

KAMD400001062022



**IN THE COURT OF THE SENIOR CIVIL JUDGE &
MACT AT: MALAVALLI**

PRESENT

SRI.MAHENDRA. M,
BA., LL.B.,
SENIOR CIVIL JUDGE, AND MACT.,
MALAVALLI.

Dated this the 1st day of June 2026

MVC No.279/2022

Petitioner:

Sri. H.R.Hemanth Kumar

S/o Ramanna

Aged about 27 years,

R/at Hegguru Village,

Bannuru Hobli, T.Narasipura Taluk,

Mysore District.

Now R/at 12th Ward,

Ashoka Nagara, Malavalli Town,

Mandya District.

(By Sri M.K.S., Advocate)

V/s

Respondents: 1. Sri. Syed Dawood

S/o Syed Hassan, Major

R/o Muslim Block beedi,
Kirugavalu Village & Hobli,
Malavalli Taluk, Mandya District.

**(Owner of Lorry bearing
No.KA-05-AA-0888)**

- 2. The Manager,**
HDFC ERGO General Insurance
Company Limited, By the side of
Maharaja Complex,
Bheema Jewelers Building,
Opp to Suburb Bus Stand, Mysore.

**(Policy No.2317204424407700000
Valid from 13.12.2021 to 12.12.2022)**

**(R1 By Sri D.N.R., Advocate)
(R2 By Sri S.B., Advocate)**

JUDGMENT

The petitioner has filed the above petition Under
Section 166 of M.V. Act claiming compensation of
Rs.35,00,000/- on account of injuries sustained by him in a
Motor Vehicle Accident.

2. The facts of the case in brief are as follows:

On 24.12.2021, the petitioner in order to go to his
wife's parents house, was riding his motorcycle bearing

No.KA-55-K-2930 on the left side of Malavalli-Maddur main road by observing the road rules and regulations. At about 9.00 p.m., when the petitioner was so riding his motorcycle at T.Kagepura circle, at that time, one Lorry bearing No.KA-05-AA-0888 being driven by its driver was going in front of the motorcycle of the petitioner in a very rash and negligent manner at high speed and also in a zig-zag manner so as to cause endanger to human life and in prosecution of such rash and negligent driving, all of a sudden without putting indicator or giving signal suddenly stopped the Lorry. On account of this sudden act of the driver of the Lorry, the petitioner who was coming behind that Lorry could not control the motorcycle and dashed behind the Lorry and caused the accident. In that accident, the petitioner fell down along with the motorcycle and sustained grievous injuries to his head, face, both hands, legs and other parts of the body. Thus, the accident caused entirely due to rash and negligent driving of the Lorry bearing No.KA-05-AA-0888 by its driver only.

3. After the accident, the petitioner was taken to General Hospital, Malavalli. After taking first aid treatment, he was taken to G.Madegowda Super Speciality Hospital, K.M.Doddi and after taking the treatment and on the advise of the doctor, he was taken to NIMHANS, Bengaluru. Thereafter, he was shifted to K.R.Hospital, Mysore. The petitioner was subjected to X-ray and CT scan. CT scan of the brain shows plain few small acute hemorrhage contusions with mild perilesional edema in the left external capsule largest measuring 4mm. Thin acute SAH in the right high parietal cortical sulci and right ambient cisten. Multiple foci of extra axial air are seen in scattered in bilateral sylvian fissures, bilateral temporal convexities, basal cisterns, suprasellar cistern and bilateral anterior frontal cerebral convexities. Thick acute SDH measuring 5 mm in the left tentorium cerebella. Vertical undisplaced fracture of the left horn of the frontal bone with fracture line traversing inferiorly up to the roof of the left orbit. Scalp swelling in the left fronto parietal

region. The doctor diagnosis comminuted depressed fractures of bilateral frontal bone with involvement of the roof of the left orbit with associated bilateral frontal and ethmoidal hemosinus. Left periorbital soft tissue swelling with subcutaneous emphysema. Mildly depressed fracture of the nasal bone. The doctor has suggested to undergo surgery in future.

4. The petitioner has been admitted in K.R.Hospital, Mysore from 25.12.2021 to 08.01.2022. Thereafter, he was discharged from the hospital and till today taking treatment as out patient once in a week/15 days as per the advise of the doctor. The petitioner is taking treatment as out patient at MIMS Hospital, Mandya. The doctor has suggested to take complete bed rest for 6 months. He has so far spent Rs.2,00,000/- towards medical expenses and requires future medical expenses of Rs.1,00,000/-, as the doctor has suggested to under go surgery in future and for that purpose he has to re-admit to the hospital. Besides he spent

Rs.1,00,000/- towards food, diet, transport, attendant and other incidental expenses. He has engaged one attendant to look after him in the hospital and he has spent Rs.500/- per day towards attendant charges. He used to visit the hospital as outpatient by paying Rs.2,500/- per trip as taxi charges.

