

KAMD400005972017



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

PRESENT: SRI. MAHENDRA. M B.A, LL.B.,
Senior Civil Judge & MACT,
Malavalli.

Dated this 5th day of August 2026

M.V.C. No.1674/2017

PETITIONER:

Sri. D.B.Nagaraju
S/o Boregowda
Aged about 32 years,
R/o Dasanadoddi Village,
B.G.Pura Hobli, Malavalli Taluk,
Mandya District.

(By Sri. M.B.B., Adv.,)

-V/s-

RESPONDENTS:

- 1. Sri. Suresh**
S/o Chikkonu, Major
R/o Rayashettypura Village,
Basaralu Hobli, Mandya Taluk
and District.

**(RC Owner of Motorcycle
bearing No.KA-11-X-2348)**

- 2. Sri. Puttaraju,** Major
R/o Malagarahanahalli Village,
Maddur Taluk, Mandya District.

**(Policy holder of Motorcycle
bearing No.KA-11-X-2348)**

- 3. The Branch Manager**
United India Insurance Co. Ltd.,
M.C.Road, Mandya.

**(Policy No.0720013116P101420041
Validity from 01.05.2016 to 30.04.2017)**

**(R1 By Sri B.R., Adv)
(R2 Placed Ex-parte)
(R3 By Sri P.L.G., Adv)**

J U D G M E N T

The petitioner has filed this petition Under section 163(A) of IMV Act seeking compensation of Rs.25,00,000/- for the injury sustained in the accident that occurred on 05.01.2017.

2. The facts of the case of the Petitioner are as follows:

On 05.01.2017, the petitioner was riding his motorcycle bearing No.KA-20-J-7224 from his village towards Malavalli

side on Kollegala-Malavalli main road very slowly and cautiously by observing the road rules and regulations. The petitioner was going towards Malavalli for giving payment for wood. At about 7.30 p.m., when the petitioner was so riding his motorcycle on the left side of Kollegala-Malavalli main road, near Pandithahalli village, at that time, one motorcycle bearing No.KA-11-X-2348 being ridden by its rider came from the opposite direction from Malavalli side towards Kollegala side in a very rash and negligent manner at high speed so as to cause endanger to human life and in prosecution of such rash and negligent driving, dashed against the motorcycle of the petitioner and caused accident. In that accident, the petitioner fell down and sustained injuries. Thus, the accident has been caused entirely due to rash and negligent driving of the motorcycle bearing No.KA-11-X-2348 by its driver only.

3. The petitioner further submitted that, after the accident, the petitioner was taken to General Hospital, Malavalli and after taking first aid treatment, the petitioner was taken to Unity Lifeline Hospital at Bengaluru and

admitted as inpatient. The petitioner was admitted in ICU necessary investigations were done. The petitioner underwent the surgery. Due to the injuries which are grievous in nature and the fracture. The petitioner has been admitted in the hospital as inpatient from 06.01.2017 to 11.01.2017 and thereafter, taken the treatment as outpatient by going to the hospital once in a week / 15 days as per the advise of the doctor. The petitioner has so far spent Rs.1,50,000/- towards medical expenses and requires future medical expenses of Rs.50,000/- since, the doctor was advised to undergo another surgery if necessary. Besides spent Rs.50,000/- towards food, diet, transport, attendant and other incidental expenses while he was in the hospital by paying Rs.500/- per day as attendant charges. The petitioner used to visit the hospital by engaging taxi as outpatient by paying Rs.2,500/- per trip towards transportation charges.

