

BEFORE THE PRINCIPAL DISTRICT JUDGE AND MOTOR ACCIDENT
CLAIMS TRIBUNAL OF KODAGU AT MADIKERI

M.V.C. NO.44 OF 2023

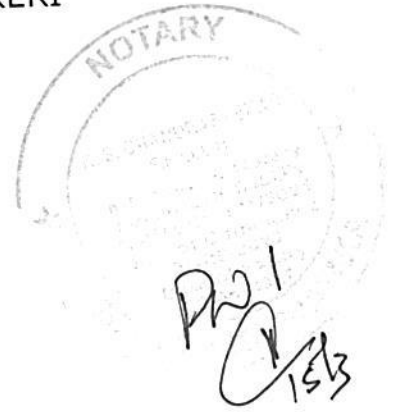
Petitioners: Sri Thimmaiah A. A,
Vs

Respondents: Sri Asgar and others

AFFIDAVIT

I, Thimmaiah A. A, S/o Achappa, Aged 54 years, R/o
Doddapulicotu Village, Ballamavati Post, Madikeri Taluk, Kodagu
District-571214, do hereby make oath and state as under:

1. I state that, I am the petitioner in the above case. I am conversant with the facts of the case and those deposed to herein.
2. I state that on 21-11-2022 I was going to Madikeri after attending a meeting of Agriculturist Produce Association at Napoklu Kodava Samaja and when I was travelling in between Camet and Paluru Village on the Napoklu Madikeri Main Road, at around 12.30 PM Hyundai i20 Car bearing registration No. K.A.12. Z. 3985 came from opposite direction on his wrong side in a rash and negligent manner and dashed to Royal Enfield Bullet Motor Cycle bearing registration No. K.A.01 HX 6141 which I was riding and I sustained injury, to my right wrist and right foot region, Pain and swelling and bleeding wound over right wrist and right foot. Specifically Lacerated wound over the dorsal aspect extending till great toe with bone exposed, Lacerated wound present over the plantar aspect extending from mid foot to tip of great toe size about 8 x 1 CM which are grievous in nature and Pain over right wrist and right foot and restrictive movement of right wrist and right foot. The motor Cycle was also damaged
3. I state that at the time of such accident, the said car bearing Registration No. K.A.12. Z. 3985 was driven by the 1st respondent and accident caused only due to his rash and negligent driving. One Poovaiah who was coming on his car on the said Road attended me



and treated and took me to the District government Hospital, Madikeri and respondent No. 1 also helped the said Poovaiah to shift me to the said government Hospital. In Madikeri District Government Hospital I was primarily treated and thereafter I was shifted to Thejaswini Hospital, Mangalore for higher treatment. In Thejaswini Hospital at Mangalore I was admitted as in patient (IP No. 63353) on 21-11-2022. I was treated by Dr. Shantharam Shetty (Ortho). On 24-11-2022 Right wrist, wound wash and wound debridement and ORIF with 3 holed LDRP and Right Foot Great Toe wound wash and wound debridement under brachial block and spinal anesthesia done and further Right Foot: Disarticulation of Great Toe at MTP level done on 02-12-2022 under spinal anaesthesia. Till 08-12-2022 I was treated as inpatient at Thejaswini Hospital and I was discharged on 8-12-2022 with further treatment advice as detailed in discharge summary.

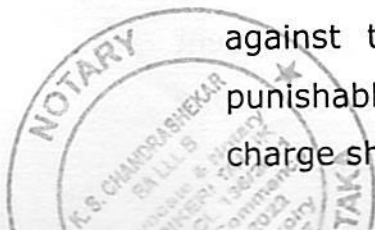
4. I state that, thereafter I have followed the advice given at the time of discharge and underwent rest for Three months with periodical follow up in the said Thejaswini Hospital at Mangalore.

5. I state that, I have paid a Canteen bill of Rs. 8,692/- during the period of treatment as inpatient at Thejaswini Hospital.

6. I state that, I have incurred expenses to an extent of Rs. 15,000/- towards travelling expense to travel to Mangalore.

7. I state that, I am an agriculturist and I own coffee estate and wet lands to an extent of 7.00 acres at Doddapulikotu Village, Napoklu Hobli, Madikeri Taluk, Kodagu District. R.T.C.'s of the said properties are produced along with this petition. Due to this accident, I was not able to maintain the estate and therefore I lost around 50% of the agricultural income, which is estimated and calculated at Rs. 6,00,000/- (Rupees Six Lakhs Only) for the year 2022-23.

8. I state that the Napoklu Police have have registered the case against the 1st respondent in FIR No. 66/2022 for the offences punishable under section 279 and 337 of the IPC and after filing the charge sheet before the Hon'ble Senior Civil Judge and CJM Kodagu at



Corrections ~~~~~

Madikeri the criminal case has been registered against the respondent No. 1 in CC No. 41/2023 and in the said case the respondent No. 1 is convicted for the offence punishable under section 337 and 338 of the IPC.

9. I state that I have suffered injuries and permanent partial disablement solely because of the accident caused by rash and negligent driving of the car by the respondent No.1 and for the said accident, I am not at all responsible nor contributed thereto.

10. I state that, the respondent No.1 being the driver and the respondent No. 2 being the owner and respondent No.3 being the insurer of the said Car bearing registration K.A.12. Z. 3985 are jointly and severally liable to pay compensation to me. Hence I filed this petition.

11. I state that, even now also I am not able to work and walk as before and gets constant pain and uneasiness and my right wrist and right foot have restricted movement. Therefore I am entitled to deprivation of future income.

12. Costs incurred by me:

- | | |
|--|------------------|
| 1) Hospital, Drug and other medical aid | Rs. 1,58,942.11 |
| 2) Food for self and Attendant at Hospital | Rs. 8,692/- |
| 3) Transport charges | Rs. 15,000/- |
| 4) Pain and suffering Loss | Rs. 10,00,000/- |
| 5) Unbilled medical expenses | Rs. 50,000/- |
| 6) Disablement | Rs. 10, 00,000/- |
| 7) Future Medical expense | Rs. 5, 00,000/- |
| 8) Loss of agricultural income | Rs . 6, 00,000/- |

..4/-

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No of Corrections *2/1*



9) Loss of comfort in life

Rs. 5,00,000/-

Total

Rs. 38,32,634.11

(Rupees Thirty Eight Lakhs Thirty Two Thousand Six Hundred Thirty Four and Eleven Paise only)

13. I state that all bills and receipts that are available have been produced.

14. I state that, the respondent No. 3 appeared before this Hon'ble Court in the above case and filed false objection to avoid my legal claim in the above case. Therefore the objection of the respondent No. 3 cannot be looked into.

15. I have produced several documents in the above case and I can identify the same and those documents may be marked as exhibits P series in my favour.

16. Therefore I pray that, this Hon'ble Court may be pleased to allow this petition and pass an award and decree for the sum of Rs. 38,32,634.11 (Rupees Thirty Eight Lakhs Thirty Two Thousand Six Hundred Thirty Four and Eleven Paise only) as damages, with interest at the rate of 18% P.A., on and from 21-11-2022 till the date of payment, besides the costs of the proceedings throughout binding the respondents jointly and severally liable for the same, in the interest of justice and equity.

I solemnly affirm and state that, this is my name and signature and he contents of this affidavit are true and correct.

Place: Madikeri

Date: 15-03-2024

Identified by me


Advocate



A A T L 
Deponent

"Sworn to before me"
Explained to the deponent Kan/Eng.
which he/she knows and admit the same