

KAMD600012782022



Presented on : 28-10-2022
Registered on : 28-10-2022
Decided on : 14-07-2026
Duration : 3 years, 8 months, 17 days

**IN THE COURT OF PRINCIPAL SENIOR CIVIL JUDGE AND
MACT., AT PANDAVAPURA.**

Dated : This the 14th day of July 2026

:PRESENT:

SRI.R.MAHESHA, B.A.L, LL.B.,
Prl. Senior Civil Judge and J.M.F.C., Pandavapura.

M.V.C.No.1458/2022

PETITIONER : Vijaykumar
S/o Javaregowda,
Aged about 25 years,
R/o Engalaguppe Village,
Kasaba Hobli,
Pandavapura Taluk,
Mandya District.

(By Sri.G.M., Advocate)

V/s

RESPONDENTS : 1) Shivakumar
S/o Kempegowda,
Aged about 30 years,
R/o Kolatthuru Village,
T.Narasipura Taluk,
Mysuru,
Karnataka-571120.

(Owner of Unicorn Bike No.KA-09-HU-5720)

- 2) The Manager,
Chola MS General Insurance,
Sigma Complex,
1st Floor, No.C1,
New Kantharaj Urs Road,
Kuvempunagar,
Mysore-570023.

(Insurer of Unicorn Bike No.KA-09-HU-5720)

Policy No.3361/00807724/000/00

Valid from 26.12.2018 to 25.12.2023

(Sri.P.N.K., Advocate for the 1st respondent and Sri.B.S., Advocate for 2nd respondent)

J U D G M E N T

This petition is filed by the petitioner under Sec.166 of Motor Vehicles Act, 1989 seeking compensation for an amount of Rs.25,00,000/- for the grievous injuries sustained by him, in a Road Traffic Accident.

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

That, on 22.02.2022 at about 8.00 p.m. on Purigali T.Narasipura road in front of Veerappa Vadeyar Hundi Government High school, while he was riding his Passion Pro motor cycle bearing Reg. No.KA-14-EG-2234 towards Mahadeshwara Hill, the rider of the Unicorn bike bearing No.KA-09-HU-572 came from Narasipura side in a rash and negligent manner and against the motorbike, which was riding by the petitioner. Due to which, petitioner fell down along with motorbike and grievous sustained. Soon

after the accident, petitioner was shifted to Narayana Hrudayalaya Hospital, Mysore and admitted as inpatient. Petitioner sustained injury to right leg calf muscle and injuries to 3rd finger of right leg, mouth and left year. Petitioner spent Rs.5,00,000/- towards medical expenses, attendant charges etc. Prior to the accident, petitioner was hale and healthy, he was doing agriculture, dairy farming and earning Rs.25,000/- p.m. Due to grievous injury to his right leg. Petitioner suffered lot of pain and discomfort. Accident occurred due to rash and negligent riding of the rider of motorcycle bearing No.KA-09-HU-5720. The said vehicle belongs to the 1st respondent and 2nd respondent is the insurer. Hence, they are jointly and severally liable to pay compensation to the petitioner. Accordingly, this petition.

3. After service of summons, respondents appeared before Court through through their respective Counsel. But, only 2nd respondent filed its written statement.

4. 2nd respondent in its written statement denied entire averments of petition by contending that, the petition filed by the petitioner is not maintainable either in law or on facts. Accident occurred due to the rash and negligent riding of bike bearing Reg.No.KA14-EG-2234 by the petitioner. rider. The rider of motorcycle bearing Reg.No.KA-09-HU-5720 was not possessing valid and effective driving license as on the date of accident. Compensation claimed by the petitioner is highly excessive and arbitrary. Petition is liable to be dismissed for non-compliance of provisions of Section 158(6), 134(c) of MV Act. Hence, prayed to dismiss the petition.

5. On the basis of the above pleadings, this Tribunal has framed the following issues:-

ISSUES

1. Whether the petitioner proves that on 22.02.2022 at about 8.00 p.m. on Purigali T.Narasipura road in front of Veerappa Vadeyar Hundi Government High school, while he was riding his Passion Pro motor cycle bearing Reg. No.KA-14-EG-2234, the rider of the Unicorn bike bearing No.KA-09-HU-5720 came in a rash and negligent manner and dashed against his motorcycle, as a result, he sustained injuries?
2. Whether the respondent No.2 proves that, the accident was occurred due to negligence on the part of the rider of motorcycle No.KA-14-EG-2234 i.e., the petitioner himself?
3. Whether the respondent No.2 proves that, the rider of motorcycle bearing Reg.No.KA-09-HU-5720 did not possess valid and effective driving license?
4. Whether the petitioner is entitled for compensation?
If so, what is the compensation and from whom?
5. What order or award?

