

KAMD200021232022



Presented on : 28-07-2022

Registered on : 28-07-2022

Decided on : 07-04-2026

DURATION : 3 YEARS, 8 MONTHS, 10 DAYS

**IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL
JUDGE AND J.M.F.C., & MACT AT KRISHNARAJAPETE.**

:PRESENT:

SRI. DEVARAJ.H.R. BA., LLB.,

I ADDL. SENIOR CIVIL JUDGE AND JMFC, & MACT

K.R.PETE.

DATED THIS THE 07th DAY OF APRIL-2026

MVC No.1036/2022

PETITIONER/S : Sri.Dhananjaya
S/o Govindadas,
aged about 46 years,
R/o Sindhaghatta village,
Sheelanere hobli,
K.R.Pete taluk,
Mandya district.

(By Sri. **MRN.**, Adv)

v/s

RESPONDENT/S 1. Sri.Arun Kumar T
S/o Thammaiah,
Major,
R/o Tolasi village,
Kikkeri hobli,
K.R.Pete taluk,
Mandya district.

(Owner of Bike bearing Reg. No.
KA-54-K-4319)

2. National Insurance Company
Limited, Prestige Shopping
Complex, 1st floor,

Ramaswamy circle,
Mysuru.

(Insurer of Bike bearing Reg. No.
KA-54-K-4319)

Policy No: 60240031206260000946
Valid from 15.02.2021 to 14.02.2022)

(By Sri. CY., Adv, for R-1,
& Sri. YNR., Adv, for R-2)

: J U D G M E N T :

The Petitioner has filed this petition Under Section 166 of Motor Vehicle Act 1988 seeking compensation of Rs.25,05,000/- with interest at the rate of 18% p.a. against the respondents for the injuries sustained by him in road traffic accident.

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

It is the case of the petitioner that, on 07.06.2021 at around 1.00 p.m., petitioner was proceeding in his Bike bearing Reg. No. KA-54-K-6460 along with one Anusuya as pillion rider from Bandihole village, when he returning from Bandihole village to K.R.Pete near Kundanahalli Gate on K.R.Pete-Beeruvalli main road, at that time rider of the Bike bearing Reg. No. KA-54-K-4319 came in

rash and negligence manner at high speed and dashed back side of the petitioner bike. Due to the said accident petitioner fell down along with his motor bike and sustained grievous injuries to his left elbow, forearm and other parts of the body.

3. Immediately he was taken to Channarayapatna Grasslife Hospital, he has taken treatment as inpatient from 07.06.2021 to 09.06.2021 for a period of 03 days, wherein doctors operated his bone and implanted rod. Further he has spent sum of Rs.5,00,000/- towards his medical expenses.

4. Further it is the case of the petitioner that, due to injuries he became disable and unable to pursue his day to day activities. Prior to the accident the petitioner was hale and healthy person, the petitioner also bread earner of his family, he was an agriculturist and doing tender coconut business, out of which he was earning Rs.25,000/- per month. Now due to his disability he could not able to work as he was work prior to accident. Hence, he has prayed to award compensation of Rs.25,05,000/- against the respondents with interest at the rate of 18% p.a. Hence, he prays for allow the petition.

5. After registration of the petition. Notice of the petition issued against the respondents. The respondent No.1 put his appearance through his advocate Sri. CY on 02.11.2022 and filed his detailed objection and contended that, the petition filed by the petitioner is not maintainable either in law or on facts, hence same is liable to be dismissed. The respondent No.1 is the owner of the bike bearing No. KA-54-K-4319. Further he has contended that, the 2nd respondent is the insurer of the offending bike bearing No. KA-54-K-4319, vide policy No. 60240031206260000946, valid from 15.02.2021 to 14.02.2022 and it was in force as on the date of alleged accident and respondent No.1 is having effective driving license to drive the vehicle as on the date of alleged accident. Hence, this respondent is not liable to pay claim amount to the petitioner. By contending so, prays for dismiss the petition.

