

KABC020187032024



**BEFORE THE COURT OF VIII ADDITIONAL JUDGE,
COURT OF SMALL CAUSES AND ACJM AND THE
MOTOR ACCIDENT CLAIMS TRIBUNAL (SCCH-5) AT
BENGALURU**

DATED THIS THE 22ND DAY OF JULY 2026

PRESENT: SMT. SHARMILA KAMATH K.
B.A. LLM.,
VIII ADDL. JUDGE, COURT OF
SMALL CAUSES AND ACJM,
BENGALURU.

M.V.C No.2936/2024

PETITIONER : **Sri. Muniraju**
S/o. Doddamuniyappa
Aged about 54 years
R/o. Chennigarayapura Village,
Kasaba Hobli,
Yeshwanthapura Post,
Malur Taluk,
Kolar District.
(By Sri.T.V.Ramesh, Adv.,)

V/s

RESPONDENTS : **1. Sri. Lourdn Unathan F.**
S/o. Francis
Major

R/o. No.297, JMJ College,
5th Cross, Vijnapura,
Bengaluru – 560 016.

(Exparte)

**2. The United India Insurance
Company Ltd.,**

Regional Office
No.18, Kirshi Bhavan,
5th Floor, Opp. Hudson Circle,
Nurpathunga Road,
Bengaluru – 560 001.

(By Sri.B.T.Rudra Murthy, Adv.,)

::JUDGMENT::

This petition is filed by the Petitioner against Respondent No.1 and 2 under Sec.166 of M.V.Act 1989 for the relief of compensation of Rs.25,00,000/- with interest.

2. The petition averments briefly stated as under;

That on 21.02.2024 at about 4.15 p.m. petitioner was proceeding in a motor cycle bearing Reg. No.KA-08-L-1484 along with his wife as a pillion rider from

Chennigarayapura towards Doddaharalagere and at Shivanapura Gate, Hosakote Taluk, Bengaluru Rural District, driver of car bearing Reg. No.KA-01-B-1221 came from Nandigudi in a high speed, rash and negligent manner and dashed to the petitioner's motor cycle, as a result of which he sustained grievous injuries and his wife succumbed to the injuries on spot. Immediately after the accident, petitioner was taken to MVJ Hospital, Hosakote, thereafter he was referred to Hosmat Hospital, wherein he took treatment as inpatient and he has spent a sum of Rs.9,00,000/- towards treatment, medicines, conveyance etc.,

3. At the time of the accident, petitioner was aged about 54 years, hale and healthy, working as agriculturist, thereby earning Rs.20,000/- p.m. Due to the accident, he cannot do agriculture work due to

disability and impediment. With regard to accident case is registered in crime No.35/2014 against the driver of the offending vehicle before the Nandagudi P.S. for the offences punishable under Sec.279, 304(A) of IPC. Respondent No.1 being the owner of the offending vehicle and respondent No.2 being the insurer, they are jointly and severally liable to pay compensation. Hence prays to allow the petition and grant compensation.

4. On service of notice, respondent No.1/owner has not appeared before court hence placed ex parte. Respondent No.2/insurer has appeared and filed written statement and denied averments of the petition. Further submitted that, respondent No.2 is the insurer of Taxi Car bearing Reg. No.KA-01-B-1221 and liability of this respondent is subject to terms and conditions of the policy. Further submitted that, claim petition is barred

by limitation as the case is filed after lapse of 10 years. Respondent No.2 submitted that, there is no compliance of Sec.134(c) of M.V.Act. Further contended that, petitioner was riding the motor cycle without DL as on the date of accident and without having insurance policy to his motor cycle. Further denied age, occupation and income of the petitioner, injuries sustained and treatment taken by him. Accordingly prays to dismiss the petition.

5. Based on the pleadings of the parties this court has framed the following:

::ISSUES::

1. Whether Petitioner proves that, he sustained grievous injuries in the road traffic accident occurred on 21.02.2014 at about 4.15 p.m. near Shivanapura Gate, Hosakote Taluk, Bengaluru Rural District due to rash and negligent riding of driver of the Car bearing Reg. No.KA-01-B-1221?