6. In order to prove the above said issues, petitioner has been examined himself as PW1 and produced 10 documents as per Ex.P1 to Ex.P10. In support of his case, petitioner examined doctor namely Dr.Jayavardhan as PW2 and got marked documents as per Ex.P11 to

Ex.P15. On the other hand, respondents not led any evidence either oral or documentary.

7. Heard the arguments of learned Counsel for the petitioner. Learned Counsel for the 2nd respondent filed written arguments. The points urged in the written arguments will be considered while discussing issues.

8. My findings on the above issues are as under :-

- Issue No.1 : In the Affirmative,
- Issue No.2 : In the Negative,
- Issue No.3 : In the Negative,
- Issue No.4 : Partly in the Affirmative,
- Issue No.5 : As per final order for the following :-

REASONS

9. **Issue No.1 and 2**:- Since these issues are inter-connected with each other, they are taken together for common discussion in order to avoid repetition of facts and evidence of the case.

10. In order to prove the case of petitioner, petitioner himself entered into witness box and examined as PW1. PW1 in his examination-in-chief, reiterated all the averments of petition and relied on 10 documents, which were marked as Ex.P1 to Ex.P10. PW1 in his evidence deposed that due to rash and negligent riding of the rider of motorcycle bearing No.KA-09-HU-5720, accident was occurred. In support of his oral evidence, petitioner produced Ex.P1 FIR in Cr.No.54/2022 and Complaint was received on 24.02.2022. Ex.P2 Final Report filed against accused i.e., rider of bike bearing Reg.No. KA-09-HU-5720 for the offence punishable under Sections 279, and 338 of IPC. PW1 was cross-examined in length, but

nothing elicited to contradict the oral evidence of PW1. It is the specific contention of 2nd respondent that, the accident occurred due to negligence on the part of petitioner. In order to establish the said contention, 2nd respondent has neither examined any witnesses nor produced any documentary evidence. Materials collected by Investigation Officer clearly establishes that the accident occurred due to rash and negligent riding of the rider of motorbike bearing KA-09-HU-5720. Hence, this Tribunal answer **Issue No.1 in the in the Affirmative and Issue No.2 in the Negative.**

11. **Issue No.3:-** The specific defenses of 2nd respondent in its written statement that the rider of motorcycle bearing Reg.No.KA-09-HU-5720 was not possessing valid and effective driving license as on the date of accident. In order to establish the said contention, the 2nd respondent neither examined any witnesses nor produced any documents on its behalf. Moreover, the materials collected by Investigation Officer clearly establish that the rider of said motorbike had valid driving license as on the date of accident. **Hence, this Tribunal answer Issue No.3 in the Negative.**

12. **Issue No.4:-** PW1 pleaded that due to accident, he suffered grievous injury to his calf muscle of right leg. In order to substantiate the injuries, the petitioner relied on Ex.P5 Wound Certificate issued by Narayana Hrudayalaya Multispeciality Hospital, Mysuru, it shows that petitioner suffered 1) Right tibia open fracture with right foot crush injury. 2) Left ear bleed with abrasion over left eyebrow and 3) Laceration over upper lip. The oral evidence of PW1 and Wound Certificate clearly establish that due to accident, petitioner suffered right tibia open fracture.

Loss of Future Income:-

13. Doctor was examined as PW2. PW2 in his evidence stated, on 22.02.2022 patient by name Vijayakumar was admitted to their hospital with history of RTA. After diagnose, he found right tibia – open fracture, right foot crush injury. On 23.02.2022, he conducted surgery with IM nailing right tibia + debriment right foot. He subjected patient to multiple dressing, antibiotic coverage and pain killer and discharged the patient on 26.02.2022 with advice to come for follow-up treatment once in 10 day. Recently on 09.02.2025, he examined the patient at OPD, at that time, patient was complained about pain while walking right right leg, inability to do routine work on right lower limbs and feeling pain in moving right knee and stiffness of joint. PW2 further stated that, patient suffered 53% loss of range of motion in right knee and 40.75% loss of range of motion in right ankle and foot. PW2 assessed the disability of patient by applying combined formula i.e., $a+b(90-a)/90$. PW2 opined that, the total disability of patient is 42% as per the said formula with respect to right lower limb. According to petitioner, he was doing agriculture, dairy farming and earning Rs.25,000/- p.m. In order to substantiate his income, petitioner not produced anything. Accident occurred in the year 2022. Our Hon'ble High Court in Misc. First Appeal No.7404/2014 at para No.33 held that ;

33. "Coming to the question whether the guidelines issued by the Legal Services Authority can be considered or not, it is pertinent to note that the guidelines, a copy of which is made available to this court, by and large are on the same lines as fixed under the Minimum Wages Act, for settlement of the cases before the Lok-Adalath, which is on the basis of the mutual agreement between the parties, shuts down all the approaches for a re-assessment of the compensation by the appellate Courts. Considering this aspect, a slightly higher wages have been set down as guidelines and we do not see any reason to have any qualms with the same.

