

AMD600006432022



Presented on : 22-03-2022
Registered on : 22-03-2022
Decided on : 08-06-2026
Duration : 04 years, 02 months, 16 days

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

Dated : This the 8th day of June 2026

:PRESENT:

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

M.V.C.No.467/2022

PETITIONER : Thammaiah
S/o Thimmashetty,
Aged about 46 years,
R/o Janatha Colony,
Kyathanahalli Village,
Kasaba Hobli,
Pandavapura Taluk.

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

V/s

RESPONDENTS : 1) Pradeep Kumar V.,
S/o Varadaraju,
Major,
R/o Hosakannambadi Village,
Chinakurali Hobli,
Pandavapura Taluk,
Mandya District.

(Owner of Honda Shine Bike No.KA-09-HV-6409)

- 2) The Manager,
Cholamandalam M.S. General Insurance
Co. Ltd.,
230, 5th Turn, 12th Main Road,
Saraswathipura,
Mysuru-570009.

(Insurer of Honda Shine Bike No.KA-09-HV-6409)

Policy No.3361/01057959/000/00

Valid from 11.04.2019 to 10.04.2024

(By Sri.M.H.K., Advocate for the 1st respondent and Sri.M.R.A.P., Advocate for the 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.28,50,000/- 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 14.01.2022 at about 7.30 p.m., near Akbar Cycle Shop on Kyathanahalli-Haravu Main Road, petitioner was proceeding by walk towards his home, at that time, the rider motorcycle bearing Reg.No.KA-09-HV-6409 came from Pandavapura Railway Station side in a rash and negligent manner and dashed to the petitioner from his backside. As a result, petitioner fell down and sustained grievous injury to his right leg, left side forehead and other parts of the body. Soon after the accident,

petitioner was shifted to Government Hospital, Srirangapatna and after first aid, he was shifted to Nagarajegowda Memorial Hospital, Mysuru for further treatment and admitted as inpatient. After diagnose, surgery was conducted to his right leg by fixing rod and discharged from the hospital on 18.01.2022 with an advice to come for regular followup treatment. Accordingly, he is taking treatment as outpatient. Petitioner spent Rs.3,00,000/- towards medical expenses, Rs.50,000/- towards attendant charges while taking treatment as in patient in the hospital and Rs.1,00,000/- towards conveyance expenses for taking treatment as outpatient. He also requires Rs.3,00,000/- for his future medical expenses. Prior to the accident, petitioner was hale and healthy, he was doing agriculture, dairy farming and earning Rs.30,000/- p.m. Due to grievous injury to his right leg, petitioner is not able to do his work as he was doing earlier and not able to stand for long time, lift heavy objects and sit with crossed legs. Petitioner suffered lot of pain and discomfort. Accident occurred due to rash and negligent riding of the rider of motorcycle bearing No.KA-09-HV-6409. 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 have appeared before Court through their respective Counsel and filed separate written statements. In the written statement, the 1st respondent has denied all the averments of petition and contended that the application filed by the petitioner is not maintainable either in law or on facts. He is the owner of motorcycle bearing Reg.No.KA-09-HV-6409 and the said vehicle was insured with the 2nd respondent as on the date of accident. The insurance policy with respect to said motorbike was in force as on the date of

accident with the 2nd respondent and the rider of bike was possessing valid driving license as on the date of accident and prayed to dismiss the petition.

4. 2nd respondent in its written statement admits that the motorbike bearing Reg.No.KA-09-HV-6409 was insured with it as on the date of accident and denied all the averments of petition by contending that, the accident was occurred due to the contributory negligence on the part of the petitioner. Petitioner by colluding with the 1st respondent has created false story in order gain compensation. The rider of said motorbike was not possessing valid and effective driving license as on the date of accident. They are liable to pay compensation as per the terms and conditions of policy issued by them. 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 the accident in question was occurred on 14.01.2022 at about 7.30 p.m., in front of a cycle shop of Kyathanahalli-Haravu main road due to rash and negligent riding of the bike bearing Reg.No.KA-09-HV-6409 by its rider?
2. Whether the respondent No.2 proves that, driver of the bike bearing Reg.No.KA-09-HV-6409 holds no valid and effective driving license?

3. Whether the respondent No.2 proves that, the accident in question was occurred due to negligence on the part of the petitioner himself?

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 19 documents as per Ex.P1 to Ex.P19. In support of his case, petitioner examined Dr.Karunakar examined as PW2 and produced 3 documents as per Ex.P20 to Ex.P22. On the other hand, 1st respondent examined himself as RW1 and no documents were produced by him. 2nd respondent neither examined any witnesses nor produced any documents.

7. Heard the arguments of learned Counsel for the petitioner and the respondents.

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 3:-** Since these issues are inter-connected with each other, they are taken together for common discussion to avoid repetition of facts and reasons.

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 22 documents, which were marked as Ex.P1 to Ex.P22. PW1 in his evidence deposed that due to rash and negligent riding of the rider of motorcycle bearing No.KA-09-HV-6409, accident was occurred. In support of his oral evidence, petitioner produced Ex.P1 FIR in Cr.No.8/2022, on perusal of it, it shows that Police received Ex.P2 Complaint on 15.01.2022 and on the basis of complaint, case was registered against rider of motorcycle bearing No.KA-09-HV-6409. After investigation, Ex.P6 Final Report filed against accused i.e., rider of motorcycle for the offence punishable under Sections 279, 337 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 not produced anything. Ex.P6 clearly establishes that the accident occurred due to rash and negligent riding of the rider of motorcycle bearing No.KA-09-HV-6409. Hence, this Tribunal answer **Issue No.1 in the Affirmative and Issue No.3 in the Negative.**

11. **Issue No.2:-** The specific defense of 2nd respondent in its written statement that the rider of motorcycle bearing Reg.No.KA-09-HV-6409 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 on its behalf nor produced any documents. 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.2 in the Negative.**

12. **Issue No.4:-** PW1 pleaded that due to accident, he suffered fracture in his right leg. In order to substantiate the injuries, the petitioner relied on Ex.P5 Wound Certificate issued by Nagarajegowda Memorial Hospital, Mysuru, it shows that petitioner suffered a) Lacerated wound over the head measuring 2 x 1 c.m. with active bleeding and b) Pain and swelling below the right knee joint with restricted movement. The oral evidence of PW1 and Wound Certificate clearly establish that due to accident, petitioner suffered fracture in right leg.

