

KAUP020007062025



**IN THE COURT OF I ADDL. SENIOR CIVIL JUDGE AND
ADDL.M.A.C.T. AT UDUPI**

Present: **Sri. Santosh Srivastava**, B.A.Law., LL.B.,
I Addl. Senior Civil Judge, Udupi

Dated this the 1st day of August, 2026

M.V.C. No.89/2025

Between :

Mr. Shriyan,
Aged about 21 years,
S/o. Umesha,
R/o. 1-32 (1), Manikanta Nilaya,
Banabettu, VTC-Havanje,
PO-Havanje, Sub-District: Udupi,
District: Udupi. : Petitioner

(Rep. by Sri. S.A., Adv.)

-Versus-

1. Mr. Maurice Mascarenhas,
Aged about 65 years,
S/o. Rozario Mascarenhas,
R/o. D.No.2-80, Ammunje,
Kolalagiri, Uppor,
Uppur, Udupi.



2. The Divisional Manager,
Shri Ram General Ins. Co. Ltd.,
Divisional Office,
D.No.14-2-101/6, 3rd Floor,
Plaza Chambers, Balmatta Road,
Mangalore.

: Respondents

(R1- Rep. by Sri. M.N.S. Adv.)

(R2 – Rep. by Sri. M.R. Adv.)

J U D G M E N T

The petitioner has filed this petition under Section 166 of Motor Vehicles Act, 1988, claiming compensation for the personal injuries sustained by him in a road traffic accident dated 09.09.2024.

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

That on 09.09.2024 at about 08.30 a.m. the petitioner was riding his motor bike bearing Reg.No.KA-20-EZ-1626 from Udupi towards Kolalagiri and when he reached nearer to Cashew Industry, one Auto – rickshaw bearing Reg.No.KA-20-AA-2029 came from opposite direction on down gradient road, not only with high speed but also endangerous to human life on wrong route and dashed to the right side of the petitioner's motor bike and pushed the motor bike rider. As a result petitioner sustained severe



injuries on his person. Immediately after the accident petitioner was shifted to KMC Hospital and taken treatment as an inpatient for a period of one day and at the time of discharge the injured petitioner was not recovered and he has taken follow – up treatment and still the petitioner under treatment.

3. It is further case of the petitioner that, he has spent Rs.25,000/- towards medical expenses, Rs.2,500/- towards incidental expenses, Rs.2,000/- towards conveyance charges. Further the petitioner was working as Mechanic in ‘Mahindra Show Room’, Ambalapady, Udupi and he was drawing a monthly salary of Rs.13,000/-. Further in view of the accidental injury sustained and because of under treatment, he was not attended his routine work, for a period of 2 months. Further petitioner is aged about 21 years and he was unmarried person. The scan over forehead which his visible one, hence the said deformity effect his marriage prospects also. Hence prays that the respondent No.1 being the owner and respondent No.2 being the insurer of the offending Auto – rickshaw bearing Reg.No.KA-20-AA-2029 are jointly and severally liable to pay compensation of Rs.3,80,500/- plus future loss of income to the petitioner along with interest at the rate of 12% per annum from the date of petition till



realization.

4. In response to the notice the respondent No.1 and 2 appeared through their respective counsel and respondent No.2 has filed the written statement.

5. The respondent No.2 in its written statement has denied each and every averments of the petition and admits that, the interest of Mr. Maurice Mascarenhas vehicle No. KA-20-AA-2029 was covered at the material time under the policy of insurance issued by this respondent subject to the terms, conditions, exceptions and limitations thereof and the confirmation of the compliance of Sec.64VB of the Insurance Act, 1938. The insurance policy issued by this respondent in favour of the insured Policy no. 418031/31/25/005681 for the period from 26-07-2024 to 25-07-2025 is in the possession of the insured. It is denied that the driver of the Auto – rickshaw was holding a valid and effective driving license, permit, fitness certificate at the time of the accident. Hence prays to dismiss the petition.

6. Based upon the pleadings the following issues have been framed:

1. Whether petitioner proves that, he sustained injuries in the road traffic accident which was



taken on 09-09-2024 at about 08.30 A.M., opposite Rilebil Gerubija Factory, Perdoor to K.G Road, Uppoor Village from the fault of driver of Auto bearing Reg.No.KA-20-AA-2029

2. Whether respondent No.2 proves that, driver of the Auto was not holding the effective driving license at the time of accident?
3. Whether petitioner is entitled for compensation? If so, how much and from whom?
4. What award or order?

