

KAMS600012022022



M.V.C./811/2022

**IN THE COURT OF SENIOR CIVIL JUDGE & MACT,
PERIYAPATNA;**

**Present; Sri.Raju.M.,
M.A., LL.B,
Senior Civil Judge & MACT
Periyapatna.**

MVC.No.811 of 2022

DATED THIS THE 21st DAY OF APRIL 2026

Petitioners:

Sri Nagashetty s/o Late Dasashetty
Age: 47 years, Occ: Business,
r/at Thirumalapura Village,
Harnahalli Hobli, Periyapatna Taluk,
Mysore District.

(By Sri.KBS, Advocate)

Respondent/s:

1. Puttegowda s/o Late Sannegowda
Age: 45 years, Occ: Driver,
R/at Thirumalapura Village,
Harannahalli Hobli, Periyapatna Taluk
Mysore District.

2.Shriram General Insurance Co., Ltd.,
No.1056, Vanivilas Road, 2nd Floor,
Chamarajapuram, Mysore 570 005 **(Deleted)**

3. HDFC ERGO General Insurance
Company Limited, 2nd Floor,
Mysuru Trade Centre, Opposite to
KSRTC Bus Stand, BN Road, Mysuru.

***(R1 by Sri.IRS, Advocate
R2 deleted, R3 by Sri.SJD, Advocate)***

J U D G M E N T

Petition is filed under Section 166 of Motor Vehicles Act seeking compensation of Rs.25,10,000/- with interest at the rate of 12% p.a. from the date of petition till realisation on account of injuries sustained by the petitioner in a road traffic accident.

2. Facts in brief; on 23.12.2021, at about 7 PM, the petitioner was proceeding on foot on Tirumalapura-Bylakuppe Road, in front of the land of Tenzin of 5th Tibetan Community at that time the Hero Honda Splendor Plus motorbike bearing Reg.No.KA-45-EC/0891 being ridden by its rider/respondent No.1 (owner) along with Cw.2-pillion rider in a rash and negligent manner came therein and dashed the petitioner from his backside and caused the accident. Due to impact, the petitioner fell down and sustained head injury and grievous injury to his right leg. After the accident immediately he was shifted to General Hospital, Periyapatna and then to

Bhanavi Hospital, Mysuru wherein he took treatment as inpatient. He was hale and healthy prior to the accident and was earning Rs.25,000/- per month by doing coolie and agricultural work and due to accidental injuries he became disabled. Jurisdictional police registered case against the rider of offending motorbike, which was ridden and owned by respondent No.1 and insured with respondent No.2; they are liable to pay compensation. Hence, petition is filed.

3. After service of notice, respondent No.1 appeared before the Court through his learned counsel but failed to file the written statement. As per order dated: 24.06.2023 memo filed by the petitioner counsel to delete the respondent No.2 from the proceedings was allowed and respondent No.2 was deleted from the case record. Respondent No.3 being the insurer of the vehicle involved in the accident appeared before the Court after service of notice through its counsel and

filed the written statement.

4. In the written statement Respondent No.3-Insurance Company denying petition averments in toto, and inter alia contended that; petition is bad for violation of mandatory requirements as envisaged under Section 134 and 158 (6) of MV Act as the owner & jurisdictional police failed to submit relevant records within stipulated period. It denied the mode and manner of accident. It is contended that the rider of the offending motor vehicle had no valid and effective driving license as on the date of the alleged accident. Accident took place due to negligence of petitioner. It denied the age, avocation and income of petitioner. Compensation claimed is exorbitant. Liability if any is subject to the terms and conditions enumerated in the policy. Among these grounds and reserving liberty to contest the petition on all grounds it prays to dismiss the suit.

5. Following issues are framed ;

1. Whether petitioner proves that on 23.12.2021, at about 7 PM he was proceeding on foot on Thirumalapura-Bylakuppe Road, in front of the land of Tenzin of 5th Tibetan Community and sustained injuries due to actionable negligence on the part of rider of Hero Honda Splendor Plus motorbike bearing Reg.No.KA-45-EC/0891?

2. Whether petitioner is entitled for compensation, if so, how much?

3. What order or award?

6. To prove the case; petitioner got examined himself as Pw.1 and got marked the documents at Ex.P1 to 9. Dr.Aakash, Consultant Orthopedic Surgeon, Bhanavi Hospital is examined as Pw.2 and documents at Ex.C1 and Ex.C2 were marked. On the other hand, Respondent No.2-Insurance Company got examined its legal manager as Rw.1 and got marked a document at Ex.R1.

7. Heard arguments.

8. Answer to the above issues is as follows;

Issue-1: Affirmative.

Issue-2: Partly in the Affirmative.

