

KAUK720005282023



**IN THE COURT OF THE SENIOR CIVIL JUDGE & PRL.  
JMFC AND ADDL. M.A.C.T., KUMTA, AT: KUMTA,  
UTTARA KANNADA.**

**Dated this the 06<sup>th</sup> day of March, 2026**

**PRESENT**

**Smt. B.S.Rayannawar, B.A., L.L.B.,  
Senior Civil Judge  
& Prl. JMFC, Kumta.**

**MVC. No.276/2023**

**Petitioner:**

Mahesh Herambha Hegde  
Age: 38 years,  
Occ: Agriculture & Coolie,  
R/o: Antravalli, Ankola Taluk.  
(By Sri./Smt.A.V.N.- Advocate)

**V/s**

**Respondents:**

1. Ansar C, S/o. Ibrahim P.C.  
R/o. Ansar Manzil,  
Kayalode, Post: Mambaram,  
Pinarayi, Kannur, Kerala State.

(RC Owner of Ashok Leyland Lorry bearing Reg. No.  
KL-58/Z-7006)

2. The Divisional Manager,  
United India Insurance  
Company Ltd, Division Office,

Kaikini Road, Karwar.

(Insurer of Ashok Leyland Lorry bearing Reg. No. KL-58/Z-7006)

(Policy No. 3003003122P105931385  
Valid from 26-09-2022 to 22-09-2023)

(R1 by Sri.R.G.N Advocate)  
(R2 by Sri. S.M.B. – Advocate)

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### **JUDGMENT**

This present petition filed by the petitioner under Section 166 of the Motor Vehicles Act against the respondents seeking for total compensation of Rs.50,00,000/- with interest @ 12% p.a. from the date of petition till its realization for the injuries sustained by him in a motor vehicle accident.

2. That the case of the petitioner in brief is as follows,

On 18-02-2023 in the after-noon the petitioner was proceeding on Hero Honda Splendor motor cycle bearing Reg. No. KA-30/J 6589 in order to go to Honavar side on NH 66. He was riding the said motorcycle with great care and caution wearing headgear on NH-66 at the extreme left side and when

he reached near Koppalkarwadi cross on NH 66 a lorry bearing Regn. No. KL-58 Z 7006 coming from Honavar side going towards Kumta side in a rash and negligent manner so as to endanger human life and in high speed, all of a sudden, took the lorry towards his right side and dashed to the petitioner who was coming from opposite direction. As a result, the petitioner had fallen down along with the motorcycle sustaining grievous injuries.

3. Immediately after the accident he shifted to Government Hospital, Kumta and after first aid since the injury sustained by petitioner were of grievous in nature he shifted to Manipali and admitted him in Kasturba Hospital at Manipal.

4. The petitioner took treatment as indoor patient initially for 20 days from 18-02-2023 to 09-03-2023 and subsequently he took treatment as indoor patient for 11 days from 01-04-2023 to 11-04-2023. He is still taking treatment. So far after discharge he visited the said Hospital for 3-4 times

and took follow up treatment. Petitioner has to travel on hiring ambulance on each and every occasion.

5. The petitioner spent more than 6,00,000/- towards medical treatment only. While he was taking treatment as an indoor patient his brother and his friend were attended on him. For food, extra nurishment attendant charge, conveyance and other incidental expenses, the petitioner spent Rs.3,00,000/-.

6. The accident has occurred solely due to the rash and negligent driving of the lorry by its driver Lathish E Krishnan against whom crime has been registered by the Kumta police and after investigation police filed charge sheet against him also.

7. The petitioner was aged about 38 years at the time of accident. The petitioner was having good physique and robust health. He was doing agriculture and coolie. He was an expert professional climber of arecanut trees to pluck arecanut bunches. The said profession was highly skilled one had great

demands. By doing this profession the petitioner was earning more than Rs. 1000/- per day and in all he was earning 30,000/- per month, due to accident petitioner lost the entire income. He cannot do the work as before and he is dependent on others to do his routine work. The petitioner used to contribute entire amount for the maintenance and welfare of the family.

8. The petitioner is still under treatment. Due to the injury he cannot walk, sit, squat as freely as before. During the hospitalization period he has been attended by two attendants. Even now also he needs attendants to do his routine work. Therefore, huge loss has caused to him. In spite of the best treatment taken he has not yet recovered fully. He needs further future medical expenses for his future treatment also.