However, such guidelines cannot take the place of a statutory guideline and therefore, we hold that it would be proper to rely on the wages fixed under the Minimum Wages Act and the Tribunal has to consider the minimum wages prescribed under the Minimum Wages Act, as a guideline and assess whether the deceased was a skilled or unskilled labourer. The range of a highly skilled labourer and unskilled labourer could be considered by the Tribunals, if there is no other proof of income. We hasten to add that the notional income cannot be adopted, with precision, as prescribed under the Minimum Wages Act also, but it acts as beacon only.”

14. Hon'ble High Court clearly held that when no documents are produced by the petitioner to show income, then Tribunal shall rely on Minimum Wages Act. As per the petition averments and the evidence of PW1, petitioner was doing agriculture and dairy farming. As per Karnataka Minimum Wages for 2022-23, the minimum wages for persons falls under category 'A' i.e., as per Notification No.KAE228LWA/2018 dated 11.12.2019 is Rs.11,983.16. Accident occurred in the year 2022. The income prescribed in Minimum Wages Act in the year 2022 is, Rs.11,983/-, hence it is the income of the petitioner.

15. As per petition averments, petitioner is aged about 25 years. 2nd respondent denied the age of petitioner. In order to prove his age, petitioner relied on Ex.P10 Notarized copy of Aadhar Card. Aadhar Card is not an authenticated document to establish the age. When no documents are produced to prove the age, then it is proper to rely on medical records. As per the medical records, the petitioner is aged about 25 years, hence he comes under the age group of 15 to 25. As per the guidelines of our Hon'ble High Court, the multiplier applicable to age group of 15 to 25 is 18. Total disability of petitioner is 42% in respect of right lower limb, when it compared to total body, it becomes 14%. To assess the compensation, the

monthly income of petitioner is considered as Rs.11,983/-. The 14% of Rs.11,983 income is, Rs.1,677.62, the round figure of it is, Rs.1,678/-, it would be the loss caused to the petitioner in future days. Hence, the petitioner is entitled for compensation of Rs.3,62,448/- (1,678 X 12 X 18) under this head.

Pain & Suffering:-

16. As per Ex.P6 Discharge Summary, the petitioner was admitted in Narayana Hrudayalaya Multispeciality Hospital, Mysuru on 22.02.2022 and discharged on 26.02.2022 i.e., for 5 days. Petitioner suffered fracture and undergone surgery, definitely he suffered much pain. The medical records and evidence of PW2 disclose that the petitioner is disabled and cannot move his right leg freely. The physical pains of the petitioner will remain with him for his future. Certainly, petitioner is suffering severe pain during the course of treatment and also in future days. By considering the pain and sufferings of petitioner, Tribunal inclines to grant compensation of Rs.30,000/- under this head.

Nourishment & Diet :-

17. Petitioner was aged about 25 years as on the date of accident. Due to accident and fracture, definitely he required nourishment and nutritious food at least for three months for recovery and to regain physical activities. At the time of treatment and surgery, definitely petitioner was in need of special diet of nutritious food. For this, definitely petitioner spent some amount. Hence, Tribunal inclines to grant compensation of Rs.10,000/- under this head.

Attendant Charges & Conveyance Charges :-

18. Admittedly, petitioner is resident of Engalaguppe Village, Pandavapura Taluk. He was treated in Mysuru. On many occasions, he visited Mysuru for follow-up treatment. To travel from his hometown to Mysuru, definitely petitioner will spent some money. During the stay of petitioner in the hospital, definitely he was in need of one attender. Without attender, it is not possible for the petitioner to lead his normal life. After post hospital, he was in need of attender at least for three months. By considering the age of petitioner and the duration of hospital, Tribunal inclines to grant Rs.15,000/- under this head.

Loss of Income During Laid Up Period:-

19. Petitioner was treated as inpatient for 5 days for fracture. Petitioner is aged about 25 years. After surgery, at least petitioner required two months to recover. From date of accident, up to two months, it was not possible for petitioner to do any of the work even his personal works. The income considered for petitioner as on the date of accident is Rs.11,983/- p.m, if it is multiplied with 2, then it will become Rs.23,966/-. Hence, the petitioner is entitled for compensation of Rs.23,966/- under this head.

Loss of Amenities :-

20. From the evidence of PW2, it can be gathered that the petitioner is suffering with some sort of disability. The evidence of PW2 also discloses that due to accident, the pain will also remains with petitioner for his remaining lifetime. By considering the age of petitioner and the pain which has to be suffered by him in future, Tribunal inclines to grant amount of Rs.20,000/- under this head.