5. It is contended that, he is aged about 27 years and labour by profession and doing all types of labour work. Besides he was also doing bar bending work and Mestri work and from all the sources he used to earn Rs.20,000/- and odd per month. He is the only earning member in the family to look after the house affairs. The family members are mainly depending upon his income for livelihood. Prior to the accident, he was hale and healthy and after the accident, he is unable to do any type of work. He is getting head ache and giddiness often and often and he became miff and inactive and lost his memory power. He has developed epilepsy. His face became ugly and disfigured. His eye sight is not visible and watering always. He is getting respiratory problem due to

injury to nose. He cannot chew hard food stuff due to fracture of maxillary sinus. He cannot open the mouth properly and cannot talk properly and fluently. He is limping, unable to walk properly and very difficult in walking, cannot bend his body, unable to sit with crossed leg, squat or stand for long time. He cannot press his both legs on the ground and gets severe pain and its movements are restricted. He cannot sit with crossed leg and unable to attend the 2nd nature call in Indian style. He is unable to hold any objects from his both hands and its movement are restricted. He is unable to continue his avocation of coolie work. He has to depend upon others even for his normal work and put to lot of inconvenience, discomfort, disappointment and frustration and he has suffered permanent disability and besides lost his future earning capacity also. The doctor has advised him to take complete bed rest for 6 months, so he lost his 6 months income. The accident has been caused entirely due to rash and negligent driving of Lorry bearing No.KA-05-AA-0888 by

its driver only. The respondent No.1 is the owner of the said vehicle in question and the respondent No.2 is the insurance company and the policy was in force as on the date of accident. Hence, the respondents are jointly and severally liable to pay the compensation.

6. After the presentation of the petition, the same was registered and notices were issued and duly served on the respondents. The respondents are appeared through their counsels. **The respondent No.1 has filed his written statement in brief as follows:**

This respondent has specifically denied the averments of the petition. The respondent No.1 contended that, the alleged accident occurred due to the negligent riding of the petitioner who was rode the same in a rash and negligent manner and himself dashed behind the lorry. The respondent No.1 admitted that, he is the owner of offending vehicle. The respondent No.1 further contended that, the offending vehicle insured with 2nd respondent and the policy was in force as on

the date of accident. The amount mentioned in the claim petition as compensation too high. **Hence, prayed that, dismiss the petition filed by the petitioner.**

7. The respondent No.2 filed written statement and contended that, the petition is not maintainable and liable to be dismissed. Further, denied all the averments made in the petition as false and incorrect. The petition averments as to the age, income, occupation, injuries sustained by the petitioner and the medical expenses alleged to have incurred by him are all denied and disputed. According to the respondent No.2, the compensation claimed by the petitioner is exorbitant. It is contended that, the person who was driving the Lorry bearing No.KA-05-AA-0888 not having permit at the time of accident, hence, the jurisdictional police filed charge sheet against the owner of the said Lorry under section 192(A) of MV Act. The respondent No.2 further contented that, as on the date of accident, the Lorry bearing No.KA-05-AA-0888 is validly insured with them. As on the date

of accident, the driver of said Lorry was driven the same without valid driving license. It is further contended that, the accident occurred due to the negligent act of the petitioner who rode the motorcycle in a rash and negligent manner and without having proper look out of the vehicular traffic along the road and without holding valid driving license. The respondent cannot held liable unless and until it is proved that, the registration certificate, fitness certificate and permit of the vehicle and driving license of the driver. As per section 134(C) of MV Act, it is mandatory duty of the insured/respondent No.1 to furnish particulars of policy, date, time and place of accident and particulars of driving license. But the respondent No.1 has not complied the mandatory requires. As per section 158(6) of the MV Act, it is the mandatory duty of the concerned police to forward all the relevant documents to the insurer within 30 days from the date of information. But, the concerned police failed to do so and did not comply with the statutory demand. The

respondent No.1 willfully handed over the vehicle without fitness certificate and in violation of terms and conditions of policy. It is further contended that, the petitioner colluded with respondent No.1 and filed the present petition for claiming compensation, if possible. Hence, the insurance company is not liable to pay the compensation. **Hence, prayed that, dismiss the petition filed by the petitioner.**

8. The predecessor of this court has been framed the following issues:

ISSUES

1. Whether the petitioner proves that, accident taken place on 24.12.2021 at about 9.00 p.m., on Malavalli-Maddur road, at T.Kagepura circle, was solely due to rash and negligent driving of Lorry bearing No.KA-05-AA-0888 by its driver ?
2. Whether the petitioner proves that, he has sustained injuries in the said accident ?
3. Whether the respondent No.2 proves that the driver of the offending vehicle was not holding valid and effective driving license on the date of accident ?

