

KAMS080012822022



M.V.C./775/2022

**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 2nd DAY OF APRIL 2026

M.V.C./ 775 / 2022

BETWEEN:

Sri. Suresh, S/o Kodandanaika,
Aged about 40 years,
R/at Yaganahalli Village and Post,
Chamarajanagara Taluk and District.

(Rptd: By Sri.PBSK, Adv)

Petitioner

AND

- 1) Sri.Saleem Pasha,
S/o Syed Muhiddin,
Aged about 45 years,
R/at # 139, 6th Cross,
Shanthi Nagara,
Mysuru City- 570019.

(Owner of the vehicle bearing
Reg. No. KA-55-D-0754)

- 2) Sri. Ravi S/o Chandrashekar,
Aged about 38 years,
R/at # 313, Totadahatti road,
K.R.Mohalla, Mysuru City.

(Driver of the vehicle bearing
Reg. No. KA-55-D-0754)

(R1 and 2- Exparte)

: Respondents

-: JUDGMENT :-

The petitioner has filed this petition U/s 166 of Motor Vehicles Act, against respondents seeking compensation of Rs.12,50,000/- along with interest at the rate of 24% p.a. with respect to injuries sustained by him in a road traffic accident.

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

That, on 15.11.2020 at about 9.00 p.m., when the petitioner was crossing the road near Kavitha Bakery junction, 10th main road, J.P.Nagara, Mysuru at that time the driver of auto bearing No.KA-55-A-0754 (**here in after referred as Offending vehicle**) drove the same with high speed in rash and negligent manner hit the petitioner and caused the accident. Due to the impact of accident petitioner fell down and sustained grievous injuries to his head, legs, shoulders and other injuries all over the body. Immediately he was taken to Panacea Hospital, Mysuru and treated as inpatient, thereafter he was shifted to Bhanavi Hospital for further treatment. The accident caused due to the rash and negligent act on the part of the driver of offending vehicle. The respondent being the owner and driver of the offending vehicle is liable to pay the compensation to the petitioner. Hence this petition.

3. In pursuance of notice issued, the respondents remained absent. Hence, placed exparte.

4. To prove the averments of petition, the petitioner examined himself as PW.1 who produced and got marked Ex.P1 to 13 documents and closed his side evidence.

5. Heard arguments of counsel for petitioner and perused the materials placed on record.

6. On the above pleadings, the following points arise for consideration:

P O I N T S

- 1) Whether the petitioner proves that on on 15.11.2020 at about 9.00 p.m., when the petitioner was crossing the road near Kavitha Bakery junction, 10th main road, J.P.Nagara, Mysuru at that time the driver of auto bearing No.KA-55-A-0754 drove the same with high speed in rash and negligent manner hit the petitioner and caused the accident. as a result the petitioner fell down and

sustained grievous injuries ?

2) Whether the petitioner is entitled for compensation? If so, what amount and from whom?

3) What Order or award?

7. Findings to the above points are as under.

Point No.1 – In the affirmative.

Point No.2 – Partly affirmative and regarding the amount of compensation and from whom the same needs to be recovered, the same i

Point No.3 – As per final orders for the following,

-: REASONS :-

8. **Point No.1:-** According to the petitioner the accident occurred due to the rash and negligent driving of the respondent No.2. In order to substantiate the same the petitioner placed reliance on Ex.P1 to 6 documents. Wherein, Ex.P1 is FIR, Ex.P2 is complaint, Ex.P3 is spot mahazar along

with photos, Ex.P4 is MVA report, Ex.P5 is wound certificate and Ex.P6 is charge sheet. The aforesaid police documents goes to show that the accident occurred due to the rash and negligent driving of the respondent No.2.

9. It is relevant to note that the respondents though summons served did not appear before the tribunal and not even contest the case. As such, the only inference could be drawn that the respondents have not disputed the accident occurred due to his actionable negligence. Furthermore, the police after conducting a detailed investigation, has placed charge sheet against the respondent No.1/owner of the offending vehicle for the offences punishable U/Sec.146 r/w Sec.196 of IMV Act and against respondent No.2/driver of the offending vehicle for the offences punishable U/Sec.279 and 338 of IPC and U/Sec.185 r/w Sec.177 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 the respondent No.2.
Thus for all these reasons this tribunal answers point No.1 in the affirmative.

10. **Point 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 took treatment Panacea Hospital, Mysuru and treated as inpatient, thereafter he was shifted to Bhanavi Hospital between 16.11.2020 to 17.11.2020. The said fact substantiated by wound certificate/Ex.P5 and discharge summary/Ex.P9. As per wound certificate the petitioner has sustained injuries as follows:

(1) Comminuted fracture distal end radius-right

(2) Abrasion over right knee, nose, left cheek, right great toe

The about said injuries are grievous injuries.