2. Whether the Petitioner is entitled for compensation? If so how much and from whom?

3. What order or award?

6. In order to prove the case, Petitioner himself examined as PW-1, examined Dr.Krishan Prasad, Consultant Orthopaedic Surgeon at Hosmat Hospital is examined as PW-2 and marked 12 documents as per Ex.P.1 to Ex.P.12. On the other hand, Administrative Officer of respondent No.2 is examined as RW-1 and marked 2 documents as per Ex.R.1 and Ex.R.2.

7. Heard the arguments and perused the evidence available on record and my findings on the above issues are as follows:

Issue No.1 : In the Affirmative

Issue No.2 : Partly in the Affirmative

Issue No.3 : As per final order for the following:

::REASONS::

8. **Issue No.1:-** In order to prove the case, petitioner examined himself as PW-1, in his chief-examination petitioner has reiterated the facts narrated in his petition. Hence in order to avoid repetition of facts averments made in the evidence affidavit are not reiterated. In order to prove road traffic accident PW-1 produced and marked copy of FIR as Ex.P.1, copy of complaint as Ex.P.2, copy of panchanama as Ex.P.3, copy of IMV Report as Ex.P.4 and copy of charge sheet as Ex.P.6.

9. Further to substantiate the petitioner's case, petitioner has examined Doctor as PW-2. On perusal of evidence of PW-1, PW-2 and documents those have marked as Ex.P.1 to Ex.P.6 corroborates the case of the petitioner about occurrence of the road traffic accident

dated 21.02.20214 as alleged in the petition. During the cross examination of P.W.1 he denied that the accident occurred due to his negligence.

10. Per contra, the Administrative Officer of respondent No.2 is examined as RW-1 and marked authorization letter as Ex.R.1 and copy of policy as Ex.R.2 copy of policy. R.W.1 stated that respondent No.1 violated the terms and conditions of policy as the respondent No.1 not obtained permit to ply the vehicle. Further R.W.2 stated that the two wheeler of petitioner was not insured hence the police have filed the chargesheet against the rider of motor cycle for the offence punishable under 146 and 196 of IMV Act. During the cross examination of R.W.1 he admitted that regarding death of wife of petitioner in the same accident the petitioner filed M.V.C No.6212/2016 and Hon'ble

High Court of Karnataka confirmed the Judgement of this Tribunal attributed contributory negligence on the part of petitioner at the rate of 25% and against the respondent No1 at the rate of 75% and further ordered to pay and recover the award amount from the owner of offending vehicle. As regard the negligence aspect as this petition and M.V.C.No.6212/2016 arise out of same accident at this juncture this tribunal cannot opine the divergent view. Regarding negligence aspect the percentile of contributory negligence confirmed by Ho'ble High Court of Karnataka. Thus this Tribunal held that the there is contributory negligence of 25% on the part of petitioner. the petitioner sustained the injuries due to the accident occurred on 21.02.2014 at about 4.15 p.m. when he was riding a motor cycle bearing Reg. No.KA-08-L-1484 at Shivanapura Gate, Hosakote Taluk, Bengaluru

Rural District. Under such circumstances, considering the evidence available on record and opinion of Hon'ble High Court of Karnataka in MFA.No1522/2023 this tribunal comes to the conclusion that, petitioner has partly proved the issue No.1. Accordingly **Issue No.1 is answered partly in the affirmative.**

11. **Issue No.2:-** As per the evidence of the petitioner, he had sustained central fracture dislocation right hip with posterior column acetabulum, fracture right ankle malleolus, right peroneal nerve injury (right foot drop), for which he took treatment of closed reduction with skeletal traction. In this regard he has furnished copy of wound certificate marked as Ex.P.5, discharge summary marked as Ex.P.7 issued by Hosmat Hospital, wherein he took treatment as indoor patient from 21.02.2014 to 01.03.2014, 01.03.2014 to

29.03.2014 and from 06.08.2015 to 10.08.2015. Further he has exhibited lab reports as Ex.P.8, medial bills of Rs.1,47,420/- as Ex.P.9, medical bills of Rs.18,448/- as Ex.P.10.

