

KAUP020027042025



***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 28th day of July, 2026

M.V.C.No. 589/2025

Petitioner : Riyaz,
Aged about 30 years,
S/o. Haji Byari,
R/at. 3-42-1,
Subhas Nagara,
Sarakari Gudde,
Shankarapura,
Udupi – 574 115.

[Rep.By Sri.P.K., Advocate]

V/s

Respondents: 1. Stany Salvadore Dias,
Aged about 71 years,
S/o. Sylvester Dias,
R/at. H. No.15-237-(3),

Blossom,
Kadi Kambla Main road,
Shirva Village,
Kup taluk,
Udupi district – 574 116.

2. The New India Assurance
Co.Ltd.,
Rep. By its Div.Manager,
2nd floor,
Sri.Ram Arcade,
Opp: Head Post Office,
Udupi.

**(Rep. by Sri.A.K.A., Advocate for R2.
R1 : Placed exparte)**

J U D G M E N T

The petitioner has filed this petition for grant of compensation under Section 166 of Motor Vehicles Act, 1988 and prayed the Tribunal to award compensation of Rs.29,25,000/- with interest at the rate of 7% p.a. from the date of petition till the date of payment.

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

That on 27-02-2025 at about 9.20 hours in front of Babbuswamy temple, on N.H. 66 Mangaluru-Udupi road, Udyavara village, Udupi, when the petitioner was

riding his scooter bearing registration No.KA-20-HA-2841, a bus bearing registration No.KA-20-AA-9888 was moving in front of the petitioner's vehicle driving by its driver in a rash and negligent manner without following traffic rules and regulations and applied the brake abruptly & without giving any signal stopped the bus, due to which the petitioner's scooter was hit the hind portion of the bus. Due to the accident the petitioner has sustained the following injuries:

- 1) Comminuted fracture distal shaft left femur
- 2) Multiple abrasions umbilical region, supra pubic region, right inguinal region.

The injury No.1 is grievous in nature and injury No.2 is simple in nature. Immediately after the accident the petitioner was shifted to City hospital, Udupi, where admitted as an inpatient on 27-02-2025 and discharged on 03-03-2025. During the inpatient period of 5 days, x-rays were taken and bandages were put, operation was done and other expertise treatments were given to him. Thereafter the petitioner also visited the said hospital as an outpatient for several times. The petitioner spent medical expenses of Rs.1,70,000/- towards hospital and medical expenses. He also requires a sum of Rs.80,000/- for future medical expenses. While taking

treatment at hospital, the petitioner spent Rs.1,000/- per day towards attendant's food, conveyance, daily attendant charges. In total spent Rs.5,000/- i.e. Rs.1,000/- p.d. for 5 days. He also engaged attendant while taking bed rest at home by paying Rs.15,000/- p.m, in total Rs.90,000/- i.e. Rs.15,000/- for 6 months. Further petitioner spent Rs.5,000/- towards special nourishment food i.e. Rs.1,000/- p.d. for 5 days. Further spent Rs.90,000/- towards special nourishment food while taking bed rest at home i.e. Rs.500/- p.d. for 6 months. Prior to the accident the petitioner was hale and healthy and he was aged 30 years at the time of the accident and he was the owner of FRS Auto Electrical Work, Malpe beach and thereby earning Rs.50,000/- p.m. Due to the injuries sustained in the accident, he is disabled and he could not attend his work from the date of the accident till date. He spent Rs.3,000/- towards car charges from the spot of accident to City hospital, Udupi and then to his home. Further he spent Rs.5,000/- towards conveyance expenses to visit the hospital as an outpatient. The accident has taken place due to rash and negligent driving of the bus bearing registration No.KA-20-AA-9888. Respondent No.1 being the owner and

respondent No.2 being the insurer of the bus bearing registration No.KA-20-AA-9888 are jointly and severally liable to pay the compensation. Accordingly, prayed to allow the petition.

