



**IN THE COURT OF II ADDITIONAL SENIOR CIVIL
JUDGE & ADDL. MACT AT KOLAR.
(ITINERATE AT SRINIVASAPURA)**

DATED 01ST DAY OF AUGUST 2026

: P R E S E N T :

Sri. **JAISHANKAR J.**, *B.A.L.,L.L.B.*,
II Addl. Senior Civil Judge & Addl. MACT,
Kolar (Itinerate at Srinivasapura)

M.V.C. NO.57/2021

PETITIONER :

Sri. Subramani C.
S/o. Chowdappa,
Aged about 45 Years,
R/o. Kondasandra Village,
Srinivasapura Taluk, Kolar District

(Rep. by Sri. G.N.N., Advocate)

- Versus -

RESPONDENTS :

1. Sri. Gopal B.
S/o Bytappa, Major,
R/at Near Kamakshamma Temple,
Muthyalpet, Mulabagilu Town,
Kolar District.
2. United India Insurance
Company Limited,
Suguna Nursing Home,
Antharagange Road,
Near KSRTC Bus Stand,
Kolar Taluk and District.

(Rep. by Sri. S.I.S., Advocate)

for R-1)

**(Rep. by Sri. J.S., Advocate
for R-2)**

// J U D G M E N T //

This Petition is filed U/s.166 of MV Act seeking compensation of Rs.10,00,000/- on account of motor accident to petitioner with interest from the respondents with respect to grievous injuries sustained by him in a road traffic accident.

2) It is the case of the petitioner that, 12.09.2020 at 6-45 a.m. the petitioner was returning back to Konasandra village from his garden land on his motor cycle bearing No.KA-07-J-4945, riding slowly, cautiously, on extreme left side of the road and when he reached near Sri. Kadumalleshwara Temple, Meesaganahalli Village, at that time the rider of Hero Honda Passion Pro bearing Reg. No.KA-07-S-3954 came in a rash and negligent manner endangering to the human life, lost control on his bike, came to the wrong side and dashed to his two wheeler resulting the petitioner sustain multiple and grievous injuries on all over the body. Immediately, he was shifted to Orthopedic Centre, Jayanagara, Bengaluru and incurred more than Rs.2 lakhs towards his medicines, attendant, food, conveyance, traveling allowances etc.

3) The petitioner was hale and healthy, aged about 45 years doing agriculture, teacher and earning Rs.50,000/- per month and same he was contributing to his family. He is only bread earner in the family. Due to the injuries sustained, he became permanently crippled person and he is suffering from pain, mental shock, agony and loss of income and he is unable to discharge his duties due to disability and impediment. A case is registered by Traffic Police in Cr. No.191/2020 against the rider of Hero Honda. Therefore, respondent No.1 being RC Owner and respondent No.2 being the insurer are jointly liable to pay compensation to the petitioner. Hence, this petition.

4) Notice issued to the respondents. Respondent No.1 appeared through his counsel, but he has not filed his objection statement. Respondent No.2 the Insurance company appeared through its counsel and filed objection statement by denying the entire petition averments. It is contended that the accident caused due to the sole negligence of the petitioner who came from cross road due to which the rider of two wheeler lost control and dashed to the petitioner's vehicle. The rider of two wheeler has contravened the provisions of Motor Vehicles Act. The petition is bad for non joinder of necessary parties as the owner and insurer of two wheeler bearing No.KA-07-J-4945 is not made as party to this petition. It emphatically denies the occurrence and mode of accident and also involvement of

said bike in the said accident. The quantum of compensation claimed is highly excessive, exorbitant, fanciful, imaginary, without any legal or equitable basis. Hence, it is not liable to pay the compensation. With all these contentions, it prayed to dismiss the petition.

5) Based on the facts stated supra, following issues were framed by this court:

ISSUES

1. *Whether the petitioner proves that he sustained multiple and grievous injuries in a accident, which was occurred on 12-09-2020 at about 6.45 a.m. near Sri.Kadu Malleshwara Temple, Meesaganahalli Village, Srinivasapura Taluk, Kolar District, due to rash and negligent riding of the rider of Hero Honda Passion Pro Motor Cycle bearing Reg. No.KA-07-S-3954 ?*
2. *Whether the petitioner is entitled for compensation? If so, at what quantum and from whom?*
3. *What award or order?*

6) To prove his case, petitioner himself got examined as P.W.1 and got marked twenty three documents as Ex.P.1 to Ex.P.23 and also got examined the treated doctor Sri. Imran Hussain as PW-2 and got marked three documents as Ex.P.24 to 25 documents and closed his side evidence. Per contra, the respondent No.2 has not chosen to adduce the oral and documentary evidence and thereby it is taken as nil.