4. Whether the petitioner is entitled for the compensation ? If so, what amount, from whom ? And what interest ?

5. What order or award ?

9. To prove his case, petitioner got examined himself as PW1 and ExP1 to 10 got marked. The ExR1 got confronted through cross-examination of PW1. The petitioner also examined a treating doctor by name Dr.Rajesh.T.S through court commissioner as CW1 and ExC1 to 5 got marked. On the other hand, respondent No.1 did not choose to adduce evidence. The witness namely Smt. Ashwini.K, the Superintendent, RTO East Office, Mysore was examined as RW1 and ExR1 and 2 got marked. The respondent No.2 examined its Senior Executive TP claims as RW2 and ExR3 and 4 got marked.

10. The learned counsels for the petitioner and respondent No.2 submitted their written arguments, the same are perused by this court. This court perused the materials placed on record.

11. My findings on the aforesaid issues are as under:

Issue No.1 : In the Affirmative,

Issue No.2 : In the Affirmative,

Issue No.3 : In the Negative,

Issue No.4 : Partly in the affirmative,

as per the discussion below,

Issue No.5 : As per the final order,

for the following :

REASONS

12. **Issues No.1 to 3:-** These issues are taken together for discussion since they required common discussion and so also they are inter connected with each other.

13. It is the specific case made out by the petitioner that, on 24.12.2021, the petitioner in order to go to his wife's parents house, was riding his motorcycle bearing No.KA-55-K-2930 on the left side of Malavalli-Maddur main road by observing the road rules and regulations. At about 9.00 p.m., when the petitioner was so riding his motorcycle at T.Kagepura circle, at that time, one Lorry bearing No.KA-05-

AA-0888 being driven by its driver was going in front of the motorcycle of the petitioner in a very rash and negligent manner at high speed and also in a zig-zag manner so as to cause endanger to human life and in prosecution of such rash and negligent driving, all of a sudden without putting indicator or giving signal suddenly stopped the Lorry. On account of this sudden act of the driver of the Lorry, the petitioner who was coming behind that Lorry could not control the motorcycle and dashed behind the Lorry and caused the accident. Thus, the accident caused entirely due to rash and negligent driving of the Lorry bearing No.KA-05-AA-0888 by its driver only. In that accident, the petitioner fell down along with the motorcycle and sustained grievous injuries to his head, face, both hands, legs and other parts of the body and sustained with permanent disability. Per contra, in the objection Respondent No.2 denied the aforesaid case of the petitioner and inter-alia contended that, the compensation claimed by the petitioner is exorbitant.

14. The learned counsel for the petitioner submitted written arguments and stated that, on the basis of oral and documentary evidence, the petitioner proves the rash and negligent driving of the Lorry by its driver. The 2nd respondent had examined RTO of East Mysuru as RW1 and stated that, the vehicle involved in the accident had a permit from 21.04.2023 to 20.04.2028 as per ExR1. The Senior Executive Officer examined as RW2 and stated that, the 1st respondent has violated the terms and conditions of the policy. The RTO of Mandya examined as RW3 and given a letter stated that, the Lorry No.KA-05-AA-0888 was registered before RTO, Bengaluru. The 2nd respondent has not lead its evidence and he has not examined the concerned RTO to prove its contention that, there is no permit. During the Covid-19, the Central Government had issued the notification regarding if any permit, DL, FC and other documents have been lapsed from 30.03.2020 to 31.12.2021, if there is any lapse during

that period, that lapse period shall be considered as valid till 31.12.2021.

15. The learned counsel for the petitioner relied upon the following decisions regarding lapse of permit in the written arguments.

1. 2018 ACJ 1768 (SC) in the case of Amrit Paul Singh and another V/s TATA AIG General Insurance Company and others.

2. 2021 ACJ 2613 in the case of Geeta Bai and others V/s Surya Bahadur Yadav and others.

3. 2023 ACJ 1952 in the case of G.Shivaputra V/s P.Shanthamma and others.

4. 2022 ACJ 37 in the case of Bajaj Allianz General Insurance Co. Ltd V/s Hitesh Kumar Manu Bai Joshi and others.

16. The learned counsel for the petitioner further submitted the arguments that, the petitioner in order to prove the disabilities examined the treated doctor. The petitioner

score is one and amounts to 20% disability. The CW1 doctor submitted 51% total disability. In respect of quantum of injury the learned counsel for the petitioner relied upon the following decisions:

1. 2024 ACJ 608 between Savita Gulati V/s Manjit Singh and other.

