

KAUK020009022024



M.V.C./177/2024

IN THE COURT OF
PRL. SNR. CIVIL JUDGE AND CJM COURT, KARWAR
AT, UTTARA KANNADA

PRESENT: Smt. Kavita S.Undodi,
B.A. LL.B(Spl)

Prl. Senior Civil Judge & CJM and
1st Addl. M.A.C.T., Karwar.

M.V.C.No.177 / 2024

DATED THIS THE 25th DAY OF APRIL 2026

PETITIONER:

1. Sri. Narayan Shivu Naik,
Age: 65 years, Occ: Carpenter,
R/o: # 161, Saralegudde, Telangar,
Yellapur Taluk.
Presently residing at Murari Bag,
Near KSRTC Bus Stand, Brahmangalli,
Karwar.

(By Sri.P.B.T. - Advocate)

//Versus//

RESPONDENTS:

1. Sri. Santosh Madhukar Naik,
Age: 48 years, Occ: Contractor,
R/o: Udyam Nagar, Yellapur Taluk,

(RC owner of the Sonalika Tractor
bearing Reg. No.KA-31/T-3838)
2. The United India Insurance Company Ltd.,
Radha Govind Complex, Floor No.1,
Kaikini Road, Karwar-581301.

(Policy No.2403033122P111237045
Valid from 17-02-2023 to 16-02-2024)

(R-2 by Sri.A.G.H. - Advocate)
(R-1- Exparte)

J U D G M E N T

This claim petition is filed by petitioner under section 166 of Motor vehicles Act claiming compensation of Rs.10,00,000/- for injury sustained in a road accident on 21-11-2023. The compensation is sought from the respondent No.1 and 2 jointly and severally with interest.

2. The brief facts of the case are as under:

On 21-11-2023 at about 1.00 p.m. the petitioner was proceeding towards Idugundi from Yellapur on Hero Honda Splendor motorcycle on left side of the road,when he came near Ashok Garage Magod cross,Yellapur, at that time Sonalika tractor bearing No-KA-31/T-3838 came in high speed in rash and negligent manner and dashed to the two wheeler of the petitioner, due to this the petitioner fell down and sustained grievous injuries to the forehead, right leg and nose. After accident the petitioner shifted to taluka Hospital, Yellapur and on the advise of the doctor he was shifted to Justice K.S. Hegde Charitable Hospital, Mangalore and he has taken treatment as indoor patient.

3. Further averred in the petition that the petitioner was doing carpentry work and getting income of Rs.25,000/- per month. The accident taken place due to rash and negligent driving of driver of the tractor bearing No.

KA-31/T-3838 and prayed to allow the petition by awarding Rs.10,00,000/- with interest at the rate 18% from the date of accident till realization.

4. After registration of the case, the notices were issued to the respondents. Though the notice served on the respondent No.1, but not appeared before the court, hence the respondent No-1 placed exparte. The respondent No-2 appeared through counsel.

The respondent No.2 has filed objections denying the averments of the petition and stated that the vehicle bearing No.KA-31-T-3838 belongs to the respondent No.1 alleged to involved in the accident was insured under Miscellaneous and Special Type of Vehicles Package Policy with the respondent No.2 for a period from 17-02-2023 to 16-02-2024. The liability of the insurance company is subject to terms, conditions, limitations, and exceptions of the policy, validity of the driving licence of the driver . The respondent No.1 has committed breach of conditions of the policy, hence respondent No.2 is not liable to pay the compensation to the petitioner.

5. Further averred in the objections that the petition is bad for non joinder of necessary parties as the owner and insurer of the motor cycle bearing Reg. No.KA-04/L-6359 on which the petitioner was proceeding is necessary party. The driver of the vehicle is also not made as a party to the proceedings in question. The accident in question taken place on 21-11-2023, where as the FIR came to be lodged on 25-11-2023 that is after more than 4 days of the accident. The insured vehicle not at all involved in the accident and the

petitioner in order to get the compensation got lodged FIR through one Ravi Achari. The insured vehicle is not involved in the accident. The accident in question occurred due to negligence on the part of the petitioner as he was riding his motor cycle in rash and negligent manner. If the tribunal comes to the conclusion that there was also negligence on the part of the driver of the insured vehicle then the liability has to be slashed down due to the contribution to the cause of accident.