9. The petitioner is still a bachelor and due to his physical disability and amputation of left foot no one is coming forward to marry him. His marriage prospectus has become

bleek. Due to the permanent disability the petitioner has to prolong with these disability till his entire life span and his condition is pathetic and miserable and he has to lead the life at the mercy of others.

10. The accident was solely due to the rash and negligent driving of Ashok Leyland Lorry bearing Reg. No. KL-58/Z-7006 involved in the accident. The respondent No. 1 was the RC owner of the Ashok Leyland Lorry bearing Reg. No. KL-58/Z-7006. At the time of accident, the said lorry was duly insured with Respondent No.2 Insurance Company. Thus Respondents No. 1 and 2 are vicariously liable to pay the compensation to the petitioner. Hence, prayed to allow the petition.

11. In pursuance of notice issued by this tribunal respondent No.1 and 2 appeared before the court through their respective counsels and filed their written statements.

12. The 1<sup>st</sup> respondent filed his written statement inter-alia denying the entire contents of the petition. It is

contended that the petitioner already on the file of the learned Senior Civil Judge and Addl. MACT, Sirsi and by suppressing the same has filed this petition. On all these grounds, he sought for dismissal of the petition.

13. The 2nd respondent company in their written statement have denied the incident as alleged by the petitioner, its liability and also the coverage of policy are totally denied.

14. Further contended that, the petitioner has filed another petition before Hon'ble Addl. M.A.C.T. Sirsi at No. 148/2023 and the same is pending for trial. The petitioner cannot proceed in both petitions simultaneously.

15. Further denied the age, avocation, monthly income period of hospitalization, amount spent for treatment. It is contention of this respondent is that the accident was caused due to rash and negligent act and carelessness driving of motor cycle by the petitioner himself. Petitioner who was the rider of motor cycle bearing Reg. No. K.A-30/J-6589 was not

having valid and effective driving licence to drive the motor cycle at the time of accident and the said motor cycle was also not having valid Insurance and the fitness certificate at the time of accident. It is learnt that the petitioner was not wearing protective head gear at the time of alleged accident. And there is no negligence or even contributory negligence on the part of driver of lorry bearing Reg. No. K.L-58/Z-7006.

16. They had issued Insurance Policy in respect of Lorry bearing Reg. No. K.L-58/Z-7006 and the policy is valid at the time of accident. However the to liability under the policy is subject to strict terms, conditions, exceptions and limitations of the policy. It is contended that, respondent no.1 has committed the breach of the terms and conditions of the policy and therefore this insurance company is not liable to indemnify the insured. Further seeks permission to file application U/s 170 of M.V. Act, if the Insured remains ex-parte or does not contest the claim properly. Age, occupation and income of the petitioner are denied. On these grounds this respondent No.2 prays to dismiss the petition.

17. On the basis of the above pleadings, the following issues have been framed.

**ISSUES**

1. Whether the petitioner proves that, on 18.02.2023 at about 3.00 pm, on NH-66, near Koppalkarwadi cross of Kumta, when the petitioner was riding his motor cycle bearing Reg. No.KA-30/J-6589 from Kumta side towards Honavar side, the driver of lorry bearing Reg. No.KL-58/Z-7006 drove the same in a rash and negligent manner from Honavar side towards Kumta side and dashed to the aforesaid motor cycle of the petitioner and thereby caused injuries to him?
2. Whether the respondents prove that the petitioner has already filed another petition for compensation in MVC.No. 148/2023 on the file of the learned Senior Civil Judge & Addl. MACT, Sirsi?
3. Whether the petitioner is entitled for compensation? If so, for what extent and from whom?
4. What order or award?

18. In order to prove the case of the petitioner, the petitioner got himself examined as PW1 and got marked 39 documents at Ex.P1 to Ex.P.39 and petitioner also examined

Dr.Kiran K. V. Acharya as PW.2 and marked document at Ex.P40. Respondents not lead any evidence on their behalf.

19. Thereafter, heard argument by learned counsel for petitioner, and learned counsel for respondents.

20. The findings of this tribunal on the above issues are as follows:

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**

21. **ISSUE NO.1** : Petition filed by the petitioner under Section 166 of the M.V.Act,1988, the burden is on petitioner to prove that he had sustained injuries due to the rash and negligent of driver of Lorry bearing registration number KL-58/Z-7006.