2. 2024 ACJ 1035 between Managing Director, Tamil Nadu State Transport Corporation Ltd., V/s Karthikeyan and others.

3. 2025 ACJ 227 between Branch Manager, National Insurance Co. Ltd., V/s Yoel Subba and others.

4. 2025 ACJ 296 between T.Rajamoni Dead by Lrs V/s Manager, Oriental Insurance Co. Ltd and others.

5. 2023 ACJ 2054 between National Insurance Co. Ltd., V/s Alwin Lobo and another.

17. The learned counsel for the petitioner relied upon following decisions in respect of interest.

1. 2025 ACJ 378 in the case of Thresiamma Sebastian V/s Dr. Renu Swamy Das and others.

2. 2018 ACJ 1768 between Amrit Paul Singh and another V/s TATA AIG General Insurance Co. Ltd and others.

3. 2023 ACJ 1952 between G.Shivaputra V/s P.Shanthamma and others.

On the said grounds, learned counsel prayed to allow the petition as sought for.

18. The learned counsel for the respondent No.2 submitted written arguments and stated that, the person who was driving the Lorry bearing No.KA-05-AA-0888 not having permit at the time of accident. The said Lorry valid permit upto 31.07.2021 but, the accident occurred on 24.12.2021. The jurisdictional police have filed charge sheet against the owner/driver of Lorry under Section 192(A) of IMV Act. Hence, violation of policy condition is found. On the date of the accident, the petitioner was riding motorcycle without valid

and effective driving license at the time of accident and he was drive rash and negligent manner dashed against backside of Lorry. Hence, this accident occurred due to the negligence of petitioner. The respondent No.2 examined one Basavarajegowda who is the Assistant Manager of its company as RW2 and produced policy copy and also examined RTO of Mysore as RW1. Hence, this 2nd respondent company is not liable to pay the compensation in favour of the petitioner. This respondent has filed the written statement and specifically disputing the permit of the Lorry bearing No.KA-05-AA-0888. The petitioner lead his evidence and marked the all the police documents its clearly show that, the said lorry without permit at the time of accident. The learned counsel for the 2nd respondent relied upon the following decisions.

1. MFA No.8470/2012 between Sri Abhishek V/s Sri K.B.Thippeswamy dated 11.04.2014.

2. ILR 2012 Kar 6065 between Sri B.T.Venkatesh V/s Sri Jagadeesh Kumar and others.

3. 2009 ACJ 437 between Ram Sujan Tiwari V/s Sita Gupta and others.

On these grounds, learned counsel prayed for dismissal of the petition.

19. To prove his contention, petitioner got examined himself as PW1. In the chief-examination, he has re-iterated the aforesaid case facts. To corroborate his evidence, he has produced documents at ExP1 to 10. Among these documents ExP1 to 6 are police documents. The ExR1 - Xerox copy of Aadhar card of petitioner got marked through confrontation. The petitioner has also examined a treating doctor by name Dr.Rajesh.T.S through court commissioner as CW1 and Inpatient case sheet at ExC1, OPD slip at ExC2, Neuro psychological assessment report at ExC3 and 2 X-rays at ExC4 and 5. On the other hand, respondent No.1 did not choose to adduce evidence. The witness namely

Smt.Ashwini.K, the Superintendent, RTO East Office, Mysore was examined as RW1 and ExR1-"B" register extract and ExR2-Permit extract got marked. The respondent No.2 examined its Senior Executive TP claims as RW2 and ExR3-Authorization letter and ExR4- Copy of Insurance policy got marked.

20. ExP1 is the True copy of FIR in Cr.No.209/2021 of Malavalli Rural Police station, Malavalli. It is registered pursuant to complaint given by one Shankar.M. ExP2 is the True copy of complaint. ExP3 is the True copy of spot mahazar. ExP4 is the True copy of wound certificate which indicates that, the petitioner has sustained with 1. Lacerated wound over right side parietal region of head measuring 10 x 5 cm, 2. Lacerated wound over right side frontal region of head measuring 6 x 10 cm, 3. Lacerated wound over left side of neck measuring 4 x 6 cm and 4. SAH in right parietal sulci. ExP5 is the True copy of IMV Report which indicates that, the accident was not occurred due to any mechanical

defect of the said vehicle. From this, it can be inferred that, the accident had not occurred due to mechanical defect of the offending vehicle.

21. ExP6 is the True copy of charge sheet indicates that, Sri. Syed Najiulla who was driving the offending vehicle at the time of accident and Sri. Syed Dawood, the respondent No.1 the owner of offending vehicle have been charge sheeted for the offences punishable under Sections 279, 337 and 338 of IPC R/w Section 187 and 192(A) of IMV Act. From the materials placed on record, it can be held that, the driver of the offending vehicle driven the same in a rash and negligent manner and caused accident. Due to the accident, the petitioner sustained grievous injuries as stated above.

