

KAUK020022592024



M.V.C./376/2024

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.376/2024

DATED THIS THE 11th DAY OF MARCH 2026

PETITIONER:

1. Sri. Subhash Shivappa Siddi,
Age: 31 years, Occ: Agriculturist,
R/o: Kammani, Doddakattu, Halavalli,
Yellapur Taluk, Uttar Kannada District
Presently residing at Murari Bag,
Near KSRTC Bus Stand, Brahmangalli,
Karwar.

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

//Versus//

RESPONDENTS:

1. Sri. Kais Nawabsab Bijapur,
S/o Nawabsab Bijapur,
Age: 45 years, Occ: Business,
R/o: H.No.18/155/1, Vodlem Bhat,
Taleigao, Tiswadi, North Goa,
Goa-403002.
(RC owner of the Ford Fiesta Classic 1.6
Titanium bearing Registration No.GA-05-D-1298)

2. The Reliance General Insurance,
R/o: 3rd Floor, Kalburgi Sqare, V.A.
Desai Cross, Deshpande Nagar,
Hubballi-580029.
(Policy No.170722323470012387
Valid from 24-12-2023 to 23-12-2024)

(R-2 by Smt.S.M.H. - Advocate)
(R-1- Exparte)

J U D G M E N T

This claim petition is filed by the petitioner under section 166 of Motor vehicles Act claiming compensation of Rs.10,00,000/- for injury sustained in a road accident on 19-06-2024. 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 19-06-2024 at about 05-00 p.m. the petitioner was proceeding on his motor cycle towards Yellapur market, when he came near Sankalpa cross at that time one Ford Fiesta Car bearing No.GA-05/D-1298 came from opposite side from KSRTC Bus Stand in rash and negligent manner and without giving singal dashed to the motor cycle of petitioner, due to this the petitioner fell down and sustained grievous injuries to the thigh of left leg, head and injuries all over the body. After accident the petitioner shifted to Government Hospital, Yellapur and as per the advice of the doctor he was shifted to KIMS hospital Karwar and taken treatment as indoor patient and undergone surgery. The petitioner is suffering from permanent disability.

3. Further averred in the petition that the accident taken place due to rash and negligent driving of driver of the Ford Fiesta Car bearing No.GA-05/D-1298. One Puttayya Shivappa Siddi has lodged FIS before the police and same has been registered in Yellapur P.S.Crime No.143/2024 on 21-06-2024 against the driver of the respondent No.1 for the offence punishable under section 279, 337 of IPC. The petitioner has spent Rs.1,00,000/- towards medical treatment and sustained loss of income of Rs.2,00,000/-. The petitioner is aged about 31 years and he was doing agricultural labour work and getting income of Rs.25,000/- per month. Due to the accident he is unable to do work as he was doing earlier. The accident due to rash and negligent driving of driver of Ford Fiesta Car bearing No.GA-05/D-1298, therefore the respondent No.1 and 2 are jointly and severally liable to pay the compensation and prayed to allow the petition by awarding Rs.10,00,000/- with interest at the rate 18%.

4. After registration of the case, the notices were issued to the respondents. Though notice served on the respondent No.1 and 2, but not appeared before the court, hence they are placed exparte. When the case was posted for further arguments on merits, the respondent No.2 appeared through counsel with IA No.1 filed under Order 9 Rule 7 of C.P.C. and said IA came to be allowed.

The respondent No.2 filed objections denying the averments of the petition and stated that the compensation amount claimed by the petitioner is highly exorbitant and without any basis. In case the negligence of the accused

driver is proved and the award is passed in favour of the petitioner and against the respondent then petitioner is entitled for interest then it should be payable as per the prevailing interest rate which is payable on deposits.

5. Further averred in the objections that the claimant is not entitled for any compensation and interest. The petitioner has to prove the vehicle was insured with this respondent and driver was possessed valid and effective driving licence as on the date of the accident. The owner of the car deliberately entrusted the vehicle to the person who did not possessed valid and effective driving licence as on the date of the accident and thereby caused breach of policy conditions. The police have not reported the alleged accident to the claims tribunal having the jurisdiction with the necessary particulars.