11. 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. The next question before the tribunal would be as to what is the reasonable and just compensation, to which the petitioner is entitled to. **In view the law declared by Hon'ble Supreme Court in the case of *Rajkumar V/s Ajay Kumar & Anor.* reported in 2011 ACJ 1, this tribunal proceeds to award compensation under various heads.**

12. **Disability suffered by the petitioner:**
It is the contention of the petitioner that he has suffered permanent disability due to the grievous injuries sustained by him. However the petitioner has not examined treating doctor to show that he has sustained any functional disability. Furthermore he has not made any efforts to get him referred to medical board also. Had he suffered any functional disability, he could have examined the treating doctors or got himself referred to medical board.

In the absence of any such efforts on part of the petitioner, the only inference which could be drawn is that the petitioner has not suffered any functional disability.

13. **Loss of earnings during laid up period:** As stated supra, the petitioner claims that he being an agriculturist and doing business 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 2020 is Rs.14,500/- PM. As per medical records the petitioner was hospitalized for a period of 05 days between 16.11.2020 to 17.11.2020. He has suffered grievous injuries and underwent for surgery for right radius X fixator under brachial block on 16.11.2020. Thus considering the same, the petitioner would have suffered loss of earning, at least, for a period of four months. Thus under this head the tribunal

awards an amount of **Rs.14,500/- X 4 = Rs.58,000/-**.

14. **Damages for pain suffering and trauma as a consequences of the injuries:** The wound certificate marked at Ex.P5 and discharge summary marked at Ex.P9 suggests that the petitioner has sustained grievous injuries. Taking into account the severity, treatment undergone by the petitioner and the duration of treatment, this tribunal is of the opinion that if an amount of Rs.50,000/- is awarded the same will suffice the cause of justice. Accordingly this tribunal awards an amount of **Rs.50,000/-** towards damages for pain, suffering and trauma as a consequence of the injuries.

15. **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.50,000/-** under this head.

16. **Transportation, _____ Nourishment, attendant and Miscellaneous Expenditures:** As stated *supra*, the petitioner was under treatment between 16.11.2020 to 17.11.2020 at Mysuru. Thus taking into consideration, the duration of hospitalization, if a lump-sum amount of **Rs.35,000/-** is awarded towards the transportation, nourishment and miscellaneous expenditures, the same would suffice the cause of justice.

17. **Expenses relating to treatment, hospitalization and medicines:-** The petitioner claims that he had incurred expenses of Rs.2,00,000/- for his 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.P10 and 12. The total amount due under these bills is Rs.34,938/-. Thus Considering the nature of injuries suffered, surgeries undergone 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 mentioned in the bills, the petitioner is entitled for amount of **Rs.34,938/-**.

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

Sl.no.	Heads	Amt of Rs.
1.	Loss of earning during laid up period	Rs.58,000/-
2.	Damages for pain, suffering and Trauma as a consequence of this injuries	Rs.50,000/-
3.	Loss of Amenities	Rs.50,000/-
	Transportation, Nourishment, attendant	Rs.35,000/-

4.	and Miscellaneous Expenditure	
5.	Expenses relating to Treatment Hospitalization and Medication	Rs.34,938/-
TOTAL		Rs.2,27,938/-

Thus the total compensation amount, to which the petitioner is entitled to is **Rs.2,27,938/-**. The same is rounded off to **Rs.2,28,000/-**.

19. **Interest:** In so far as award of interest is concerned, the petitioner has claimed an interest at the rate of 24% 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.

20. **Liability**: Admittedly as on the alleged date of the accident, the offending vehicle was uninsured. Charge sheet material discloses that the respondent No.2 consuming alcohol drove the offending vehicle in a rash and negligent manner, hit the petitioner and caused accident. Further, the respondent No.1 entrusted the respondent No.2 to ply the offending vehicle on road without insurance at the time of accident. As such the respondent No.1 and 2 being the owner and driver of the offending vehicle have to make good the compensation amount to the petitioner. As aforesaid the respondent No.1 and 2 being the owner and driver of the offending vehicle are jointly and severally liable to pay the compensation amount to the petitioner. **Accordingly point No.2 answered partly in the affirmative.**

21. **Point 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.2,28,000/- [Rupees two lakhs, and twenty eight thousand only]** along with interest at the rate of 6% p.a. from the date of the petition till realization entire amount.*

The respondent No.1 and 2 are jointly and severally liable to pay the compensation amount to the petitioner 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, 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.**

ANNEXURE

List of witnesses examined on behalf of petitioner:

PW.1 Sri. Suresh

List of witnesses examined on behalf of respondent:

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 photos
- Ex.P4 Copy of MVA report
- Ex.P5 Copy of wound certificate
- Ex.P6 Copy of charge sheet
- Ex.P7&8 Copy of R.C. and permit
- Ex.P9 Discharge summary
- Ex.P10 Inpatient Bills
- Ex.P11 Prescriptions
- Ex.P12 Medical bills
- Ex.P13 Notarized copy of Aadhar card of the petitioner

List of documents marked on behalf of respondent:

Nil

sd/-

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