4. The petitioner further submitted that, he is aged about 32 years and he is doing wood merchant. The petitioner is an agriculturist owning landed properties and

personally cultivating the land and raising the crops and he is also running nursery and from all the sources he used to earn Rs.30,000/- per month. He is the only earning member in the family. The entire family members are mainly depending upon the petitioner for their livelihood. Prior to the accident, the petitioner was hale and healthy and after the accident, he is unable to do any type of work. He is unable to walk properly, freely and he is limping. He cannot bend his body, unable to sit, squat or stand properly for long time. The petitioner is getting severe pain in his right leg portion and an account he is unable to do any type of work. He is dependent upon others even for his normal work and put to lot of inconvenience, discomfort, disappointment and frustration and he is suffered permanent disability. The doctor advised the petitioner to take bed rest for 5 months. The accident has been caused entirely due to rash and negligent driving of the motorcycle bearing No.KA-11-X-2348 by its driver. The 1st respondent is the RC owner, the 2nd respondent is the policy holder and the 3rd respondent is the

insurer of offending vehicle. Hence, all the respondent are joint and severally liable to pay the compensation to the petitioner. **By contending so, the petitioner has prayed for Judgment and award as sought for.**

5. After the presentation of the petition, the same was registered and notice was issued and duly served on the respondents. The respondent No.1 and 3 have appeared before this court through their counsels. The respondent No.2 has failed to appear before this court, hence, he has been placed ex-parte. The respondent No.1 and 3 put their appearance and filed written statement. **The written statement of the respondent No.1 in brief as follows:**

This respondent denied the averments of the petition. This respondent contended that, the vehicle of respondent No.1 is insured with respondent No.3 company. The respondent No.1 and 2 are not liable to pay the compensation to the petitioner. The respondent No.1 was drove the vehicle on Malavalli-Kollegala road slowly and cautiously, at that time, the petitioner has drove the vehicle

very rash and negligent manner and dashed the vehicle of 1st respondent. The police have submitted the charge sheet against the petitioner herein. Hence, the respondents are not liable to pay the compensation to the petitioner. The petitioner has filed false petition before this court. **Hence, prayed that, dismiss the petition filed by the petitioner with cost.**

6. The written statement of the respondent No.3 in brief as follows:

This respondent is not admit the allegations made in column No.1 to 4 and 6 of the petition regarding the name, address, age, occupation and income of the petitioner and as such, the petitioner is called up on to strict proof of the same. This respondent also not admit the allegations made in column No.8 and 9 of the petition regarding the date, time and place of the accident and registration of criminal case by the police. The amount of compensation claimed by the petitioner is exorbitant, baseless and the petitioner is not entitled the compensation. The respondent No.3 further

contended that, the petitioner was riding his motorcycle in very rash and negligent manner at high speed and dashed against the motorcycle bearing No.KA-11-X-2348, it is only on account of rash and negligent riding of petitioner himself he sustained injuries. The petitioner had no valid driving license to ride his motorcycle. The motorcycle bearing No.KA-11-X-2348 is not insured with this respondent as on the date of accident. If the petitioner proves the same, then the liability of this respondent is as per the terms and conditions of the policy. This respondent is not liable to pay any compensation as the rider of the said motorcycle did not possess any valid and effective driving license. This respondent has not received any statutory notice regarding the accident from the 1st respondent. As per section 158(6) of MV Act, the concerned police station has failed to forward the documents and not complied with the statutory demand. The rider of the motorcycle is duty bound under section 134(c) of MV Act to inform the accident and submit all the vehicle documents including DL and insurance particulars to this respondent.

The owner has failed to perform his statutory obligation.

Hence, prayed that, dismiss the petition filed by the petitioner with cost.

7. Upon considering the rival contentions raised by the parties, the following issues have been framed:

ISSUES

- 1. Whether the petitioner proves that, the accident was took place on 05.01.2017 solely due to rash and negligent driving of the offending vehicle by its driver ?*
- 2. Whether the petitioner proves that, he has sustained injuries in the accident ?*
- 3. Whether the petitioner is entitled for compensation as claimed ? If so, to what extent and from whom ?*
- 4. What order or award?*

8. To prove his averments of the petition, the petitioner has examined himself as PW1 and got marked ExP1 to 13. He has also examined a treating doctor by name Sri. Dr.Jagadeesh.T.C through court commissioner as CW1

and ExC1 to 4 got marked. On the other hand, the respondent No.2 examined its Assistant Manager as RW1 and got marked ExR1.

9. The learned counsels for the petitioner and the respondent No.3 have submitted their written arguments. This court perused the material available on record.

