

KAMS080000462024



M.V.C./14/2024

**BEFORE THE MOTOR ACCIDENTS CLAIMS
TRIBUNAL AT MYSURU.**

**(IN THE COURT OF ADDITIONAL SMALL
CAUSES AND SENIOR CIVIL JUDGE, AT
MYSURU)**

PRESENT

Smt. PRATHIBHA D.S.

B.A., LL.B.

**JUDGE, ADDITIONAL COURT OF SMALL CAUSES
AS A PRESIDING OFFICER,
MOTOR ACCIDENTS CLAIMS TRIBUNAL, MYSURU.**

DATED THIS THE 2nd DAY OF APRIL 2026

M.V.C./ 14 / 2024

BETWEEN

Master. S.M.Gunavantha,
Aged about 14 years, since petitioner
is minor R/by his Natural Guardian
his Mother/Smt.Kavitha K.M.,
R/at Seeguru Village, Periyapatna Taluk,
Mysuru District – 571102.

(Rptd: By Sri.NBR, Adv)

Petitioner

AND

1. Sri. Shashank Kumar K.S.,
S/o Srinivasa,
Aged about 34 years,
R/at Komalapura village,
Bettadapura Hobli, Periyapatna
Taluk, Mysuru District -571102.

(Owner of bike bearing registration
No.KA-55-EB-7997)

2. The Oriental General Insurance
Company Limited., Muslim Hostel
building, 1st main road,
Saraswathipura, opposite to
fire brigade, Mysuru- 570009.

(Insurer of bike bearing
registration No.KA-55-EB-7997)

(Policy No.422800/31/2022/10967)
Valid from 15.12.2022 to 14.12.2026

(R1 Rptd: By Sri.HSA., Adv)
(R2 Rptd: By Smt.R.L., Adv)

: Respondents

-: JUDGMENT :-

Master.S.M.Gunavantha, a 14 years old, represented by his mother as a next friend has filed this petition U/sec.166 of Motor Vehicle Act seeking compensation of Rs.26,00,000/- along with 18% interest from the date of petition till its realization.

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

That, on 26.12.2023 at about 01.20 p.m., when he was standing at the left side of the road near Seeguru gate, Periyapattana-Bettadapura main road, Seeguru village, Periyapattana Taluk, Mysuru district, at that time the rider of Bajaj Platina bike bearing reg. No.KA-55-EB-7997 (**herein after referred as offending vehicle**) rode the same with high speed in rash and negligent manner from Periyapattana, dashed the petitioner and caused accident, due to the impact the minor petitioner sustained grievous injuries to his right leg and other parts of the body. Immediately, he was taken to Periyapatna

Government Hospital, for first Aid, thereafter he was shifted to AR Hospital, Mysuru as inpatient. The minor petitioner was helping his parents for their work and was earning Rs.15,000/- per month. As such, the respondent No.1 and 2 being the owner and insurer of the offending vehicle are jointly and severally are liable to pay the compensation to the minor petitioner. Hence this petition.

3. In pursuance of notices issued to the respondents, the respondents appeared through their counsels and filed their objection statements separately.

4. In his objection statement, the respondent No.1 by denying the entire averments of the petition contended that, the accident was not caused due to rash and negligent riding of rider of the offending vehicle. The offending vehicle was insured with respondent No.2 company as on the date of accident. As such, the respondent No.2 is liable to pay compensation to the minor petitioner. On the

aforesaid grounds and such others prays to dismiss the petition against him.

5. The respondent No.2 in its objection statement denied the accident, age, income and occupation of the petitioner and contended that, the accident was not caused due to rash and negligent riding of rider of the offending vehicle, but the same due to the negligence of the minor petitioner himself who was crossed the road without observing the vehicles coming on the road. There is a delay in lodging the complaint. The rider of the offending vehicle did not possess valid and effective driving license and fitness certificate as on the date of the accident. The amount of compensation and interest claimed by the petitioner is highly excessive, exorbitant and without any legal basis. Hence, petitioner is not entitled to claim any compensation and prays to dismiss the petition.

