

KAMS080021542024



M.V.C./1148/2024

**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 30<sup>th</sup> DAY OF APRIL 2026**

**M.V.C./ 1148 / 2024**

**BETWEEN**

Punith Kumar M.,  
S/o Mahadevappa,  
Aged about 19 years,  
R/at Madhavagere village,  
Varuna Hobli, Mysuru  
Taluk and District.

**Petitioner**

**(Rptd: By Sri.MS, Adv)**

**AND**

1. Shashank S, S/o.Shivanna M,  
#14/231, Mudigunda Village,  
Kollegala Post, Chamarajanagara  
Taluk and District.

(Owner Cum rider of the TVS Motor Cycle  
bearing No. KA-09-JD-7530)

2. The Branch Manager,  
HDFC ERGO General Insurance  
Co. Ltd., 2<sup>nd</sup> floor, Bheema & brothers  
building, B.M.Road, KSRTC bus stand  
opposite, Mysuru.

(Insurer of the TVS Motor Cycle  
bearing No. KA-09-JD-7530)

(Policy No.2312204277464900000  
Valid from 28.08.2021 to 27.08.2026)

**Respondents**

**(R1- Rptd: By Sri.USC, Adv)**

**(R2- Rptd: By Smt. KLS., Adv)**

**-: JUDGMENT :-**

The petitioner has filed this petition U/s 166 of Motor Vehicles Act, against the respondents seeking compensation of Rs.20,00,000/- along with interest at the rate of 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 29.01.2024 at about 06.45 p.m., when he was pulling the power tiller from Duddagere village gate towards Madhavagere village, near Madhu's land, Megalapura Village, Mysuru-T.Narasipura main road, Mysuru District, at that time the rider of TVS Motor cycle bearing reg. No.KA-09-JD-7530 (**here in after referred as Offending vehicle**) rode the same with high speed in rash and negligent manner from Mysuru towards T.Narasipura, dashed the petitioner from hind side and caused accident, resulting which the petitioner fell down and has sustained grievous injuries to his right hand, right leg, hip, face and other injuries all over the body. Immediately he was taken to Cauvery Heart and Multi-Speciality Hospital, Mysuru 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 cum 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 to the respondents, the respondent No.1 and 2 placed their representation through their respective counsels. Respondent No.1 not chosen to file their objection statement. Respondent No.2 filed its objection statement.

**4.** In its objection statement respondent No.2 by denying the accident, age, income and occupation of the petitioner contended that, the accident did not cause due to the rash and negligent riding of the rider of offending vehicle, but the same due to the negligence of the petitioner himself who was driving the power tiller without following the rules and regulations. The rider of offending vehicle did not possess valid driving license as on the date of accident. The amount of compensation and interest claimed by the petitioner is highly excessive, exorbitant and without any legal basis. On the

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

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

### **I S S U E S**

- 1) Whether the petitioner proves that, on 29.01.2024 at about 06.45 p.m., when he was pulling the power tiller from Duddagere village gate towards Madhavagere village, near Madhu's land, Megalapura Village, Mysuru-T.Narasipura main road, Mysuru District, at that time the rider of TVS Motor cycle bearing reg. No.KA-09-JD-7530 rode the same with high speed in rash and negligent manner from Mysuru towards T.Narasipura, dashed the petitioner from hind side 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 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 11 documents and also examined Dr. H.S.Manjunath Bhargava, Orthopedic Surgeon, Working at Cauvery Heart and Multi-Speciality Hospital, Mysuru as PW2 who produced and got marked Ex.P12 to 14 documents and closed his side evidence. On the other hand, respondent No.2 not lead evidence on its side.

**7.** Heard arguments of petitioner and respondent No.2. In spite of sufficient opportunity the counsel for respondent No.1 not come forward to the address the arguments. Hence, the arguments of the respondent No.1 taken as nil. 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 respondent No.1. 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 spot sketch, Ex.P5 and 6 are MVA reports, Ex.P.7 is wound certificate and Ex.P8 is charge sheet. In the objection statement the respondent No.2 have disputed the genesis of the case of the petitioner. Though contended that the accident occurred due to the negligence of the petitioner, no material evidence 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 petitioner. Apart from the said contention there is no serious dispute on part of the respondent No.2 as to the factum of accident.

**10.** Furthermore, the police after conducting a detailed investigation, has placed charge sheet against respondent No.1 for the offences punishable U/Sec.279, 337 and 338 of IPC. Said charge sheet has not been disputed. 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 respondent No.1. **Thus for all these reasons this tribunal answers issue No.1 in the affirmative.**

**11. Issue No.3:** 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 Cauvery Heart and Multi-Speciality Hospital. The said fact

substantiated from wound certificate/Ex.P7 and discharge summary/Ex.P9. As per the wound certificate the petitioner has sustained injuries as follows:

- (1)** Comminuted fracture of the distal end of the right radius and the styloid process of the right ulna
- (2)** Multiple lacerated wounds with abrasions in the right thigh and in the right leg
- (3)** Multiple grazed abrasions over the face, right hand, left knee and left foot

In the above said injuries, Injury No.1 is grievous in nature and injury No.2 and 3 are simple in nature.