3. Respondent No.1 did not appear before the court, hence he was placed *exparte*. Respondent No.2 appeared before the court through his counsel and filed written statement denying the petition averments and submits that the application of the petitioner is wholly false, vexatious and is not maintainable in law and on merits. The petitioner has suppressed true and material facts with a view to make wrongful gain for himself. As per Section 134© of M.V. Act 1988, it is mandatory duty of the insured 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 has not complied with statutory demand. As per provisions of M.V. Act, 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 SHO Kaup police station has failed to forward the documents and not complied with the statutory

demand. The bus bearing registration NO.KA-20-AA-9888 was insured with this respondent for a period from 22-07-2024 to 21-07-2025 which was issued in favour of 1st respondent. The interest claimed by the petitioner is highly excessive, exorbitant and the same is purely speculative in nature and without any basis. Among other grounds prays to dismiss the petition.

4. Based on the above pleadings the following issues have been framed:

ISSUES

1. Whether the petitioner proves that on 27-02-2025 at about 09.20 hours, when he was riding hi scooter bearing registration No.KA-20-HA-2841, when he reached in front of Babbuswamy temple, on NH 66, Mangaluru-Udupi road, Udyavara village, Udupi at that time one bus bearing registration No.KA-20-AA-9888 which was driven by its driver from Mangalore side towards Udupi side in a rash and negligent manner, without following traffic rules and

regulations and applied the break abruptly without giving any signal stopped the bus, due to which his scooter was hit the hind side of the bus, due to which he sustained injuries?

2. Whether the petitioner is entitled for compensation? If so how much and from whom?

3. What order or award?

5. The petitioner himself is examined as P.W.1 and Dr. Harish R.Nayak, who issued disability certificate is examined as PW2 and in total produced 19 documents which are marked as Ex.P1 to Ex.P19. On the side of the respondents, none is examined, but marked Ex.P1 insurance policy.

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

7. 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

8. Issue No.1:- The claim of the petitioner is that on 27-02-2025 at about 9.20 hours in front of Babbuswamy temple, on N.H. 66 Mangaluru-Udupi road, Udyavara village, Udupi, when the petitioner was riding his scooter bearing registration No.KA-20-HA-2841, a bus bearing registration No.KA-20-AA-9888 was moving in front of the petitioner's vehicle driving by its driver in a rash and negligent manner without following traffic rules and regulations and applied the brake abruptly without giving any signal stopped the bus, due to which the petitioner's scooter was hit the hind portion of the bus. Due to the accident the petitioner has sustained the following injuries:

- 1) Comminuted fracture distal shaft left femur, which is grievous in nature.
- 2) Multiple abrasions umbilical region, supra pubic region, right inguinal region, which is simple in nature.

9. The respondent No.2 denied the rash and negligent driving of the bus bearing registration No.KA-20-AA-9888 by its driver. Hence, the burden is on the petitioner to prove the rash and negligent driving of the bus bearing registration No.KA-20-AA-9888 by its driver and he sustained injuries in the accident.

10. The petitioner himself is examined as PW1 by filing affidavit as his examination-in-chief and Dr. Harish R.Nayak, who issued disability certificate is examined as PW2 and in total produced 19 documents which are marked as Ex.P1 to Ex.P19. Ex.P1 is the FIR, Ex.P2 is the certified copy of first information statement, Ex.P3 is the wound certificate, Ex.P4 is the spot mahazar, Ex.P5 is the sketch, Ex.P6 is the IMV report, Ex.P7 is the Form No.1, Ex.P8 is the Aadhar card, Ex.P9 is the final report, Ex.P10 is the notice u/s.133 of IMV Act, Ex.P11 is the reply to the notice, Ex.P12 is the discharge summary, Ex.P13 is the disability certificate, Ex.P13(a) is the signature of PW2, Ex.P14 is the copy of driving license, Ex.P15 is the inpatient bill, Ex.P16 are the medical bills, Ex.P17 is the ambulance bill, Ex.P18 is the Case sheet, Ex.P19 is the x-ray.

11. On perusal of Ex.P1, the police attached to Kaup Police Station registered FIR in Cr.No.0031/2025 on 27-02-2025 based on the first information given by the petitioner on 27-02-2025 at 19.30 hours. The alleged accident was occurred on 27-02-2025 and soon after the accident he was admitted to the hospital, which could be seen from wound certificate marked as Ex.P3. The first information was also given on the same day. The IMV report marked as Ex.P6, discloses that both the vehicles got damaged. Hence, the involvement of the vehicles and injuries sustained by the petitioner in an accident cannot be doubted.