6. On the above rival pleadings, this tribunal had framed the issues as follows:

ISSUES

- 1) Whether the petitioner proves that, on 26.12.2023 at about 01.20 p.m., when he was standing at the left side of the road near Seeguru gate, Periyapattana-Bettadapura main road, Seeguru village, Periyapattana Taluk, Mysuru district, at that time the rider of Bajaj Platina bike bearing reg. No.KA-55-EB-7997 rode the same with high speed in rash and negligent manner from Periyapattana, dashed the petitioner and caused accident. Due to the impact the petitioner fell down and has sustained injuries as stated in the petition?
- 2) Whether the petitioner is entitled for compensation? If so, at what extent and from whom?
- 3) What Order or relief?

7. To prove the averments of petition, the mother of the minor petitioner examined herself as PW.1 who produced and got marked Ex.P1 to 14 documents and also examined Dr.Madhuram

Chowdry, Consultant Orthopedic surgeon, AR Hospital, Mysuru as PW.2 who produced and got marked Ex.P15 to 17 documents and closed his side evidence. On the other hand, respondent No.1 and 2 not lead evidence on their side. Ex.R1 marked with consent.

8. Heard arguments of both side and perused the materials placed on record.

9. Counsel for the petitioner and respondent No.2 filed written arguments.

10. On consideration of the oral and documentary evidence placed on record, this tribunal answers the aforesaid issues as hereunder:

Issue No.1 – In the affirmative.

Issue No.2 – Partly affirmative and regarding the amount of compensation and from whom the same needs to be recovered, the same is detailed in final order

Issue No.3 – As per final orders for the following,

-: REASONS :-

11. Issue No.1:- The PW-1 in her evidence deposed on par with the petition averments. Ex.P-1 is FIR, Ex.P-2 is complaint, Ex.P-3 is Spot mahazar, Ex.P-4 is spot sketch, Ex.P5 is wound certificate and Ex.P-6 is Charge sheet. The respondent No.2 has contended that the accident occurred due to the negligence of the minor petitioner, no documents has been produced. Thus in the absence of any material evidence it can not be accepted that the accident occurred due to the negligence of the minor petitioner. Apart from the said contention there is no serious dispute on part of the respondents as to the factum of accident.

12. Furthermore, the police after conducting a detailed investigation, has placed charge sheet against one Naveen Kumar R/ the rider of offending vehicle for the offences punishable U/Sec.279 and

338 of IPC. As discussed supra, the minor petitioner by leading his evidence through his mother and by producing the relevant documents is able to establish the factum of accident, which had occurred due to the actionable negligence of the rider of offending vehicle arises out of the use of offending vehicle. **Thus for all these reasons this tribunal answers issue No.1 in the affirmative.**

13. Issue No.2: The next question which arises for the consideration of the tribunal is as to what should be the quantum of compensation to be awarded to the minor petitioner. Immediately after the accident the minor petitioner was rushed Government Hospital, Periyapatna, thereafter he was shifted to AR Hospital, Mysuru and treated as inpatient between 26.12.2023 to 02.01.2024. The said fact substantiated by wound certificate/Ex.P5 and discharge summary/Ex.7. As per wound certificate the minor petitioner sustained injuries as follows;

1. Right medial malleolus fracture with extensor tendon injury.
2. Right type 2B open 3rd and 4th metatarsal fracture with soft tissue injury of the right foot.

The above mentioned injuries are grievous in nature.