7. The petitioner to prove his case stepped into the witness box and examined himself as P.W.1 and got marked the documents as Ex.P1 to Ex.P13 and side closed. On the other hand the respondents have not examined any witness and got marked Ex.R1 to R4 with the consent of other side.

8. Heard on both sides. The answers to the above issues are as under:

- Issue No.1 - In the affirmative;
- Issue No.2 - In the negative;
- Issue No.3 - Partly in the affirmative;
- Issue No.4 - As per the final order
for the following:



REASONS

Issue No.1:

9 The petitioner has filed affidavit in lieu of examination-in-chief. Perused the contents of affidavit in lieu of examination-in-chief, which is almost the replica of the averments of the petition, hence not discussed to avoid repetition of facts.

10. Now coming to documentary evidence. Ex.P1 is true true copy of complaint, Ex.P2 is the true copy of F.I.R. registered for the offense punishable under Sec.281, 125(a) of B.N.S. Ex.P3 is the true copy of seizure mahazer, Ex.P4 is the true copy of rough sketch. Ex.P5 is the true copy of IMV report, wherein it shows that the alleged accident did not occur due to any mechanical defects of the vehicle involved in the accident. Ex.P6 is the true copy of wound certificate, wherein the doctor opined that injuries are grievous in nature and all the injuries are caused due to blunt force trauma. Ex.P7 is the true copy of AIR report mentioning all the case details. Ex.P8 is the true copy of charge sheet for the offense punishable under Sec.281, 125(b) of B.N.S. against accused No.1 Mouris Mascarehnas who is the owner and driver of the offending vehicle. Other documents will be discussed at the later part of the judgment.



11. Now coming to the cross – examination, wherein it is elicited that he was working as a attender at Giriya Cancer Hospital and the said accident has been taken place on 09.09.2024 and as on the date of accident he was riding two wheeler vehicle and as on the date of accident he possessed license to drive two wheeler and unfortunately the driving license is not produced before the Tribunal and the road upon which accident has been taken place was quite straight and the offending vehicle has dashed to the right side of the said vehicle. And as on the date of accident he wore helmet and later on he was shifted to KMC hospital and the witness admits that he was discharged from KMC Hospital, though the injuries are completely healed but still there is a pain and it is further elicited that he has not taken the course of doing technician work. And the salary was directly credited to his account. And in accordance with Ex.P11 there is a facility of ESI and the ESI facilities are not being utilized by her and the complaint is being filed by the mother. And he had got Rs.15,000/- salary and after deduction he gets Rs.13,000/- salary in his hand. The witness denies the suggestion that as on the date of accident he did not sustained any economical loss. The witness denies the



suggestion that, Ex.P11 is created by him. rest of the cross - examination is of bare denial.

12. The respondent has not lead any evidence on his behalf but got marked the documents Ex.R1 to R4 with consent. Ex.R1 is the certificate of fitness. Ex.R2 is a certificate of fitness. So therefore both the vehicles were examined and possessed fitness. Ex.R3 is a permit pertaining to vehicle bearing Reg.No.KA-20-AA-2029. further got marked Ex.R4 which is a driving license of Maurice Mascarenhas.

13. At this stage, this court likes to place reliance upon the reported judgment of Hon'ble Supreme Court, **Anita Sharma vs the New India Assurance Co. Ltd. 2020 SCC Online SC 1002**, wherein it is held that, *the standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eye-witnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true.*



14. The respondent has not stepped into the witness box. So therefore the evidence lead by the petitioner is acceptable one and more over as per the police records the charge sheet is filed against Maurice Mascarenhas who is respondent No.1 in this case. So therefore the petitioner is quite successful in proving that the accident is caused by the driver of the Auto-rickshaw. In view of the above discussion, I answer **issue No.1 in the affirmative.**

Issue No.2 :

15. The respondent No.2 has taken a contention that the driver of the Auto – rickshaw was not holding the effective driving license at the time of accident. On perusal of Ex.R4 copy of driving license of respondent No.1 it can be seen that driving license valid from 03.03.2009 till 20.03.2029 and admittedly the accident occurred on 09.09.2024. Hence as on the date of accident the respondent No.1 has valid driving license to drive the offending Auto – rickshaw. Hence the respondent No.2 failed to prove that the driver of the Auto – rickshaw was not holding the effective driving license at the time of accident. Hence I answer **issue No.2 in the negative.**

