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M.V.C./1441/2024

**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./ 1441 / 2024**

**BETWEEN**

Smt. Girijamma W/o.Mahadevaiah,  
Aged about 47 years,  
R/at Kolimallanahundi Village,  
Benakanahalli Post, Sosale Hobli,  
T.Narasipura Taluk, Mysuru District

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

**Petitioner**

**AND**

1. Thimmaraju S, S/o Shivaram,  
Aged about 28 years,  
No.411, 3<sup>rd</sup> Cross, Janatha Colony,  
Yaraganahalli, Mysuru.

(Owner of car Bearing Reg. No.KA-09-Z-7895)

2. The Divisional Manager, United India Insurance Co.  
Ltd. No.1134, 1<sup>st</sup> Floor, Prince of Wales  
Road, Ballal Circle, Chamarajapuram, Mysuru

(Insurer of car Bearing Reg. No.KA-09-Z-7895)

(Policy No.0720043123P108221285)  
Valid from 14.10.2023 to 13.10.2024

**(R1 Rptd: By Sri.HMMG, Adv)**  
**(R2 Rptd: By Sri.VV, Adv)**

**Respondents**

**:- JUDGMENT :-**

The petitioner has filed this petition U/s 166 of Motor Vehicles Act, against the respondents seeking compensation of Rs.15,25,000/- along with interest at 12% per annum with respect to the injuries sustained by her in a road traffic accident.

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

That, on 11.02.2024 at about 01.15 p.m., when she was traveling as pillion rider in Honda Activa scooter bearing reg. No.KA-09-JK-4741 ridden by its rider at moderate speed on the left side of the road in front of Petrol Bunk, Chowhalli village, T.Narasipura Taluk, Mysuru District, at that time the driver of Omni van bearing reg. No.KA-09-Z-7895 (**here in after referred as Offending vehicle**) drove the same with high speed in rash and negligent manner, dashed the scooter from hind side and caused accident and sustained grievous injuries to her head and other injuries all over the body. Immediately she was taken to Government Hospital, T.Narasipura for first AID and thereafter treated as inpatient at KR Hospital, Mysuru. The accident caused due to the rash and negligent act on the part of the driver of offending vehicle. The respondent No.1 and 2 being the owner and insurer of the offending vehicle respectively are jointly liable to pay the

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 driver of offending vehicle possess valid driving license at the time of accident. The offending vehicle is duly insured with respondent No.2. Therefore, respondent No.2 is liable to compensation to the petitioner. The amount of compensation claimed by the petitioner is highly excessive, exorbitant and exaggerated and without any legal basis. Hence, prays to dismiss the petition against this respondent.

**5.** In its objection statement respondent No.2 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 rider of motor cycle who was not observed the vehicles passed on the above highway main road. The driver of offending vehicle did not possess valid driving license at the time of accident. The offending vehicle was insured with respondent No.2. The admissibility of liability is subjected to the terms and conditions of the policy. The amount of compensation claimed by the petitioner is highly excessive, exorbitant and exaggerated and without any legal basis. On the aforesaid grounds and such others it prays to dismiss the petition.

**6.** On the above rival pleadings, issues have been framed by my learned predecessor as follows:

**I S S U E S**

- 1) Whether the petitioner proves that, on 11.02.2024 at about 01.15 p.m., when she was traveling as pillion rider in Honda Activa scooter bearing

reg. No.KA-09-JK-4741 ridden by its rider at moderate speed on the left side of the road in front of Petrol Bunk, Chowhalli village, T.Narasipura Taluk, Mysuru District, at that time the driver of Omni van bearing reg. No.KA-09-Z-7895 drove the same with high speed in rash and negligent manner, dashed the scooter 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 compensation? If so, how much, from whom?
- 3) What Order or award?

**7.** To prove the averments of petition, the petitioner examined herself as PW.1 who produced and got marked Ex.P1 to 12 documents and also examined Dr.Rajesh T.S., Professor, Department of Neuro Surgery, KR Hospital, Mysuru as PW.2 who produced and got marked Ex.P13 to 16 documents and closed her 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 petitioner and respondent No.2. In spite of sufficient opportunity the counsel for respondent No.1 not come forward to address the arguments. Hence, the arguments of the respondent No.1 taken as nil. Perused the materials available on record.

