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M.V.C./1200/2024

**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 20th DAY OF MAY 2026

M.V.C./ 1200 / 2024

BETWEEN

Karthik Gowda S/o Subramanya,
Aged about 9 years,
Since the petitioner is minor
R/by his Natural guardian/
mother Shruthi
R/at B.M. Road, Halagere Village,
Hangodu Hobli, Hunsuru Taluk,
Mysuru District-571105

(Rptd: By Sri.N.B.R.,Advocate)

.....Petitioner

AND

1. Sri. B. Bhasher S/o.Kunippa Beri,
Aged about 40 years,
R/at Bolubail house, Jalasuru village,
Sonnageri post, Sulya,
Dakshina Kannada district-574239

(Owner of the vehicle Bearing Reg.No.KA-21-B-8300)

2. The Manager, H.D.F.C. Ergo General
Insurance Co.Ltd., Maharaja Complex,
Opposite Sub Urban Bus Stand,
Nazarbad, Bengaluru Nilagiri Road,
Mysuru-570010.

Policy No.202304070018491
From 10.04.2023 to 09.04.2024

(R1 -Rptd by Sri.M.N.)
(R2 -Rptd by Smt.K.L.S)

: Respondents

-: JUDGMENT :-

Master Karthik Gowda, a 09 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.36,00,000/- along with 18% interest from the date of petition till its realization.

2. The brief facts of the petitioner's case are as follows: on 16.02.2024 at about 04.00 p.m., when he was standing at the left side of the road near Kerala Hotel, NH-275, B.M.Bypass road, Halagere village, Hunsur Taluk, Mysuru District, at that time the driver of Ashok Layland Dosth vehicle bearing reg. No.KA-21-B-8300 **[hereinafter referred as 'Offending vehicle']** drove the same with high speed in rash and negligent manner from Periyapattana, dashed the minor petitioner and caused accident. Resulting which the minor petitioner fell down and has sustained grievous injuries to his head and other injuries all over the body. Immediately he was shifted to Apollo Hospital, Mysuru and treated as inpatient. The accident caused due to the rash and negligent act on the part of the driver of offending vehicle. The respondent No.1 being the 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 and 2 appeared through their counsels and filed their objection statements separately.

4. In the objection statement respondent No.1 by denying the entire averments of the petition contended that, the accident did not cause due to the rash and negligent driving of the driver of offending vehicle, but the same due to the negligence of the petitioner himself. The offending vehicle is duly insured with respondent No.2. Therefore, respondent No.2 is liable to compensation to the petitioner. The driver of offending vehicle possess valid driving license at the time of accident. Hence, prays to dismiss the petition against this respondent.

5. In its objection statement, the respondent No.2 by denying the accident contended that, the accident did not cause due to the rash and negligent driving of the driver of offending vehicle, but the same due to the negligence of the petitioner himself

without following the rules and regulations. The driver of offending vehicle did not possess valid driving license at the time of accident. The petition is bad for non-joinder of necessary parties. 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.

6. On the above pleadings, the following issues have been framed:

ISSUES

- 1) Whether the petitioner proves that, on 16.02.2024 at about 04.00 p.m., when he was standing at the left side of the road near Kerala Hotel, NH-275, B.M.Bypass road, Halagere village, Hunsur Taluk and Mysuru District, at that time the driver of Ashok Layland Dosth vehicle bearing reg. No.KA-21-B-8300 drove the same with high speed in rash and negligent manner from Periyapattana, dashed the minor petitioner and caused accident. Due to the impact the minor 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 petitioner examined as PW.1 who produced and got marked Ex.P1 to 14 and 18 to 21 documents and also examined Dr. K.S.Bopaiah, Consultant Neuro surgeon, Apollo BGS Hospital, Mysuru as PW.2 who produced and got marked Ex.P15 and 17 documents and closed his side evidence. On the other hand, respondents not lead evidence on their side.

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

9. Counsel for the petitioner filed written arguments and relied on the following rulings:

- a) *MFA No.201430 of 2023 decided on 19.06.2025 between Sagar V/s Umesh and another*
- b) *MFA No.3740 of 2021 decided on 25.10.2025 between Manager, Sriram General Ins. Co.Ltd., V/s Lt. Col. Rajinder Singh Shekhawat Sri. Girish G.V and others*
- c) *MFA No17679 of 2024 decided on 26.02.2026 between Sri. Nagabhushana V/s Chief Executive Engineer, BESCO and others*

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 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 :-

11. Issue No.1:- The PW-1 in her evidence affidavit deposed on par with the petition averments.

Ex.P-1 is FIR, Ex.P-2 is complaint, Ex.P-3 is Spot mahazar along with spot sketch, Ex.P-4 is wound certificate, Ex.P5 is MVA report, Ex.P-6 and 7 are notices and Ex.P-8 is Charge sheet. However during the course of his cross-examination, it was suggested to PW-1 that, the accident did not cause due to the rash and negligent driving of driver of offending vehicle, but the same due to the negligence of the minor petitioner. Thus by suggesting this aspect, the respondent No.2 admits the collision, though denies any negligence on part of the driver of the offending vehicle. There is no serious dispute on part of the respondent No.2 as to the factum of accident.

12. Furthermore, the police after conducting a detailed investigation, has placed charge sheet against one Abdul Muneer A.M/driver 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 driver 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 petitioner. Immediately after the accident the minor petitioner was rushed to Apollo BGS Hospital, Mysuru and treated as inpatient between 16.02.2024 to 22.02.2024. The said fact substantiated by wound certificate/Ex.P4 and discharge summary/Ex.P11. As per wound certificate and discharge summary the minor petitioner sustained injuries as follows;

- 1) Deep cut wound over the scalp left parietal region
CT scan brain showed: left frontal compound depressed fracture
- 2) Multiple hemorrhagic contusions in left frontal lobe

The above said injuries are grievous in nature.