***Issue-3: As per final order
for the following:***

REASONS

9. **Issue-1:** The petitioner to prove his case has produced certified copies of charge sheet, FIR, complaint, spot mahazar, wound certificate, copy of notice issued under Section 133 of MV Act along with reply issued by owner of the vehicle at Ex.P1 to 6. As per the documents one Ravi has lodged complaint with the Bylakuppe Police 24.12.2021 alleging that on 23.12.2021, the complainant was coming in a car belonging to one Aiyappa, when he reached near the land of tibetian at Handigudda Kavalu at 7 PM the rider of the bike bearing No.KA-45-EC/0891 was riding the same in zigzag manner ahead of the car wherein the complainant was travelling and the rider of the said vehicle dashed to Manjashetty and Nagashetty who were going by walk. Immediately the car driver stopped

the car and got down from the car along with the complainant. Then the complainant came to know that the bike rider is Puttegowda s/o Late Sannegowda. In the said accident the bike rider and two pedestriants sustained injury. Immediately the complainant and the car driver pacified the injured. Nagashetty who is the petitioner herein sustained injury on his head and left leg and he was shifted to Periyapatna Hospital, thereafter to KR Hospital, Mysuru. As per the allegation made in the complaint, the accident occurred due to negligence of Puttegowda-respondent No.1.

10. Upon receiving the complaint, the police have registered FIR against respondent No.1. After registering FIR, the police have visited the place of the accident and drawn spot mahazar as well as spot sketch wherein it is mentioned that the accident was occurred on the left side of the road which runs towards Thirumalapura. As per the wound certificate issued by the General Hospital, Periyapatna the

petitioner took treatment immediately after the accident and the injuries caused to the petitioner is also noted in the wound certificate.

11. The police during the course of investigation have issued notice to the respondent No.1 under Section 133 of IMV Act to furnish original documents in respect of the motorbike involved in this case and particulars of the rider of the motor bike at the time accident. After receipt of notice the respondent No.1 issued reply stating that he himself has ridden the bike bearing KA-45-EC/0891 at the time of the accident occurred on 23.12.2021 and he has insured the said motorcycle with the respondent No.3 and he has also furnished the particulars about his LMV driving license, fitness certificate and insurance policy.

12. The jurisdictional police, after completion of investigation have submitted charge sheet against the respondent No.1-Puttegowda, for the offences punishable under Section 279 and 338 of IPC r/w

Section 181 of IMV Act. The allegation made in the charge sheet is in the line of complaint lodged to the police. In addition to that in the charge sheet it is also mentioned that the respondent No.1 rode the bike without driving license. As per the sketch prepared by the police the accident was occurred on the left side of the road which leads to Thirumalapura. As per the IMV report front portion of the vehicle sustained damage.

13. Rw.1 in his evidence has stated that petitioner did not possess the driving license. The driving license of the petitioner is immaterial since the accident was occurred due to rash driving of the vehicle belonged to the respondent No.1. Rw-1 has also deposed that as per MLC the petitioner was traveling in the scooter but according to the petitioner he was going by walk. There is no evidence that the petitioner was going in bike. Hence, the contention of respondent is not acceptable under law.

14. The documentary as well as the oral evidence of

petitioner have gone unchallenged. The standard of proof in the claim petition like the present one is preponderance of probabilities. Therefore, it is clear that the petitioner sustained injuries due to the negligent riding of the vehicle by the respondent No.1 who is also the owner of the said vehicle. Therefore I answer issue No.1 in the ***Affirmative.***

15. Issue No.2: Since the petitioner proved issue No.1, he is entitled for compensation. According to the petitioner he was doing coolie and agricultural work work and earning Rs.25,000/- pm. But he has not produced any authenticated document to prove his source of income .

16. According the petitioner he sustained grievous injuries. As per wound certificate marked at Ex.P5 the petitioner sustained three simple injuries and one grievous injury. The petitioner to prove the nature of injuries sustained him has examined Dr.Akash, Consultant Orthopedic Surgeon, Bhanavi Hospital,

Mysuru as Pw.2. Pw.2 in his chief-examination has mentioned about the nature of injuries sustained by the petitioner and assessed the disability of the petitioner for right lower limb at 37%. If 1/3rd of the same is taken into consideration the whole body disability comes to 13% and the same is considered as loss of earning capacity/ future loss of income.

17. It is contended that the petitioner was aged 50 years at the time of accident. To prove his age, the petitioner has produced copy of his aadhar card wherein the birth year of the petitioner is shown as 1971 and the accident was occurred on 23.12.2021. Therefore the age of the petitioner is 50 years as on the date of accident and the same is taken into consideration. Appropriate multiplier is 13 and notional income is Rs.15,000/-. Petitioner is entitled for **Rs.3,04,200/-** (15,000x12x13x13%) towards loss of future income due to disability.

