

KAMS080007802024



M.V.C./405/2024

**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 29th DAY OF MAY 2026

M.V.C./ 405 / 2024

BETWEEN

Sri. Sandesh Kale,
S/o Annajirao Kale,
Aged about 41 years,
R/at Gavadagere Village and Post,
Gavadagere Hobli, Hunsuru
Taluk, Mysuru District.

Petitioner

(Rptd: By Sri.NBR, Adv)

AND

1. Sri. Sanketh,
S/o Annajirao Kale,
Aged about 45 years,
R/at Gavadagere Village and Post,
Gavadagere Hobli, Hunsuru
Taluk, Mysuru District.
2. The Manager, Go Digit General Insurance
Co. Ltd. R/at #94-95, 4th B Cross Road,
Koramangala Industrial Layout,
Bengaluru-560034. Srirampura,
2nd Stage, Near Shiva Temple, Mysuru.

Policy No.D118421848

Valid from 04.10.2023 to 03.10.2028

Respondents

**(R1-Exparte)
(R2 Rptd: By Sri.BGK., Adv)**

-: JUDGMENT :-

The petitioner has filed this petition U/s 166 of Motor Vehicles Act, against the respondents seeking compensation of Rs.13,00,000/- along with interest at 18% per annum with respect to the injuries sustained by him in a road traffic accident.

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

That, on 04.02.2024 at about 07.45 p.m., when the petitioner was traveling as pillion in bike bearing

reg. No.KA-09-JP-2182 [**hereinafter referred as 'Offending vehicle'**] rode by respondent No.1, in between Thondalu – Gavadagere main road, Gurappana katte cross, Gavadagere village, Hunsur Taluk, Mysuru District, at that time the rider of the said Motor Cycle lost control and suddenly applied break, resulting which fell down and has sustained grievous injuries to his left leg and other injuries all over the body. Immediately he was shifted to Vismaya Hospital, K.R.Nagara and admitted as inpatient. The accident caused due to the rash and negligent act on the part of the rider of offending vehicle. The respondent No.1 being the rider/owner and respondent No.2 being the insurer of the offending vehicle are jointly and severally liable to pay compensation to the petitioner. Hence this petition.

3. In pursuance to the notices issued, the respondent No.1 remained absent. Hence, placed exparte. Respondent No.2 placed its representation through its counsel and filed its objection statement.

4. In its objection statement, the respondent No.2 by denying the age, occupation and income of the petitioner contended that, the driver of offending vehicle did not possess valid and effective driving license as on the date of the accident. The offending vehicle was insured with respondent No.2 vide policy bearing D118421848 valid from 04.10.2023 to 03.10.2028. The admissibility of liability is subjected to the terms and conditions of the policy. The amount of compensation and interest claimed by the petitioner is highly excessive, exorbitant and without any legal basis. For the aforesaid reasons and such others prays to dismiss the petition.

5. On the above rival pleadings, issues have been framed as follows:

ISSUES

- 1) Whether the petitioner proves that, on 04.02.2024 at about 07.45 p.m., when the petitioner was traveling as pillion rider in bike bearing reg. No.KA-09-JP-2182 rode by respondent No.1, at in between Thondalu – Gavadagere main road,

Gurappana katte, Gavadagere village, Hunsur taluk, Mysuru district, at that time the respondent No.1 rode the same with high speed in rash and negligent manner and caused accident. Due to the impact of accident the petitioner fell down and sustained injuries as stated in the petition?

- 2) Whether the petitioner is entitled for any compensation? If so, at what extent and from whom?
- 3) What Order or relief?

6. In order to substantiate his case, the petitioner examined himself as PW.1 who produced and got marked Ex.P1 to 15 documents and also examined Dr.Shreyas Alva, Consultant Orthopedic Surgeon, Vismaya Hospital, K.R.Nagara, Mysuru as PW.2 who produced and got marked Ex.P16 to 18 documents and closed his side evidence. On the other hand, the respondent No.2 not lead evidence on its side.

7. Counsel for the petitioner filed written arguments. Heard arguments of respondent No.2. Perused the materials available on record.

8. 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 in the 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 :-

9. **Issue No.1:-** According to the petitioner the accident occurred due to the rash and negligent riding of the rider of offending vehicle. To substantiate the same the petitioner filed his affidavit in lieu of examination in chief, examined himself as PW1 and placed reliance on Ex.P1 to 8

documents. Wherein, Ex.P1 is FIR, Ex.P2 is complaint, Ex.P3 is spot mahazar, Ex.P4 is notice sketch, Ex.P5 witness statement 2 in No's, Ex.P6 is MVA report, Ex.P7 is wound certificate and Ex.P8 is charge sheet. The respondent No.2 though disputed the genesis of the case of the petitioner, not proved the same by placing cogent evidence.