10. Now answers the above issues are as follows:-

Issue No.1: In the Affirmative

Issue No.2: In the Affirmative

Issue No.3: In the Partly Affirmative

**Issue No.4: As per the final order
for the following:-**

REASONS

11. Issues No.1 and 2: Both the issues are taken together for discussion since they required common discussion and so also they are inter connected with each other.

12. The issue No.1 was framed with respect to rash and negligent driving on the part of offending vehicle. It is relevant to note that, the present petition is filed under section 163(A) of IMV Act. On perusal of the entire petition averments and materials placed before the tribunal, it appears to the court that, the petitioner has filed this petition under section 163(A) of IMV Act. Section 163(A) of IMV Act, which is extracted herewith,

“163(A) - A Special provisions as to payment of compensation on structured formula basis-

(1) Notwithstanding anything contained in this Act or in any other law for the time being in-force or instrument having the force of law, the owner of the Motor vehicle or the authorized insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the second schedule, to the legal heirs or the victim, as the case may be.

(2) In any claim for compensation under subsection (1), the claimant shall not be required to plead or establish that, the death or permanent disablement in respect of which the claim has been made was due to any wrongfull act or neglect or default of the owner of the vehicle or vehicles conserved or of any other person.

(3) The central government may, keeping in view the cost of living by notification in the official gazette, from time to time amend the second schedule.

13. As per section 163(A) of Motor vehicles Act depicts that, the owner of motor vehicle or the authorized insurer shall be liable to pay the compensation in the case of death or permanent disablement due to the accident, out of use of motor vehicle and the compensation shall be as indicated in the second schedule. In a claim petition filed under section 163(A), petitioner is not required to plead or establish that, the death or permanent disablement in respect of claim made is due to the owner of the vehicle or of any other person. Therefore, it is clear that, petitioner need not plead

and prove that, the accident is occurred due to wrong full or negligent act either of the vehicles involved in which the injured or deceased were traveling or in-respect of any negligence on the part of the vehicle involved in the accident. This court has relied the decision in the case of **Chandrakanta Tiwari V/s New India Assurance Company Limited and another reported in (2020) 7 SCC 386**, wherein, it is held and observed that,

11. A perusal of this provision would show that, Shri Sahoo is correct in stating that the claimant need not plead or establish that, the death in respect of which the claim was made, was due to any negligence or default of the owner of the vehicle or of any other persons (emphasis supplied)

12. In this view of the matter, it is not relevant that, the person insured must be the driver of the vehicle but may well have been riding with some body else driving a vehicle which resulted in the death of the person driving the vehicle. The High court, therefore, is clearly wrong in stating that,

it was necessary under section 163(A) to prove that, some body else was driving the vehicle rashly and negligently, as a result of which, the death of the victim would take place.

14. In view of the Principles laid down in above extract decision that, petitioner need not to plead and prove that, the injury was caused due to accidental injury, in respect of which claim is made was due to any negligent act of owner of the vehicle or any other person. This court has relied the decision in the case of **Annapoorna and others V/s United India Insurance Company Limited, through Branch Manager, represented by Divisional Manager, reported in 2020 SCC Online KAR 1705**, wherein, it is held and observed that,

4. Per contra Shri. N.L. Batakurki, learned counsel for the claimants would rely on the decision of the Full Bench of the Hon'ble Apex court in the case of Chandrakanta Tiwari V/s New India Assurance Company Limited, reported in (2020) 4 ALD 317 rendered on 08.06.2020.

More particularly paragraph No. 13 is reproduced here under for easy reference :

13. In this view of the matter, it is not relevant that, the person insured must be the driver of the vehicle but may well have been riding with some body else driving a vehicle which resulted in the death of the person driving the vehicle. The High court, therefore, is clearly wrong in stating that, it was necessary under section 163(A) to prove that, some body else was driving the vehicle rashly and negligently, as a result of which the death of the victim would take place.

5. Relying on the said paragraph, Shri N.L. Batakurki, learned counsel would submit that, in view of the Full Bench decision of the Hon'ble Apex court, it is now no longer necessary to draw a distinction between the rider of the vehicle or pillion rider of the vehicle. Both rider and pillion rider would have to be treated equally for availing benefit under section 163(A) of MV Act.