7) Heard arguments from both sides. Perused the materials available on record.

8) Answer to the above issues are as follows;

Issue No.1 : In the **Affirmative**.

Issue No.2 : **Partly** in the **Affirmative**.

Issue No.3 : As per final order
for the following:-

REASONS

9) Issue No.1 :- The petitioner has stated that, he met with a road traffic accident occurred due to the actionable negligence of the rider of Hero Honda Passion Pro bearing Reg. No.KA-07-S-3954. The respondent No.1 is the RC Owner of the said vehicle.

10) It is well known that the initial burden is squarely on the claimants to establish negligence without which proof no compensation could be awarded. Preponderance of probabilities to fix negligence would suffice and proof of negligence beyond shadow of doubt is not warranted as required in a criminal trial. In the background of principle that the proof of negligence is sine qua non to sustain a claim let us analyze the proof displayed by the parties to lis to unveil the truth regarding rival contentions.

11) To absolve the burden of proof, petitioner filed evidence affidavit reiterating petition averments. To justify

verbal evidence petitioner placed reliance on documents viz., Ex.P.1 is the true copy of First information report registered by Srinivasapura Police Station, against one Shivaprasad who is owner of Hero Honda Passion Pro bearing Reg. No.KA-07-S-3954 on the basis of first information statement of the petitioner. Ex.P.2 is the true copy of complaint lodged by one the petitioner to concerned police station about the accident occurred. Ex.P.3 is the true copy of spot of mahazar which reveals that mahazar was conducted in the spot. Ex.P.4 is the true copy of IMV report revealing the damages found on the two wheeler vehicles involved in the accident. Ex.P.5 is true copy of charge sheet filed against the rider of Hero Honda bearing Reg. No.KA-07-S-3954. Ex.P.6 is the true copy of wound certificate of the petitioner which depicts that he suffered IC Fracture neck right femur and the doctor opined that the said injury is grievous in nature. Ex.P.7 is Discharge summary of petitioner which depicts that he was admitted as inpatient at Jayanagar Orthopaedic Centre from 12.09.2020 to 16.09.2020 towards the accident and he sustained fractural injuries to right neck. Exs.P.8 and 9 are the medical prescriptions of the doctor at Jayanagar Orthopaedic Centre. Ex.P.10, 11 and 13 are blood test reports of the petitioner. Ex.P.12 is the culture and sensitivity report of the petitioner. Ex.P.14 is the medical bills totally amounting to Rs.,1,18,167, Exs.P.15 to 23 are the X-Ray reports of the petitioners which reveals the fracture sustained by the petitioner. Ex.P.24 is

the Clinical Examination report. Ex.P.25 is the disability certificate which reveals the percentage of disability sustained by the petitioner. Ex.P.26 is the X-Ray report issued by Gourav Hospital to the petitioner.

12) It is significant to note that in the instant case there is no dispute with respect to the police documents produced by the petitioner which were prepared by the police while discharging official duties. The said documents manifests that the accident took place due to the negligence of rider of Hero Honda Passion Pro bearing Reg. No.KA-07-S-3954. This factual scenario emerges from the undisputed documents make it crystal clear that the accident took place due to the negligence of rider of Hero Honda Passion Pro bearing Reg. No.KA-07-S-3954 having rode in rash and negligent manner. It is also relevant to note that even the respondent No.1 though appeared has not chosen to filed objection before the Tribunal and chosen to contest the petition. Perhaps, it could be said that the charge sheet or the police papers produced by the petitioner suffices that the charge sheet is been filed against the rider of the two wheeler vehicle due to his negligent riding. So, in the absence of any rebuttable evidence by other side, one could safely by relying upon the oral and documentary evidence placed on record can come to a safe conclusion that the accident in question that took place on 12-09-2020 at 6-45 a.m. near Kadumalleshwara Temple, Meesaganahalli Village, due to

the negligent riding of rider of Hero Honda Passion Pro bearing Reg. No.KA-07-S-3954 . So, this Tribunal is of the opinion that unless the rash and negligent driving is proved by the other side, the question of contributory negligence cannot be attributed. Hence, issue No.1 is answered in **Affirmative.**