22. In order to prove his case, the petitioner himself entered witness box as PW.1 by filing his affidavit as examination-in-chief, in which he reiterated the petition

averments. In support of his oral evidence petitioner produced 39 documents, out of which, the relevant documents are Ex.P.1 is certified copy of FIR registered by Kumta Police in Crime No.35/2023 against the driver of offending Vehicle punishable under Sections 279, 338 of IPC. Ex.P.2 is the certified copy of complaint lodged by one Rajaram S/o. Keshav Hebbar, Ex.P.3 is charge sheet submitted by police against the driver of the offending vehicle under section 279, 338 of IPC against the driver of offending vehicle. Ex.P4 is Wound Certificate issued by General Hospital, Kumta, Ex.P.5 is Spot panchanama drawn by the police, Ex.P6 is rough sketch prepared by police, Ex.P7 is Vehicle Seizure mahazar, Ex.P8 is IMV Report wherein the motor vehicle inspector opined that the above accident caused was not due any mechanical defect of m.v. number KA.58.Z.7006 and KA.30.J.6589 and Ex.P.9 is Certified copy of Order Sheet in C.C.No.478/2023 wherein the driver of offending vehicle pleaded guilty and paid fine amount. On perusal of these police documents, it becomes clear that the accident in question had occurred on

18.02.2023 in which the petitioner sustained injury. The petitioner was treated as an inpatient in the hospital. The First Information Statement was lodged by the informant. The First Information Statement lodged by the informant has undergone the test of the investigation by the Investigating Officer who ultimately came to the conclusion that accident had occurred due to rash and negligent act of driver of the offending vehicle.

23. In the present case, it is the contention taken by respondents that there is no negligence on the part of the driver of offending vehicle in the accident in question. Therefore they are not liable to pay compensation. But the police filed final report against the driver of offending vehicle. And the respondents have not challenged the said final report before Hon'ble High Court of Karnataka. In this case nothing is placed on record by respondents to show whether they have challenged the final report filed by I.O. before Hon'ble High Court of Karnataka. Moreover in this case the driver of offending vehicle pleaded guilty before the JMFC Court.

24. In addenda of this, in a claim for compensation under section 166 of Motor vehicles Act, 1988, the claimant has to prove the incident only on preponderance of probabilities and the standard of proof beyond reasonable doubt is not required as held by **Hon'ble Supreme Court of India in a decision reported in (2018) 6 SCC 656 (Mangla Ram V/S Oriental Insurance Company Limited and others).**

25. The Hon'ble Court in Bimla Devi Court observed that while dealing with the claim petition in terms of Section 166 of the Motor Vehicles Act, 1988, the Tribunal strict sensu is not bound by the pleadings of the parties, its function is to determine the amount of fair compensation. In paragraphs 11-15, the Court observed thus: "11. While dealing with a claim petition in terms of Section 166 of the Motor Vehicles Act, 1988, a tribunal strictosensu is not bound by the pleadings of the parties; its function being to determine the amount of fair compensation in the event an accident has taken place by reason of negligence of that driver of a motor vehicle. It is true

that occurrence of an accident having regard to the provisions contained in Section 166 of the Act is a sine qua non for entertaining a claim petition but that would not mean that despite evidence to the effect that death of the claimant's predecessor had taken place by reason of an accident caused by a motor vehicle, the same would be ignored only on the basis of a postmortem report visa`vis the averments made in a claim petition.

26. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied.

27. Hence by applying these above decisions, it can safely be concluded that injuries were caused to the petitioner due to rash or negligent driving of driver of offending vehicle.

