

KAMS080031542023



M.V.C./1780/2023

**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 02nd DAY OF APRIL 2026

M.V.C./ 1780 / 2023

BETWEEN

Sri. Arun Kumar,
S/o.Govindgowda,
Aged about 28 years,
R/at. Kurrenahalli, Kasaba Hobli,
K.R. Pete Taluk, Mandya.

Presently R/at. No 195,

Amara Ambarish Enclave,
Madagalli 2nd Stage, Mysuru.

Petitioner

(Rptd: By Sri.N.C, Adv)

AND

Ramesh, S/o. Boraiah,
Aged about 47 years,
R/st. Bookanakere Village,
Near Indian Gas Godown,
K.R. Pete Taluk, Mandya.

Respondents

(R1 Rptd: By Sri.MM, Adv)

:- JUDGMENT :-

The petitioner has filed this petition U/s 166 of Motor Vehicles Act, against respondents seeking compensation of Rs.23,50,000/- along with interest at 12% per annum, with respect to injuries sustained by him in a road traffic accident.

2. The brief facts of the petitioner case are as follows: On 30.04.2023 at about 06.00 p.m., when the petitioner was proceeding in his

scooter bearing reg. No.KA-54-Q-8296 at moderate speed on the left side of the road, from Akkiheggalu towards Hariharapura Dadadahalli gate, K.R.Pete-Bherya road, Akkihebbalu Hobli, K.R.Pete Taluk, Mandya District, at that time the rider of motor bike bearing reg. No.KA-54-K-2005 **(here in after referred as Offending vehicle)** rode the same with high speed in rash and negligent manner dashed the petitioner's scooter from opposite side and caused accident. Due to the impact of accident the petitioner has sustained grievous injuries to his face, head, right shoulder and other injuries all over the body. Immediately he was shifted to Government Hospital K.R. Pete, for first AID. Further the petitioner was treated as inpatient at St. Joseph's Hospital, Mysuru. The accident caused due to the actionable negligence of the rider of the offending vehicle. The respondent being the rider cum owner of the offending vehicle is liable to pay the compensation to the petitioner. Hence this petition.

3. In pursuance of notice issued, the respondent appeared through his counsel and filed his objection statement.

4. In his objection statement, the respondent by denying the entire averments of the petition contended that, the accident did not cause due to his rash and negligent driving, but the same due to the rash and negligent riding of the petitioner himself. The respondent was also done MLC from the concerned Government Hospital. The amount of compensation claimed by the petitioner is highly excessive, exorbitant and exaggerated and without any legal basis. On the aforesaid reasons and such others prays to dismiss the petition against him.

5. On the basis of rival pleadings, this tribunal had framed the following:

ISSUES

- 1) Whether the petitioner prove that, on 30.04.2023 at about 06.00 p.m., when the petitioner was proceeding in his scooter bearing reg. No.KA-54-

Q-8296 at moderate speed on the left side of the road, from Akkiheggalu towards Hariharapura Dadadahalli gate, K.R.Pete-Bherya road, Akkihebbalu Hobli, K.R.Pete Taluk, Mandya District, at that time the rider of motor bike bearing reg. No.KA-54-K-2005 rode the same with high speed in rash and negligent manner dashed the petitioner's scooter from opposite side 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, 18 and 19 documents and also examined Dr.Manu Prasad S, Oral and Maxillofacial surgeon, St. Joseph's Hospital, Mysuru as PW2 who produced and got marked Ex.P16 and 17 documents and closed his side evidence. On the

other hand, respondent examined himself as RW.1 who produced and got marked Ex.R1 document.

7. Heard arguments of both side and 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 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 upon 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. In objection statement the respondent has disputed the genesis of case of the petitioner. However during the course of his cross-examination, it was suggested to PW-1 that, the accident caused due to the negligence of the petitioner himself. Thus by suggesting this aspect, the respondent admit the collision, though denies any negligence on part of the respondent. There is no serious dispute on part of the respondent as to the factum of accident. Furthermore the factum of the accident has been substantiated by producing the necessary police records as well the medical records/Ex.P1 to Ex.P19.