13) Issue No.2 :The petitioner has proved the accident having occurred due to the rider of Hero Honda Passion Pro bearing Reg. No.KA-07-S-3954. According to the petitioner, due to the accident he has sustained grievous injuries i.e. IC fracture to neck right femur. It is also his case that due to the said accident, his movement is been restricted and he has suffered permanent disablement and he is not in a position to do Teaching work. This fact is also deposed by PW-1 in his chief evidence. The wound certificate, discharge summary and the disability certificate which are marked at Exs.P.6, 7 and 25 also reveal that the petitioner having sustained the above injury which is really a grievous in nature and the injuries have resulted in disability, thereby affecting loss of his future earning capacity. The petitioner has led his evidence as PW1 and so also, has got examined the Doctor as PW2 in support of his case. Therefore, considering the nature of injuries sustained by the petitioner, this Tribunal is of the opinion that the petitioner is entitled for compensation under the following heads :

14) PAIN AND SUFFERING :The petitioner in his evidence has spoken about the injuries sustained by him and in support of his evidence, he also got marked the Wound certificate at Ex.P6 and Discharge summary at Ex.P7 which reveals that the petitioner has sustained **IC Fracture neck right femur** and the petitioner underwent treatment on 12.09.2020 in Jayanagara Orthopaedic Centre, Bengaluru where he was treated as an inpatient from 12.09.2020 to 16.09.2020 in total he was admitted in the said hospitals and took treatment as in patient for a period of 5 days. Therefore, considering the nature of injuries, this Tribunal is of the opinion that petitioner must have undergone severe pain and suffering as such he is entitled for compensation of Rs.30,000-00 towards pain and suffering.

15) MEDICAL EXPENSES :The petitioner has asserted that he spent a sum of Rs.2,00,000-00 towards his treatment. P.W.1 in his evidence also spoken to that effect. In support of his evidence, P.W.1 has got marked the medical bills at Ex.P.14 which is supported with Medical prescriptions at Exs.P.8 & 9 and these bills reveals that the petitioner is shown to have spent a sum of Rs.1,18,167-00 towards his treatment. Considering the nature of injuries, this Tribunal is of the opinion that the petitioner must have spent said amount towards his treatment, as such he is entitled for the same. Accordingly a sum of Rs.1,18,167-00 is

awarded under this head, which is just and reasonable.

16) FOOD, NOURISHMENT, ATTENDANT CHARGES & CONVEYANCE :As stated supra, petitioner sustained **IC Fracture neck right femur** and has undergone treatment in Jayanagara Orthopaedic Centre, Bengaluru where he was treated as an inpatient from 12.09.2020 to 16.09.2020. Therefore, he must have spent some amount towards nourishment, conveyance and attendant. Therefore, considering the facts and circumstances, this Tribunal is of the opinion that if a sum of Rs.5,000-00 is awarded under this head it would be just and reasonable.

17) LOSS OF INCOME DURING LAID OFF PERIOD :The petitioner has asserted that he undergone treatment as an inpatient and undergone surgery in Jayanagara Orthopedic Centre, Bengaluru, wherein his right neck disarticulated and the Doctor also advised him for complete rest. The petitioner has produced Ex.P.7 Discharge summary which reveals that the petitioner was treated as inpatient for a period of 5 days. The petitioner has pleaded that he was earning Rs.50,000/- p.m. from teaching and agricultural work and maintaining his family. P.W.1 in his evidence has also spoken to that effect. But he has not produced any document revealing his income from the said work. However, the notional income is taken into consideration in the absence of proof of his income and avocation. Therefore, considering the nature of avocation of

the petitioner, this Tribunal is of the opinion that if notional income is considered at Rs.12,000-00 per month, it would be just and reasonable. As stated supra, the petitioner must have been under rest for a period of 2 months and he has admitted as an inpatient in the Hospital for 5 days, approximately his laid off period is taken as 2 months. Therefore, he is entitled for a sum of Rs.20,000-00, which is just and reasonable.

18) LOSS OF FUTURE INCOME :The petitioner has asserted that, due to the injuries sustained by him it has affected his future earning capacity. After the accident, after the fracture of his right neck, it is not possible for him to do work as before, thereby he sustained huge loss of income. Further contended that, even though he took advanced Medical treatment, but he is physically suffering. After the surgery of right neck, he suffered mentally and he was under depression and he is suffering from permanent disability, it is not possible for him to become physically fit as before the accident. P.W.1 in his evidence has spoken to that effect and in support of his evidence, he has produced Ex.P15 to 23 and 26 X-ray films, which are supported the contentions of the petitioner.