6. The respondent No.2's company put its appearance through its advocate Sri.YNR., and filed its detailed objection and contended that, the petition filed by the petitioner is not maintainable either in law or on facts and it is liable to be dismissed. Further contended that, it is only on account of the

rash and negligent riding of the petitioner in riding the motor bike No. KA-54-K-6490 the accident occurred. Further contended that, at the time of riding the motor cycle the petitioner had not valid effective driving license and not wearing helmet he has contravened the rules and regulations of IMV Act. There is delay of five days for filing the FIR. It is clearly shows that the petitioner created and concocted documents to get compensation. Further contended that, this petition is bad for non joinder of necessary parties and submits that contributory negligence may be taken on the part of the petitioner also in riding the motor cycle no. KA-54-K-6490. Further contended that, the vehicle bearing No. KA-54-K-4319 did not possess and valid and effective driving license to that particular category of the vehicle as on the date of the alleged accident. By contending so, prays for dismiss the petition.

7. On the basis of above pleadings, my learned predecessor in office has framed the following issues:-

ISSUES

1. Does the petitioner proves that on 07.06.2021 at 1.30 p.m. near Kundanahalli Gate situated

on Hosaholalu-Beeruvalli road, he sustained grievous injuries due to actionable negligence of the driver of the Motor Cycle bearing Reg. No. KA-54-K-4319 in which collided with Motor Cycle bearing Reg. No.KA-54-K-6490, which was bearing driven by him?

2. Does the respondent No.2 proves that the driver of Motor Cycle bearing Reg No. KA-54-K-4319, did not possess valid and effective driving license as on the alleged date of accident?

3. Whether the petitioner is entitled to the compensation as sought for?

4. What order or order?

8. The petitioner in order to prove his case, he himself has examined as PW-1 and got marked 28 documents as Ex.P1 to Ex.P28. Further on perusal of the records it appears that one witness by name Dr. Sandeep D.N. S/o Naganna has examined as PW-2 through court commissioner and got marked 04 documents as per Ex.C-1 to Ex.C-4. Respondent No.1 and 2 submits that they have no evidence. Hence, evidence of respondent No.1 and 2 is taken as nil.

9. Note: On 04.03.2026 respondent No.2 has filed memo with policy by admitting the claim of the petitioner.

10. Heard arguments. Perused the available materials on records.

11. My findings to the above Issues are as follows:

Issue No.1: **In the Affirmative,**
Issue No.2: **In the Negative**
Issue No.2: **Partly in the affirmative,**
Issue No.3: **As per final order for the following**

:R E A S O N S:

12. Issue No.1: It is the case of the petitioner that, in the road traffic accident occurred on 07.06.2021 at 1.30 p.m. near Kundanahalli Gate situated on Hosaholalu-Beeruvalli road, he sustained grievous injuries due to actionable negligence of the rider of the Motor Cycle bearing Reg. No. KA-54-K-4319 in which collided with Motor Cycle bearing Reg. No.KA-54-K-6490, which was being ridden by him.

13. As already stated *supra*, the petitioner in order to prove his case, he has examined himself as PW-1. PW-1 has filed affidavit in lieu of his

examination in chief wherein he reiterated the entire averments of the claim petition and got marked Ex.P1 to Ex.P28.

14. It is relevant to note that, respondent No.2 in its written statement has denied the contention of the claim petition. Hence burden lies on the petitioner to prove his claim.