6. Further averred in the objection that the claim of Rs.10,00,000/- as a compensation 12% interest and costs is highly exorbitant. The petitioner is not entitled to claim interest more the rate of interest charged on Nationalized banks on fixed deposits. The police nor the owner of the vehicle complied section 158(6) and 134(c) of Motor Vehicle Act and prayed to dismiss the claim petition against respondent No.2.

7. On the basis of the above pleadings following issues were framed:

ISSUES

- 1. Whether the petitioner proves that he has sustained grievous injuries in the road accident dated 21-11-2023 at about 01-00 P.M. involving Tractor bearing Reg. No.KA-31-T-3838 and whether the said mishap happened due to the rash and negligent driving of the said Tractor of respondent No.1 and 2 ?**
- 2. Whether the respondent No.2 proves that**

the petition is bad for non-joinder of necessary parties?

3. Whether the petitioner is entitled to receive any compensation? If yes, to what extent and by whom amongst the opposite party the said compensation amount will be payable?

4. What order?

8. In order to prove the case, the petitioner got examined as PW-1 and got marked Ex.P-1 to Ex.P-54. The Respondent No.2 not stepped into witness box.

9. The learned counsel for the petitioner filed written arguments and heard arguments of learned counsel for respondent No.2.

10. My findings on the above issues are as under:

Issue No.1: In the Affirmative.

Issue No.2: In the Negative

Issue No.2: In the Partly Affirmative.

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

:REASONS:

11. Issue No.1: The burden is on the petitioner to prove the rash or negligent act of driver of tractor bearing No.KA-31/T-3838. The petitioner has filed evidence on affidavit and reiterated the averments of the petition.

12. Ex.P-1 is certified copy of FIR in Yellapur P.S. Crime No.207/2023, on perusal of the same it clearly shows that on the basis of first information statement, case has been registered in Yellapur P.S. for the offence punishable

section 279, 337 of IPC. Ex.P-2 is certified copy of FIS, it shows that on 21-11-2023 at about 01-00 p m there was an accident and in the said accident petitioner has sustained injuries and Ravi S/o Nagaraj Aachari put the law into motion by filing FIS, accordingly FIR came to be registered against the driver of Tractor bearing No.KA-31/T-3838 for the offence punishable under section 279, 337 of IPC. Ex.P-3 is certified copy of the mahazar, Ex.P.4 is certified copy of rough sketch. Ex-P-7 is certified copy of Charge Sheet in Crime No.207/2023 of Yellapur P.S. Ex.P-6 is certified copy of wound certificate. Therefore on perusal of Ex.P-1 to Ex-P-3, Ex.P-6 and Ex-P-7, it clear that an accident was due to the rash and negligent driving on the part of driver of the motor tractor bearing No.KA-31/T-3838.

13. Ex.P- 6 is certified copy of Wound certificate, on perusal of the same, it shows that the petitioner has sustained lacerated wound left side temporal region 5 x 3 cm, CLW over left knee joint and Ex.P-6 mentioned that as per discharge summary of NITTE Mangalore open type III A left proximal tibia lateral condyle fracture in the road accident. Therefore it is clear that the petitioner has sustained injuries in the road accident which is caused due to rash and negligent riding on the part of the discussion and conclusion arrived at above, it is opinion of the court that the accident was due to rash and negligent driving on the part of the driver of Tractor bearing No.KA-31/T-3838.

14. The learned counsel for the respondent No.2 argued that there is two days delay in filing FIS before the police and the allegations made against the driver

of the Ford Fiesta Car bearing No.GA-05/D-1298 is false. In the citation reported in; **AIR 2011 SC page-1226-** Hon'ble Supreme Court has observed that- Delay in lodging FIR-Effect –It is held that- Victim child aged about 8 years suffered grievous injuries- Father of child was not aware of niceties of law and it was more important for him to get his child treated first-Owner of the vehicle made categorical admission that he was aware of the accident caused by his driver on the same day- In such claim petition need not be dismissed on that ground. The purpose of lodging the FIR in MVC cases is primary to intimate the police to investigation of criminal cases. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation, but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if the claimant has been able to demonstrate satisfactory and cogent reasons for it.