19) Apart from his evidence, he also got examined the Doctor as PW-2 who has examined and has given the disability certificate at Ex.P.25. PW-2-Dr. Imran Hussain

has also deposed in his evidence that he examined the petitioner for the injuries sustained in the accident and the number of treatments. He has also deposed in his evidence about the petitioner sustaining grievous injuries and he undergoing surgeries, more particularly he being operated with ORIF with DHS and de-rotation screws for right femur on 12-09-2020 and having sustained injuries due to the said accident. The PW-2 has also deposed that due to grievous injuries PW-1 has sustained permanent disability. He has deposed that the petitioner complains of pain in the right hip on doing strenuous activities and finds difficulty in climbing stairs, squatting, sit cross leg on ground and kneeling. On examination of above said complaints where clinically confirmed that the petitioner has surgical scar mark over right hip, range of motion of right Hip flexion – extension normal is 0-140 degrees, patient is having 0-85 degrees; abd – add normal is 0-90 degrees, patient is having 0-55 degrees, rotation normal is 0-90 degrees, patient is having 0-55 degrees, hence reduction of right hip movements in 40%, contribution of right hip to right lower limb is 14 %. He also certified that loss of right lower limb stability factor is 22 %, the permanent physical residual disability for right lower limb is 42 % and and the whole body is 14%.

20) This disability certificate or evidence placed by the PW-2 cannot be disbelieved. Admittedly, again there is no rebuttable evidence forth coming to disbelieve the evidence

of PW-2. Though, many questions were posed denying PW-1 not treating the petitioner or he not taking follow up treatment stages, so also fracture being cured, but it cannot be denied that screws, plates are yet in the body. Absolutely, there is not rebuttable evidence forth coming to disbelieve the evidence of PW-2. So therefore, it could be said that on the basis of evidence of PW-2, the petitioner has established that he has sustained grievous injuries as referred supra due to the said accident.

21) As said above, the permanent partial disability as assessed by P.W.2 to the whole body is apparently on the higher side and having regard to the material placed on record and the nature of avocation of injured this Tribunal has no hesitation to consider the disability at 14% to the whole body. The petitioner has asserted that he was aged 45 years as on the date of accident. Medical records at Ex.P6 and Ex.P7 Discharge card/summary and wound certificate shows the age of the petitioner as 45 years. Therefore, this Tribunal has no hesitation to consider the age of the petitioner as 45 years as shown in Ex.P6 Wound certificate as on the date of accident. As stated supra, the income of the petitioner is considered at Rs.12,000-00 per month and in view of the law laid down by the Hon'ble Supreme Court in **2009 (6) SCC 121 in the case of Sarala Varma Vs. Delhi Transport Corporation** the multiplier of 14 applies, as such the loss of future earning comes to Rs.2,82,240/-

(Rs.12,000 x 12 x 14 x 14%), which is just and reasonable.

22) LOSS OF AMENITIES :Admittedly, the petitioner has sustained CLOSED FRACTURE OF NECK RIGHT FEMUR and the said injuries are likely to effect the amenities to be enjoyed by him. Therefore, this Tribunal is of the opinion that a sum of Rs.5,000-00 is awarded towards future amenities.

23) FUTURE MEDICAL EXPENSES : The petitioner has claimed compensation towards future medical expenses. PW2 Doctor in his evidence has spoken that, it is difficult for the petitioner to do his normal daily activities, it is not possible for him to do his agriculture work. He needs one more surgery for removal of implants, the cost of the same may be from Rs.35,000/- to Rs.45,000/-.

