

KAMS700011292018



**IN THE COURT OF SENIOR CIVIL JUDGE AND MACT
AT T. NARASIPURA**

PRESENT

SMT. PARVEEN A BANKAPUR

B.Com., L.L.B., (Spl)

SENIOR CIVIL JUDGE, T. NARASIPURA.

M.V.C. No.1211/2018.

DATED THIS 08th DAY OF JULY, 2026.

PETITIONER

: Sri. Ravi @ Ravikumar
S/o Late Shivaswamy,
Age: 40 years,
R/at: Kottegala village,
Muguru hobali,
T. Narasipura taluk,
Mysuru District.

(By Sri. S.C.S., Advocate)

Vs.

RESPONDENTS

: 1. Sri. K.S. Manjunath
S/o Late Shivaswamy,
Age: 48 years,
R/at: Kottegala village,
Muguru Hobali,
T. Narasipura taluk,
Mysuru District.
(Owner of Motor cycle bearing
Reg. No.KA-55-J-5824)

2. The Divisional Manager,
IFFCO TOKIYO General Insurance
Company Ltd.,
No.35, 1st Stage,
Near Akshay Bhandar,
New Kanthraja Urs Road,
Kuvempunagara, Mysuru.

(Policy No.1-4B3MVA6P40096134577)
From 25.01.2026 to 24.01.2017)

(R-1by Sri. J.B.R. Advocate)
(R-2 By Sri. G.K.R., Advocate)

JUDGMENT

This petition is filed by the petitioner U/s 166 of Motor Vehicles Act claiming compensation of Rs.11,90,000/- for the injuries sustained by him in a road traffic accident.

2. Brief averments of the petition are as under:

It is alleged that, on 09.12.2016 at about 10.30 p.m., the Petitioner was traveling as pillion rider on his brother's motor cycle bearing No.KA-55-J-5824 to go to his village, when his brother proceed the motor cycle in left side of the road at that time dog came to infront of motor cycle, to avoid the accident he drove the same in a rash and negligent manner so as to endanger human life and loss the control of motor cycle. Due to the impact, the petitioner fell down and caused sustained

grievous injuries. Immediately he was taken to T. Narasipura Government hospital for first aid treatment and then he shifted to J.S.S hospital, Mysuru wherein he admitted as an inpatient. It is further submitted that, T. Narasipura Police station have registered the case against the rider of the said motor cycle in Crime No.341/2016 for the offence punishable u/s 279, 337 of IPC. The respondent No.1 being owner and respondent No.2 being insurer are liable to pay compensation with interest.

3. After service of notice, the respondent No.1 and 2 appeared through their respective counsels and filed their separate written-statement.

The respondent No.1 in its written statement contended that, this respondent admitted he is the rider cum owner in respect of motor cycle bearing Reg.No.KA-55-J-5824. The accident has occurred due to rash and negligent riding of the motor cycle bearing Reg.No.KA-55-J-5824 by the its rider is false. The 2nd respondent is insurer of the said vehicle. The said motor cycle had validly insured with 2nd respondent at the time of accident. The 2nd respondent is only liable to pay compensation to the petitioner. The claiming of compensation is highly excessive. Hence, prayed for dismissal of the petition.

The respondent No.2 has admitted the fact that the offending motor cycle was insured with him at the time of accident. But, he has denied other contents of petition. He has specifically contented that the accident was caused due to the rash and negligent riding of the motor cycle by the petitioner. The rider of the motor cycle bearing No.KA-55-J-5824 was not having valid and effective driving license to ride the motor cycle involved in accident. After lapse of 16 days of the incident he lodged the complaint. The liability of the respondent No.2 is subject to the terms and condition of insurance policy. The respondent denies the injuries sustained by the petitioner and the claim of the petitioner is exorbitant. Hence, on all these grounds, this respondent No.2 has prayed for dismissal of the claim petition.

4. On the basis of above pleadings, the following issues arise for my consideration.

ISSUES

- 1.** Whether the petitioner proves that, he sustained injuries in a road traffic accident by rash and negligent driving of driver of the Splendor Plus Bike bearing registration No.KA-55-J-5824 on 09.12.2016 at 10.30 p.m. in front of Thirumakudalu Bridge cloister of left side road, T. Narasipura town?

2. Whether the respondents No.1 & 2 prove that they are discharged from the liability from payment of compensation from the grounds mentioned in the objection statement?