Accordingly, this tribunal answered **issue No.1 in the Affirmative.**

28. **ISSUE NO.2 :-** In this it is the contention taken by both respondent no.1 and 2 that the petitioner already filed another petitioner for compensation in MVC No.148/2023 on the file of the learned Senior Civil Judge and Addl. MACT, Sirsi. Though the respondents in their objection statement have taken such contention, but they have not cross examine the petitioner with respect to the same, nor the respondents produced any document to show that the petitioner already filed another petitioner. Hence this **issue no.2 answered in the Negative.**

29. **ISSUE NO.3 :-** According to the petitioner he sustained injuries in the accident. This tribunal has already come to conclusion that petitioner sustained injuries due to rash and negligent act of driver of offending vehicle. Hence the petitioner is entitled for the compensation under different heads. In support of his case, the petitioner to prove he

sustained fracture injury in the above said accident has produced Ex.P.4-wound certificate issued by General Hospital, Kumta, which reveals that petitioner sustained;

1. Comminuted compound fracture of the left leg middle 1/3rd with distal post hanging,
2. Open Fracture of the Left foot,
3. Lacerated wound over the left parietal region,

According to Doctor, the injuries are grievous in nature.

30. PW.1 deposed that, after the accident he shifted to government Hospital, Kumta, Doctor who examined and gave first-aid treatment and referred him to higher center for higher treatment. Accordingly, on hiring an ambulance, the petitioner was shifted to Kasturba Hospital, Manipal and took treatment as an indoor patient from 18-02-2023 and discharged on 09.03.2023 and again he admitted on 01-04-2023 and discharged on 11-04-2023. In total petitioner took treatment as indoor patient for 31 days. He still taking treatment. So far after discharge he visited the said hospital for 3-4 times and

took follow up treatment. Petitioner has to travel on hiring ambulance on each and every occasion.

31. The petitioner spent more than 6,00,000/- towards medical treatment only. While he was taking treatment as an indoor patient his brother and his friend were attended on him. For food, extra nurishment attendant charge, conveyance and other incidental expenses, the petitioner spent Rs.3,00,000/-. He needs further treatment also.

32. In order to prove the disability, the petitioner examined P.W.2- Dr.Kiran K. V. Acharya, Professor of Orthopaedics, Kasturba Medical College and Hospital, Manipal, PW.2 in his evidence deposed that, petitioner was brought to Kasturba Hospital, Manipal on 18.2.2023 with injuries sustained during an alleged road traffic accident on 18.2.2023.

On examination, he had the following injuries:

- a. Open fracture of left tibia and fibula with degloving injury of left foot, leg-grievous

- b. Fracture of left V metatarsal bone left foot III, IV toe proximal phalanx fracture – grievous.
- c. Left medial malleolus fracture-grievous.
- d. Left scapula fracture grievous.

33. Petitioner underwent following surgical procedures under anaesthesia:

19.2.2023. Wound debridement, interlocking nailing of left tibia, screw fixation of medial malleolus.

25.2.2023: Wound debridement, disarticulation of III to IV toe of left foot at MIP joint, K-wire fixation of metatarsal fractures, IAD application.

2.3.2023: Left foot: Midfoot amputation, VAC

8.3.2023: Left foot plastic surgery

34. Petitioner readmitted from 1.4.2023 to 11.4.2023 for split skin grafting on 3.4.2023 by Plastic Surgery. Reviewed on 4.5.2023, 13.10.2023, 6.3.2024.

35. PW.2 further deposed that he examined petitioner on 7.8.2024 for the last time and found that there is, a).

Absent left fore foot amputation at midfoot. b). Post-traumatic stiffness of left knee 0-100, right 0-135, c). Post-traumatic stiffness of left ankle - no movements. d). Post traumatic stiffness of left shoulder-mild, e). Post traumatic stump infection- recurrent. f). Functional Assessment, g). Radiological assessment: Left scapula -malunion, no implant, left tibia union - nail present.

36. Considering the clinical, radiological and functional facts, he is of the opinion that petitioner is having permanent disability of 7% (Seven percent) left upper limb and 42% (Forty two percent) left lower limb locomotor functions (As per the guidelines of Ministry of Social Justice and Empowerment, Government of India. Guidelines. for the purpose of assessing the extent of specified disability in a person included under the Rights of Persons with Disabilities Act, 2016. Gazette notification Extraordinary No. 61 Part II Section 3 sub-Section ii.2018)

37. PW.2 further deposed that the petitioner needs to undergo:
- a. Infection treatment Rs. 35,000/- (Approximate cost).
  - b. Implant removal Rs. 55,000/- (Approximate cost).
  - c. Revision amputation Rs. 75,000 (approximate cost).