10. Furthermore the police after conducting a detailed investigation, has placed the charge sheet

against the respondent /driver of the offending vehicle for the offences punishable U/Sec.279, 337 and 338 of IPC and U/Sec.196 of IMV Act. 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 actionable negligence of respondent. **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. After the accident the petitioner was taken to K.R.Pete Hospital for first AID, thereafter treated as inpatient at St. Joseph's Hospital, Mysuru between 30.04.2023 to 06.05.2023. The aforesaid fact substantiated from wound certificate/Ex.P6 and discharge summary/Ex.P8. As per the wound certificate the petitioner has sustained injuries as follows;

- (1)** Contusion around right eye with tenderness
- (2)** Oblique laceration on left maxilla with bleeding
- (3)** Blunt injury to left knee with tenderness

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

12. To substantiate this aspect the petitioner has got examined the treating doctor by name Dr.Manu Prasad S/PW2, Oral and Maxillofacial surgeon, St. Joseph's Hospital, Mysuru. He has deposed about the treatment given to the petitioner in the hospital on 30.04.2023 that the patient diagnosed to have fracture of internal wall and inferior wall of left orbit note with pneumo orbit, fracture of all walls of left maxillary sinus noted with hemosinus, fracture of left Zygomatic arch noted, fracture of lateral pterygoid process noted on left side, fracture of coronoid process of mandible note on left side just inferior to the TMJ, left

Zygomatic complex fracture, soft tissue injury over the zygomatic region communicating to fracture. On 02.05.2023 the petitioner underwent surgery for open reduction internal fixation with plates and screws and closed reduction of ZMC fracture and soft tissue repair was done in treatment all other fractures were conservatively managed. The case sheet and Out patient record of the petitioner pertaining to the instances is marked at Ex.P16 and 17 respectively.

13. The duration of the treatment and nature of the treatment undergone by the petitioner has not been disputed by the respondent. 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:
PW2 had assessed the permanent physical disability of the petitioner at 32.5% for facio-maxillary injury.

No independent disability certificate has been issued. The learned counsel for the respondent has argued that the disability assessed by the said doctor is on the 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 the petitioner was complain of pain difficulty in chewing, pain on and off, restricted mouth opening, facial disharmony and scar over the

left malar area and he has assessed permanent physical disability at 32.5%. It is to be noted that, the disability assessed by the PW2 is for the facio-maxillary injury. According to the medical records except facial injuries, the petitioner did not suffer any other injuries to his upper and lower limbs which would result in loss of earning capacity. The petitioner as he deposed that he was an attender at Karnataka Gramina bank. However, no document is produced to prove the same. Ex.P.18 and 19 the payslip and the ID card issued by Gajamuk Security and Utility services which shows the designation of petitioner as sweeping and cleaning. The disability assessed by PW2 would never come in the way of occupation of the petitioner which would resulted any loss in his earning capacity. Thus, the disability assessed by PW2 in respect of facio-maxillary injury cannot be construed as the functional disability. At this juncture, it is necessary to place reliance on the judgment of the Hon'ble High Court of Karnataka (Dharawad Bench) in **MFA No.21374/2010 dated 20.07.2021 in Divisional Manager, United India**

Insurance Co. Ltd., V/s Shahanoor Peersab Basaragi it was held that,

"A fracture of mandible had taken place in the employment related accident, not affect the function of his upper and lower limbs, the functional disability caused and the consequential loss in the earning capacity will be regarded as zero."

Thus, the disability assessed by PW2 cannot be construed as the functional disability. As such, no compensation has been awarded under the head of loss of future earnings due to disability.