14. To substantiate this aspect the minor petitioner has got examined the treating doctor by name Dr.Madhuram Chowdry as PW2. He is the Orthopedic Surgeon, working at AR Hospital, Mysuru. He has clearly spoken about the treatment given to the petitioner in AR Hospital on 26.12.2023 that the petitioner was diagnosed to have medial malleolar fracture right leg and open 3rd and 4th metatarsal fracture. On 27.12.2023 the minor petitioner underwent surgery for wound debridement with extensor tendon repair under SAB and CRIF with K wire medial maleoli under SAB and below knee slab application and then discharged on 02.01.2024. The entire case sheet, X-ray films and calculation sheet of

the minor petitioner pertaining to the instances are marked at Ex.P15 and 17 respectively.

15. Disability suffered by the petitioner:

PW-2 the treating doctor assessed the permanent disability of minor petitioner at 27% for left lower limb. No independent disability certificate has been issued. The learned counsel for respondent No.2 argued that the disability assessed by the treating doctor is on higher side.

16. As held by the Hon'ble Apex court in **Rajkumar Vs. Ajay Kumar & Anor. reported in (2011) 1 SCC 343**, *"the doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the tribunal with reference to the evidence in entirety"*. Thus the duty to assess the functional disability is

casted upon the tribunal. In this backdrop, the functional disability is to be assessed by the tribunal.

17. The doctor/PW2 deposed that, on examination he was found that the petitioner find it difficult to stand on affected leg, squatting on floor and sitting crossed leg and assessed the permanent disability of minor petitioner at 27% for left lower limb. No Independent disability certificate has been issued. Thus the same cannot be construed to be whole body disability. As aforesaid the minor petitioner has sustained grievous injuries, he is unable do his routine work as he was doing earlier to the accident. Thus taking into consideration all these aspects, this tribunal is of the considered opinion that if the disability of the minor petitioner is assessed at 8%, the same would meet the ends of justice. Accordingly this tribunal assesses the disability of the minor petitioner at 8%.

18. Loss of earnings/future earnings on account of disability: According to the petitioner

he was helping his parents in their work at the time of accident. No documents produced to show that the petitioner was earning at the time of accident. In this regard, Hon'ble apex court in **Hitesh Nagjibhai Patel Vs Bababhaih Nagjibhai Rabari and anr in CIVIL APPEAL No.10278 of 2025** in para No.15 it is held that,

15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matric of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law.

19. Further at paragraph No.16 it held that;

16. We may also observe that, in general, i.e., accidents involving adults, we are often confronted with situations where the Minimum Wage Data is not readily available and every so often, the question that has been made up to this Court hinges

only on the calculation of income. In that view of the matter and in the hope of reducing the claimants need to file appeals to this Court or even the High Court, we deem it appropriate to direct that in cases where the claimant has failed to furnish appropriate details of income or adequate proof thereof, it shall be the responsibility and obligation of the contesting party, more particularly the insurance company to furnish before the Tribunal the applicable minimum wages as duly issued by concerned government.

20. In the case on hand, the respondent No.2 insurance company not furnished the applicable minimum wage of the year 2023. Therefore this tribunal has to adjudicate the quantum of income, considering the notional income. As per the revised chart prepared by the Hon'ble Karnataka State Legal Services Authority, Bengaluru dated 26.02.2022, the notional income suggested for the year 2023 is Rs.16,000/- per month.

21. The next aspect to be considered by the tribunal is the age of the minor petitioner. As per the Aadhar card/Ex.P11 the petitioner was born on 21.12.2009. As such, the age of the petitioner was

14 years at the time of accident. The age of the petitioner has not been disputed by the respondents. Thus it transpires that the age of the petitioner was 14 years as on the date of the accident. As per the decision of the Hon'ble Apex court in the case of ***Smt.Sarala Verma & Ors, V/s Delhi Transport Corp & Anor., reported in (2009) 6 SCC 121***, the multiplier of 18 is to be applied, when the age group of the claimant/deceased is Up to 15 years. However, the Hon'ble Apex court in **Hitesh Nagjibhai Patel Vs Bababhahh Nagjibhai Rabari and anr in CIVIL APPEAL No.10278 of 2025** also applied multiplier of 18 even though the minor petitioner was under the age of 15 and hence, multiplier of 18 is to be applied to the case on hand also.