15. In order to prove the alleged accident, the petitioner has produced certified copies of complaint, FIR, Spot and seizure Panchanamas, IMV Report, wound certificate and charge sheet, which are marked at Ex.P1 to Ex.P7. These documents show that, the K.R.Pete Rural Police have registered FIR in Crime No. 0126/2021 against the rider of the offending bike bearing reg. No. KA-54-K-4319, namely Sri.Nagaraju S/o Javaraiah, who rode the offending vehicle at the time of accident. Based on the complaint lodged by one Sri. Yogesha S/o Appanna for the offences punishable Under Sec.279, 337 of IPC and 187 of MV Act. Further it reveals that after investigation the police have filed charge sheet against the rider of the offending Bike for the offences punishable U/sec.279, 337, 338 of IPC and Sec. 187

of IMV Act. Ex.P5 is the IMV report it discloses that the accident occurred not due to any mechanical defects of both the motor vehicles. Therefore, I am of the opinion that, there is no rival evidence available on record to disbelieve the version of the petitioner. Therefore, from the evidence of PW-1 and the police documents it is evidence that the accident occurred only due to rash and negligence on the part of the rider of the offending Motor Cycle bearing Reg. No. KA-54-K-4319. Moreover it is settled law that the term “rashness and negligence” has to be lightly while deciding a petition for claim of compensation under IMV Act as compared to the word rashness and negligence’ as finds mentioned in the Indian penal code. This is because the provisions of IMV Act dealing with the compensation are benevolent legislation and not a penal one. Therefore, on overall appreciation of evidence. I am of the opinion that, the accident occurred due to the sole negligence on the part of rider of the offending vehicle which belongs to respondent No.1. Accordingly, I answer Issue No.1 in the **Affirmative**.

16. Issue No.2:- It is the contention of the respondent No.2 that as on date of alleged accident

the rider of the offending bike had no valid driving license. In case on hand respondent No.1 is the owner of the offending vehicle. Admittedly the police have filed charge sheet for the offence punishable U/ sec.279, 337, 338 of IPC r/w/sec.187 of IMV Act against the rider of the offending bike. Hence, it is clear that rider of the offending vehicle possess valid license at the time of accident. Hence, without much discussion I hold that rider of the offending bike possess valid and effective driving license to rode the particular type of vehicle as on date of accident. Accordingly, I hold Issue No.2 in the **Negative**.

17. Issue No.3:- Before proceeding to discuss this issue, I feel it is correct reproduce the law declared by the Hon'ble Apex Court in the decision reported in **(2011) 1 SCC 343 (between Rajkumar V/s Ajay Kumar)** Wherein, at para No.5 of the Judgment, the Hon'ble Apex Court has mentioned the heads under which the compensation is to be awarded in personnel injury cases. I reproduce the same here itself, for the convenient sake. The same reads as follows:

**5. The heads under which
compensation is awarded in**

personal injury cases are the following;-

(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 earnings 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)

18. Keeping in view the law declared in the aforementioned decision, I have carefully perused the entire record and I proceed to discuss entitled of the petitioner under various heads.

19. AGE, AVOCATION AND INCOME:- The petitioner has not filed any documents in order to prove his age. However, on perusal of the wound certificate furnished by the petitioner at Ex.P6 it appears that age of the petitioner is 46 years. On the other hand respondent No. 2 has not disputed the age of the petitioner as mentioned in the wound certificate. Hence, it is clear that the petitioner was aged about 46 years as on the date of accident.

20. The petitioner has deposed that prior to accident he was an agriculturist and was doing tender coconut business, out of which he was earning Rs.25,000/- per month. In order to show his avocation, the petitioner has not produced any iota of documents to prove his avocation. Therefore, it is necessary to take into account notional income of the petitioner while calculating the compensation. As per guidelines issued by the Karnataka State Legal Service Authority the Notional income of the

petitioner is taken as Rs.15,000/- p.m., as the accident took place in the year 2021.

21. As per Ex.P-6 is the wound certificate the petitioner has sustained grievous injuries. Further it appears that the petitioner has produced Discharge summary as per Ex.P9, wherein it appears that he has taken treatment at Grasslife Hospital, Channarayapattana from 07.06.2021 to 09.06.2021 i.e., for a period of 03 days.