3. Whether the petitioner is entitled to the compensation as claimed? If so, from whom and what rate?

4. What Order or Award?

5. During the evidence, the petitioner has examined himself as PW.1 and got marked documents at Ex.P.1 to Ex.P.12. Dr. Karunakar is examined as PW.2. On the other hand, the Assistant Manager of respondent No.2 is examined as R.W.1 and got marked 5 documents Exs.R.1 to 5.

6. Heard the arguments of petitioner and respondents. Perused the materials on records.

7. My findings on the above issues are as under:-

Issue No.1 : In the affirmative.

Issue No.2 : In the Negative.

Issue No.3 : Partly in the affirmative

Issue No.4 : As per final order :
for the following:

REASONS

8. ISSUE NO.1: Since the claim petition is filed U/s.166 of M.V. Act, it is for the petitioner to prove the said accident was caused due to actionable negligence on the part of the rider of motor cycle bearing Reg. No.KA-55-J-5824. In order to prove his case, the petitioner entered into witness box as PW1 by filing his affidavit as examination-in-chief, in which he reiterated the averments made in the claim petition.

9. Further the petitioner produced in all 12 documents out of which, Exs.P1 and 2 are the FIR along with complaint filed in T. Narasipura police station in Cr.No.341/2016 for the offenses punishable U/Sec.279 and 337 of IPC against the rider of motor cycle bearing Reg. No.KA-55-J-5824. Exs.P-3 to 4 are the spot panchanama, Ex.P.5 is IMV report, Ex.P.6 is spot sketch map, Ex.P.7 is the wound certificate, Ex.P.8 is the charge sheet, Ex.P.9 is certified copy of order sheet in CC No.390/2017, Ex.P.10 is medical bills, Ex.P.11 discharge summary and Ex.P.12 is the 6 X-rays.

10. On the other hand, Dr. Govinda Shetty is examined as R.W.1 and got marked a document as Ex.R.1 and Ananad N. who is I.O. is examined as R.W.2 and Assistant manager of respondent No.2 is examined as R.W.3 and got marked 4 documents as Exs.R.2 to 5.

11. From Exs.P.1 to 12 it is clear that, on 09.12.2016, the said accident crime was registered against the rider of motor cycle bearing Reg.No.KA-55-J-5824. After detailed investigation I.O. has filed charge sheet against the rider of the motor cycle bearing Reg.No.KA-55-J-5824. No doubt, that the learned counsel for the respondent No.2 though cross-examined PW-1, but in my opinion, nothing has been elicited in order to disbelieve his oral and documentary evidence. Respondent No.2 though appeared and filed written statement denying the negligence on the part of rider of offending motor cycle, but failed to adduce any evidence in support of the said defence. Non-examination of the rider of offending vehicle would lead to draw an adverse inference. Under these facts and circumstances, I do not find any reasons to disbelieve the evidence adduced by the petitioner in order to establish the rash and negligent riding on the part of the rider of motor cycle bearing No.KA-55-J-5824.

12. Besides, as has been stated above, the jurisdictional police have investigated the accident in question and filed the 'A' charge sheet at Ex.P-8 wherein the police have made specific allegation that the accident in question had taken place because of the actionable negligence of rider of motor cycle bearing

Reg.No. KA-55-J-5824 the offending motor cycle. Besides, the respondents have not produced anything to show that they have challenged the correctness of the 'A' charge sheet filed by the jurisdictional police, hence, it is sufficient to conclude that the materials available on record are sufficient to conclude that the accident in question had taken place because of the actionable negligence of the driver of the offending motor cycle.

13. Besides, it is well settled that in motor vehicle accident compensation cases the strict proof of negligence is not required. This view of this court receives support from the law declared by the **Hon'ble Apex Court in the decision reported in 2009 (13)-SCC-page-530 in the case of Bimla Devi and others Vs Himachalpradesh Road Transport Corporation and another and another decision reported in AIR 2011-SC-1504 in the case of Parameshwari Vs Amir Chand and others.** Thus, even this ratio laid down by the Hon'ble Apex Court is also sufficient to conclude that this court is not supported to look for strict proof of negligence on the part of the rider of motor cycle bearing Reg.No. KA-55-J-5824.