22. As mentioned supra, the tribunal has accepted the notional monthly income of the petitioner to be Rs.16,000/-. The annual income of the petitioner would be Rs.16,000/- X 12, which is Rs.1,92,000/-. Thus the annual income of the petitioner would be Rs.1,92,000/-. The loss of

earning is to be calculated by multiplying the annual income with appropriate multiplier and with the percentage of disability. As stated *supra* the annual income of petitioner is Rs.1,92,000/-. The multiplier to be applied is 18. The total percentage of functional disability is accepted to be at 8%. Thus the calculation would be **Rs.1,92,000/- x 18 x 8% = Rs.2,76,480/-**.

23. Loss of earnings to the parents of minor petitioner during laid up period: The petitioner was admitted to the hospital for a period of 8 days between 26.12.2023 to 02.01.2024. The parents of minor petitioner could have suffered loss of income, at least for a period of three months. Thus under this head the tribunal awards an amount of **Rs.30,000/-** under this head.

24. Damages for pain, suffering and trauma as a consequences of the injuries: The minor petitioner has suffered functional disability of 8%. Taking into account the injuries and disability

sustained by the petitioner this tribunal is of the opinion that if an amount of Rs.1,00,000/- is awarded the same will suffice the cause of justice. Accordingly this tribunal awards an amount of **Rs.1,00,000/-** towards damages for pain, suffering and trauma as a consequence of the injuries.

25. Loss of amenities: In so far as loss of amenities is concerned, while granting the loss of amenities, the tribunal is under the obligation to consider how the quality of life has been affected by an injury. This is a feature of a personal injury claim, which acknowledges personal adjustments that have been made to the work, social and domestic lifestyle, which are not financial. As aforesaid the petitioner has sustained grievous injuries, which would cause impact on his normal life as he had live prior to the accident. Taking note of all these aspects, this tribunal awards **Rs.1,00,000/-** under this head.

26. Transportation, Nourishment, Attendant and Miscellaneous Expenditures: As

stated *supra*, the petitioner was under treatment between 26.12.2023 to 02.01.2024 at Mysuru. Thus taking into consideration, the duration of hospitalization, the fact that the petitioner has taken treatment, and was in requirement of an attendant during the laid up period, if a lump-sum amount of **Rs.50,000/-** is awarded towards the transportation, attendant, nourishment and miscellaneous expenditures, the same would suffice the cause of justice.

27. Expenses relating to treatment, hospitalization and medicines:- The minor petitioner claims that he had incurred medical expense of Rs.2,00,000/-. The medical bills produced by the petitioner, which are together marked at Ex.P8. The total amount due under these bills is Rs.1,97,566/- after deducting advance. The respondent No.2 on the other hand has contended that the minor petitioner has produced cooked up documents. No documents produced to prove the same. Thus Considering the nature of injuries

suffered and the duration of treatment, this tribunal is in no hesitation to consider these documents as true and correct. Hence this tribunal is of the opinion that the minor petitioner is entitled for the said amount of **Rs.1,97,566/-**.

28. Thus by considering all this, the compensation amount awarded to the minor petitioner under various head is as follows:

Sl. No.	Heads	Amount of Rs.
1.	Loss of Earnings/Future earnings on account of disability	Rs.2,76,480/-
2	Loss of earnings to the parents of minor petitioner during laid up period	Rs.30,000/-
3.	Damages for pain, suffering and Trauma as a consequence of this injuries	Rs.1,00,000/-
4.	Loss of Amenities	Rs.1,00,000/-
5.	Transportation, Nourishment, Attendant and Miscellaneous Expenditure	Rs.50,000/-

6.	Expenses relating to Treatment Hospitalization and Medication	Rs.1,97,566/-
TOTAL		Rs.7,54,046/-

Thus the total compensation amount, to which the minor petitioner entitled to is **Rs.7,54,046/-**. The same is rounded off **Rs.7,54,500/-**.