15. In the citation reported in; **2011 KCCR SN.679(SC) Saroj and others V/s Het lal and others-** it is observed that where FIR lodged after 18 hours in a hit and run case, admission of owner as to involvement of vehicle relevant and delay is not fatal. In present case the respondent No.2 has not elicited anything from the mouth of PW-1. Further in the evidence PW-1 stated that after the accident he was shifted to Yellapur Government Hospital and Justice K S Hegde Charitable hospital Mangalore. The respondent No.2 has not

challenged the charge sheet. If there was no such accident, the respondent No.2 would have challenged the charge sheet. Thus it is opinion of the Tribunal is that the accident was due to actionable negligence on the part of the driver of the offending vehicle i.e., Tractor bearing No.KA-31/T-3838 which resulted in injuries to the petitioner, **accordingly, issue No.1 is answered in Affirmative.**

16. Issue No.2:- In the objections the respondent No.2 has taken contention that the petition is bad for non joinder of necessary parties, since the petitioner has not made the owner of the motor cycle bearing Reg. No.KA-04/L-6359 and the driver of the Tractor bearing Reg.No.KA-31-T/3838 as a parties to the petition. The police have filed charge sheet against the driver of the Tractor for the offence punishable under section 279, 337 and 338 of I.P.C. The police have not filed charge sheet against the petitioner. If the police have filed charge sheet against the rider of the motor cycle then matter would be different. Though the respondent No.2 has taken contention that the driver of the Tractor is necessary party, but not convince the court how he is necessary party to the proceedings. In Motor Vehicle Claim cases under Motor Vehicle Act, the driver of the offending vehicle is not general considered as necessary party. The owner and insurer are essential parties , as they are vicariously liable for compensation, allowing effective adjudication without driver. Hence the contention taken by the respondent No.2 does not arise for consideration, accordingly **Issue No.2 is answered in Negative.**

17. Issue No.3 :- In the petition and in the evidence PW-1 stated that, at the time of accident he was carpenter. Due to accident he has sustained grievous injuries. To prove his disability the petitioner has not produced disability certificate issued by doctor nor he examined doctor who had given treatment to him at Justice K S Hegde Charitable Hospital, Mangalore or Taluka hospital Yellapur. The petitioner has produced Ex.P-6 certified copy of wound certificate. Ex.P-08 to Ex.P-51 and Ex.P-53 and Ex.P-54 are medical bills and prescriptions, on perusal of the same it shows that the petitioner has taken treatment in Justice K. S. Hegde Charitable Hospital Mangalore. Ex.P-45 shows that the petitioner admitted in the Justice K. S. Hegde Charitable Hospital Mangalore on 23-11-2023 and got discharged on 05-12-2023. The petitioner has produced medical documents which are marked as Ex.P-8 to Ex.P-51, Ex.P-53 and Ex.P-54 to show that he has spent Rs.77,463-00 for medical treatment.

18. Though in the petition, the petitioner has stated that he spent Rs-1,50,000/- towards medical treatment, but claimed over all compensation of RS.10,00,000/- with interest. The petitioner has produced Ex.P-8 to Ex.P-14, Ex.P-16, Ex.P-18 to Ex.P-30, Ex.P-32, Ex.P-34 to Ex.P-51 and Ex.P-54 to show that he has spent Rs.77,513-00. Mere production of Ex.P-8 to Ex.P-51, Ex.P-53 and Ex.P-54 medical documents and prescriptions are not sufficient, the petitioner has to prove his disability by producing disability certificate and examining the doctor who had given treatment to him. Hence, in my opinion petitioner who has not proved his disability.

19. As per averments of the petition, the petitioner has sustained grievous injuries. Ex.P-6 is certified copy of wound certificate, on perusal of the same it shows that the petitioner has sustained lacerated wound left side temporal region 5 x 3 cm, CLW over left knee joint and Ex.P-6 mentioned that as per discharge summary of NITTE Mangalore open type III A left proximal tibia lateral condyle fracture. Though the respondent No.2 cross-examined PW.1, but nothing has been elicited to disprove the medical documents. Ex.P-8 to Ex.P-51, Ex.P-53 and Ex.P-54 to shows that, petitioner has taken treatment in Justice K. S. Hegde Charitable Hospital, Mangalore from 23-11-2023 to 05-12-2023.