**9.** 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 :-**

**10. Issue No.1:-** According to the petitioner the accident occurred due to the rash and negligent driving of the driver of the offending vehicle. To substantiate the same the petitioner examined herself as PW.1 who produced and got marked Ex.P1 to 7 documents. Wherein, Ex.P1 is FIR, Ex.P2 is complaint, Ex.P3 is spot mahazar, Ex.P4 is spot sketch, Ex.P5 is MVA report, Ex.P6 is wound certificate and Ex.P7 is charge sheet. The respondents denied the case of the petitioner. However during the course of her cross-examination, it was suggested to PW-1 that, the accident did not caused due to the rash and negligent driving of the driver of offending vehicle, but the same due to the rash and negligent riding of the rider of the petitioner. The said suggestion denied by the PW1. Thus, by suggesting this aspect the respondent No.2 admits the collision, though denies any negligence on part of the driver of offending vehicle. There is no serious dispute on

part of the respondent No.2 as to the factum of accident.

**11.** Furthermore the police after conducting a detailed investigation, has placed charge sheet against one Guruprasad P./ the driver of the offending vehicle for the offences punishable U/Sec.279 and 338 of IPC R/w Sec. 187 of IMV Act. As discussed *supra*, the petitioner by leading her evidence and by producing the relevant documents is able to establish the factum of accident, which had occurred due to actionable negligence of the driver of the offending vehicle arises out of the use of the offending vehicle. **Thus for all these reasons this tribunal answers issue No.1 in the affirmative.**

**12. 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. The petitioner in the petition submitted that she took first AID at Government Hospital, T.Narasipura and thereafter

treated as inpatient at KR Hospital, Mysuru between 11.02.2024 to 14.02.2026. The said fact substantiated by wound certificate/Ex.P6 and discharge summary/Ex.P10. As per the wound certificate the petitioner has sustained injuries as follows:

**(I)** Deep/ lacerated wound aspect 10 x 3 x 2 cm present over the right fronto parietal region.

The above said injury is grievous in nature.

**13.** To substantiate this aspect the petitioner has got examined the treating doctor by name Rajesh T.S./PW2. He is the Professor, Department of Neuro Surgery, KR Hospital, Mysuru. He has deposed about the treatment given to the petitioner in the hospital on 11.02.2024. The patient diagnosed to have post traumatic head injury with right frontal sub arachnoid hemorrhage and treated conservatively and then discharged on 15.02.2024. The case sheet, x-ray films, psychological behavioral assessment report and

out patient record of the petitioner pertaining to the instances are marked at Ex.P13 to 16 respectively.

**14.** 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.

**15. Disability suffered by the petitioner:** PW-2 had assessed the permanent disability of the petitioner at 47% for whole body. No independent disability certificate has been issued. The learned counsels for the respondent No.2 argued that the disability assessed by the said doctor is on the higher side and prays to consider the disability of the petitioner reasonably.

**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.

**17.** In this backdrop, the functional disability is to be assessed by the tribunal. The doctor/PW2 deposed that the petitioner was complain of headache and giddiness, imbalance while walking, and he has assessed 47% of whole body disability based on neurobehavioural and cognitive assessment report/Ex.P15. Ex.P15 goes to show that the psychologist has made an impression with regarding Vineland Social Maturity Scale test

(VSMS) in which by considering that the petitioner had social quotient of 78 which was indicative of borderline deficit in socio adaptive function indicating 25% disability and Indian Disability Evaluation and Assessment Scale Test (IDEAS) score of the petitioner was 6 which infers mild disability. Overall he has assessed whole body disability of petitioner at 47%.