14. The next question would be, whether the petitioner was sustained grievous injuries in the accident. It is relevant to note that the petitioner has produced Ex.P.7 wound certificate and Ex.P.12 and 13 are medical documents and X-rays. Therefore, after considering all the police documents and evidence of P.W.1, in my opinion, the petitioner has proved that the said accident was only because of actionable negligence on the part of the rider of offending motor cycle by the respondent No.1, he was sustained grievous injuries. With these observations, I have answered **issue no.1 in the Affirmative.**

15. ISSUES NO.2 AND 3:- The petitioner has sustained injuries in the said accident. He has relied upon Ex.P.7 wound certificate issued by Nagarajegowda Memorial Hospital, Mysuru wherein it reveals that, the petitioner sustained injuries 1. Contusion and swelling of right thigh with restricted movement 2. Laserted wound on the upper hip reddish parm color 3. Contusion around the right eye. Further he opined that injuries are grievous in nature.

16. Respondent No.2 has examined Dr. Govinda Shetty as R.W.1 who deposed that Ex.R.1 is MLC register copy, on 09.12.2016 at out 12.20 P.M. petitioner came for the treatment for the injuries

sustained in the accident and along with him one Mahesha was came to the hospital. He further deposed that they given information that the accident was occurred at Thirumakudalu circle and he fell down form the motor cycle bearing No.KA-55-J-5824. He further deposed that the injured person himself given information and as per his information MLC was registered. He further deposed that thereafter on the say of said Mahesha the correction was made In the MLC.

17. The respondent has examined one more witness as R.W.2 who is investigation officer of the accident case. He deposed that he collect the Motor Vehicle Accident report and wound certificate.

18. Ex.R.1 is copy of MLC register extract given by the Government hospital T. Narsipura. On perusal of said MLC register extract it is mentioned that "H/o self fall near Trimalakudalu circle pt., is riding two wheeler Honda Splendor KA-55-J-5824". In the said document KA-55-J-674 was strike out and KA-55-J-5824 was written. On the MLC said Mahesha was signed. It is pertinent to note that, in M.V.C cases the injured person was in shock and unable to speak what happened with him. Further the person who brought the injured person

may be eye witness or not. Hence, the MLC register extract was registered by the hospital authority only on hear say. Hence, with support of MLC the police papers also considered in the MVC cases. It is pertinent to note that as already finding on issue No.1, the offending motor cycle bearing No.KA-55-J-5824 was caused the accident and petitioner is pillion rider of the said vehicle and suddenly to avoid the dog the rider of the motor cycle was ride motor cycle in high speed and fell down along with the pillion rider and pillion rider sustained injuries.

19. Further Ex.P.9 is the order sheet in C.C. No.390/2017 wherein the respondent No.1 pleaded guilty for the offenses punishable under Section 279 and 338 of IPC and convicted for the said offenses. On perusal of order sheet and plea recorded by the learned Magistrate it clearly shows that respondent No.1 pleaded guilty and convicted for the said offenses. In the plea he admits that due to his rash and negligent manner of riding of motor cycle petitioner was sustained grievous injuries in the accident. Hence, the accident occurred only to actionable negligence on the part of the rider of the offending vehicle. Hence, the contention taken by the respondent No.2 i.e., self fall by the petitioner by riding the motor cycle was not sustainable.

20. It is the case of the petitioner that, after the accident he was shifted to Government Hospital, T. Narasipura, and thereafter he was shifted to J.S.S Hospital and Nagarejegowda Memorial hospital, Mysuru wherein he was treated as an inpatient. As per medical rerecords he was admitted in Nagarajegowda Memorial Hospital, Mysuru on 10.12.2016 to 25..12.2016.

21. As per the wound certificate the petitioner sustained grievous injuries. As per the radiology report the petitioner has sustained fracture of lateral wall of left orbit. "Segmental fracture of the postero lateral wall of left Maxillary sinus with hemosinus is seen".

22. The doctor has opinion that the above injuries are grievous in nature. In the findings recorded on issue No.1, the petitioner has suffered injuries because of the actionable negligence on the part of the rider of the offending motor cycle. Hence, the petitioner is entitled for the compensation.