6. Heard Shri. A.G. Jadhav learned counsel for the appellant and Shri N.L. Batakurki, learned counsel for the respondents. Perused the papers.

7. Having considered the decisions of the Hon'ble Apex court in the case of Ramkhiladi (Supra) rendered on 07.01.2020 and the decision in the case of Chandrakanta Tiwari (Supra) rendered on 08.06.2020, I am of the considered opinion that, this court will have to follow the decision of the Full Bench of the Hon'ble Apex court rendered on 08.06.2020 in the case of Chandrakanta Tiwari (Supra) as per which no distinction can be made between the rider and pillion rider and petition under section 163(A) of MV Act can be maintained even by the rider.

15. The Tribunal has relied the decision in the case of Smt. Renuka Mahabaleshwar Bhat V/s Azeez Rahman S/o Mohammad Shafi Shikh Passed by the Hon'ble High Court of Karnataka, Dharawada Bench in

Miscellaneous first appeal No. 102120/2016 (MV-D) dated 04.03.2024, it is held and considered that,

16. On perusal of the provision of law and also decision of the Hon'ble Apex Court referred supra, it is crystal clear that, in a proceedings under section 163(A) of the MV Act, the insurer cannot raise any defense of negligence on the part of the victim to counter a claim for compensation.

16. In View of the Principles laid down in above decisions, this Tribunal carefully perused material on record. In order to prove the case of the petitioner, the petitioner has examined himself as PW1 by filing affidavit evidence in lieu of his examination chief and reiterated the petition averments. The PW1 got marked ExP1 to 13. The treated doctor namely Sri.Dr.Jagadeesh.T.C has examined through court commissioner as CW1 and got marked ExC1 to 4.

17. The documents are produced by the PW1 that, ExP1 is the True copy of FIR, ExP2 is the True copy of complaint, ExP3 is the True copy of Charge sheet, ExP4 is the

True copy of Spot Mahazar, Exp5 is the True copy of Seizure mahazar, Exp6 and 7 are the True copies of IMV reports, Exp8 is the discharge summary. Exp9 is the 23 medical prescriptions, Exp10 is the 48 medical bills, Exp11 and 12 are the doctor reports and Exp13 is the 17 X-rays.

18. In order to disprove the petition averments the Assistant Manager of the respondent No.2 company namely Sri.Ranganath.B has examined himself as RW1 by filing affidavit evidence in lieu of his examination chief and stated that, their company is not liable to pay the compensation to the petitioner as per the terms and conditions of the policy. The policy was in force as on the date of alleged accident. The petitioner has filed false petition against our company. On 05.01.2017, the petitioner was riding his motorcycle bearing Reg. No.KA-20-J-7224 with rash and negligent manner and dashed against the motorcycle bearing No.KA-11-X-2348 and caused the accident. The Malavalli Rural police have filed a case against the petitioner in Cr. No.10/2017 under Section 279, 337 and 338 of IPC. The

accident caused entirely rash and negligent driving of the petitioner. The said police have completed the investigation and submitted charge sheet against the petitioner. The RW1 got marked ExR1 - Insurance policy.

19. In the cross examination, it is suggested that, the accident took place due to negligence riding of Motor cycle by the petitioner, but the petitioner has denied the said suggestion. As noticed the above, petitioner has not required to plead and prove the negligence on the part of either rider of his vehicle or of offending vehicle.