Medical Expenses:-

21. Petitioner pleaded that he spent Rs.4,00,000/- towards medical charges including attendant and other incident charges, but Medical Bills which were marked as Ex.P7 disclose that the petitioner spent Rs.1,41,052/- towards medical expenses. Medical Bill No.4 is not considered for the reason that the said bill is an estimation of charges not the final bill. By considering medical bills and procedures undergone by petitioner for reunion of fracture, Tribunal grant amount of Rs.1,41,052/- under this head.

22. For above discussion, the petitioner entitle for compensation under different heads as stated below:-

Towards Loss of Future Income	Rs. 3,62,448/-
Towards Pain and Suffering	Rs. 30,000/-
Towards Nourishment & Diet expenses	Rs. 10,000/-
Towards Attendance & Conveyance charges	Rs. 15,000/-
Towards Loss of Income during laid up period	Rs. 23,966/-
Towards Loss of Amenities	Rs. 20,000/-
Towards Medical Bills	Rs. 1,41,052/-
Total	Rs. 6,02,466/-

23. For above discussion, the petitioner is entitle for total compensation of **Rs.6,02,466/-** under different heads.

24. Petitioner prayed for interest at the rate of 24% p.a. from date of petition till realization, but the rate of interest sought by the petitioner is exorbitant. Interest at the rate of 6% p.a. from date of petition till realization of entire amount is sufficient to compensate the petitioner.

25. Accident occurred due to rash and negligent riding of rider of motorcycle bearing Reg.No.KA-09-HU-5720. Said vehicle belongs to the 1st respondent. The 1st respondent insured his vehicle with the 2nd respondent and insurance policy was in force as on the date of accident. Hence, 2nd respondent being the insurer, it is its responsibility to pay the amount to the petitioner. For above discussion, **Tribunal answer Issue No.4 Partly in the Affirmative.**

26. **Issue No.5**:- For the reasons assigned to issues No.1 to 4, resulted in following:-

ORDER

The petition filed by the petitioner under Section 166 of the Motor Vehicles Act, 1989 is allowed in part with costs.

The petitioner is entitle for compensation of **Rs.6,02,466/- (Rupees Six Lakhs Two Thousand Four Hundred Sixty Six only)** along with interest at the rate of 6% p.a. from the date of petition till the date of realization.

2nd respondent is liable to pay the compensation and shall deposit the same within two months from the date of award.

After deposit of compensation amount, 50% of amount is ordered to be released in favour of petitioner through e-payment on proper identification and on proper acknowledgment and remaining 50% of amount is ordered to be deposited in the name of the petitioner in any nationalized bank of petitioner's choice. In the event of failure to pay the said amount within the stipulated period, the entire compensation amount shall carry enhanced interest at the rate of 9% per annum from the date of default till its actual realization. In view of quantum of the amount awarded, the 2nd respondent shall transfer compensation amount to the bank of petitioner together with interest.

Petitioner shall submit affidavit furnishing his Nationalized bank account details with IFSC along with canceled cheque having petitioner name within 30 days from today. Petitioner shall also submit copy of bank account of passbook, Aadhar Card and PAN Card. The Counsel for 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 the above details of petitioner and draw award after receipt of memo from the Counsel for petitioner.

The 2nd respondent shall transfer the award amount to the petitioner bank account specified in the award under intimation to this Tribunal.

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

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

Office is hereby directed to draw award accordingly.

(Dictated to the Stenographer on Court computer, corrected and then pronounced by me in the open Court on **13th day of July-2026**)

(R.MAHESHA)

Prl. Senior Civil Judge & MACT,
Pandavapura.

ANNEXURE

List of witnesses examined for the petitioner:-

PW1 : Vijayakumara,
PW2 : Dr.Jayavardhan.

List of documents marked for the petitioner:-

Ex.P1 : Copy of FIR and Complaint,
Ex.P2 : Copy of Charge Sheet,
Ex.P3 : Copy of Rough Sketch,
Ex.P4 : Copy of IMV Report,
Ex.P5 : Copy of Wound Certificate,
Ex.P6 : Discharge Summary,

Ex.P7 : Medical Bills,
Ex.P8 : Notarized copy of Bank Passbook,
Ex.P9 : Notarized copy of PAN Card,
Ex.P10 : Notarized copy of Aadhar Card,
Ex.P11 : Inpatient Record,
Ex.P12 : X-ray Films,
Ex.P13 : C.D.,
Ex.P14 : Disability Certificate,
Ex.P15 : X-ray Film.

List of witnesses examined for the respondents:-

-NIL-

List of documents marked for the respondents:-

-NIL-

(R.MAHESHA)
Prl. Senior Civil Judge & MACT,
Pandavapura.