38. PW.2 is of the opinion that petitioner is having 7% (Seven percent) left upper limb and 42% (Forty two percent) left lower limb locomotor functions of total permanent physical impairment. Accordingly, he gave disability certificate at Ex.P.13, the contents of which are in consonance with the evidence of P.W.2. PW.2 is a treated doctor.

39. Learned counsel for second respondent company submits that the disability assessed is not to whole body, hence while assessing the disability, its impact to whole body is to be considered, hence he while assessing whole body disability compared to the particular limb disability hence as the disability assessed to upper limb is 7% as the disability to lower limb is 42% as assessed by the doctor to lower limbs

compared to whole body would have to be taken at 1/4th. In support of his submission learned counsel for second respondent company relied on decision in **Civil appeal No.1337-1338/2018 : Hon'ble Supreme court of India: in the case of Uttar Pradesh Road Transport Corporation Vs. Vibhor Fialok and another.** Wherein it held- "The High Court in relation to the same has assessed the loss of future earning capacity by considering the functional disability to the whole body at 48% which has been held herein below as erroneous. Thus, this court will have to undertake the exercise of assessing the whole body disability and as per almanco manual, the whole body disability when compared to the particular limb disability would be 1/4th in respect of that of the lower limb. In the instant case, the lower limb disability assessed by Dr. Lalit PW.3 is 48% and 1/4th of the same would be 12% and accordingly the compensation is being determined."

40. Learned counsel for petitioner also relied on citations reported in;

**1. 2024 ACJ 2712 - Hon'ble Supreme Court of India At New Delhi, in the case of K.S. Muralidhar Vs. R. Subbulakshmi and another,** wherein it has held that,

*Quantum-Injury-Spine-Injured aged 37, Team Leader in a private limited company, drawing Rs. 28,221 p.m., suffered fractures in backbones resulting in permanent disablement at 90 per cent rendering him wheelchair-bound with loss of urinary and bowel control-Tribunal awarded Rs. 58,09,930-High Court allowed 40 per cent addition in income towards future prospects and enhanced the award to Rs. 78,16,390 including Rs. 70,22,520 towards loss of future income-Apex Court took income at Rs. 27,867 p.m., added 50 per cent of income towards future prospects, adopted multiplier of 15 and taking functional disability at 100 per cent allowed Rs. 75,24,000 towards loss of future income plus Rs. 15,00,000 towards pain and suffering and rest of the award as made by the High Court-Award of Rs. 78,16,390 enhanced to Rs. 1,02,29,241.*

**2. 2025 AIAR (Civil) 166-Hon'ble Supreme Court of India, in the case of Atul Tiwari Vs. Regional Manager, Oriental Insurance Company Ltd.,** wherein it has held that,

*Motor Vehicles Act, 1988, Sec. 166-Ambit of Compensation for personal injury-The petitioner suffered various serious injuries including injuries to head, jaws, legs, knees,*

*chest and ribs for which the petitioner was operated on three occasions-Petitioner was rendered 60% permanently disabled-Period of Recovery-The MACT granted a compensation of Rs. 19,43,800/-High Court granted an enhancement in the compensation for Loss of Income from Rs. 11,23,200/- to Rs. 27,21,600/-Money cannot substitute a life lost but an effort has to be made for grant of just compensation so far as money can compensate-Held; High Court enhanced the compensation but failed to notice that the MACT has acted against the recommendations by the doctors as to the period of recovery-Compensation enhanced to Rs. 48,00,000/- in toto.*

**3. 2025 AIAR (Civil) 1-Hon'ble Supreme Court of India, in the case of Baby Sakshi Greola Vs. Manzoor Ahmad Simon and another,** wherein it has held that,

*A. Motor Vehicles Act, 1988, Secs. 166 and 168-Ambit and scope of Motor Accident-Disabilitys per the disability certificate, the appellant suffered 75% disability-Appellant is suffering from moderate mental retardation -Doctor stated that appellant would only be able to learn skills up-to the level of a child of 2nd Standard-Appellant also has severe apathy and no control over passage of her urine-Held that even though Dr. on assessment opined that the disability suffered by the appellant is 75%,*

*however, for all practical purposes, the disability of the appellant should be treated to be 100%.*

