

KAUP020057292024



***BEFORE THE ADDITIONAL MOTOR ACCIDENTS
CLAIMS TRIBUNAL & PRINCIPAL SENIOR CIVIL JUDGE
AND CJM., UDUPI.***

Present: Sri.M.Purushothama,
B.B.M, M.S.W., L.L.M.,P.G.D.H.R.M.
Prl. Senior Civil Judge & CJM., Udupi.

Dated this the 10th day of July, 2026

M.V.C.No. 1114/2024

Petitioner : Harish Acharya,
Aged about 45 years,
S/o. Sheena Acharya,
R/at. Sarpalli Bailu,
Narnadu,
Uppooru village,
Post: Thenkabettu
Brahmavara taluk,
Udupi district – 576 105.

[Rep.By Sri.A.P.H., Advocate]

V/s

Respondents: 1. Raghunatha Maben,
Aged about 53 years,
S/o. Late Aithappa Maben,
R/at. Hoyige Thota Mane,
7th cross,
Saibaba Mandira road,

Putturu village,
Udupi taluk and district.

2. Iffco Tokio General Insurance
Company,
3rd floor,
Lal Bagh Tower,
MG road, Mangalore,
D.K. district.

**[Rep.By Sri.M.R., Advocate for R2]
R1 – Placed exparte]**

J U D G M E N T

The petitioner has filed the petition for grant of compensation under Section 166 of Motor Vehicles Act, 1988 and prayed the Tribunal to award compensation of Rs.10,00,000/- with interest at the rate of 12% p.a. from the date of petition till date of payment.

2. The brief facts of the petitioner's case is as follows:

That on 02-06-2024 the petitioner was riding his motorbike bearing registration No.KA-20-X-6340 on N.H 66 from Katapadi towards his house at Uppoor village and at about 4.15 p.m. when he reached near Ranjan Auto Garage, Udyavara, Innova car bearing registration No.KA-20-MC-6633 driving by its driver in a rash and negligent manner came and said car's left mirror dashed to the right side handle of the petitioner's

bike, due to the forcible hit the petitioner fell on the road along with his bike. Immediately after the accident the petitioner was shifted to City hospital, Udupi where the petitioner was treated. The petitioner has sustained grievous injury of heel pad avulsion with fracture Cuboid bone and other part of his body as detailed in wound certificate dated 10-06-2024 issued by the doctor. He was admitted to the hospital on 02-06-2024 and discharged on 05-06-2024. He was advised to take bed rest for 6 months. He could not do any work during his bed rest. Due to injury to his right leg, he is now unable to walk and even to perform his day to day activities. He is having permanent disability. Till date he is not doing any work as ordinary person, since he has not fully recovered. The doctor informed him that the disability is permanent. He cannot do any work in future also due to permanent disability. The petitioner spent a sum of Rs.3,00,000/- towards medical treatment, Rs.1,00,000/- towards attendant charges, Rs.50,000/- for extra nourishment food, Rs.10,000/- for travelling expenses, Rs.40,000/- for physiotherapy expenses. He has been taking extra nourishment food as per the doctor's advise during his bed rest period. After discharge from the hospital, he visited the hospital for follow up treatment as an outpatient on several times. Accordingly, prayed the Tribunal to award the compensation.

3. The first respondent remained absent in spite of service of summons. Hence, he was placed *exparte*.

4. The respondent No.2 appeared before the Court through its counsel and filed written statement. The respondent no.2 in its written statement submits that, the accident has taken place as on 02-06-2024 whereas the claim petition has been filed on 02-12-2024 in the year 2024 i.e. after 183 days from the date of occurrence of alleged mishap so it is submitted that, there is an inordinate delay on the part of claimant in filing the claim petition and it has not been filed within the time limit as stated in the provisions under section 166(3) of the MV Act 1988 (amended as in 2019) vide). Hence, the claim petition filed by the applicant is not a surviving claim and it is barred by limitation and therefore, it cannot be entertained and not maintainable in the eyes of law and liable to be dismissed on this sole ground of limitation. As per the amended Motor vehicle Act the present petition is barred by limitation. Hence, the present petition not maintainable and same may be dismissed. This respondent seeks protection under the section 147 and 150 of M.V Act. As per section 134 [C] of M.V. Act 1988, it mandatory duty of the insured herein to furnish the particulars of policy, date, time and place of accident, particulars of Injured and the name of the driver and particulars