23. After the accident the petitioner was treated as inpatient for 16 days in Nagarajegowda Memorial Hospital, Mysuru. However, he has examined Dr. L.N. Karunakar orthopedic surgeon as P.W.2 to prove his disabilities. By taking into considerations for the duration of the treatment as inpatient, I am of the

considered opinion, the petitioner has suffered injuries due to the accident. Hence, the petitioner is entitled for compensation of **Rs.25,000/- towards pain and sufferings.**

24. Towards attendant charges, nutritious food and transportation charges:- The petitioner has taking treatment as inpatient. So, taking into consideration the same the petitioner might have spent amount for nourishment, conveyance and attendant charges apart from incurring medical expenses and taking treatment at hospital. There is no document regarding the amount spent for nourishment, conveyance and attendant charges days, as such, he is entitled for a sum of **Rs.10,000/- under this head.**

25. It is stated in petition as well as in the evidence of P.W1 that he has spent more than Rs.2,80,000/- towards medical treatment and towards conveyance and nourishment etc., In order to substantiate the same, the petitioner has produced Ex.P.10 final medical bill of Nagarajegowda Memorial Hospital, Mysuru and Ex.P.11 prescriptions along with medical bills. Therefore, taking into consideration of the nature of the injuries sustained by the petitioner, this tribunal is of opinion that the petitioner must have incurred expenses towards medicines and treatment.

Hence, I am of the considered opinion that the petitioner is entitled for compensation of Rs.1,65,354/-. Which can be rounded of **Rs.1,65,400/- towards medical expenses.**

26. In the case of petitioner is that, at the time of accident he was hale and healthy and was working as agriculturist and owner of mobile phone shop and earning Rs.25,000/- per month. In this regard he has not produced any document to prove his avocation and income. Even though he has not produced any document to show that he was owner of the mobile phone shop. In the absence of material evidence and taking into consideration of the age of the petitioner date of accident and his avocation of the present day condition, if the monthly income of the petitioner is inferred at Rs.9,500/- per month that would meet the ends of justice. The nature of injuries required follow up treatment. Taking all these fact into consideration, I am of the considered opinion that the petitioner could not attend to his avocation I.e, during the period of treatment and rest. Hence, the compensation of **Rs.10,000/- is awarded for loss of income during the period of treatment.**

27. It is the evidence of P.W.1 that, due the injuries sustained in the accident, he is suffering from permanent disabilities due to injuries. The petitioner has examined by Dr. L.N. Karnukara orthopedics surgeon as P.W.2 and he has studied clinical notes and x-rays at Ex.P.13 to 15. He deposed that the disabilities assessment of the petitioner has been evaluated as per the specified guideline of the disability. Further, he deposes that disability has been assessed the patient has physical disability of left lower limb at 35% and left upper limb at 23%.

28. P.W.2 has not assessed the whole body of the disabilities of the petitioner. On perusal of Ex.P.13 to 15 and the evidence of P.Ws.1 and 2, I am of the view that permanent disability of 35% of left lower limb 23% of left upper limb assessed by him is on higher side. So, by searching the medical documents and oral evidence of P.W.1 if the disability taken at 15% to the whole body it would be both justifiable and appropriate.

29. As per the medical records the age of the petitioner is 35 years. Therefore, the proper multiplier applicable to age of petitioner is 16. Thus, the petitioner is entitled for compensation of $\text{Rs.}9,500 \times 12 \times 16 \times 15/100 = 2,73,600/-$ **towards loss of future earnings.**

30. The petitioner has stated that, due to the accidental injuries he has suffered permanent disablement and could not attend the work and not able to lead normal life due to permanent physical disability. Any how considering over all evidence, I am of the view that the petitioner has suffered loss of amenities in his life. Hence, petitioner is entitled for compensation of **Rs.25,000/- towards loss and amenities.**

31. Petitioner stated in his evidence that, he has to incurred future medical expenses also. However, P.W.2 in his evidence has not stated about any requirement of future treatment. Hence, the petitioner is not entitled of future medical expenses.

Thus, I am of the considered opinion that, the petitioner is entitled for the compensation under the following heads:

Pain and suffering.	:	Rs.25,000/-
Food and Nourishment, conveyance and attendant charges.	:	Rs.10,000/-
Medical expenses	:	Rs.1,64,500/-
Loss of income during the period of treatment.	:	Rs.10,000/-
Loss of Future earnings.	:	Rs.2,73,600/-
Loss of amenities	:	Rs.25,000/-
Future medical expenses	:	-----
Total		Rs.5,08,100/-

Hence, the petitioner is entitled for total compensation of Rs.**5,08,100/-**

32. Liability:- In this case, admittedly the respondent No.1 is the owner of motor cycle bearing No.KA-55-J-5824. It is already disused above the respondent No. 2 has insured the offending motor cycle and admitted about issuance of insurance policy in respect of offending motor cycle in favour of respondent No.1. The respondent No.2 has taken up several contentions but he has not proved any defence taking by him with cogent and documentary evidence. Hence, the respondents No.1 and 2 are jointly and severally liable to pay compensation to the petitioner. Hence, respondent No.2 to indemnify the respondent No.1 and compensate the petitioner.