10. Furthermore, the police after conducting a detailed investigation, has placed charge sheet against the respondent No.1/rider of offending vehicle for the offences punishable U/Sec.279 and 338 of IPC. As discussed supra, the petitioner by leading his evidence 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. **Thus for all these reasons this tribunal answers issue No.1 in the affirmative.**

11. 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 petitioner. Immediately after the accident the petitioner was taken to Vismaya Hospital, K.R.Nagara, Mysuru and treated as inpatient between 04.02.2024 to 12.02.2024. The said fact substantiated from wound certificate/Ex.P7 and discharge summary/Ex.P14. As per the wound certificate and discharge summary the petitioner has sustained injuries as follows:

1. Diffuse contused tender swelling over lower region of left leg, with underlying bony- deformity with painful restricted range of movement.
X-ray Left leg- fracture both bones left leg.
2. Small superficial, tender, grazed abrasion injury over left upper thigh region and over left ankle foot junction

In the above injuries, injury No.1 is grievous in nature and injury No.2 is simple in nature.

12. To substantiate this aspect the petitioner has got examined the treating doctor/PW2 by name

Dr.Shreyas Alva, Consultant Orthopedic surgeon, Vismaya Hospital, K.R.Nagara, Mysuru. He has clearly deposed about the treatment given to the petitioner in the hospital on 04.02.2024 that the petitioner diagnosed to have fracture distal 1/3rd both bone tibia and fibula. On 06.02.2024 the petitioner underwent surgery for tibia IMIL (Titanium), fibula with rush pin and then discharged on 10.02.2024. The case sheet, X-ray films and out patient records of the petitioner pertaining to the instances are marked at Ex.P16 to 18 respectively.

13. The duration of the treatment and nature of the treatment undergone by the petitioner has not been disputed by the respondent No.2. Thus this tribunal can accept the factum of period of hospitalization and the nature of treatment undergone by the petitioner without any further discussions. Now the tribunal needs to look into other aspects involved.

14. Disability suffered by the petitioner:

PW-2 had assessed the permanent physical disability of the petitioner at 30% 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.

15. 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.

16. In this backdrop, the functional disability is to be assessed by the tribunal. The doctor/PW2

deposed that, on recent examination he was found that the restricted Rom in knee and joint left leg and petitioner also had pain in the left leg, difficulty in squatting and sitting cross leg and he has assessed the disability of the petitioner at 30% for left lower limb. The disability assessed by PW2 is in relation to particular limb only and the same is physical impairment. Thus, it cannot be construed to be whole body disability or functional disability. As aforesaid the petitioner has sustained grievous injuries. The petitioner as stated in the petition that he being driver by profession, unable to do work as he was doing earlier to the accident and he is not in a position to pursue his routines as he used to do earlier. Thus taking into consideration all these aspects, this tribunal is of the considered opinion that if the functional disability of the petitioner is assessed at 10%, the same would mete the ends of justice. Accordingly this tribunal assesses the functional disability of the petitioner at 10%.

17. Age of the petitioner & Multiplier to be applied: The next aspect to be considered by the tribunal is the age of the petitioner. As per Pan card/ Ex.P12 the petitioner was born on 12.05.1983. As such the petitioner was aged about 40 years at the time of accident. The age of the petitioner has not been disputed by the respondent No.2. Thus it transpires that the age of the petitioner was 40 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 15 is to be applied, when the age group of the claimant/deceased is of 36 to 40 years. Thus the multiplier of 15 is to be applied to the case on hand.

18. This Tribunal has carefully perused the entire records. Now the quantum of compensation is to be adjudicated under aforesaid various head.

19. Loss of earnings/future earnings on account of disability: As stated supra, the petitioner claims that he being driver by profession was earning Rs.25,000/- per month. To substantiate the same no documents has been produced. As no materials are placed on record to show the exact earning of the petitioner, the tribunal has to adjudicate the quantum of income, considering the notional income. For the fixation of the notional income of the petitioner. 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 2024 is Rs.16,500/-. Taking into account all these aspects, this tribunal considers notional income of the petitioner to be Rs.16,500/-.