of the driving license but the insured herein has not complied with statutory demand. Hence this respondent is not liable to pay any compensation and the case is liable to be dismissed against this respondent for non-compliance of statutory demand. As per Sec. 158(6) of M.V.Act, 1988, it is a mandatory duty of the concerned Police station to forward all the relevant documents to the concerned insurer within 30 days from the date of the information but the Kapu Police station failed to forward the documents and not complied with the statutory demand. The interest claimed at 12.5% is highly excessive and same is contrary to Sec. 3 of Interest Act, 1978 and the observation of the various judgment of the Hon'ble Apex Court. The Petitioner is not entitled to claim any interest on non pecuniary damages as per the observations of the judgment of Hon'ble Apex Court. The petitioner has suppressed the material facts regarding the accident. This respondent craves leave of this Hon'ble court to take all defenses available to the respondent No. 2 under section 170 of M.V.Act and contest the case on all the grounds apart from those specified U/s. 150(2) of M.V.Act. The petition is barred by limitation under Section 166 (3) Motor Vehicles (Amendment) Act 2019. Among other grounds prayed for dismissal of the petition.

5. Based on the above pleadings the issues have been framed by this court as follows:

ISSUES

1. Whether the petitioner proves that he sustained grievous injuries in a road traffic accident which occurred on 02-06-2024 at about 4.15 p.m. near Ranjan Auto Garage at Udyavara, due to high speed, rash and negligent driving by the driver of the Innova car bearing registration No.KA-20-MC-6633, as alleged in the petition?
2. Whether the petitioner is entitled for compensation? If so, what is the quantum? From whom ?
3. What order or award?

6. The petitioner examined himself as P.W.1 and examined the Dr. Harish R.Nayak as PW2 and in total produced 12 documents, which are marked as Ex.P1 to Ex.P12. On the side of the respondents, none is examined and no documents are produced.

7. Heard arguments on both sides. Perused the entire materials available on record.

8. My findings to the above issues are as follows:

Issue no.1 : In the Affirmative

Issue no.2 : Partly in the Affirmative

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

REASONS

9. Issue No.1: The claim of the petitioner is that on 02-06-2024 the petitioner was riding his motorbike bearing registration No.KA-20-X-6340 on N.H 66 from Katapadi towards his house at Uppoor village and at about 4.15 p.m. when he reached near Ranjan Auto Garage, Udyavara, Innova car bearing registration No.KA-20-MC-6633 driving by its driver in a rash and negligent manner came and said car's left mirror dashed to the right side handle of the petitioner's bike, due to the forcible hit the petitioner fell on the road along with his bike and he sustained grievous injuries.

10. The respondent No.2 denied the accident, rash and negligent driving of the car bearing registration No.KA-20-MC-6633 by its driver. Hence, the burden is on the petitioner to prove the rash and negligent driving of the car bearing registration No.KA-20-MC-6633 by its driver and he sustained injuries in the said accident.

11. The petitioner examined himself as PW1 by filing affidavit as his examination-in-chief to substantiate the petition

averments and in total marked 12 documents as Ex.P1 to P12. Ex.P1 is the certified copy of FIR, Ex.P2 is the certified copy of first information statement, Ex.P3 is the certified copy of Spot mahazar, Ex.P4 is the certified copy of Sketch, Ex.P5 is the wound certificate, Ex.P6 is the form No.1, Ex.P7 are the bills, Ex.P8 are the prescriptions, Ex.P9 is the Lab report, Ex.P10 is the discharge summary, Ex.P11 is the admission record, Ex.P12 is the x-ray.