*C. Motor Vehicles Act, 1988, Secs. 166 and 168 Ambit and scope of-Motor Accident compensation Pain and suffering-Appellant will remain dependant on another person for the rest of her life-Held; in our view, the compensation should be enhanced further Therefore, in the peculiar facts and circumstances of this case, we are of the considered view that it would be appropriate to award compensation to the tune of Rs.15,00,000/- to the present appellant under the head of pain and suffering.*

*D. Motor Vehicles Act, 1988, Secs. 166 and 168-Ambit of-Motor Accident compensation-Loss of marriage prospects Disability-Marriage or companionship is an integral part of the natural life of a human being-Although the appellant is capable of reproduction, it is near impossible for her to rear children and enjoy the simple pleasures of marital life and companionship-Tribunal did not award any compensation under this head and the High Court, in appeal, without appreciating the impact of the non-pecuniary loss suffered by the appellant only awarded compensation of Rs. 1,00,000/- for the loss*

*of marriage prospects Compensation enhanced to Rs. 5,00,000/.*

**4. 2020 ACJ 1042-Hon'ble Supreme Court of India, At New Delhi: in the case of Kajal Vs. Jagdish Chand and others, wherein it has held that,**

*Quantum-Injury-Principles of assessment- Gratuitous services and loss of earnings of family members-Whether family members who remained in attendance of 12-year-old girl when she was in hospital for 51 days are entitled to compensation for loss of their wages and their expenses for stay in hospital, food, etc.-Held: yes; tortfeasor cannot take benefit of gratuitous services rendered by family members.*

41. I am not disputed the dictum of lordships but the documents produced by the petitioner and the evidence of PW.2 establish that, there is fracture as notice above. In order to assess the disability, its impact to whole body is to be considered. It is to be assessed with reference to occupation, avocation of the petitioner and relative impact on his work. As per petitioner he is doing agricultural work, climber of

arecanut trees to pluck arecanut bunches. Thereby earning Rs.1,000/- per day. Leaned counsel for petitioner submits that, though there is physical disability assessed 42% to his whole body, but petitioner is having 100% functional disability. When the petitioner appeared before this tribunal, this tribunal as observed the petitioners physical appearance he was waling with difficulty and limping while walking He sustained fracture injury and crush injury to his lest leg and amputation of mid-foot. Doctor advised for artificial limb. Hence as per petitioner he is doing agricultural work which involves physical activities. Therefore, considering these aspects, the 7% and 42% disability as assessed by the doctor to upper and lower limbs compare to whole body taken to **2%** to upper limb and **30%** to lower limb.

42. The petitioner to prove injury and taken treatment has produced the wound certificate, discharge summary and all medical documents, hence it cannot be ruled out that the petitioner not having any disability, this tribunal do not find

any reasons to suspect the injuries sustained by petitioner as alleged by him. Doctor assessed the disability at 7% (Seven percent) left upper limb and 42% (Forty two percent) left lower limb locomotor functions. Hence considering the injury, line of treatment and evidence of PW.1 and PW2 this tribunal considered the disability at **2%** and **30%**. Hence the petitioner is entitled for compensation under the following heads:

43. **Pain and Sufferings:-** The petitioner sustained fracture injury, petitioner took treatment as an inpatient. In order to prove he has produced Ex.P.11 and 12 discharge summaries, which reveals that, he was admitted in the hospital on 18.02.2023 and discharged on 09.03.2023 that is for 20 days, further again he admitted on 01-04-2023 and discharged on 11-04-2023 that is for 11 days. In total petitioner took treatment as indoor patient for 31 days. As per the opinion of doctor, petitioner is having difficulty in his usual functions. The injuries would have certainly caused much pain. Considering the nature of the injuries sustained by the petitioner, this tribunal is of the opinion that, it is just

and proper to award compensation of **Rs.75,000/- under the head of pain and suffering.**

44. **Medical expenses:-** Petitioner has produced medical bills Ex.P.15 to Ex.P.35 in total to the tune of Rs.3,70,055/-. there is no reason to disbelieve the genuineness of these bills. Therefore, petitioner is entitled for **medical bills to the tune of Rs.3,70,055/-**

45. **Food and Conveyance:-** Petitioner took treatment as inpatient at Kasturba Hospital, Manipal i.e. for 31 days. Petitioner might have spent amount towards conveyance, attendant charges and nourishment etc., while he was the inpatient in the hospital and at the time of subsequent follow-up treatment. Petitioner sustained the injuries as noticed above. Therefore, he might have hired the vehicle or spent some amount for conveyance. Considering the same in total it is just and proper to award **Rs.15,500/- under the head of food, nourishment, and conveyance.**