14. To substantiate this aspect the petitioner has got examined the treating doctor by name Dr.K.S.Bopaiah as PW2. He is the Neuro Surgeon, working at Apollo Hospital, Mysuru. He has clearly spoken about the treatment given to the petitioner in Apollo Hospital on 16.02.2024. The patient diagnosed to have severe head injury. He underwent depressed fracture elevation and evacuation of contusions and then discharged on 22.02.2024. The entire case sheet, psychological assessment report, out patient record and X-ray films of the minor petitioner pertaining to the instances are marked at Ex.P15 to 17 respectively. Ex.P18 is the psychological assessment report.

15. Disability suffered by the petitioner:
PW-2 the treating doctor assessed the permanent disability of minor petitioner at 75%. 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. According to PW2 the treating doctor has assessed the permanent disability of minor petitioner at 75%. The said disability is based on Psychological assessment report/Ex.P18. Ex.P18 which is the psychological assessment report is perused, it reveals that the Vineland Social Maturity Scale (VSMS) test

revealed that the social quotient of the petitioner was 39 which was indicative of moderate deficits in socio adaptive functioning. This further indicates that the patient has 75% of disability (moderate). Further, Seguin Form Board Test (SFBT) the child obtained a derived performance IQ of 36 which indicates moderate impairment in intellectual functioning. Overall he has assessed psychological whole body disability at 75%.

18. Further, the psychological assessment report is not indicating whether the psychological impairment of the petitioner is permanent, long term or for short term. The petitioner has stated in the petition that he being a student unable to study and participate in other activities 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 disability of the minor petitioner is assessed at 40%, the same would meet

the ends of justice. Accordingly this tribunal assesses the disability of the minor petitioner at 40%.

19. Loss of earnings/future earnings on account of disability: According to the petitioner he was a student 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 matrix 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.

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 MFA No.7404/2014 between Smt. **Mariyamma** and others V/s Sri. **Suyambulingam V.** and another dated 06.12.2022, the Hon'ble High Court of Karnataka held that the guidelines issued by KSLSA are in general conformity with the wages fixed under the minimum wages Act. Therefore for the fixation of the notional income of the minor petitioner, this tribunal takes recourse to revised chart prepared by the Hon'ble Karnataka State Legal Services Authority, Bengaluru dated 26.02.2022. As

per the said chart, the notional income suggested for the year 2024 is Rs.16,500/- per month.

21. The next aspect to be considered by the tribunal is the age of the minor petitioner. As per the wound certificate/Ex.P4 the age of the minor petitioner is 9 years. PW.1 also deposed at the time of cross-examination that her son was 9 years old when he met with an accident. The age of the petitioner has not been disputed by the respondents. Thus it transpires that the age of the petitioner was 9 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 between 15 to 20 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.16,500/-. 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 18. The total percentage of functional disability is accepted to be at 40%. Thus the calculation would be **Rs.1,98,000/- x 18 x 40% = Rs.14,25,600/-**.

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 6 days between 16.02.2024 to 22.02.2024. The

parents of minor 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.82,500/- (Rs.16,500/- x 5 = Rs.82,500/-)** under this head.

24. Damages for pain, suffering and trauma as a consequences of the injuries: The minor petitioner has suffered functional disability of 40%. 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 16.02.2024 to 22.02.2024 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.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.5,00,000/-. The medical bills produced by the petitioner together marked at Ex.P9, 12 and 20. The total amount due under these bills is Rs.4,98,233/- after deducting advance. The respondent No.2 on the other hand has contended that the 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 petitioner is entitled for the said amount of **Rs.4,98,233/-**.

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

Sl. No.	Heads	Amount of Rs.
1.	Loss of Earnings/Future earnings on account of disability	Rs.14,25,600/-
2	Loss of earnings to the parents of minor petitioner during laid up period:	Rs.82,500/-
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.4,98,233/-
TOTAL		Rs.22,56,333/-

Thus the total compensation amount, to which the petitioner entitled to is **Rs.22,56,333/-**. The same is rounded off to **Rs.22,56,500/-**.

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 the offending vehicle was insured with respondent No.2 company is not disputed. The respondent No.2 failed to prove that the driver of offending vehicle did not possess valid driving license and also failed to prove that the accident caused due to the negligence of the petitioner. 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 petitioner is hereby awarded total compensation of **Rs.22,56,500/- (Rupees twenty two lakhs fifty six 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 and severally liable to pay compensation amount to the 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 petitioner, 50% shall be released in favour of the next friend of the petitioner, owing to the medical expenses incurred by her.

Remaining 50% of the award amount shall be deposited in petitioner's name in any nationalized or scheduled bank of the choice of his next friend till he attains majority. The next friend of 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, revised, corrected by me and then pronounced in the Open Court **on 20th day of May 2026**).*

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

ANNEXURE

List of witnesses examined on behalf of petitioner:

PW.1 Karthik Gowda
PW.2 Dr. K.S.Bopaiah

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 along with spot sketch
Ex.P4	Copy of wound certificate
Ex.P5	Copy of MVA report
Ex.P6&7	Notices
Ex.P8	Certified copy of charge sheet
Ex.P9	Medical bills
Ex.P10	Prescriptions
Ex.P11	Discharge summary
Ex.P12	Medical bills
Ex.P13	Notarized copy of Aadhar of PW.1
Ex.P14	Notarized copy of PAN of PW.1
Ex.P15	Case sheet
Ex.P16	Out patient record
Ex.P17	X-ray films
Ex.P18	Psychological assessment report
Ex.P19	Letter
Ex.P20	Medical bills
Ex.P21	Statements of witness

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

-Nil-

sd/-

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