6. Further averred in the objection that the driver of the Ford Fiesta Car bearing No.GA-05/D-1298 was driven by the driver slowly with due care and cautions and prayed to dismiss the petition against this respondent.

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

ISSUES

- 1. Whether the petitioner proves that on 19-06-2024, at 05-00 P.M. he was proceeding on the Motor Cycle bearing Reg. No.KA-31/E.F.-1971, when he came near Sankalp cross, Yellapur Taluk, the driver of the Car bearing Reg. No.GA-05/D-1298 came from KSRTC Bus stand and while taking cross at**

Treasury office, suddenly took it to right side without giving any traffic signal in a rash and negligent manner and dashed to the motor cycle of the petitioner, due to this the petitioner has sustained grievous injuries, as contended in the petition?

2. Whether the petitioner is entitled for compensation? If so, to what extent and from whom?

3. What order or award?

8. In order to prove the case, the petitioner got examined as PW-1 and got marked Ex.P-1 to Ex.P-52. Respondent No.2 is not stepped into witness box.

9. Heard arguments from both side.

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

Issue No.1: In Affirmative.

Issue No.2: In 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 Ford Fiesta Car bearing No.GA-05/D-1298. The petitioner has filed evidence on affidavit and reiterated the averments of the petition.

12. Ex.P-1 is certified copy of FIS, it shows that on 19-06-2024 at about 05-

00 pm there was an accident and in the said accident petitioner has sustained injuries and one Puttayya S/o Shivappa Siddi put the law into motion by filing FIS, accordingly FIR came to be registered against the driver of the Ford Fiesta Car bearing No.GA-05/D-1298 for the offence punishable under section 279, 337 of IPC. Ex.P-2 is certified copy of FIR in Yellapur P.S. Crime No.143/2024, on perusal of the same it clearly shows that on the basis of first information statement, case has been registered in Yellapur Police Station for the offence punishable section 279, 337 of IPC. Ex.P-3 is certified copy of the spot mahazar, Ex.P-4 is Rough Sketch. Ex.P.6 is certified copy of Charge Sheet in Crime No.143/2024 of Yellapur P.S. Ex.P-7 is certified copy of order sheet in C.C.No.389/2024, on perusal of the same it shows that the driver of Ford Fiesta Car bearing No.GA-05/D-1298 pleaded guilty. Ex.P-5 is certified copy of wound certificate. Therefore on perusal of Ex.P-1 to Ex.P-7, it clear that an accident was due to the rash and negligent driving on the part of driver of the Ford Fiesta Car bearing No.GA-05/D-1298.

13. Ex.P- 5 is certified copy of Wound certificate, on perusal of the same, it shows that the petitioner has sustained grievous injuries. 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 Ford Fiesta Car bearing No.GA-05/D-1298.

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 KIMS hospital Karwar. 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 rider of the offending vehicle i.e., Ford Fiesta Car bearing No.GA-05/D-1298 which resulted in injuries to the petitioner, **accordingly, issue No.1 is answered in Affirmative.**

16. Issue No.2 :- In the petition and in the evidence PW-1 stated that, at the time of accident he was aged about 31 years and he was agriculturist. 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 Government Hospital yellapur and KIMS Hospital, Karwar. The petitioner has produced Ex.P-5 certified copy of wound certificate. Ex.P-49 Discharge Summary issued by Justice K.S.Hegde Charitable Hospital, Mangalore. But in the pleadings and in the evidence the petitioner has stated that he has taken treatment in the said hospital, on perusal of the same it shows that the petitioner has sustained Scrotal, Hematoma Soft Tissue Injury over left thigh, Penile fracture, Pulmonary Artery Hypertension. On perusal of the same it shows that the petitioner admitted in the K.S. Hegde Charitble Hospital, on 22-06-2024 and got discharged on 28-06-2024. The petitioner has produced medical documents which are marked as Ex-P-5, Ex.P-8 to Ex-P-39, Ex.P-48 and Ex.P-49 to show

that he has taken treatment and spent Rs.1,00,000-00 for medical treatment.