12. On perusal of Ex.P1, the police attached to Kapu police station registered FIR in Cr.No.0073/2024 on 04-06-2024 based on the first information statement given by the petitioner's brother on 04-06-2024 at 16.00 hours. The alleged accident was occurred on 02-06-2024 and soon after the accident he was admitted to the hospital. On the date of accident itself he was admitted to the hospital which could be seen from wound certificate marked as Ex.P5. Hence, there is a delay of 3 days in filing the first information. Though there is a delay of 3 days in lodging first information, but the priority is to obtain treatment and not to lodge first information. Hence, the delay in lodging first information cannot be doubted.

13. The I.O. filed charge sheet against the driver of the car bearing registration No.KA-20-MC-6633, which is not in dispute. There is no evidence before the Tribunal that the IO

filed false charge sheet against the rider of the said bike. The said charge sheet is not challenged by the first respondent.

14. The mahazar is marked as Ex.P3 and sketch is marked as Ex.P4. These two documents depicts that the width of the road at the place of the accident is 30 feet. From the accident spot to the western edge of the tar road the distance is 3 feet, whereas towards the divider situated on eastern side distance is 27 feet. The petitioner proceeds towards Udupi by riding his motor cycle on his left side. The driver of the car though having sufficient space of 27 feet came to the left side and as a result the mirror of the car hit the petitioner's motor cycle, as a result he fell on the road. If the driver of the car took his car to his right side, then he could have avoid the accident. The sketch is also not disputed by the respondents. The learned counsel for respondent No.2 cross examined the PW1, but nothing was elicited from his mouth to prove that the accident occurred due to negligence of the petitioner. The respondent No.2 has not placed any materials to establish the negligence of the petitioner. On the other hand the petitioner by producing the documents as well as by reading oral evidence establishes that the accident was occurred due to negligence of the driver of the car. **Hence, I answered the issue No.1 in the affirmative.**

15. Issue No.2:- The petitioner has claimed total compensation of Rs.10,00,000/-. The petitioner sustained injuries in a road traffic accident which is evident from Ex.P1 to Ex.P12. Hence, the petitioner is entitled for compensation under various heads.

16. Pain and Sufferings: The petitioner has sustained the grievous injury of 'heel pad avulsion with fracture Cuboid bone' and other part of his body. The said injury is grievous in nature. The petitioner was admitted in the hospital on 02-06-2024 and discharged on 05-06-2024 i.e. for a period of 4 days and he was aged about 45 years at the time of the accident. During the course of arguments, the petitioner counsel produced the photo of the petitioner's leg, which discloses that there is a fresh injury on his leg. Hence, by considering the nature of injuries, pain suffered by him, inpatient period in the hospital and the age, the petitioner is entitled **for Rs.50,000/- under the head of pain and sufferings.**

17. Medical Expenditure: In the petition the petitioner has stated that he spent Rs.3,00,000/- towards medical expenses. The petitioner has produced medical bills marked as Ex.P7. The total of Ex.P7 is Rs.47,377/-. **Hence, the petitioner is entitled for Rs.47,377/- under this head.**

18. Loss of income during laid up period : According to the petitioner he has sustained permanent disability and he cannot do any kind of work in future due to disability. According to the petitioner he is a goldsmith and earning Rs.30,000/- per month, but he has not produced any document to prove his income. The accident occurred was in the year of 2024. The notional income for the said year is Rs.17,000/-. The petitioner was admitted in the hospital for a period of 4 days. The treated doctor is examined as PW2, who deposed that he advised the petitioner to take rest for 6 months since there is a fresh injury. The photo produced by the petitioner goes to show that he had sustained fresh injury, so one cannot resume to his work in such a situation. Though the respondent No.2 cross examined the PW2, but nothing was elicited. This Tribunal believe the version of the doctor. The evidence of PW2 is credit worthy. The doctor has not produced disability certificate, but fairly submits that the PW1 took rest for 6 months. The evidence of PW2 is not destroyed by the respondent No.2 during the course of cross examination. Hence, the petitioner is entitled for compensation under this head for a period of six months. **Accordingly, he entitled for Rs.1,02,000/- (Rs.17,000/- x 6).**