**12.** To substantiate this aspect the petitioner has got examined the treating doctor/PW2 by name Dr. H.S. Manjunath Bhargava, Orthopedics Surgeon, Cauvery Heart and Multi-Speciality Hospital, Mysuru. He has clearly deposed about the treatment given to the petitioner on 29.01.2024 at Cauvery Heart and Multi-Speciality Hospital. The petitioner diagnosed to have Comminuted fracture distal end radius (right),

multiple lacerated wound, right thigh and leg, multiple abrasions over the face and blunt injury, chest and on 30.01.2024 he underwent surgery for ORIF Plate and screw for fracture, distal end radius (right), wound debridement + primary closure lacerated wound, right lower limb and treated conservatively for abrasion and blunt injury, chest and then discharged on 02.02.2024. The patient underwent suture removal and physiotherapy on OPD basis. The case sheet, X-ray films and out patient records of the petitioner pertaining to the instances are marked at Ex.P12 to 14 respectively.

**13.** The duration of the treatment and nature of the treatment undergone by the petitioner has not been disputed by the respondents. 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 right upper 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. PW.2 deposed that, he was found that the petitioner had complained of restricted movement in right wrist and hand. He has difficulty in doing movement in right hand and he

has assessed the disability of the petitioner at 30% for right upper 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 an agriculturist and milk vendor, 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 8%, the same would mete the ends of justice. Accordingly this tribunal assesses the functional disability of the petitioner at 8%.

**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 Aadhar card/Ex.P11 the petitioner was born in the year 2005. As such the petitioner was aged about 19 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 19 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 of 15 to 20 years. Thus the multiplier of 18 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 an agriculturist and was doing milk vending work was earning Rs.20,000/- per month. To substantiate the same the petitioner has not produced any documents. 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, 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/-. 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 18. The total percentage of functional disability is accepted to be at 8%. Thus

the calculation would be **Rs.1,98,000/- x 18 x 8% = Rs.2,85,120/-**.

**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 4 days between 29.01.2024 to 02.02.2024. The petitioner could have suffered loss of income, at least for a period of four months. Thus under this head the tribunal awards an amount of **Rs.16,500/- X 4 = Rs.66,000/-**.

**22. Damages for pain suffering and trauma as a consequences of the injuries:** The petitioner has suffered functional disability of 8%. 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 29.01.2024 to 02.02.2024 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.30,000/-** 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.P10. The total amount due under these bills is Rs.84,000/-. 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.84,000/-**.

**26. Future medical expenses:** In so far as future medical expenses are concerned, the materials on record suggest that the petitioner has undergone for surgery. The doctor, who was examined as PW-2 has deposed that the petitioner is in need of one more surgery for removal of plate and

screws which would cost around Rs.60,000/-. To prove the said aspect doctor has not produced any documents, no tariff has been furnished. Thus, by considering the present day cost of medical facilities, if Rs.30,000/- is awarded to the petitioner, the same will suffice the cause of justice. Accordingly this tribunal awards **Rs.30,000/-** to the petitioner as future medical expenses.

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

<b>Sl. No.</b>	<b>Heads</b>	<b>Amount in Rs.</b>
1.	Loss of Earnings/Future earnings on account of disability	<b>Rs.2,85,120/-</b>
2.	Loss of Earnings during treatment ( <i>laid up period</i> )	<b>Rs.66,000/-</b>
3.	Damages for pain, suffering and Trauma as a consequence of the injuries	<b>Rs.75,000/-</b>
4.	Loss of Amenities	<b>Rs.75,000/-</b>
5.	Transportation, Nourishment,	<b>Rs.30,000/-</b>

	Attendant and Miscellaneous Expenditure	
6.	Expenses relating to Treatment Hospitalization and Medication	<b>Rs.84,000/-</b>
7.	Future medical expenses	<b>Rs.30,000/-</b>
<b>TOTAL</b>		<b>Rs.6,45,120/-</b>

Thus the total compensation amount, to which the petitioner is entitled to is **Rs.6,45,120/-**. The same is rounded off to **Rs.6,45,500/-**.

**28. 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 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.

**29. 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.2312204277464900000 valid from 28.08.2021 to 27.08.2026. Whereas, the accident occurred on 29.01.2024. 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.2. **Accordingly issue No.3 is answered partly in the affirmative.**

**30. 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.6,45,500/- [Rupees six lakhs, forty five thousand and five hundred 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.*

*The future medical expenses of Rs.30,000/- shall not carry interest.*

*Considering the amount spent towards medical expenses there shall be no order for investment, accordingly on deposit being made, office is directed to release the entire*

*amount to the petitioner on proper identification.*

*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 30<sup>th</sup> day of April 2026).*

sd/-

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

## **ANNEXURE**

### **List of witnesses examined on behalf of petitioner:**

- PW.1 Sri. Punith Kumar M.  
PW.2 Dr. H.S.Manjunath Bhargava

**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&6 | Copy of IMA report and photos                   |
| Ex.P7   | Certified copy wound certificate                |
| Ex.P8   | Certified copy charge sheet                     |
| Ex.P9   | Discharge summary                               |
| Ex.P10  | IP bills  |
| Ex.P11  | Notarized copy of Aadhar card of the petitioner |
| Ex.P12  | Case sheet                                      |
| Ex.P13  | X-rays  |
| Ex.P14  | Out patient documents                           |

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

-NIL-

sd/-

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