**Issue No.3 :**

16. The petitioner does not have any disability arising out of accident and on perusal of the Ex.P9 he has incurred expenses in getting treatment for sum of Rs.19,487/-. This Tribunal is of the opinion that no person will take treatments unnecessarily it is the issue with the petitioner to come out of the injuries and pain. Hence it is quite natural that the petitioner has to attend all the options to make sure to lead a life in a proper manner in future and it is practically impossible to keep all the receipts intact. Further on perusal of the wound certificate the petitioner has suffered grievous injuries and collectively under all heads apart from medical expenses Rs.70,000/- is being awarded. So therefore, the petitioner is entitled for total compensation amount of Rs.89,487/-, **which is rounded off to Rs.90,000/-.**

Regarding the liability:

17. While answering issue No.1, it is held that the accident has occurred on account of the rash and negligent driving of the driver of offending vehicle. The respondent No.2 has admitted that the offending vehicle was covered with valid policy as on the day of the accident. The respondent No.1 being the owner and respondent No.2 being the insurer of the offending vehicle are jointly and



severally liable to pay the compensation.

18. So far as interest on compensation is concerned; this tribunal likes to place reliance upon the decision of the Hon'ble High Court of Karnataka in **M.F.A. 13390/2014 clubbed with M.F.A. 25107/2013** dated 07.03.2018, between **Vijay Ishwar Jadhav and others Vs. the Divisional Manager, the Bajaj Allianz General Insurance Co. Ltd.,** wherein the Hon'ble High Court of Karnataka has elaborately discussed with regard to the rate of interest to be awarded in the case arising out of the accident, wherein at para No.15 it is held that *"However, the provisions of Section 149 (1) of the Act to the extent they speak of interest payable on the compensation amount is in the nature of an exception to the general law enacted in Section 169 of the M.V. Act and therefore, the provisions of Section 34 of C.P.C. to that extent become invocable on the general principles of construction of statutes namely the special law over rides the general law. Therefore, in the absence of any other law relating to interest on judgments, the MACT has to follow the provisions of Section 34 of C.P.C., 1908. Thus, in the given circumstances of this case, interest at the rate of more than 6% could not have been awarded."* By relying upon the decisions of the aforesaid judgment, this court is of the opinion that it is just and proper to award interest at the rate of



6% per annum, from the date of the petition till its realization. **Hence, I answer issue No.3 partly in the affirmative.**

Issue No.4:

19. In view of findings on issue No.1 to 3, this Tribunal proceeds to pass the following:

ORDER

The petition filed by the petitioner under Sec.166 of Indian Motor Vehicles Act, 1988 is allowed in part with costs.

The petitioner is entitled for compensation of Rs.90,000/- (Rupees Ninety Thousand Only) with interest at the rate of 6% per annum from the date of petition till realization.

The respondent No.1 and 2 are jointly and severally liable to pay the award amount. Since the respondent No.2 is the insurer, the respondent No.2 is directed to pay the compensation and the same shall be deposited within 45 days from the date of this order.

After deposit of the award amount with proportionate interest is ordered to be credited



to the account of the petitioner either through
R.T.G.S. or N.E.F.T.

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

Draw award accordingly.

(Dictated to Stenographer, typed by her, corrected and
then pronounced by me in open court on this the 1st day
of August, 2026)

(Santosh Srivastava)

I Addl. Senior Civil Judge & Addl. MACT,
Udupi.

ANNEXURE

Witnesses examined on behalf of the petitioner:

P.W.1 : Shriyan.

Documents marked on behalf of the petitioner:

- Ex.P1 : True copy of complaint;
- Ex.P2 : True copy of F.I.R.;
- Ex.P3 : True copy of spot mahazer;
- Ex.P4 : True copy of rough sketch;
- Ex.P5 : True copy of IMV Report;
- Ex.P6 : True copy of Wound Certificate;
- Ex.P7 : True copy of AIR report;
- Ex.P8 : True copy of Charge sheet;



- Ex.P9 : 9 Medical bills;
Ex.P10 : Medicine prescriptions;
Ex.P11 : Pay Slip of petitioner;
Ex.P12 : Notarized copy of Aadhar Card of petitioner;
Ex.P13 : Notarized copy of PAN Card of petitioner.

Witnesses examined on behalf of the respondents:

None

Documents marked on behalf of the respondents :

- Ex.R1 & R2 : Notarized copy of fitness certificate;
Ex.R3 : Notarized copy of Permit;
Ex.P4 : Notarized copy of driving license.

I Addl. Senior Civil Judge & Addl. MACT,
Udupi.