22. It is pertinent to note, the respondent No.2 has taken a contention that, the driver of offending vehicle was not holding valid driving license. On perusal of ExP6 True copy of the charge sheet reveals that, the investigation officer filed

charge sheet against the driver of offending vehicle for the offences punishable under Sections 279, 337 and 338 of IPC R/w Section 187 of IMV Act. He has not been charged for the allegation that, he was not holding valid license for driving the offending vehicle. If he had no valid driving license, certainly the investigation officer would have filed charge sheet for not holding valid driving license. From the materials placed on record, it can be held that, the driver of the offending vehicle had valid driving license was driving the same in a rash and negligent manner and caused accident and due to that, the petitioner sustained injuries. For these reasons issues No.1 and 2 are answered **in the Affirmative** and issue No.3 **in the Negative**.

23. **Issue No.4:** The Petitioner being the victim of the accident is entitled for compensation. What is the just and reasonable compensation has to be decided based on the materials available on record.

24. The petitioner has deposed in his evidence that, he was labour by profession and doing all types of labour work. Besides he was also doing bar bending work and Mestri work and from all the sources he used to earn Rs.20,000/- and odd per month. Due to the accident, he could not work and lead life as an ordinary person. He has to depend upon others even for his normal work and put to lot of inconvenience, discomfort, disappointment and frustration and he has suffered permanent disability. He incurred Rs.2,00,000/- towards medical expenses and requires future medical expenses of Rs.1,00,000/-, as the doctor has suggested to under go surgery in future and for that purpose he has to re-admit to the hospital. Besides he spent Rs.1,00,000/- towards food, diet, transport, attendant and other incidental expenses. He has engaged one attendant to look after him in the hospital and he has spent Rs.500/- per day towards attendant charges. He used to visit the hospital as outpatient by paying Rs.2,500/- per trip as taxi charges. Due to the accidental

injuries, he has suffered permanent physical disability. Therefore, he lost the earning capacity.

25. At this juncture, it is worthwhile to refer the decision reported in **(2011) 1 SCC 343** in the case between **Rajkumar V/s Ajaykumar and another**, wherein para No.5 of the judgment, the Hon'ble Supreme court held that,

General principles relating to compensation in injury cases

“5. The provisions of Motor Vehicles Act, 1988 makes it clear that, the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in fair, reasonable and equitable manner. The court or Tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that, he is to be compensated for his inability to lead a full life,

his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned.

26. According to the petitioner, at the time of accident, he was aged about 27 years and labour by profession and doing all types of labour work. Besides he was also doing bar bending work and Mestri work and from all the sources he used to earn Rs.20,000/- and odd per month. Prior to the accident, he was hale and healthy and after the accident, he is unable to do any type of work. He is getting head ache and giddiness often and often and he became miff and inactive and lost his memory power. His face became ugly and disfigured. He cannot carry any weight on his head. He has spent money towards transportation charges, medical expenses, food nourishment, attendant etc., and he suffered lots of pain, mental shock, discomfort, frustration and agony. In view of the General principles laid down by the Hon'ble Supreme Court, relating to compensation in injury cases, the petitioner is entitled for compensation in the following heads:

(I) Towards pain and sufferings:-

It is the contention of petitioner that, due to the accident, he sustained grievous injuries. Initially, he was taken to General Hospital, Malavalli. After taking first aid treatment, he was taken to G.Madegowda Super Speciality Hospital, K.M.Doddi and after taking the treatment and on the advise of the doctor, he was taken to NIMHANS, Bengaluru. Thereafter, he was shifted to K.R.Hospital, Mysore. During the course of admission, the petitioner was subjected to x-ray, CT scan brain and other medical tests and given the treatment. Thereafter, he was discharged from the hospital and till today he has been taking treatment as out patient. Recently, he was examined and examined as to disability and the fracture. Due to the accident, he could not work and lead life as an ordinary person. He has to depend upon others even for his normal work and put to lot of inconvenience, discomfort, disappointment and frustration and he has suffered permanent disability. During this period, the petitioner must

have suffered lot of pain and agony. Therefore in my opinion petitioner is entitled for **Rs.30,000/- as the compensation towards the head of pain and suffering.**