12. Further Dr.Krishan Prasad, Orthopaedic Surgeon at Hosmat Hospital is examined as PW-2. To substantiate his evidence, he has exhibited IP bills as Ex.P.11, X-ray with reports as Ex.P.12 and OP record as Ex.P.13 and he has assessed lower limb disability at 64% and whole body disability at 22%. In cross-examination he has categorically admitted that, he has not treated the petitioner. Further deposed that, petitioner not taken any further treatment and petitioner's right ankle is internally rotated. Further volunteers that, there are no other followup records to say about right ankle rotation of petitioner in the year 2015. Further deposed that, the

disability assessed by him includes right ankle fusion is malunited in internal rotation, which causes major disability to the petitioner. Further deposed that, petitioner with great difficulty can supervise the agricultural activities and if corrective osteotomy right ankle is done, the petitioner's right ankle rotation will be rectified, but he cannot move his ankle as the same is fused. Under such circumstances, considering the avocation and nature of the injuries sustained by the petitioner the functional disability of the petitioner is considered at the rate of 10%, for the purpose of calculation of loss of future income.

13. As per the case of the petitioner, he was aged about 54 years, for proof of his age, he has not produced any age proof documents. But on perusal of copy of wound certificate marked as Ex.P.5 and discharge

summaries as Ex.P.7 age of the petitioner is mentioned as 45 years on 28.05.2014, accordingly relying on Ex.P.5 and 7 age of the petitioner is considered about 45 years as on the date of accident, hence multiplier 14 is applicable as per decision reported in 2009 ACJ 1298 in between Sarla Varma and Others V/s. Delhi Transport Corporation and others.

14. As per his case, he was working as agriculturist, thereby earning Rs.20,000/- p.m. To prove the said fact, there are no documents on record. Under such circumstances, with reference to the year of accident, relying upon the guidelines issued by Hon'ble Karnataka State Legal Services Authority Bengaluru, notional income of the petitioner is taken at the rate of Rs.8,500/- p.m. the said fact is taken into consideration for the purpose of calculation of loss income during laid

up period and also for the purpose of calculation of loss of future income.

Therefore, the loss of future income works out as under;

$$8,500/- \times 12 \times 14 \times 10 \% = \text{Rs.}1,42,800/-$$

15. It is admitted fact that, as per the discharge summary marked as Ex.P.7, petitioner took treatment as inpatient for 40 days. As per the evidence of PW-2 he examined petitioner on 11.02.2026 i.e., after 12 years of the accident and on examination date as per version of PW-2 and by considering the gravity of injury sustained by petitioner it may take at least three months to heal the wound. For the said period he is entitled for the loss of income. As per the guidelines issued by Hon'ble Karnataka State Legal Services Authority Bengaluru, notional income of the petitioner should be taken into

consideration i.e., Rs.8,500/- p.m. Accordingly petitioner is entitled for the Rs.25,500/- towards loss on income during laid up period.

16. Further admittedly petitioner has exhibited Ex.P.9 medical bills for Rs.1,47,420/- and Ex.P.10 for Rs.18,448/-, totally a sum of Rs.1,65,868/-. On perusal of the said bills, the Sl.No.6 in Ex.P.10 is in twice i.e., for Rs.750 and Rs.150/- except said fact it is clearly stated about spending of amount for this treatment is concerned. Therefore petitioner is entitled for Rs.1,64,968/- towards medical expenses. Further on perusal of Ex.P.5 in which Doctor who have treated has categorically stated that, petitioner has sustained grievous injury due to the accident occurred on 21.02.2014. As per Ex.P.7 discharge summary the injuries sustained by the petitioner are grievous in

nature. Further the Investigation Officer has also filed charge sheet against accused B.N Narayanaswamy for the offences punishable under Sec.279, 337, 304A of IPC. The charge sheet materials and evidence of PW-1 and PW-2 clearly states that, petitioner is sustained from grievous injury out of the accident caused in the alleged accident as alleged in the petition and evidence of PW-1.