22. The petitioner has stated that due to accidental injuries he became disable and lost his earning capacity. In order to prove his disability, he has examined the Doctor who treated him as PW-2 through court commissioner. Dr.Sandeep D.N. S/o Naganna has filed affidavit in lieu of his examination-in-chief, he has deposed that on 07.06.2021 at around 1.30 p.m. the petitioner came to his hospital with a history of road traffic accident. Further he has deposed that after examination, he found that, Tenderness, pain, swelling and ROM present over left wrist. He was thoroughly investigated and his X-ray shows left wrist volar barton fracture and he sustained 18.57% of disability for his left upper limb.

23. It is relevant to note that, evidence of PW-2 learned counsel for the 2nd respondent has cross examined the PW-2 but noting has been elicited from the mouth of PW-2. But PW-2 has not stated the disability for the whole body. Therefore, as per the guideline, the 1/3rd disability to whole body has to be considered. Therefore 6.19% of disability (18.57/3) to the whole body. Hence, this tribunal is of the opinion that the petitioner might be having disability of 6.19% to the whole body.

**24. ATTENDANT CHARGES, EXTRA
NUTRITIOUS FOOD AND CONVEYANCE CHARGE:**

On perusal of the documentary evidence furnished by PW-1. He has furnished Discharge summary as per Ex.P9, wherein it appears that petitioner has taken treatment at Grasslife Hospital, Channarayapattana from 07.06.2021 to 09.06.2021 i.e., for a period of 03 days. Therefore, by considering the nature of injuries sustained by him, the petitioner might have spent considerable amount towards special diet, transportation and nutrition. Therefore, by considering the rate of inflation and rise in the price index, a sum of Rs.3,000/- is awarded under this head.

25. PAIN AND SUFFERINGS: On account of the accidental injuries, the petitioner has undergone surgery, as such he has definitely suffered pain and mental agony. Therefore, this Tribunal awards a sum of Rs.25,000/- under this head.

26. LOSS OF INCOME DURING LAID UP PERIOD: The petitioner has not produced any documents with respect to loss of income during laid period. However, by considering the age, nature of injuries treatment given and duration of stay of the petitioner in the hospital. Petitioner has taken treatment for a period of 06 days. Hence, it is quite natural that petitioner could not have carried out his avocation for at least 6 months. Therefore, by taking into account the notional income of the petitioner, this Tribunal awards of Rs.90,000 (15,000X6) under this head.

27. Medical Expenses: The petitioner has produced Ex.P-10 to 28 medical bills. As per these documents the petitioner has spent total sum of Rs. 40,901.72/- round off Rs. 40,902/- towards medical expenses. On perusal of the Ex.P10 and 11 it appears that petitioner has filed same bill. Hence, one bill for

Rs.5753 for taken into consideration. Nothing on record to disbelieve the genuineness of remaining medical bills. Hence, the petitioner is entitled for Rs.40,902 /- towards medical expenses. Further CW-2 has stated that, approximate cost of implant removal in their hospital is Rs.50,000/-. Hence, the petitioner is entitled for Rs.50,000 + 40,902/= Rs.90,902/- towards medical expenses.

28. LOSS OF FUTURE INCOME DUE TO DISABILITY:- As already stated the petitioner has suffered 6.19% disability to the whole body and he is aged about 46 years. Therefore as per **Sarala Verma's** case, the appropriate multiplier applicable is 12. This tribunal has already assessed the notional income of the petitioner at Rs.15,000/- p.m. Hence, sum of Rs.1,33,704/- (15,000 X 12 X 6.19 X 12/100) is awarded under this head.

29. LOSS OF FUTURE AMENITIES AND HAPPINESS: The accident would have necessarily caused physical deformity to some extent with which the petitioner has to live the rest of his life. Thereby, the petitioner would obviously face disappointment, frustration and discomfort in 35,000/- enjoying

normal pleasures and joys of human life. Hence a sum of Rs. 35,000/- is awarded under this head.

