

KAUK610000132025



**IN THE COURT OF SENIOR CIVIL JUDGE, JMFC AND
ADDITIONAL MACT AT HONNAVAR**

DATED THIS THE 25TH DAY OF MARCH, 2026

**PRESENT : SRI B.C. CHANDRASHEKAR., B.A., LL.B.
ADDITIONAL MACT, Sr.C.J. & J.M.F.C.,
HONNAVAR.**

M.V.C. No.02/2025

PETITIONER : Seetaram Venkta Haller,
Aged about 49 years,
Occupation: Work in Gram Panchayat
Hadinbal,
R/o: Masukalmakki, Hadinbal,
Tq: Honnavar (U.K).

(By Sri LRN, Advocate)

VERSUS

RESPONDENTS : 01. Sandeep S/o Narayan Naik,
Age 45 years,
Regd. owner of Tempo bearing
Regd. No.KA-47/1538,
R/o: Sankanahitla,
Kharva, Tq: Honnavar (U.K).

02. Manager,
Shriram General Insurance Co. Ltd.,
No.4/5, 3rd Floor, S. V. Arcade,

Belekahalli Main Road,
B. G. Road, I.I.M post,
Bangaluru-560076.

**(R-1 is placed Ex-parte and
R-2 by Sri SMB, Advocate)**

J U D G M E N T

This is a petition under section 166 of Motor Vehicles Act, 1988 filed by the petitioner praying for compensation for the injuries sustained by him in a road traffic accident.

02. The facts of the case of the petitioner are that, on 11-10-2022 morning, the petitioner was travelling in a Tempo bearing No.KA-47/1538 from Hadinbal to Honavar along with other passengers and the respondent No.1 who was the owner cum driver of the said tempo has driven it in a great speed and in a rash and negligent manner, when the said tempo reached near Talageri Cross, Kharva of Honnavar on NH-69 at about 07-45 AM, due to the excessive speed of its driver it went out of the road to its left side and turned turtle. As a result of which the petitioner has sustained grievous injuries and some other passengers have sustained simple and grievous injuries and one of the passenger died on the spot. Soon after the

accident the petitioner was shifted to Taluka Hospital, Honnavar and after getting first aid and as per the advice of the doctor he was shifted to Karwar Institute of Medical Sciences Karwar and he was admitted as an inpatient there on. Further ORIF C plating done on 17-10-2022 and on the same day he was discharged and he has also taken follow-up treatment. The petitioner has spent more than Rs.80,000/- towards medical expenses.

03. Prior to the accident the petitioner was hale and healthy person and aged about 49 years. He was working in Gram Panchayat, Hadinbal and as an agriculturist and earning more than Rs.15,000/- per month. Due to the injuries sustained by him he is not in a position to attend to his agricultural work including day to day work for the past one year and now he is not in a position to work as before. He has suffered loss of income including future income. The respondent No.1 is the owner of the Tempo and the said vehicle was insured with respondent No.2. Hence respondent No.1 and 2 are jointly and severally liable to pay the compensation. Accordingly the petitioner prayed to award the compensation of Rs.5,00,000/- with interest at the rate of 8% p.a. from the date of petition till the date of realization from the respondents.

04. In spite of service of notice the respondent No.1 did not appear before the court, hence he placed ex-parte. On receipt of notice, respondent No.2 has appeared through counsel and filed written statement and contended that the claim petition is contrary to law and true facts of the case and the same is not maintainable against this respondent. This petition is not maintainable as barred by limitation. It has contended that it is for the petitioner to prove that the age, avocation, monthly income, sustainment of injuries, occurrence of the accident and element of rash and negligent driving on the part of the driver of tempo. The compensation claimed by the petitioner is highly excessive, abnormal and without any legal basis. It has denied by this respondent that the alleged accident occurred due to rash and negligent driving by the driver of vehicle bearing No.KA-47/1538. It has submitted that as on the date of accident the driver of the said vehicle drove it in a moderate speed by observing all the Traffic Rules and the accident was not caused due to rash and negligent driving of the driver of the vehicle and the concerned police have filed false FIR and charge sheet against the driver of the said vehicle.

05. This respondent has admitted that the offending vehicle was insured with this respondent for the period from 29-01-2022 to 28-01-2023 and the same is in the possession of insured. Further the liability of this respondent is subject to

terms, conditions, exceptions and limitations of the policy. It has contended that the insured was permitted to carry more than the permitted capacity of passengers in the insured vehicle and driver of the vehicle was not holding valid and effective driving licence at the time of accident, thereby the insured has violated the terms and conditions of the policy. Accordingly petition is liable to be dismissed against this respondent.