19. Food, nourishment food, conveyance and attendant charges expenses: Though the petitioner has stated that he had spent amount towards food, nourishment food, conveyance and attendant charges, he has not produced any documents to prove the same. However, by considering the fact that he was inpatient for a period of 4 days in total and during that time he spent amount towards food, conveyance and attendant charges, **the petitioner is entitled for Rs.5,000/- under this head.**

20. Loss of amenities: The petitioner deposed that though he has not sustained disability, but he is suffering from pain due to the injuries sustained by him in the accident. The doctor deposed that he discharged the petitioner after completion of the treatment. Though the treatment was completed, but the petitioner sustained pain. The wound certificate discloses that the injury is grievous in nature. Hence, the petitioner is entitled **for Rs.20,000/- under this head.**

21. The above summarized as follows:

Pain and sufferings	Rs. 50,000/-
Medical expenditure	Rs. 47,377/-
Loss of income during laid up period	Rs. 1,02,000/-

Food and conveyance	Rs. 5,000/-
Loss of amenities	Rs. 20,000/-
Total	Rs. 2,24,377/-

22. The petitioner has claimed interest at the rate of 12% per annum. As far as interest is concerned the petitioner is entitled interest at the rate of 6% per annum in view of the law laid down by the Supreme Court. The respondent No.2 admits the policy issued in favour of the offending vehicle. Hence, the 2nd respondent is liable to indemnify. Accordingly, **I answered this issue partly in the Affirmative.**

23. Issue No.3: In view of the findings on above issues, I proceed to pass the following:-

ORDER

The claim petition filed under Section 166 of Motor Vehicle Act, by petitioner against respondents is hereby allowed in part with cost.

The petitioner is entitled for total compensation of Rs.2,24,377/- (**Rupees two lakhs twenty four thousand three hundred and seventy seven only**) with interest at the rate of 6% p.a. from the date of petition till date of realization.

The respondents No.1 and 2 are jointly and severally liable to pay compensation and respondent No.2 is directed to deposit the compensation within 60 days from the date of this order.

Upon deposit of the compensation amount the petitioner is entitled to receive entire compensation amount.

Office is hereby directed to transfer entire amount to the petitioner after obtaining copy of the pass book, copy of Aadhar card and PAN card if any.

Advocate fee is fixed at Rs.1,000-00.

Draw award accordingly.

(Dictated to the Stenographer, computerized by her, corrected, signed and then pronounced by me in the open court on this the 10th day of July, 2026).

(M.Purushothama)

Prl. Sr. Civil Judge & ADDL.MACT,
Udupi.

ANNEXURE**List of witness examined for the petitioner:**

P.W.1 : Harish Acharya

P.W.2 : Dr. Harish.R.Nayak

List of documents exhibited for the petitioner:

Ex.P1 : True copy of FIR

Ex.P2 : True copy of first information statement

Ex.P3 : True copy of Spot mahazar

Ex.P4 : True copy of sketch

Ex.P5 : True copy of wound certificate

Ex.P6 : Form No.1

Ex.P7 : Bills

Ex.P8 : Prescriptions

Ex.P9 : Lab report

Ex.P10: Discharge summary

Ex.P11 : Admission records

Ex.P12: X-ray

List of witnesses examined for the respondents:-

None

List of documents exhibited for the respondents

Nil

Prl. Sr. Civil Judge & ADDL.MACT,
Udupi.