17. Accordingly, the Petitioner is entitled for compensation as detailed below:-

Sl.No.	Head of Compensation	Amount in Rs.
1.	Loss of Future Income	1,42,800-00
2.	Pain and sufferings	25,000-00
3.	Conveyance, nourishment and attendant charges	15,000-00
4.	Medical Expenses	1,64,968-00
5.	Loss of amenities in life	25,000-00
6.	Loss of income during laid up period	25,500-00
	Total	3,98,268-00

18. Accordingly this tribunal hold that, the Petitioner is entitled for total compensation of **Rs.2,98,701/-** (75% of award amount) with interest at the rate of **6% p.a.** from the date of petition till its realization of entire amount.

19. In the case on hand, respondent No.2 being the insurer has issued insurance policy bearing No.071503112P303212820 which is valid for the period from 18.03.2013 to 17.03.20214, the alleged accident was occurred on 21.02.2014 it reveals that, as on the date of accident, insurance policy was in force. Hence naturally liability of respondent No.1 shall go against respondent No.2, therefore the respondent No.2/insurer is directed to deposit the 75% of the award amount with interest at the rate of 6% p.a. within 60 days from the

date of this order. **Accordingly Issue No.2 is answered partly in the affirmative.**

20. **Issue No.3**: For the reasons assigned to Issues No.1 and 2, I proceed to pass the following:

::ORDER::

The petition filed by the Petitioner under Sec.166 of the M.V. Act, 1989 is partly allowed with cost.

*The Petitioner is entitled for compensation of **Rs.2,98,701/- (Rupees two lakh ninety eight thousand seven hundred one only)** with interest at the rate of **6% p.a.** from the date of petition till its realization.*

The Respondent No.2 shall deposit award amount with interest within 60 days from the date of this order.

The Petitioner is entitled to get release 60% of the award amount through e-payment directly to his account on furnishing the Bank A/c details along with address proof and remaining 40% shall be kept

in Fixed Deposit in any of the Scheduled Bank for a period of three years, in his name.

The Advocate Fee is fixed at Rs.1,000/-.

Draw award accordingly.

(Dictated to the stenographer directly on computer, typed by her, thereof is corrected and then pronounced by me in the Open Court on this the 22nd day of July, 2026)

(SHARMILA KAMATH K.)
VIII ADDL. JUDGE, COURT OF
SMALL CAUSES & ACJM,
BENGALURU.

::A N N E X U R E::

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PETITIONER:-

PW-1 : Sri. Muniraju
PW-2 : Dr. Krishan Prasad

LIST OF DOCUMENTS MARKED ON BEHALF OF THE PETITIONER:-

Ex.P.1 : Copy of FIR
Ex.P.2 : Copy of Complaint
Ex.P.3 : Copy of Panchanama
Ex.P.4 : Copy of IMV Report
Ex.P.5 : Copy of Wound Certificate
Ex.P.6 : Copy of Charge Sheet

Ex.P.7 : 3 Discharge Summaries
Ex.P.8 : Lab Report
Ex.P.9 : Medical Bills of Rs.1,47,420/-
Ex.P.10 : Medical Bills of Rs.18,448/-
Ex.P.11 : IP Bills
Ex.P.12 : X-ray with Reports
Ex.P.13 : OP Record

**LIST OF WITNESSES EXAMINED ON BEHALF OF THE
RESPONDENTS:-**

RW-1 : Sri. Prashanth N.G.

**LIST OF DOCUMENTS MARKED ON BEHALF OF THE
RESPONDENTS:-**

Ex.R.1 : Authorization Letter
Ex.R.2 : Copy of Policy

(SHARMILA KAMATH K.)
VIII ADDL. JUDGE, COURT OF
SMALL CAUSES & ACJM,
BENGALURU.