06. On the basis of the above the following issues are arises for my consideration:

ISSUES

01. Whether the petitioner proves that he has sustained grievous injuries and disability in the road traffic accident occurred on 11-10-2022 at about 07-45 AM, near Talageri Cross, Kharva of Honnavar taluk on National Highway-69 due to rash and negligent driving on the part of driver of the Tempo bearing registration No.KA-47/1538 while he was travelling in the side tempo?
02. Whether the respondent No.2-Insurance Company proves the violation of material terms and conditions of Insurance Policy of Tempo bearing registration No.KA-47/1538 which exonerate it from liability?
03. Whether the petitioner is entitled for the compensation? If so, to what extent and from whom?

04. What order or award?

07. In order to prove the above issues, the petitioner himself has examined as PW-1 and produced 06 documents as Ex.P-1 to 6. The respondents have not adduced any oral evidence and not produced any documentary evidence.

08. Heard the arguments of both sides on merits of the case and perused the record.

09. Now, my answers to the above issues are as follows:

Issue No.1	:	In the affirmative,
Issue No.2	:	In the negative,
Issue No.3	:	As per observation
Issue No.4	:	As per the final order for the following:

REASONS

10. **Issue No.1:** The PW-1 is an injured and petitioner in this case. The respondent No.1 is the owner cum driver of the offending Tempo bearing registration No.KA-47/1538 and it has been insured with respondent No.2. There is no dispute about the involvement of the Tempo bearing registration No.KA-47/1538 in the accident. But the respondent No.2-Insurance Company has denied all the allegation of the petition. In order to prove the actionable negligence of the respondent No.1/driver of the offending tempo, the petitioner

has filed his affidavit evidence and examined as PW-1 by reiterating the petition averments in his affidavit. According to PW-1 the driver of said tempo has driven the same in a rash and negligent manner and he lost control over the vehicle, it went out of the road to its left side and turned turtle, as a result he and some other passengers have fell on the road and he has sustained grievous injuries. Further he has deposed about the injuries sustained by him, treatment taken in the hospital and amount spent for his treatment etc.,.

11. Further in support of his claim and also to prove rash and negligent driving of the driver of the tempo, the PW-1 has produced the police records such as FIR, complaint, spot mahazar and charge sheet which are marked as Ex.P-1 to 4. The said documents are indicating that the police have prosecuted the driver of the offending tempo for his reckless driving for the offences under section 279, 337, 338 and 304(A) of IPC and 3(1) read with section 181 and 192(A) of MV Act. Further the PW-1 has specifically deposed about the rash and negligent driving on the part of the respondent No.1/driver of the offending tempo. The PW-1 has been cross examined by the counsel for the respondent No.2, but no worthwhile has been elicited by him to discard his evidence in believing that there is no negligent driving on the part of the driver of the tempo.

12. Further the petitioner has produced the wound certificate issued by Taluka Hospital, Honnavar as Ex.P-5 and discharge summary issued by Karwar Institute of Medical Sciences, Karwar as Ex.P-6. On perusal of the same they are disclosing that the petitioner has sustained right volar barton fracture, dorsal bony prominence and bony irregularity (N) coperve slop of distal end of radius and they are grievous in nature. On the basis of the said evidence of PW-1 and criminal case papers it can be safely hold that the petitioner has proved that the driver of the offending tempo has caused the accident because of his rash and negligent driving.

13. The respondent No.2 has contended that the accident has not occurred due to the negligence of the driver of the said tempo. But there is no any acceptable evidence by the Insurance Company. On the other hand the criminal case papers are clearly evidencing that driver of the tempo bearing No.KA-47/1538 has been charge sheeted for reckless driving of the tempo and causing injury to the petitioner. Thus the evidence on record placed by the petitioner pointed out and established the wrong doing by the driver of the offending tempo. Hence it is possible to deduct the actionable negligence on the part of the driver of offending tempo. The documents which are undisputed goes to show that due to direct result of the accident the petitioner has sustained injuries. In the result, I answered **Issue No.1 in the affirmative.**

14. **Issue No.2:** The respondent No.2 has contended that the respondent No.1/driver of the offending tempo did not possess valid and effective driving license and violated the terms and conditions of Insurance Policy. But the Insurance Company has not adduced any evidence to prove their contention. Hence without further discussion, I answered **Issue No.2 in the negative.**

15. **Issue No.3:** In view of my findings in Issue No.1 the petitioner has sustained injuries as a direct result of the accident and he is entitled to claim the compensation. So far as the income of the petitioner is concerned, he has contended that he was earning a sum of Rs.15,000/- p.m. by working in Gram Panchayat and he is an agriculturist. But he has not produced any documents to show his exact income. The accident is for the year 2022. There is no documentary evidence to disclose the exact income of the petitioner. At this juncture it is benefit to refer the decision of Division Bench Hon'ble High Court of Karnataka in between ***Yashodamma V/s The Managing Director in MFA No.4893 OF 2016 (MV)*** the lordship of Hon'ble High Court of Karnataka was pleased to held that when there is no exact income, the guidelines issued by the Karnataka Legal State Authorities can be considered. Thus as per the guidelines of Karnataka Legal State Authorities dated 26-02-2022 the notional income for the year 2020 is Rs.13,750/-; 2021 is Rs.14,250/- and 2022

is Rs.14,750/-. Since the accident is for the year 2022 by considering the guidelines this tribunal assessed notional income of Rs.14,750/-. Under such circumstances this tribunal inclined to assess the notional income of the deceased at Rs.14,750/- p.m. though there is no any documentary evidence to know the exact income of the deceased.