20. This Tribunal carefully perused the ExP1 First Information Report, which reveals that, after accident case came to be registered against rider of Motor cycle bearing No.KA-20-J-7224 who is the petitioner in this petition. It also appears that, the petitioner sustained injuries in accident. This Tribunal also perused ExP4 spot Mahazar Panchanama which reveals that, accident in question took place in a place and manner as claimed in petition. This Tribunal also perused

Exp3 Final report, which reveals that, the rider of motor cycle who is the petitioner herein has been charge sheeted for the accident for the offences under sections 279, 337 and 338 of IPC. Though, the PW1 has been cross examined by respondent No.2, these documents have not been disputed as such, have remained unchallenged. In respect of driving license of the petitioner, the respondent No.2 has not disputed the same. The police have submitted the charge sheet only offences under section 279, 337 and 338 of IPC. If the petitioner not has valid driving license definitely the Investigation officer submitted the charge sheet regarding not have the driving license by the petitioner. In view of the above reasons and discussion **this Tribunal answer the issue No.1 and 2 in the Affirmative.**

21. **Issue No.3:** This issue is related to entitlement of compensation claimed by petitioner. It is relevant note that, while answering issue No.1 and 2, this tribunal has concluded that, the petitioner sustained injuries in a Road Traffic Accident occurred due to involvement of his vehicle. As such,

the petitioner is entitled for compensation. It is relevant to note that, Section 163(A) of the Motor Vehicles Act has been inserted to provide for a new predetermined structured formula for payment of compensation to the victims of Road Accident on the basis of age and income. Thus, to ascertain the quantum of compensation, it is necessary to ascertain the exact age and income of petitioner at the time accident. It is specific claim of petitioner that, he was aged about 33 years as on the date of accident. Despite contending so, petitioner has produced any material to substantiate the same.

22. This court has relied upon the decision in the case of **Smt.Shambavi W/o Ramzan Haxan Kolloli (Kallole) and others V/s Sri.Raju S/o Ramzan Kollale and another** passed by the Hon'ble High Court of Karnataka in MFA No.101930/2016 clubbed with MFA No.101931/2016 (MVC) on 27.02.2026, wherein it is held and observed that,

“5. Learned counsel for the appellants contended that, in view of the Motor vehicles (amendment) Act, 2019, Section 164 has been substituted providing for fixed compensation of Rs.5,00,000/- in case of death without proof of negligence and without any income restriction. Reliance is placed upon the Judgment of the Hon’ble Supreme Court in Ram Murti and others V/s Punjab State Electricity Board and another, Civil Appeal No.7143/2022, wherein it is held that, Section 140 stood omitted and Section 164 provides for payment of compensation of Rs.5,00,000/ in case of death on no fault basis. It is therefore, contended that, dismissal of the petition on the ground of income exceeding Rs.40,000/- is unsustainable.

7. Per contra, the insurance company contents that, the accident occurred in the year 2014 and the amendment of 2019 cannot be applied retrospectively. It is further contended that, despite notice the owner failed to produce the driving license and therefore, adverse inference must be drawn. According to the insurer, there is violation of policy condition and it is not liable. Hence, he prays to dismiss the appeals.

8. Heard the learned counsel for the parties and perused the material on record.

9. It is not in dispute that, the accident occurred on 17.08.2014 and that, both deceased persons died due to injuries

sustained in the said accident involving the insured motorcycle. The findings of the Tribunal regarding involvement of the vehicle and death due to accident has attained finality.

10. In so far as MVC No.1821/2014 is concerned, the Tribunal dismissed the petition solely on the ground that, the income of the deceased exceeded Rs.40,000/- per annum and therefore, the petition under Section 163A was not maintainable. It is to be noted that, by Act 32 of 2019, Section 140 has been omitted and Section 164 has been substituted providing for fixed compensation of Rs.5,00,000/- in case of death and Rs.2,50,000/- in case of grievous hurt on no fault basis. The Hon'ble Supreme Court in Ram Maruti's case (Supra) has observed that, Section 164 provides for statutory compensation without requirement of proving negligence. The provision being beneficial in nature is intended to provide social security to victims of motor accidents. In light of the law declared by the Apex court, the technical dismissal of the claim petition on the ground of income ceiling cannot be sustained. The claimants in MVC No.1821/2014 are therefore entitled to compensation of Rs.5,00,000/- under Section 164 of the Act.