30. The calculation table stands as follows:

1.	Attendants charges, extra nutritious food and conveyance charges	Rs. 3,000/-
2.	Pain and Sufferings	Rs. 25,000/-
3.	Loss of income during laid up period	Rs. 90,000/-
4.	Medical expenses	Rs. 40,902/-
5.	Future Medical expenses	Rs. 50,000/-
5.	Loss of future income due to disability	Rs. 1,33,704 /-
6.	Loss of future amenities and Happiness	Rs. 35,000/-
	Total	Rs. 3,77,606 /-

31. Hence the petitioner is entitled for total compensation of Rs.3,77,606/-.

32. REGARDING INTEREST AND LIABILITY:

Having regard to the nature of claim and current bank rate of interest, this Tribunal is of the view that if interest at the rate of 6% p.a. is awarded, it would meet the ends of justice. It is made it clear that future medical expenses of Rs.50,000/- does not carry any interest.

33. LIABILITY:-The learned counsel for the respondent No.2 has furnished copy of policy vide No.

60240031206260000946, which valid from 15.02.2021 to 14.02.2022. On perusal of the said document it appears that 2nd respondent company has issued policy in favour of offending vehicle bearing Reg. No. KA-54-K-4319 as on date of accident policy was in force. The respondent no.1 being the owner of the offending vehicle bearing Reg. No.KA-54-K-4319 and respondent No.2 being the insurer of the said vehicle, are jointly and severally liable to pay the compensation to the petitioner. Hence, the respondent No.2 has to pay compensation with interest at the rate of 6% p.a. from the date of claim petition till its realization of the entire amount. Accordingly, I answer Issue No.3 partly in the **Affirmative.**

34. Issue No.3: In view of the discussion made supra, this tribunal proceeds to pass the following:-

ORDER

The Petition filed by the petitioner u/sec.166 of Motor Vehicles Act is partly allowed with costs.

The petitioner is entitled for compensation of Rs.3,27,606/- with interest at the rate of 6% per annum from the date of petition till its realization.

Petitioner is entitled for future medical expenses of Rs. 50,000/-. it is made it clear that future medical expenses does not carry any interest.

The respondent No.2 is liable to pay and directed to deposit the compensation and future medical expenses directly to the bank account of the petitioner within a period of 60 days from the date of this award.

Bank details of the petitioner as follows:

Name:	Dhananjaya S.G
Account no.	1296101007283
Branch	Canara Bank, Sindaghatta Branch,
IFSC Code	CNRB0001296
Pan No.	BTLPD0464J

Advocate's fee is fixed at Rs.1,000/-.

Draw award accordingly.

(Dictated to the Stenographer, transcribed and computerized by her, script corrected and then pronounced by me in the Open Court on this the 07th day of April-2026)

(DEVARJAU H.R.)
I Addl.Sr.CJ & JMFC & MACT
K.R.Pete.

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ANNEXURE**Witnesses examined for the petitioners:**

PW-1 : Sri.Dhananjaya

Documents exhibited on behalf of petitioners:

Ex.P1 : Complaint,
Ex.P2 : FIR,
Ex.P3 & 4 : Spot and seizure mahazar
Ex.P5 : IMV report,
Ex.P6 : Wound certificate,
Ex.P7 : Charge sheet,
Ex.P8 : Order sheet in CC No. 1394/2022,
Ex.P9 : Discharge summary,
Ex.P10 to 28 : Medical bills.

Witnesses examined for the respondents:

Nil-

The documents marked for the respondents:

Nil-

Witnesses examined through Court Commissioner:

PW-2 : Dr. Sandeep D.N

The documents marked through court commissioner

Ex.C1 : Case sheet,
Ex.C2 : X-ray film,
Ex.C-3 : OPD records,
Ex.C-4 : Lab reports.

I Addl.Sr.CJ & JMFC & MACT
K.R.Pete.

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