46. **Loss of Income During Laid-Up Period:-** As per petitioner he was doing agriculture and coolie and was earning more than Rs.1,000/- per day and in all he was earning Rs.30,000/- p.m. However, there is no documentary evidence in this connection. Even though, there are no documents, the court can take judicial notice of the fact that, even a coolie in the year 2023 used to get monthly income of Rs.15,250/-. (As per the Standard Operating Procedure for Conducting E- Lok-Adalat issued by Karnataka State Legal Services Authority, Bengaluru, hence that in the absence of proof regarding notional income, the guidelines issued by Legal Services Authority can be relied upon. Therefore, notional income of the petitioner is considered at Rs.15,250/- per month. Having regard to the injuries sustained by the petitioner as noticed supra, he is unable to do his work at least for the period of 6 months. Hence, **Rs.61,000/-** (Rs.15,250 x 4 = Rs.61,000/-) can be awarded towards **loss of income during laid up period.**

47. **Loss of Future income:-** On account of permanent disability: As per the evidence of P.W.2 doctor, petitioner is having permanent disability to the extent of 7% and 42% of total permanent physical disability. This aspect is fortified by Ex.P.4-wound certificate, Ex.P.11 and Ex.P.12- discharge summary and Ex.P.13 disability Certificate and also the evidence of doctor P.W.2. These documents cumulatively establish that, there is injury sustained by petitioner as noticed above. In order to assess the disability, its impact to whole body is to be considered. It is to be assessed with reference to occupation, avocation of the petitioner and relative impact on his work. As per petitioner he is doing agricultural and coolie work which involves physical activities. As per the petitioner he was aged about 38 years at the time of accident. To prove his age the petitioner produced Ex.P.10 his school Transfer Certificate, wherein the date of birth of petitioner mentioned as 06.05.1984 shows that, at the time of accident the petitioner was aged about 39 years. As per the case of Sarla Verma and others -Vs- Delhi Transport

Corporation (2009) 6 SCC 121. The multiplier to be adopted for the age of '**36 to 40**' years is '**15**'. It is already observed that, the monthly income of the petitioner at the time of accident would have been Rs.15,250/- per month. As per Prany Sethi Case, as the petitioner aged about 38 years that is below 40 years, hence if 40% future prospect it comes to Rs.21,350/- Hence, petitioner is entitled for compensation of **Rs.12,29,760/- (Rs.21,350 x 12 x 15 x 32/100)** towards **future income on account of permanent disability.**

48. **Loss of Amenities:-** The Petitioner has met with an accident at the age of 39 years and on account of accident he has to suffer discomfort the amenities throughout his remaining life. Hence, it is proper to award compensation of **Rs.50,000/** on the said head.

49. The petitioner sustained amputation injury and implants are inserted. PW2 in his evidence deposed that the petitioner required further medical expenses for infection treatment at Rs.35,000/-, implant removal at Rs.55,000/-,

and Revision amputation at Rs.75,000/- total 1,65,000/-. But PW2 not produced cost of estimation. But on perusal of line of treatment, considering nature of the injury it is just and proper to award **Rs.1,00,000/-** under the head of future medical expenses.

50. In total the petitioner is entitled for compensation under the following heads;

Pain and suffering	Rs. 75,000/-
Medical Expenses	Rs. 3,70,055/-
Attendance, food and nourishment and conveyance charges	Rs. 15,500/-
Loss of income during laid up period	Rs. 61,000/-
Future income on account of permanent disability.	Rs. 12,29,760/-
Loss of Amenities	Rs. 50,000/-
Future medical expense	Rs. 1,00,000/-
<b>Total</b>	<b>Rs. 19,01,315/-</b>

51. Hence, the petitioner is entitled for total compensation award amount of Rs.**19,01,315/-** which is just and proper.

52. While discussing above this tribunal come to the conclusion that, accident occurred due to the rash and

negligent driving of Lorry bearing Reg. KL-58/Z-7006. The First respondent holding valid and effective driving licence as on the date of accident and the policy of the said vehicle was in force. Hence, respondent No.1 being the RC owner and respondent No.2 being the insurer are jointly and severally liable to pay compensation to the petitioner.

