produced discharge summary at Ex.P-8 which shows he was treated as in-patient from 22-08-2024 to 30-08-2024. Hence looking to the nature of injuries suffered and treatment under gone, I deem it fit to award



Rs.10,000/- (Rupees Ten Thousand Only) towards pain and suffering undergone. Hence, I award the same.

21. I also deem it fit to award **Rs.10,000/- (Rupees Ten Thousand Only)** towards loss of amenities and nutritious food.

22. Looking to the days of treatment undergone I deem it fit to award **Rs.10,000/-(Rupees Ten Thousand Only)** towards attendant charges and conveyance.

23. 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).

24. The petitioner has produced medical bills at Ex.P-9 (42 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.2,42,188/- (Rupees Two Lakhs Eighty Two Thousand One Hundred Eighty Eighty 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.8,49,500/-(Rupees Eight Lakhs Forty Nine Thousand Five Hundred Only)** as under:

1. Loss of Future income	Rs. 5,20,800-00
2. Pain and Agony	Rs. 10,000-00
3. Loss of amenities and nutritious food	Rs. 10,000-00
4. Attendant charges and conveyance	Rs. 10,000-00
5. Loss of income during laid up period	Rs. 46,500-00
6. Medical Expenses	Rs. 2,42,188-00
7. Future Medical expenses	Rs. 10,000-00
8. TOTAL	Rs.8,49,488-00 It is rounded off to Rs.8,49,500/-

25. **ISSUE NO.3 IN MVC.NO.1453/2024,**

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)



26. To prove the injuries the PW-2 has produced the Wound certificate as per Ex.P-11 and it shows that he has sustained:

1. Swelling of right Thigh

2. Fracture of right Femur bone.

The doctor has opined injuries are in grievous nature.

Apart from production of wound certificate, the petitioner has adduced evidence of Dr. Marthaand Kulkarni, Orthopaedic Surgeon, as PW-4. He has deposed that petitioner has sustained Swelling at right Thigh and Fracture of right Femur and assessed disability at 42.3% to the entire body and issued disability certificate as per Ex.P-19.

27. In his cross examination he admits that he is not the treated doctor he admitted that he has examined petitioner clinically and radiologically. Further admitted wounds are healed but there is malunited. Further admitted he has not



taken any opinion from treated doctor. Further denied disability assessed is on higher side.

28. After assessing the evidence of PW-4, 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-4 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.

29. To prove the age, the petitioner has produced Aadhar card as per Ex.P-15 wherein his date of birth is mentioned as 25-01-2014. Hence the age of petitioner is 10 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."



30. As in this case it is held that the disability is around 14%, 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.

31. 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.

32. The petitioner has produced medical bills as per Ex.P-14 (43 Bills) supported. 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.1,41,249/-**. Hence I award the same.



33. Therefore the total compensation comes to **Rs.4,61,249/-(Rupees Four Lakhs Sixty One Thousand Two Hundred and Forty Nine Only)** the same is rounded off to **Rs.4,61,200/-(Rupees Four Lakhs Sixty One Thousand Two Hundred Only)**

34. **Regarding liability:** The respondent No.2 has admitted the policy issuance and contended that the rider of vehicle does not possess valid license. In spite of notice issued to the respondent No.1 who is owner of the vehicle but he has not produced driving license of the rider at the time of incident that the rider possess valid license but same is not produced before the court. Even though the IO has not invoked Sec. 181 of M.V Act but it is obligation on the part of owner of the vehicle to produce the driving license of the rider. Further as per Ex.P-2 the rider of the offended vehicle was one Prabhurao who is brother of petitioner in MVC.No.1452/2024. Hence neither petitioner



nor the respondent NO.1 have produced driving license of the rider of the offended vehicle. Since petitioners have claimed compensation against respondent No.1 and 2. Hence it is obligation of respondent No.1 owner of the vehicle to comply terms and condition of policy by producing driving license of rider. Hence I am of the opinion that in this case also the injured was third party and even if there is no license is produced rider of offending vehicle, 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 firstly then recovered from respondent No.1. Hence this issue is answered partly in the affirmative.

35. ISSUE NO.4 in both cases: In view of my findings on Issue No.1 to 3 as above in both cases and with regard to awarding the interest is concerned, the petitioners in both cases are 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 in **MVC.No.1452/2024** is partly allowed with cost.

The petitioner is entitled for compensation of **Rs.8,49,500/-(Rupees Eight Lakhs Forty Nine Thousand Five 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.10,000-00).**

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, first and later recover it from owner.



Soon after deposit made by respondent No.2 out of said compensation amount, 40% of the amount of petitioner shall be released in favour his next friend through E-payment on proper identification. The remaining 60% compensation amount shall be kept as FD in his name in any nationalized bank of his choice for a period of 5 years petitioner is at liberty to withdraw the accrued interest periodically.

The petition filed U/S 166 of M.V. Act by the petitioner in **MVC.No.1453/2024** is partly allowed with cost.

The petitioner is entitled for compensation of **Rs.4,61,200/-(Rupees Four Lakhs Sixty One Thousand Two 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 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, first and later recover it from owner.

Soon after deposit made by respondent No.2 out of said compensation amount, 40% of the amount of petitioner shall be released in favor of next friend of petitioner through E-payment on proper identification. The remaining 60% 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-each in two cases.

Draw award accordingly.

Copy of the judgment shall be kept in
MVC.No.1452/2024,



(Dictated to the stenographer, directly on computer typed by him, corrected by me, 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 in MVC No.1452/2024 & 1453/2024**

PW-1	: Mailari S/o Ganganna Adina
PW-2	: Roopa W/o Chandrakanth Gudaba
PW-3	: Dr. Marthand Kulkarni
PW-4	: Dr. Marthand Kulkarni

2. **List of documents marked on behalf of the Petitioner/s in MVC NO.1452/2024**

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 I.M.V. Report
Ex.P.6	: C/c of Charge Sheet
Ex.P.7	: C/c of order sheet in C.C.No.273/2024
Ex.P.8	: Discharge Summary
Ex.P.9	: Medical Bills
Ex.P.10	: Aadhar Card (Attested)



Ex.P.16 : Disability Certificate
Ex.P.17 : X- Ray Report
Ex.P.18 : X-ray Film

3. **List of documents marked on behalf of the Petitioner/s in MVC NO. 1453/2024**

Ex.P.11 : C/c of Wound Certificate
Ex.P.12 : Discharge Summary
Ex.P.13 : Medical Prescriptions
Ex.P.14 : Medical Bills
Ex.P.15 : Aadhar Card
Ex.P.19 : Disability Certificate
Ex.P.20 : X-ray Report
Ex.P.21 : X-ray Film

4. **List of witnesses examined by the Respondent/s in MVC NO.1452/2024 & 1453/2024:**

-Nil-

6. **List of documents marked on behalf of the Respondent/s in MVC NO.1452/2024 & 1453/2024:**

-Nil-

Senior Civil Judge &
MACT Chittapur.