(II) Towards Medical Expenses:-

In so far as the medical expenditure is concerned, Petitioner contended that, he has spent Rs.2,00,000/- towards medical expenses and requires future medical expenses of Rs.1,00,000/-, as the doctor has suggested to under go another surgery and for that purpose he has to re-admit to the hospital. On perusal of ExP4 wound certificate shows that, the petitioner has sustained with 1. Lacerated wound over right side parietal region of head measuring 10 x 5 cm, 2. Lacerated wound over right side frontal region of head measuring 6 x 10 cm, 3. Lacerated wound over left side of neck measuring 4 x 6 cm and 4. SAH in right parietal sulci. After the accident, the petitioner was taken to General Hospital, Malavalli. After taking first aid treatment, he was taken to G.Madegowda Super Speciality Hospital, K.M.Doddi

and after taking the treatment and on the advise of the doctor, he was taken to NIMHANS, Bengaluru. Thereafter, he was shifted to K.R.Hospital, Mysore. During the course of admission, the petitioner was subjected to x-ray, CT scan brain and other medical tests and given the treatment. Thereafter, he was discharged with an advice to take complete bed rest for 6 months and to take follow up treatment. In this regard, he has produced 38 Medical bills at ExP7 of Rs.23,951/-. The petitioner has produced proper medical bills towards medical expenditure. Therefore, in my opinion the petitioner **is entitled for Rs.23,951/- towards the head of medical expenditure.**

(III) Towards diet, food, nourishment, attendant and conveyance charges:-

On perusal of ExP4 wound certificate shows that, the petitioner has sustained with 1. Lacerated wound over right side parietal region of head measuring 10 x 5 cm, 2. Lacerated wound over right side frontal region of head

measuring 6 x 10 cm, 3. Lacerated wound over left side of neck measuring 4 x 6 cm and 4. SAH in right parietal sulci. After the accident, the petitioner was taken to General Hospital, Malavalli. After taking first aid treatment, he was taken to G.Madegowda Super Speciality Hospital, K.M.Doddi and after taking the treatment and on the advise of the doctor, he was taken to NIMHANS, Bengaluru. Thereafter, he was shifted to K.R.Hospital, Mysore. During the course of admission, the petitioner was subjected to x-ray, CT scan brain and other medical tests and given the treatment. Thereafter, he was discharged from the hospital and till today taking treatment as out patient. It is further contended that, he spent Rs.1,00,000/- towards food, diet, transport, attendant and other incidental expenses. He has engaged one attendant to look after him in the hospital and he has spent Rs.500/- per day towards attendant charges. He used to visit the hospital as outpatient by paying Rs.2,500/- per trip as taxi charges. As per the available record, in total he had taken

treatment as an inpatient for 15 days and also taking follow up treatment as out patient. CW1 Doctor deposed that, even after discharge, he had taken follow up treatment on so many occasions. Thus, he might have taken treatment for 15 days as inpatient and follow up treatment as an out patient once in a week/15 days. During those days and even after discharge, he might have taken assistance of someone to look after his necessities and to take care. If minimum of Rs.500/- per day is taken into consideration, he might have spent approximately Rs.7,500/- for 15 days towards attendant charges. Though he has taken a contention that, he spent some amount towards transportation charges, but he has not produced any documents to substantiate the same. However, he might have traveled in public or private vehicles for taking treatment and spent some amount towards conveyance and food. Therefore, the **petitioner is also entitled for Rs.30,000/- towards diet, food, nourishment, attendant and conveyance charges etc:-**

(IV) Towards loss of income during laid-up period:-

The petitioner has taken contention that, at the time of accident, he was aged about 27 years and labour by profession and doing all types of labour work. Besides he was also doing bar bending work and Mestri work and from all the sources he used to earn Rs.20,000/- and odd per month. After the accident, he is unable to do any type of work as he was doing earlier. He has put to lot of inconvenience, discomfort, disappointment and frustration and he has suffered permanent disability. In view of the aforesaid reasons, in total he had taken treatment as an inpatient and out patient for 15 days. Even after discharge, he might have taken rest at least 4 to 5 weeks. Under such circumstances, he had no other way except to take rest during the time of treatment. Therefore, I am of the opinion that, it is proper to award **Rs.30,000/- compensation towards the loss of income during laid up period.**

(V) Towards loss of future earning capacity on account of permanent physical Disability:-

It is the contention of petitioner that, at the time of accident, he was doing all types of labour work. Besides he was also doing bar bending work and Mestri work and from all the sources he used to earn Rs.20,000/- and odd per month. He is the only earning member in the family and the family members are mainly depending upon his income for their livelihood. Prior to the accident, he was hale and healthy and after the accident, he is unable to do any type of work. He is getting head ache and giddiness often and often and he became miff and inactive and lost his memory power. He has developed epilepsy. His face became ugly and disfigured and he has suffered permanent disability.