17. Loss of earnings during laid up period:

As stated in the petition, the petitioner being an agriculturist and working in Karnataka Grameena Bank as an attender in outsource basis was earning Rs.30,000/- per month. To substantiate the same the counsel for petitioner has produced Payslip/ Ex.P18 and ID card/Ex.P19. As per payslip at Ex.P.18 petitioner gross salary is Rs.15,689/-. However, the authorized person was not examined

to prove the above documents. The said documents alone are not sufficient to hold that the petitioner was earning Rs.30,000/- per month. 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. 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/- PM. The petitioner was hospitalized at St. Joseph's Hospital, Mysuru between 30.04.2023 to 06.05.2023 for a total period of 06 days. He had suffered grievous injuries and underwent for surgery. Thus considering the same, the petitioner would have suffered loss of earning, at least for a period of three months. Thus under this head the tribunal awards an amount of **Rs.16,000/- X 3 = Rs.48,000/-**.

18. Damages for pain suffering and trauma as a consequences of the injuries: The petitioner has suffered from grievous facial injuries

and underwent for surgery. Thus, taking into account the injuries, and treatment undergone by the petitioner this tribunal is of the opinion that if an amount of Rs.1,50,000/- is awarded the same will suffice the cause of justice. Accordingly this tribunal awards an amount of **Rs.1,50,000/-** towards damages for pain, suffering and trauma as a consequence of the injuries.

19. 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 facial 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.1,50,000/-** under this head.

20. Transportation, Nourishment, Attendant and Miscellaneous Expenditures: As stated supra, the petitioner was under treatment between 30.04.2023 to 06.05.2023 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.35,000/-** is awarded towards the transportation, attendant, nourishment and miscellaneous expenditures, the same would suffice the cause of justice.

21. Expenses relating to treatment, hospitalization and medicines:- The petitioner claims that he had incurred expenses of Rs.50,000/- for his treatment. To substantiate this fact, the medical bills which are together marked at Ex.P12. The total amount due under these bills is Rs.1,36,169/-. The respondent 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 the advances and discounts available in the aforesaid bills the petitioner is entitled for the said amount of **Rs.1,36,169/-**.

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

Sl. No.	Heads	Amount of Rs.
1.	Loss of earning during laid-up period	Rs.48,000/-
2.	Damages for pain, suffering and Trauma as a consequence of this injuries	Rs.1,50,000/-
3.	Loss of Amenities	Rs.1,50,000/-
4.	Transportation, Nourishment, Attendant and Miscellaneous Expenditure	Rs.35,000/-

5.	Expenses relating to Treatment Hospitalization and Medication	Rs.1,36,169/-
TOTAL		Rs.5,19,169/-

Thus the total compensation amount, to which the petitioner is entitled to is **Rs.5,19,169/-**. The same is rounded off to **Rs.5,19,500/-**.

23. 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.

24. Liability: Admittedly as on the alleged date of the accident, the offending vehicle was uninsured. As such it is the driver cum owner of the said vehicle i.e., respondent who has to make good the compensation amount to the petitioner. As aforesaid the respondent being the driver cum owner of the offending vehicle is liable to pay the compensation amount to the petitioner. **Accordingly issue No.2 is answered partly in the affirmative.**

25. 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.5,19,500/-***

[Rupees five lakhs, nineteen 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 is liable to pay the compensation amount to the petitioner 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 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 Arun Kumar

PW.2 Dr.Manu Prasad S

**List of witnesses examined on behalf of
respondents:**

RW.1 Ramesh

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 Copy of charge sheet
- Ex.P8 Discharge summary
- Ex.P9 Audiology report
- Ex.P10 RTC
- Ex.P11 Lab and CT scan report
- Ex.P12 Receipt and Medical bills
- Ex.P13 Prescriptions
- Ex.P14 Aadhar card
- Ex.P15 X-ray films
- Ex.P16 Case sheet
- Ex.P17 Out patient card
- Ex.P18 Payslip
- Ex.P19 ID card

List of documents marked on behalf of respondents:

Ex.R1 Out patient record

Sd/-

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