29. Interest: In so far as award of interest in concerned, the petitioner has claimed an interest at the rate of 18% p.a. from the date of petition. In view of decision of the Hon'ble High Court of Karnataka, in ***Vijay Ishwar Jadhav & Ors. V/s Ulrich Belchior Fernandes & Anor. i.e. in M.F.A.No.100090/2014 [MV] dated 07.03.2018, it is held that "in the absence of any law relating to interest on judgment, the MACT has to follow the provision of Sec.34 of CPC"***. Thus this tribunal deems it proper to award interest at the rate of 6% p.a. on the aforesaid compensation amount.

30. Liability: The fact that as on the date of accident, the offending vehicle was insured with it, is not disputed by the respondent No.2 by placing its representation. The offending vehicle was insured with respondent No.2 company vide policy bearing No.422800/31/2022/10967 valid from 15.12.2022 to 14.12.2026. Whereas, the accident occurred on 26.12.2023. Thus, as on the date of accident the policy of the offending vehicle is under the period of validity. As such, it is the respondent No.2 company, which needs to indemnify the respondent No.1. **Accordingly issue No.2 answered partly in the affirmative.**

31. Issue No.3: In the light of foregoing discussions, this tribunal proceeds to pass the following:

ORDER

The petition filed under section 166 of the Motor Vehicles Act is hereby allowed in part with cost.

*The minor petitioner is hereby awarded total compensation of **Rs.7,54,500/-**. (**Rupees seven lakhs, fifty four thousand and five hundred only**) with interest at the rate of 6% p.a. from the date of petition till realization.*

The respondent No.1 and 2 are jointly liable to pay compensation amount to the minor petitioner. The respondent No.2 being the insurer is liable to indemnify the respondent No.1 and directed to deposit within a period of 30 days.

Out of the compensation amount awarded in favour of the minor petitioner, 50% shall be released in favour of the next friend of the minor petitioner, owing to the medical expenses incurred for him.

Remaining 50% of the award amount shall be deposited in minor petitioner's name in any nationalized or scheduled

bank of the choice of his next friend till attains majority. The minor petitioner shall be entitled to draw the accrued interest on the said deposit.

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

Draw award accordingly.

(Dictated to the Stenographer directly on computer, typed by her, revised, corrected by me and then pronounced in the Open Court on 2nd day of April 2026).

sd/-

(PRATHIBHA D.S.)
Judge, Addl. Court of
Small Causes & MACT,
MYSURU.

A N N E X U R E

List of witnesses examined on behalf of
petitioner:

PW.1 Smt.Kavitha K.M.

PW.2 Dr. Madhura Chowdry

List of witnesses examined on behalf of respondents:

-Nil-

List of documents marked on behalf of petitioner:

Ex.P1	Copy of FIR
Ex.P2	Copy of complaint
Ex.P3	Copy of spot mahazar
Ex.P4	Copy of spot sketch
Ex.P5	Copy of wound certificate
Ex.P6	Copy of charge sheet
Ex.P7	Copy of Discharge summary
Ex.P8	Medical bills
Ex.P9	Prescriptions
Ex.P10	X-ray films
Ex.P11	Notarized copy of Aadhar card of minor petitioner
Ex.P12	Notarized copy of Aadhar card of PW.1
Ex.P13	Notarized copy of PAN card of minor petitioner
Ex.P14	Notarized copy of PAN card of PW.1

Ex.P15 Case sheet
Ex.P16 X-ray films
Ex.P17 Calculation sheet

**List of documents marked on behalf of
respondents:**

Ex.R1 Copy of policy

sd/-

**(PRATHIBHA D.S.)
Judge, Addl. Court of
Small Causes & MACT,
MYSURU.**