16. The petitioner has given evidence to the effect of having sustaining various injuries. As per Ex.P-5 the wound certificate issued by Taluka Hospital, Honnavar the petitioner has sustained right volar barton fracture and the doctor has opinioned that the above said injury is grievous injury. The petitioner has contended that he has sustained grievous injury and taken treatment at Karwar Institute of Medical Sciences, Karwar as an inpatient and also spent Rs.80,000/- towards medical, attendance and traveling expenses. As per Ex.P-6 the petitioner has admitted on 12-10-2022 and discharged on 20-10-2022 and he has taken treatment as an inpatient for a period of 08 days.

17. As per Ex.P-6 Discharge Summary shows that he has sustained right volar barton fracture, dorsal bony prominence and bony irregularity (N) coperave slop of distal end of radius. As stated above as per the wound certificate the doctor has opinioned that he has sustained grievous injury. But the petitioner has not examined the doctor who given treatment

and issued wound certificate in order to assess his permanent physical disability. However he has sustained right volar barton fracture, permanent disability cannot be assessed due to the said injury. However since he was taken treatment as an inpatient and due to the said fracture certainly he has suffered sufficient amount of pain and agony. Hence by considering the said right volar barton fracture, more particularly dorsal bony prominence and bony irregularity (N) coperve slop of distal end of radius and taking treatment for a period of 08 days as an inpatient, this tribunal inclined to award in a sum of **Rs.50,000/-** under the head of pain and agony.

18. As per the discharge summary, the petitioner was admitted as inpatient on 12-10-2022 and discharged on 20-10-2022. Thus he has taken treatment for a period of 08 days. In view of the said grievous injuries, at least two months is required for his bed rest. Hence this tribunal is assessed the loss of income during the laid-up period is $\text{Rs.}14,750 \times 2 =$ **Rs.29,500/-**. Further as he was taken the treatment as inpatient in the Karwar Institute of Medical Sciences, Karwar certainly he could have spent some amount for his traveling from Honnavar to Karwar and caused the loss of income during the said period. Hence this tribunal is assessed the traveling expenses at **Rs.20,000/-** and **Rs.20,000/-** towards food, nourishment and attendant charges.

19. Accordingly the petitioner is entitled Rs.50,000/- under the head of pain and suffering for the injuries sustained by him and Rs.29,500/- towards the loss of income during laid-up period and Rs.20,000/- for traveling expenses and Rs.20,000/- for food, nourishment and attendant charges. Thus in all, the petitioner is entitled to **Rs.1,19,500/-** and it is just an adequate under the facts and circumstances of the case.

20. As regards the liability is concerned the respondent No.2 has admits the insurance to the offending vehicle and also contended that the driver has not having valid and effective driving license and violated the terms and conditions of the insurance policy. But they have not adduced any evidence to prove their contention. Since the respondent No.1 is the owner and respondent No.2 is the insurer of the offending vehicle as such the respondents are jointly and severally liable to pay the compensation to the petitioner with interest at 6% p.a. from the date of filing of this petition till the date of deposit. The respondent No.2 is liable to indemnify the respondent No.1 in making the payment. In the result issue No.3 is answered accordingly.

21. **Issue No.4:** For the foregoing reasons and my findings on Issue No.1 to 3, I proceed to pass the following:

ORDER

The claim petition filed by the petitioner under section 166 of Motor Vehicles Act is hereby allowed in part.

The petitioner is entitled for total compensation of **Rs.1,19,500/-** together with interest at 6% per annum from the date of petition till its realization.

The respondent No.1 and 2 are held liable to pay the compensation. However respondent No.2 shall deposit the compensation amount with interest within 60 days from the date of this order.

Entire compensation is ordered to be transferred to the account of the petitioner through approved mode of transfer on proper identification and acknowledgement after deposit by respondent No.2.

Advocate's fee is fixed at Rs.1,000/-.

Draw the award accordingly.

(Dictated to the stenographer directly on the computer, typed by her, corrected, then signed and pronounced in the open court on this 25th day of March, 2026)

ANNEXURE

List of witnesses examined by the Petitioner:

PW-1 : Sri Seetaram Venkta Haller

List of documents exhibited by the Petitioner:

Ex.P-1 : FIR
Ex.P-2 : Complaint
Ex.P-3 : Spot mahazar
Ex.P-4 : Charge sheet
Ex.P-5 : Wound certificate
Ex.P-6 : Discharge summary

List of witnesses examined for the Respondents:

-NIL-

List of exhibits marked for the Respondents:

-NIL-