33. By considering the present days F.D. rate of interest in the nationalized bank it is just and necessary to direct the respondent No.2 to pay the compensation amount with interest at the rate of 7% p.a., from the date of petition till the date of payment. Accordingly, I answered **Issue No.2** in **negative** and **Issue No.3** **Partly in the Affirmative.**

34. ISSUE NO.4:- In view of above discussion and findings, I proceed to pass the following:

ORDER

The petition filed by the petitioner U/Sec.166 of Motor Vehicles Act is hereby partly allowed with costs.

The petitioner is entitled for a compensation of **Rs.5,08,100/-** with interest @ 7% per annum from the date of petition till its realization.

The respondents No.1 and 2 are jointly and severally liable to pay compensation to the petitioner with interest. The respondent No.2 being insurer is liable to deposit the amount before Tribunal within two months from the date of this order.

After deposit, 40% shall be deposited in the name of petitioner in any nationalized bank or scheduled bank for the period of 3 years and remaining balance of 60% with accrued interest shall be

released in favour petitioner
through RTGS/NEFT by way of
E-payment to the petitioner.

Advocate fee is fixed
Rs.2,000/-.

Draw award accordingly.

(Dictated to the stenographer directly on the computer, typed by him, corrected
and then pronounced by me in the open court on this 08th day of July, 2026)

(PARVEEN A BANKAPUR)

Senior Civil Judge and
M.A.C.T, T. Narasipura.

ANNEXURE

1. WITNESSES EXAMINED FOR THE PETITIONER:-

P.W.1 : Ravi @ Ravi Kumar.
P.W.2 : Dr. Karunakar.

2. DOCUMENTS MARKED FOR THE PETITIONER:-

Ex.P.1 : Certified copy of F.I.R.
Ex.P.2 : Certified copy of F.I.S.
Exs.P.3 & 4: Certified copies of spot mahazar.
Ex.P.5 : Certified copy of M.V.A report.
Ex.P.6 : Certified copy of spot sketch.
Ex.P.7 : Certified copy of wound certificate.
Ex.P.8 : Certified copy of charge sheet.
Ex.P.9 : Certified copy of order sheet in
C.C. No.390/2017.

- Ex.10 : Medical bills.
Ex.P.11 : Discharge summary.
Ex.P.12 : X-rays.

3. WITNESS EXAMINED FOR THE RESPONDENT NO.2:-

- R.W.1 : Dr. Govinda Shetty.
R.W.2 : Ananad N.
R.W.3 : Kiran K.N.

4. DOCUMENT MARKED FOR THE RESPONDENT NO.2:-

- Ex.R.1 : Copy of MLC extract.
Ex.R.2 : Authorization letter.
Ex.R.3 : Insurance.
Ex.R.4 : F.I.R.
Ex.R.5 : Charge sheet. 2

(PARVEEN A BANKAPUR)

Senior Civil Judge and
M.A.C.T, T. Narasipura.

(Separate Judgment is passed and pronounced in the open court)

ORDER

The petition filed by the petitioner U/Sec.166 of Motor Vehicles Act is hereby partly allowed with costs.

The petitioner is entitled for a compensation of **Rs.5,08,100/-** with interest @ 7% per annum from the date of petition till its realization.

The respondents No.1 and 2 are jointly and severally liable to pay compensation to the petitioner with interest. The respondent No.2 being insurer is liable to deposit the amount before Tribunal within two months from the date of this order.

After deposit, 40% shall be deposited in the name of petitioner in any nationalized bank or scheduled bank for the period of 3 years and remaining balance of 60% with accrued interest shall be released in favour petitioner through RTGS/NEFT by way of E-payment to the petitioner.

Advocate fee is fixed Rs.2,000/-.

Draw award accordingly.

Senior Civil Judge and
M.A.C.T, T. Narasipura.