**18.** Further, the neurobehavioural and cognitive assessment report is not indicating whether the neurobehavioural impairment of the petitioner is permanent, long term or for short term. Further, PW2 has not mentioned the causes of ataxia. There is no medical records of the petitioner available to show the causes of ataxia, as to whether it comes from hereditary or from trauma by accident. The episodes of Ataxia is also not deposed by PW-2, as to whether it is long term or for short term. Thus assessment of disability for Ataxia at 25% without being medical history of the petitioner is highly unjustified. Thus, by taking into

the injuries sustained by the petitioner and the petitioner as stated in the petition that she being cooli unable to do work as she was doing earlier to the accident and she is not in a position to pursue her routines as she 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 15%, the same would mete the ends of justice. Accordingly this tribunal assesses the functional disability of the petitioner at 15%.

**19. 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.P12 the petitioner was born on 01.01.1978. As such the age of the petitioner is 46 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 46 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 13 is to be applied, when the age group of the claimant/deceased is between 46 to 50 years. Thus the multiplier of 13 is to be applied to the case on hand.

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

**21. Loss of earnings/future earnings on account of disability:** As stated supra, the petitioner claims that she being cooli was earning more than Rs.20,000/- per month. To substantiate the same no documents 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, 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/-.

**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 13. The total percentage of functional disability is accepted to be at 15%. Thus the calculation would be **Rs.1,98,000/- x 13 x 15% = Rs.3,86,100/-**.

**23. 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 11.02.2024 to 14.02.2024. 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/-**.

**24. Damages for pain suffering and trauma as a consequences of the injuries:** The petitioner has suffered functional disability of 15%. 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.

**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 caused impact on her normal life as she had live prior to the accident. Taking note of all these aspects, this tribunal awards **Rs.75,000/-** under this head.

**26. Transportation, \_\_\_\_\_ Nourishment, Attendant and Miscellaneous Expenditures:** As stated *supra*, the petitioner was under treatment between 11.02.2024 to 14.02.2024 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.25,000/-** 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 petitioner claims that she had incurred expenses of Rs.1,00,000/- for her treatment. Absolutely no documents are placed on record by the petitioner to substantiate this fact, except the medical bills which are together marked at Ex.P19. The total amount due under these bills is Rs.5,784/-. 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 advance and discounts available in

the aforesaid bills, the petitioner is entitled for the said amount of **Rs.5,784/-**.

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

<b>Sl. No.</b>	<b>Heads</b>	<b>Amt of Rs.</b>
1.	Loss of earning/future earning on account of disability	<b>Rs.3,86,100/-</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, Attendant and Miscellaneous Expenditure	<b>Rs.25,000/-</b>
6.	Expenses relating to treatment, hospitalization and medicines	<b>Rs.5,784/-</b>
<b>TOTAL</b>		<b>Rs.6,32,884/-</b>

Thus the total compensation amount, to which the petitioner is entitled to is **Rs.6,32,884/-**. The same is rounded off to **Rs.6,33,000/-**.

**29. Interest:** In so far as award of interest is concerned, the petitioner has claimed an interest at the rate of 12% 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. The offending vehicle was insured with respondent No.2 company vide policy bearing No.0720043123P108221285 valid from 14.10.2023 to 13.10.2024. Whereas, the accident occurred on 11.02.2024. As such, the policy of the offending

vehicle is under the period of validity as on the date of accident. The respondent No.2 failed to prove that the driver of offending vehicle did not possess valid driving license at the time of accident. The respondent No.2 also failed to prove that the accident occurred due to the contributory negligence of the rider of motor cycle. As such, it is the respondent No.2 Company, which needs to indemnify the respondent No.2. **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.*

*Petitioner is entitled for total compensation of **Rs.6,33,000/- [Rupees six lakhs and thirty 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.*

*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, 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 Smt. Girijamma

PW.2 Dr.Rajesh T.S.

**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 MVA report

Ex.P6 Copy of wound certificate

Ex.P7 Certified copy charge sheet

Ex.P8 Prescriptions

Ex.P9 Medical bills

Ex.P10 Discharge summary

Ex.P11 CT scan report

Ex.P12 Notarized copy of Aadhar card of the

- Ex.P13      petitioner  
                 Case sheet
- Ex.P14      x-ray
- Ex.P15      Neurobehavioural      and      cognitive  
                 assessment report
- Ex.P16      Out patient record

**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.**