24) The fact that the petitioner has undergone ORIF with DHS and de-rotation screws for right femur is concerned, there is no dispute and there is also no dispute that petitioner needs one more surgery for his movement. There is no proof of documentary evidence placed to show the cost of surgery. However, the Doctor has suggested that it cost Rs.35,000=00 to Rs.45,000-00. As such, this Tribunal is of the opinion that if a sum of Rs.30,000-00 is awarded under this head, it would be just & reasonable. Thus, the petitioner is entitled for compensation as follows :

Sl.No.	Particulars	Amount
1	Pain & sufferings	Rs.30,000-00
2	Medical expenses	Rs.1,18,167-00
3	Food, Nourishment, attendant charges and conveyance	Rs. 5,000-00
4	Loss of income during laid off period	Rs.20,000-00
5	Loss of future earnings	Rs.2,82,240-00
6	Loss of Amenities	Rs. 5,000-00
7	Future medical expenses	Rs.30,000-00
	Total	Rs.4,90,407-00
	(Total Four lakhs Ninety Thousand Four Hundred and Seven only rounded off to Rs.4,90,500/-).	Rs.4,90,500-00

25) The respondent counsel has relied a decision reported in **2019(4) AKR 241 : AIR Online 2019 Kar 1331** in between ***Regional Manager, Regional Office, United Insurance Co.Ltd., Bengaluru -versus- H.C.Nagabhushan and others.***, wherein Hon'ble court has held that,

"This takes us to point No.3 which is with regard to the rate of interest awarded by the Tribunal on the compensation. We find that there is considerable force in the submission of the learned counsel for the appellant/insurer that normally the Courts/Tribunals are awarding interest at the rate of 6% per annum on the compensation amount and in the instant case,

awarding 8% interest per annum is exorbitant and on the higher side and without any reason being assigned therefor. Hence, we reduce the rate of interest and the reassessed compensation shall carry interest at the rate of 6% per annum. Point No.3 is answered in favour of the Insurance Company."

The petitioner has claimed interest at the rate of 12% per annum to the award amount. The respondent counsel argued that petitioner is not entitled for 12% per annum interest, 6% per annum interest is just interest to the award. Normally Tribunals award interest at the rate of 6% per annum on the compensation amount. No doubt, in some rare cases interest will raise. Considering the facts and circumstances of this case, awarding 6% interest per annum on the compensation amount will be reasonable and just.

26) So far as liability is concerned, it is an undisputed fact that the offending Hero Honda Passion Pro bike was insured with respondent No.2 and the policy was in force as on the date of accident. That being so, the respondent No.1 being the owner and respondent No.2 being the Insurer of the offending Hero Honda Passion Pro bearing No.KA-07-S-3954 are liable to pay compensation to the petitioner. Hence, this Tribunal proceeds to answer the above issue **"partly in the affirmative"**.

27) Issue No.3 : By virtue of above findings, Tribunal proceeds to pass the following;

O R D E R

Petition is allowed in part with costs.

Petitioner is entitled for compensation of Rs.4,90,500-00 (Rupees Four Lakhs Ninety Thousand Five Hundred only) with interest @ 6% per annum from the date of petition till its realization.

Respondent No.2 is liable to pay compensation to the petitioner.

Respondent No.2 is directed to deposit the aforesaid compensation amount within 60 days from the date of this judgment.

Out of the award amount, 50% of the award amount shall be kept in fixed deposit in any nationalized or schedule bank in the name of petitioner of his choice for a period of three years with liberty to withdraw accrued interest periodically and remaining 50% shall be released in his favour.

**Advocate fee is fixed at Rs.1,000/-
in each petition.**

Draw an award accordingly.

(Dictated to the stenographer directly on computer, computerized by him, revised, corrected, signed and then pronounced by me in the open court on this **01st day of August 2026**).

Sd/-

(JAISHANKAR J.)

II Addl. Senior Civil Judge & Addl. MACT.,
Kolar.(Itinerate at Srinivasapura)

ANNEXURE

Witnesses examined on behalf of the petitioner :

P.W.1	Subramani C
P.W.2	Dr. Imran Hussain

Documents marked on behalf of the petitioner :

Ex.P.1	Certified copy of FIR
Ex.P.2	Certified copy of complaint
Ex.P.3	T/c of spot mahazar
Ex.P.4	T/c of IMV report
Ex.P.5	True copy of Charge sheet
Ex.P.6	Wound Certificate
Ex.P.7	Discharge Summary
Exs.P.8 & 9	Medical prescriptions
Exs.P.10, 11 & 13	Blood Test Reports

Ex.P.12	Culture and Sensitivity report
Ex.P.14	Medical Bills
Exs.P.15 to 23 & 26	X-Ray reports
Ex.P.24	Clinical examination reports
Ex.P.25	Disability certificate

Witnesses examined on behalf of respondent No.2:

N I L

Documents marked on behalf of respondent No.2:

N I L

Sd/-

II Addl. Senior Civil Judge & Addl. MACT.,
Kolar (Itinerate at Srinivasapura)