18. As per the discharge summary the petitioner was

admitted as an inpatient and taken treatment for 5 days at Bhanavi Hospital, Mysuru. After discharge the petitioner was in need of rest at least for 15 days. Hence petitioner is entitled for compensation of Rs. 30,000/- for loss of income during laid up period with one attendant charge at the same rate. The petitioner has also produced final inpatient bills, marked at Ex.P8 totally amounting to Rs.1,24,166/- for which he is entitled to. Pw.2 in his evidence has stated that the patient has implants in situ. Implant removal will be required for the same and the approximate cost of implant removal will be Rs.60,000/- (inclusive of medications and investigations). Therefore the petitioner is entitled for future medical expenses to the tune of Rs.30,000/-. Taking into consideration the nature of injuries, duration of treatment, medical expenses, pain and sufferings, loss of amenities it is just and necessary to award the compensation to the petitioner as follows:

a. Medical Expenses:	Rs.1,24,166/-
b. Loss of income during laid up period with one attendant charge :	Rs. 30,000/-
c. Pain, suffering and loss of amenities:	Rs.1,50,000/-
d. Future Loss of Income due to disability	Rs.3,04,200/-
e. Future Medical Expenses	Rs.30,000/-
g. Traveling & Miscellaneous Charges	<u>Rs. 10,000/-</u>
Total	<u>Rs. 6,48,366/-</u>

19. Liability: Admittedly the respondent No.3 has issued insurance policy to the offending vehicle. Rw.1 has contended that the rider of the insured motor vehicle did not possess the valid DL at the time of the alleged accident. In the charge sheet it is not stated that the respondent No.1 had no DL at the time of the accident but the respondent No.1 in the reply issued to the police notice has mentioned the particulars of his

DL for LMV. In spite of it the police in the charge sheet did not mention whether the particulars of DL mentioned in the reply notice is correct or not.

Section 3 in The Motor Vehicles Act, says as follows;

Necessity for driving licence.- (1) No person shall drive a motor vehicle in any public place unless he holds an effective driving licence issued to him authorizing him to drive the vehicle; and no person shall so drive a transport vehicle [other than a motorcab or motorcycle] hired for his own use or rented under any scheme made under sub-section (2) of section 75 unless his driving license specifically entitles him so to do”.

As per the above provision the driving license issued for LMV can't be consider as effective driving license for two wheeler. Therefore, the rider of the offending vehicle has violated the terms and conditions of insurance policy. Hence the respondent No.2 shall pay the compensation to the petitioner. Thereafter the

respondent No.2 is liberty recover the same from the respondent No.1. Where as the respondent No.3 issued insurance policy to the offending vehicle and the policy was in force at the time of the accident. Therefore, the respondent No.3 is liable to indemnify the respondent No.1. Accordingly issue No.2 is answered ***partly in the affirmative.***

20. Issue No.3: By virtue of the above findings, Tribunal proceeds to pass the following:

ORDER

Petition is allowed in part with costs.

Petitioner is entitled for compensation of **Rs.6,48,366/-** (*Rupees Six Lakhs Fourty Eight Thousand Three Hundred and Sixty Six only*) along with interest @ **6%** per annum from the date of petition till its realization.

Respondent No.3 shall pay compensation amount to the petitioner within **60** days from the date of judgment. Thereafter respondent No.3 is at liberty to recover the same from respondent No.1

Considering the quantum of award amount it is ordered to release the entire award amount after its deposit in favour of the petitioner on proper identification.

Advocate's fee is fixed at Rs.1000/-.

Draw up the award accordingly.

(Dictated to the Stenographer, transcribed by her corrected by me and then pronounced in the Open Court, this the 21st day of April 2026).

sd/-
(Raju.M.)
Sr. Civil Judge & MACT
Periyapatna.

ANNEXURES

LIST OF WITNESSES EXAMINED ON BEHALF OF PETITIONER:-

- Pw.1 : Sri.Nagashetty
Pw.2 : Dr.Aakash

LIST OF DOCUMENTS MARKED ON BEHALF OF PETITIONER:-

- Ex.P1 : C/c of Charge Sheet
Ex.P2 : C/c of FIR
Ex.P3 : C/c of Complaint
Ex.P4 : C/c of Spot Mahazar
Ex.P5 : C/c of wound certificate
Ex.P6 : Notice under Section 133 of MV Act
Ex.P7 : C/c of Indemnity Bond
Ex.P8 : Medical Bills
Ex.P9 : RTC
Ex.C1 : Medical Records

Ex.C2 : Notice

LIST OF WITNESSES EXAMINED ON BEHALF OF RESPONDENTS:-

Rw.1 : Smt.Madhumathi Hegde

LIST OF DOCUMENTS MARKED ON BEHALF OF RESPONDENTS:-

Ex.R1 : Copy of Insurance Policy

sd/-

***Senior Civil Judge & Member,
MACT, Periyapatna.***