27. To prove this aspect, petitioner has examined CW1 Dr. Rajesh.T.S., Associate Professor and Department of Neurosurgery, K.R.Hospital, Mysuru and he deposed that, he and Dr.Rithvik.S.Kashyap, Clinical Psychologist examined the

petitioner. The petitioner was referred from NIMHANS, Bengaluru and admitted at K.R.Hospital, Mysuru on 25.12.2021 with the history of road traffic accident which occurred on 24.12.2021. At the time of diagnosed Mild Head Injury with Post traumatic Sub arachnoid Hemorrhage in right high parietal and Ambient cistern, Acute Subdural Hemorrhage in Left Tentorium cerebelli, Hemorrhagic Contusions with perilesional edema in left External Capsule, Pneumocephalus in Bilateral sylvian fissure, bilateral Temporal convexities, basal cisterns, suprasellar cisterns, bilateral anterior frontal cerebral convexities. He was treated conservatively at NIMHANS and K.R.Hospital, Mysore and thereafter, he was discharged on 08.01.2022 with an advise to regular follow up in OPD. As per the advice made by him, till today he has been taking treatment as out patient. Recently, on 17.03.2025, he was examined clinically, radiologically and assessment of disability was done as per the Govt notification. He has permanent Physical disability

about 51% with respect to the whole body as per ExC3. Upon consideration of aforesaid aspects, the disability as shown in the medical documents and evidence of CW1 doctor, it seems to be higher side. Therefore, the disability of the petitioner can be calculated as 1/3rd of 51% which comes to 17% compared to his whole body and taken for consideration.

28. The petitioner has taken contention that, he was labour by profession and doing all types of labour work. Besides he was also doing bar bending work and Mestri work and from all the sources he used to earn Rs.20,000/- and odd per month. In support of his contention, he has not produced any supporting documents to substantiate the same. Therefore, it is necessary to consider notional income of the petitioner. The Hon'ble High court of Karnataka has prepared chart for the purpose of deciding the matters at Lok Adalath. According to the chart, for an accident of the year 2021, notional income fixed is at Rs.15,000/- per month. Accordingly, monthly income of petitioner is fixed at

Rs.15,000/-. If that is the case, his yearly income would be Rs.1,80,000/-. As per the other medical documents issued by the doctor and as deposed by the petitioner, as on the date of accident his age is mentioned as 27. If the age of petitioner is taken into consideration, as per the table given in **Sarala Varma** case by the Hon'ble Supreme court, the, multiplier applicable would be 17. Hence, loss of future earning on account of disability would be $1,80,000 \times 17\% / 100 = 30,600$. If the same is multiplied by 17, it would be at Rs.5,20,200/-. Therefore, in my opinion petitioner is entitled for **Rs.5,20,200/- Towards loss of future earning capacity on account of permanent physical Disability.**

(VI). Towards loss of amenities and enjoyment of life :-

The petitioner contended that, prior to the accident, he was hale and healthy and after the accident, he is unable to do any type of work. He is getting head ache and giddiness often and often and he became miff and inactive and lost his

memory power. He has developed epilepsy. His face became ugly and disfigured. His eye sight is not visible and watering always. He is getting respiratory problem due to injury to nose. He cannot chew hard food stuff due to fracture of maxillary sinus. He cannot open the mouth properly and cannot talk properly and fluently. He is limping, unable to walk properly and very difficult in walking, cannot bend his body, unable to sit with crossed leg, squat or stand for long time. He cannot press his both legs on the ground and gets severe pain and its movements are restricted. He cannot sit with crossed leg and unable to attend the 2nd nature call in Indian style. He is unable to hold any objects from his both hands and its movement are restricted. He is unable to continue his avocation of coolie work. He has to depend upon others even for his normal work and put to lot of inconvenience, discomfort, disappointment and frustration and he has suffered permanent disability. Therefore, the

petitioner is entitled for **Rs.50,000/- towards loss of amenities and enjoyment of life.**

29. Thus, from the discussions made above it is clear that, the petitioner is entitled for the compensation under the various heads as under :-

1. Towards pain and sufferings	Rs. 30,000/-
2. Towards Medical expenses	Rs. 23,951/-
3. Towards Diet and attendant charges	Rs. 30,000/-
4. Towards loss of income during laid up period	Rs. 30,000/-
5. Towards loss of future earning capacity	Rs.5,20,200/-
6. Towards loss of Amenities and enjoyment of life	Rs. 50,000/-

Total	Rs.6,84,151/-
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Hence, the petitioner is entitled to the compensation of **Rs.6,84,151/-** (Rupees Six Lakhs Eighty Four Thousand One Hundred and Fifty One only).