Loss of Future Income:-

13. Doctor was examined as PW2. PW2 in his evidence stated, on 14.01.2022 patient by name Thammaiah was admitted to their hospital with history of RTA. On examination of patient, patient suffered fracture of tibia and fibula of right leg. On 15.01.2022, he conducted surgery to patient with CR+IF with IMIC PTLCP (MIPPO). He discharged the patient from the hospital on 18.01.2022 with an advice for regular follow-up treatment. On many occasions, he examined the patient in OPD. Recently on 23.01.2025, he examined the patient at OPD and patient complains of pain in right knee and right foot, feeling difficulty in stand for long time, walking, sit in cross leg, squat and unable to work as patient was doing earlier. Patient suffered loss of range of motion in right foot of patient is 40% and

there was grade-II muscle loss. PW2 states that the patient requires Rs.50,000/- to 60,000/- approximately for removal of implants. PW2 opined patient suffered 45% disability with respect to right lower limb. According to petitioner, he was doing agriculture, dairy farming and earning Rs.30,000/- 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 46 years. 2nd respondent denied the age of petitioner. In order to prove his age, petitioner relied on Ex.P19 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 47 years, hence he comes under the age group of 46 to 50. As per the guidelines of our Hon'ble High Court, the multiplier applicable to age group of 46 to 50 is 13. Total disability of petitioner is 45%, when it compared to total body, it becomes 15%. To assess the compensation, the monthly income of petitioner is considered as Rs.11,983/-. The 15% of Rs.11,983 income is, Rs.1,797.45, the round figure of it is, Rs.1,798/-, it would be the loss caused to the petitioner in future days. Hence, the petitioner is entitled for compensation of Rs.2,80,488/- (1,798 X 12 X 13) under this head.

Pain & Suffering:-

16. As per Ex.P8 Discharge Summary, the petitioner was admitted in Nagarajegowda Memorial Hospital, Mysuru on 14.01.2022 and discharged on 18.01.2022 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 46 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 Kyathanahalli 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 46 years. After surgery, at least petitioner required three months to recover. From date of accident, up to three

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 3, then it will become Rs.35,949/-. Hence, the petitioner is entitled for compensation of Rs.35,949/- 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.3,00,000/- towards medical charges, but Medical Bills which were marked as Ex.P11 disclose that the petitioner spent Rs.56,608/- towards medical expenses. By considering medical bills and procedures undergone by petitioner for reunion of fracture, Tribunal grant amount of Rs.56,608/- under this head.

Future Medical Expenses :-

22. PW2 stated in his evidence that petitioner needs Rs.50,000/- to Rs.60,000/- for removal of implants. Except oral testimony of PW2, he has not produced any estimation for removal of implants in Nagarajegowda Memorial Hospital. So, in the absence of any substantial materials, it could not possible to award as deposed by PW2. But, as per the oral testimony of PW2, still implants are inside the body of injured, it needs to be

removed, so patient incurred expenses for removal of implants. By considering the need and necessity of patient, this Tribunal inclines to grant amount of Rs.20,000/- under this head.

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

Towards Loss of Future Income	Rs. 2,80,488/-
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. 35,949/-
Towards Loss of Amenities	Rs. 20,000/-
Towards Medical Bills	Rs. 56,608/-
Towards Future Medical Expenses	Rs. 20,000/-
Total	Rs. 4,68,045/-

24. For above discussion, the petitioner is entitle for total compensation of **Rs.4,68,045/-** under different heads.

25. 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.

26. Accident occurred due to rash and negligent riding of rider of motorcycle bearing Reg.No.KA-09-HV-6409. 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.**

27. **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.4,68,045/- (Rupees Four Lakhs Sixty Eight Thousand Fourty Five 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, entire amount is ordered to be released in favour of petitioner through e-payment on proper identification and on proper acknowledgment. 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 8th day of June -2026)

(R.MAHESHA)

Prl. Senior Civil Judge & MACT,
Pandavapura.

ANNEXURE

List of witnesses examined for the petitioner:-

PW1 : Thammaiah
PW2 : Dr.Karunakar.

List of documents marked for the petitioner:-

Ex.P1 : Copy of FIR,
Ex.P2 : Copy of Complaint,
Ex.P3 : Copy of Spot Mahazar,
Ex.P4 : Copy of MVA Report,
Ex.P5 : Copy of Wound Certificate,
Ex.P6 : Copy of Charge Sheet,
Ex.P7 : Medical Bills,
Ex.P8 : Discharge Summary,
Ex.P9-13 : Outpatient Records,
Ex.P14-16 : X-ray Films,
Ex.P17 : Notarized copy of Bank Passbook,
Ex.P18 : Notarized copy of PAN Card,
Ex.P19 : Notarized copy of Aadhar Card,
Ex.P20 : Inpatient Record,

Ex.P21 : Outpatient Record,
Ex.P22 : X-ray Films.

List of witnesses examined for the respondent No.1:-

RW1 : Pradeep Kumara

List of documents marked for the respondents:-

NIL

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