53. Learned counsel for second respondent company submits that no interest shall be awarded for the period of adjournments taken by the petitioner. Hence in support of his contention relied on decision in **MFA No.4427/2010 : Hon'ble High Court of Karnataka at Bengaluru: in the case of New India Assurance Co.Ltd., Vs. Shanthi Mascarenhas and another. Wherein lordship held that**

*The claims cases have been adjourned and adjourned, for years and years, resulting into delayed justice to the deserving claimants. The cases wherein no interest is awarded for the periods covered by such adjournments are only marked by their rarity. Allowing interest even for the periods covered by the*

*adjournments granted at the instance of the claimants, virtually amounts to unjust enrichment of the claimants at the cost of other state holders, namely owners of the offending vehicles, or the insurance companies.*

*“No interest shall accrue or be awarded for the periods covered by the adjournments granted at the instance of the claimants or their witnesses in the claim petitions, unless there are very special reasons to be recorded in writing for such adjournments”.*

54. I am not disputing dictum of Hon'ble Lordships, but in this case learned counsel for petitioner submits that the petitioner sustained fracture injury to his left leg and took treatment as inpatient as there is amputation taken time for assessment of disability and non availability of disability certificate it all taken time, hence there is delay in leading evidence. Hence the petitioner made out reason for delay.

55. Under these circumstances, the petitioner is entitled for total compensation of **Rs.19,01,315/-** with interest at the

rate of 6% p.a. from the date of petition till realization. Accordingly, **issue No.3 answered partly in the Affirmative.**

56. **Issue No.3:** For the reasons and discussions made above and finding to the above issues this court proceed to pass the following:

### **ORDER**

The petition filed by the petitioner under section 166 of MV Act is allowed in part with cost.

The petitioner is entitled for compensation of **Rs.19,01,315/-** along with interest at 6% p.a from the date of petition till the date of depositing the amount. The respondent no.1 and 2 are jointly and severally liable to pay compensation to the petitioner.

The Respondent No.2 insurer of the offending vehicle shall deposit the compensation amount within one month from the date of this award.

Future Medical expenses does not carry interest

On deposit of the aforesaid compensation amount with accrued interest, 25% shall be deposited in the name of petitioner in any nationalized bank

for a period of three years and the remaining 75% of the said amount shall be released to the petitioner through K2 process in accordance with law on proper identification.

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

Draw decree accordingly.

(Directly dictated to the stenographer to the computer, corrected and then pronounced by me in the open Court on this the 06<sup>th</sup> day of March, 2026)

(Smt. B.S.Rayannawar)  
Senior Civil Judge  
& Prl. JMFC., Kumta.

### **ANNEXURE**

#### **List of Witnesses Examined on Behalf of the Petitioner:**

PW1 : Mahesh Herambha Hegde  
PW2 : Dr. Kiran K.V. Acharya

#### **List of Documents marked on behalf of the petitioner:**

Ex.P1 : Certified copy of First information report  
Ex.P2 : Certified copy of Compliant  
Ex.P3 : Certified copy of charge sheet  
Ex.P4 : Certified copy of Wound certificate  
Ex.P5 : Certified copy of spot panchanama  
Ex.P6 : Certified copy of sketch  
Ex.P7 : Certified copy of seizure panchanama  
Ex.P8 : Certified copy of IMV Report  
Ex.P9 : Certified copy of order sheet in CC  
No.478/2023  
Ex.P10 : True copy of Transfer certificate  
Ex.P11 & 12 : Discharge summery  
Ex.P13 : Treatment and Disability Certificate

Ex.P14 : Treatment Certificate  
Ex.P15 to 35 : Medical Bills Certified copy of charge sheet  
Ex.P8 to 44 : Medical bills  
Ex.P36 to 37 : Prescription  
Ex.P38 : Notarized copy of Aadhar card of petitioner  
Ex.P39 : Notarized copy of D.L. of petitioner  
Ex.P40 : Medical records file

**List of witnesses examined for the respondents:**

- Nil-

**List of documents marked on behalf of respondents:**

- Nil-

(Smt. B.S.Rayannawar)  
Senior Civil Judge  
& Prl. JMFC., Kumta