30. **Liability**: In this case, it is held that the accident had taken place entirely due to rash and negligent driving of Lorry bearing No.KA-05-AA-0888 by its driver. It is pertinent to note, the respondent No.1 did not choose to adduce evidence. The respondent No.2 admitted the insurance policy at the time of accident. The respondent No.2 denied the permit at the time of accident. In this regard, the police have submitted the charge sheet against the driver and owner of the offending vehicle for the offense punishable under Section 192(A) of IMV Act for not having permit at the time of accident. The learned counsel for the respondent No.2 has relied upon the above said decisions. As per the decisions of Hon'ble High Court of Karnataka, the insurer is not liable to compensate the claimant since the owner and driver of the offending vehicle has violated the conditions of the permit. Hence, the 2nd respondent is not liable to pay the compensation. In the other hand, the respondent No.1 is liable to pay the compensation to the petitioner.

31. The learned counsel for the petitioner has relied upon the above decisions through his written arguments. The said decisions of Hon'ble High Court of Karnataka, the 2nd respondent is ordered to pay the compensation amount and then recover the same from owner. Hence, the respondent No.2 is not liable to pay the compensation to the petitioner. Hence, the respondent No.1 being the owner of the offending vehicle is liable to pay compensation to the petitioner. However, Respondent No.2 being the insurance company shall transfer the award amount within 2 months from the date of award and recover the same from the respondent No.1 who is the owner of the offending vehicle.

32. So far as the interest is concerned, the petitioner has claimed compensation together with interest at the rate of 18% on the compensation amount. Having regard to the facts and circumstances of the case and other attendant circumstances, I deem it proper to award 6% future interest on the compensation amount from the date of petition till its

entire realization. In view of the above detailed discussion, I answer issue No.4 **partly in the affirmative, as per the aforesaid discussion.**

33. **Issue No.5:** For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

The petition filed by the petitioner U/S 166 of M.V. Act is allowed in part with costs.

The petitioner is entitled for compensation of **Rs.6,84,151/-** (Rupees Six Lakhs Eighty Four Thousand One Hundred and Fifty One only) with interest at 6% interest p.a., on the compensation amount from the date of filing of petition till its entire realization.

The respondent No.1 being the owner of the offending vehicle is liable to pay compensation to the petitioner. However, Respondent No.2 being the insurer is liable to pay compensation to the petitioner and

recover the same from the respondent No.1.
Hence, R-2 shall transfer the award amount within 2 months from the date of award.

Out of the compensation amount aforementioned in favour of petitioner, the respondent No.2 is hereby directed to shall transfer 50% of amount of compensation to the Bank account of the petitioner together with interest as Bank details given below:

Name: Sri. H.R.Hemanth Kumar

Account No.: 153722010001715

Branch: Union Bank of India, Malavalli

IFSC Code: UBINO915375

MICR No.: ---

PAN No.: LZXP7149B

Further, the respondent No.2 shall invest the remaining amount of compensation i.e., 50% together with interest in FD in the name of petitioner in the Bank of petitioner for a period of 3 years.

Advocates fees is fixed at Rs.1,000/-.

Office is directed to draw Award accordingly.

*(Dictated to the Stenographer, directly typed by her on the laptop, then corrected and pronounced by me in open Court on this **1st day of June, 2026**).*

(MAHENDRA M)
Senior Civil Judge, & MACT
Malavalli

ANNEXURE

Witnesses examined on behalf of the Petitioners:

PW1 : Sri. H.R.Hemanth Kumar

Documents exhibited on behalf of the Petitioners :

Exp1 : True copy of FIR
Exp2 : True copy of Complaint
Exp3 : True copy of Spot mahazar
Exp4 : True copy of Wound certificate
Exp5 : True copy of IMV report
Exp6 : True copy of Charge sheet
Exp7 : 38 Medical bills
Exp8 : Medical prescription
Exp9 : 2 CT scan reports
Exp10 : Emergency section record

Witnesses examined on behalf of the Respondents :

RW1 : Smt. Ashwini.K
RW2 : Sri. Basavarajegowda.B.S

Documents exhibited on behalf of the Respondents:

ExR1 : Xerox copy of petitioner's Aadhar card
ExR1 : "B" register extract
(By oversight, ExR1 given a number in 2 times)
ExR2 : Permit extract
ExR3 : Authorization letter
ExR4 : Copy of Insurance policy

Witnesses examined by the court commissioner:

CW1 : Sri. Dr. Rajesh.T.S

Documents exhibited through the Court commissioner :

ExC1 : Inpatient case sheet
ExC2 : OPD slip
ExC3 : Neuro psychological assessment report
ExC4 & 5 : 2 X-rays

(MAHENDRA M)

Senior Civil Judge, & MACT.,
Malavalli.