20. As mentioned supra, the tribunal has accepted the notional monthly income of the petitioner to be Rs.16,500/-. The annual income of the petitioner would be Rs.16,500/- X 12, which is Rs.1,98,000/-. Thus the annual income of the

petitioner would be Rs.1,98,000/-. 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.1,98,000/-. The multiplier to be applied is 15. The total percentage of functional disability is accepted to be at 10%. Thus the calculation would be **Rs.1,98,000/- x 15 x 10% = Rs.2,97,000/-**.

21. Loss of earnings during laid up period:

As stated *supra*, the tribunal has considered the notional income of the petitioner to be at Rs.16,500/-. The petitioner was admitted to the hospital for a period of 9 days between 04.02.2024 to 12.02.2024. The petitioner could have suffered loss of income, at least for a period of five months. Thus under this head the tribunal awards an amount of **Rs.16,500/- x 5 = Rs.82,500/-**.

22. Damages for pain suffering and trauma as a consequences of the injuries: The

petitioner has suffered functional disability of 10%. Taking into account the injuries, and disability sustained the petitioner this tribunal is of the opinion that if an amount of Rs.75,000/- is awarded the same will suffice the cause of justice. Accordingly this tribunal awards an amount of **Rs.75,000/-** towards damages for pain, suffering and trauma as a consequence of the injuries.

23. 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.75,000/-** under this head.

24. Transportation, _____ Nourishment, Attendant and Miscellaneous Expenditures: As stated supra, the petitioner was under treatment between 04.02.2024 to 12.02.2024 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.40,000/-** is awarded towards the transportation, attendant, nourishment and miscellaneous expenditures, the same would suffice the cause of justice.

25. Expenses relating to treatment, hospitalization and medicines:- The petitioner claims that he had incurred expenses of Rs.2,00,000/- for his treatment. To substantiate this fact, the medical bills which are together marked at Ex.P15. The total amount due under these bills is Rs.2,13,134/-. The respondent No.2 on the other hand has contended that the bills are 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 after deducting advances and discounts available in the aforesaid bills the petitioner is entitled for the amount of **Rs.2,13,134/-**.

26. Thus the petitioner is entitled for compensation under aforesaid heads summarized as hereunder:

Sl. No.	Heads	Amount in Rs.
1.	Loss of Earnings/Future earnings on account of disability	Rs.2,97,000/-
2.	Loss of Earnings during treatment (<i>laid up period</i>)	Rs.82,500/-
3.	Damages for pain, suffering and Trauma as a consequence of the injuries	Rs.75,000/-
4.	Loss of Amenities	Rs.75,000/-
5.	Transportation, Nourishment, Attendant and Miscellaneous	Rs.40,000/-

	Expenditure	
6.	Expenses relating to Treatment Hospitalization and Medication	Rs.2,13,134/-
TOTAL		Rs.7,82,634/-

Thus the total compensation amount, to which the petitioner is entitled to is **Rs.7,82,634/-**. The same is rounded off to **Rs.7,83,000/-**.

27. Interest: In so far as award of interest is concerned, the petitioner has claimed interest at 18% per annum 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.

28. 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.D118421848 Valid from 04.10.2023 to 03.10.2028. Whereas, the accident occurred on 04.02.2024. 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 is answered partly in the affirmative.**

29. 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.

*Petitioner is entitled for total compensation of **Rs.7,83,000/- [Rupees seven lakhs and eighty three thousand only]** along with interest at the rate of 6% p.a. from the date of the petition till realization of entire amount.*

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

Out of the compensation amount awarded in favour of the petitioner, 75% shall be released in favour of the petitioner, owing to the medical expenses incurred by him.

Remaining 25% of the award amount shall be deposited in petitioner's name in any nationalized or scheduled bank of his choice, for a period of two years. The 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, corrected by me and then pronounced in the Open Court on 29th day of May 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 Sri. Sandesh Kale,
PW.2 Dr. Shreyas Alva

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 notice
Ex.P5 Copy of witness statement
Ex.P6 Copy of MVA report
Ex.P7 Copy of wound certificate
Ex.P8 Copy of charge sheet
Ex.P9 Police intimation
Ex.P10 Notice and Reply
Ex.P11 Notarized copy of Aadhar card
Ex.P12 Notarized copy of PAN card
Ex.P13 Notarized copy of driving licence
Ex.P14 Discharge summary
Ex.P15 Medical bills
Ex.P16 Case sheet
Ex.P17 X-rays

Ex.P18 Out patient document

List of documents marked on behalf of respondents:

-Nil-

sd/-

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