17. The petitioner has produced Ex.P-19 to Ex.P-32 and Ex.P-48 to show that he has spent Rs.23,062/-. Mere production of Ex.P-5, Ex.P-12 to Ex.P-39, Ex.P-48 and Ex.P-49 medical documents and discharge summary, Ex.P-46 and Ex.P-47 two X-Rays 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.

18. As per averments of the petition, the petitioner has sustained grievous injuries. Ex.P-5 is certified copy of wound certificate and Ex.P-49 discharge summary, on perusal of the same it shows that the petitioner has sustained Scrotal, Hematoma Soft Tissue Injury over left thigh, Penile fracture, Pulmonary Artery Hypertension. Though the respondent No.2 cross-examined PW.1, but nothing has been elicited to disprove the medical documents. Ex.P.5 shows that, petitioner has taken treatment in Yellapur Government Hospital on 19-06-2024 and Ex.P-49 shows that petitioner has taken treatment in Justice K.S.Hegde Hospital, Mangaluru from 22-06-2024 to 28-06-2024.

19. 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-49 it shows that the patient has sustained Scrotal, Hematoma Soft Tissue Injury over left thigh,

Penile fracture, Pulmonary Artery Hypertension. 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. **80,000/-**. 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.

20. Liability :- In the objection the respondent No.2 has taken contention that at the time of accident the driver of Ford Fiesta Car bearing No.GA-05/D-1298 was not holding valid and effective driving licence. Ex.P-6 is certified copy of charge sheet, on perusal of the same it shows that the police have filed charge sheet against the driver of the Ford Fiesta Car bearing No.GA-05/D-1298 for the offence punishable under section 279 and 337 of I.P.C.

21. The respondent No.2 has produced the insurance policy of the Ford Fiesta Car bearing No.GA-05/D-1298. The period of insurance shown as 24-12-2023 to 23-12-2024, it shows that as on the date of the accident, the policy was inforce. When the policy was inforce 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 Ford Fiesta Car bearing No.GA-05/D-1298 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.2 answered in Partly Affirmative.**

22. Issue No.3: 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.80,000-00 (Rupees Eighty 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 **11th day of March-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. Subhash Shivappa Siddi

List of witnesses examined on behalf of respondents:

-NIL-

List of documents exhibited on behalf of claimant:

- Ex.P-1: Certified copy of FIS
- Ex.P-2: Certified copy of FIR
- Ex.P-3: Certified copy of spot mahazar
- Ex.P-4: Certified copy of Spot Sketch
- Ex.P-5: Certified copy of Wound Certificate
- Ex.P-6: Certified copy of Charge Sheet
- Ex.P-7: Certified copy of Order Sheet in CC No.389/2024
- Ex.P-8: Prescription Slip
- Ex.P-9: Requisition for Radiographic Examination
- Ex.P-10: Requisition Form

- Ex.P-11: IPD Bill Receipt
- Ex.P-12 to 18: Prescription Slips
- Ex.P-19 to 39: Medical Bills
- Ex.P-40: Notarized copy of Aadhaar Card of PW-1
- Ex.P-41: Notarized copy of PAN Card of PW-1
- Ex.P-42: Notarized copy of Ration Card of PW-1
- Ex.P-43: Notarized copy of Certificate of Registration of PW-1
- Ex.P-44: Notarized copy of Driving Licence of PW-1
- Ex.P-45: Notarized copy of School Transfer Certificate of PW-1
- Ex.P-46& 47: X-Rays
- Ex.P-48: Cash Bill
- Ex.P-49: Discharge Summary
- Ex.P-50: MRI Report
- Ex.P-51: Transthorasic Echocardiography Report
- Ex.P-52: ECG Report

List of documents exhibited on behalf of respondents:

-NIL-