23. This court has gone through the above decision and the principles laid down in above decision are applicable

to this case. In this case accident occurred on 05.01.2017, hence, Motor Vehicle (Amended) Act, 2019, which has come into effect from 01.04.2022, is to be applied, though the present petition is filed under Section 163A of the MV Act and the present petition is to be treated under Section 164 of Motor Vehicle (Amended) Act, 2019. Thus, in view of the above, this Tribunal is of view that, the petitioner is entitled for fixed compensation of Rs.2,50,000/-. The petitioner has produced 48 medical bills at Exp10 of Rs.93,819/-. Hence, the petitioner is also entitled medical expenses of Rs.93,819/-. In total, the petitioner is entitled of **Rs.3,43,819/- towards compensation**. The said amount carries interest at 6% per annum from the date of petition till the date of actual realization.

24. Liability:-

In the written statement the respondent No.3 has not denied the insurance policy as on the date of accident. In the chief examination affidavit, the RW1 also admitted that, the policy covered in the petitioner vehicle. Hence, the petitioner

is entitled the compensation from the respondent No.3 company. More over the respondent No.3 has not denied the same in the written statement. Hence, the respondent No.3 is liable to pay the compensation to the petitioner. The insurance was valid at the time of accident. The said fact not disputed by the respondent No.3. In view of above, this tribunal is view that, the petitioner is entitled for compensation. It would be just and reasonable to release entire amount along with interest accrued thereon in favour of petitioner in view of the above reasons and discussions. I answer **Issue No.3 partly in the affirmative.**

25. **Issue No.4:** For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

The petition filed by the petitioner U/s 163(A) of Indian Motor Vehicle Act (This petition is treated as same is filed under Section 164 of Motor Vehicle (Amended) Act, 2019), is hereby allowed in part with costs.

The petitioner is entitled for compensation of **Rs.3,43,819/-** (Rupees Three Lakhs Forty Three Thousand and Eight Hundred Nineteen only) with interest at 6% per annum on the compensation amount from the date of filing of petition till its entire realization.

Respondent No.3 being the insurer of the offending vehicle is directed to transfer the entire compensation amount with interest to the petitioner's bank account within 60 days from the date of award.

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

Petitioner shall submit affidavit furnishing petitioner's nationalized bank account details with IFSC along with canceled cheque having petitioner's name within 30 days from today. Petitioner shall also submit copy of bank account passbook, Aadhar card and Pan card. The counsel for the petitioner shall verify the

authenticity of the details and submit the same to the office along with memo.

Pending clerk and CMO shall verify and endorse the correctness of the bank details in the order sheet to enable drawing of the award.

Office to include all above details of petitioner and draw award after receipt of memo from the counsel for the petitioner.

The respondent No.3 shall transfer the award amount to the bank account specified in the award and intimate to this tribunal.

Failure to furnish aforesaid details within 30 days shall dis-entitle the petitioner to interest until such compliance.

(Dictated to the Stenographer, directly typed by her on the computer, Order corrected and signed by me, then pronounced by me in the Open Court on this the **5th day of August -2026**).

(MAHENDRA.M)
Senior Civil Judge & MACT,
Malavalli.

ANNEXURES**Witnesses examined on behalf of the petitioners:**

PW1 - Sri. D.B.Nagaraju

Documents exhibited on behalf of the petitioners:

Exp1 - True copy of FIR
Exp2 - True copy of Complaint
Exp3 - True copy of Charge sheet
Exp4 - True copy of Spot mahazar
Exp5 - True copy of Seizure mahazar
Exp6 & 7 - True copies of IMV reports
Exp8 - Discharge summary
Exp9 - 23 Medical prescriptions
Exp10 - 48 Medical bills
Exp11 & 12 - Doctor reports
Exp13 - 17 X-rays

Witnesses examined on behalf of the Respondents:

RW1 - Sri. Ranganath.B

Documents exhibited on behalf of the Respondents:

ExR1 - Insurance policy

Witnesses examined through Court Commissioner:

CW1 - Sri. Dr.Jagadeesh.T.C

Documents exhibited through Court Commissioner:

- ExC1 - Inpatient document
- ExC2 - 6 old X-rays
- ExC3 - Recent X-ray
- ExC4 - Outpatient slips

(MAHENDRA.M)

Senior Civil Judge & MACT
Malavalli.