20. The petitioner has not produced disability certificate nor examined doctor, but certainly he would have spent some amount for attendant charges, conveyance and miscellaneous expenses. On perusal of Ex.P-6 it shows that there is lacerated wound left side temporal region 5 x 3 cm, CLW over left knee joint and Ex.P-6 mentioned that as per discharge summary of NITTE Mangalore open type III A left proximal tibia lateral condyle fracture and doctor has opined above said injuries are grievous in nature. Having regard to the aspects in my opinion awarding global compensation would be just and proper. Therefore, considering the injuries sustained by the petitioner and also period of treatment undergone by him, he is entitled for global compensation of Rs.1,10,000/-. The compensation amount shall carry reasonable rate of interest, therefore, I deemed it proper to award interest at the rate of 6% per annum on the compensation amount.

21. Liability :- In the objection the respondent No.2 has taken contention that the driver of the tractor bearing No.KA-31/T-3838 was not holding valid and effective driving licence at the time of accident. Ex.P-7 is certified copy of charge sheet, on perusal of the same it shows that the police have filed charge sheet against the driver of tractor bearing No.KA-31/T-3838 for the offence punishable under section 279, 337 and 338 of I.P.C. Though the respondent No-2 has taken such contention, but not stepped into witness box nor elicited from the mouth of the P.W-1. Therefore there is no force in the contention taken by the respondent No-2. The respondent No.2 has not disputed the insurance policy of the motor cycle and admitted the policy in the objections, hence when the policy was in force as on the date of incident, the insurance company does not absolve from its liability to indemnify the owner. The respondent No.1 being the owner, the respondent No.2 being the Insurance Company of Tractor bearing No.KA-31/T-3838 are jointly and severally liable to pay the compensation to the petitioner. The respondent No.2 being the insurer has to indemnify the liability of respondent No.1. Hence, the respondent No.2 is liable to pay the compensation amount to the petitioner along with an interest at the rate of 6% p.a., from the date of petition till its realization, accordingly **Issue No.3 answered in Partly Affirmative.**

22. Issue No.4: In view of above reasons, I proceed to pass the following;

ORDER

**The petition filed by the petitioner under
section 166 of Motor Vehicle Act is hereby**

partly allowed with cost.

The petitioner is entitled for total compensation of Rs.1,10,000-00 (Rupees One Lakhs Ten Thousand Only) with interest at the rate of 6% p.a from the date of petition till its realization.

The respondent No.1 being the owner, respondent No.2 insurance company are jointly and severally liable to pay the compensation to the petitioner. The respondent No.2/ insurance company is directed to deposit the awarded compensation amount with accrued interest within 60 days from the date of award.

In the event of compensation amount being deposited by the respondent No.2, entire compensation amount ordered to be released through RTGS/NEFT in favour of the petitioner.

Advocate fee is fixed at Rs.1000-00.

Draw award accordingly.

(Dictated to the Stenographer directly on lap-top, typed by her and corrected by me and then pronounced in the open court on this the **25th day of April 2026**).

**(Kavita S.Undodi)
Prl. Senior Civil Judge & CJM and
1st Addl. M.A.C.T., Karwar.**

ANNEXURE**List of witnesses examined on behalf of claimant:**

PW.1: Sri Narayan Shivu Naik

List of witnesses examined on behalf of respondents:

-NIL-

List of documents exhibited on behalf of claimant:

Ex.P-1 : True copy of FIR
Ex.P-2 : True copy of FIS
Ex.P-3 : True copy of spot mahazar
Ex.P-4 : True copy of Spot Sketch
Ex.P-5 : True copy of Photos
Ex.P-6 : True copy of Wound Certificate
Ex.P-7 : True copy of Charge Sheet
Ex.P-8 to19: Medical Bills & Prescription Slips
Ex.P-20: Inpatient Bill
Ex.P-21 to 44:Medical Bills and Prescription Slips
Ex.P-45: Inpatient Bill
Ex.P-46 to 51:Medical Bills
Ex.P-52: Notarized copy of Aadhaar Card
Ex.P-53: Requisition Form
Ex.P-54: Cash Bills

List of documents exhibited on behalf of respondents:

-NIL-