12. The I.O. filed charge sheet Ex.P9 against the driver of the bus for the offence punishable u/s 281, 125(b) of BNS. There is no evidence before the Tribunal that the IO filed false charge sheet against the driver of the bus to help the petitioner. The 133 notice marked as Ex.P10 and reply to the said notice marked as Ex.P11 goes to show that the owner of the bus admits the accident occurred on 27-02-2025. Apart from this this Tribunal issued notice to the owner , but he remained absent. The petitioner in his petition alleged that the driver of the bus all of a sudden applied the brake and stopped

the bus in the middle of the road. In spite of knowing this allegation the owner of the bus remained absent and has not refuted the said allegation establishes that he indirectly admits the negligent driving of the bus by its driver. It is a duty of the petitioner to maintain distance from his vehicle to the bus. But in this case the driver of the bus applied brake all of a sudden without giving signal that too in the middle of the road, which could be seen from the charge sheet as well as in the sketch demonstrates that there is no fault on the part of the petitioner. If the driver of the bus has not applied the brake and if the petitioner hit the hind portion on the moving bus, then there is a negligence on the part of the petitioner. In the case on hand the accident was occurred since the driver stopped the bus without giving any signal that too in the highway without taking his bus to the extreme left side. Hence there is no contributory negligence on the part of the petitioner. The respondent No.2 neither examined anyone nor produced any material to establish the contributory negligence. During the course of cross examination even a suggestion is not put to PW1 that the bus was not stopped and he himself hit the bus when it was proceed. So, one thing is very clear that the petitioner

hit the bus since the driver of the bus stopped the bus without giving any signal. Hence, this Tribunal is of the view that there is no any contributory negligence on the part of the petitioner. **Accordingly, I answered the issue No.1 in the Affirmative.**

13. Issue No.2: The petitioner has claimed total compensation of Rs.29,25,000/-. The petitioner sustained injuries in a road traffic accident which is evident from Ex.P1 to P19. Hence, the petitioner is entitled for compensation under various heads.

14. Pain and Sufferings: On perusal of Ex.P3 wound certificate, it reveals that the petitioner has sustained the following injuries:

- 1) Comminuted fracture distal shaft left femur
- 2) Multiple abrasions umbilical region, supra pubic region, right inguinal region.

Out of said injuries, injury No.1 is grievous in nature and injury No.2 is simple in nature. In the petition, petitioner has stated that he was admitted as an inpatient for a period of 5 days and after his discharge he visited the hospital for follow up treatment as per the advise of the doctor. According to the discharge summary Ex.P12, the injured was admitted to the hospital on 27-

02-2025 and discharged on 03-03-2025. The petitioner was aged about 30 years at the time of the accident. Hence, by considering the nature of injuries and inpatient period in the hospital and the age, the **petitioner is entitled for Rs.35,000/- under the head of pain and sufferings.**

15. Medical expenses: The petitioner has produced inpatient bill Ex.P15 and medical bills Ex.P16. The total of Ex.P15 and P16 is Rs.1,14,994/- **Hence, the petitioner is entitled for Rs.1,14,994/- under this head**

16. Loss of income during laid up period : According to the petitioner, prior to the accident the petitioner was hale and healthy and he was aged 30 years at the time of the accident and he was the owner of FRS Auto Electrical Work, Malpe beach and thereby earning Rs.50,000/- p.m. Due to the injuries sustained in the accident, he is disabled and he could not attend his work from the date of the accident till date. To prove the same he has not produced any documents. The petitioner was admitted in the hospital for a period of 5 days and thereafter he took rest for another 25 days, in total he lost income for a period of one month. The

accident occurred in the year 2025. Hence, the notional income of Rs.18,000/- is taken as his income. Accordingly, the petitioner is **entitled for Rs.18,000/- towards loss of income during laid up period.**

17. Food and attendant charges expenses: Though the petitioner has stated that he had spent amount towards food and attendant charges., he has not produced any documents to prove that he had spent amount towards food and attendant. However, by considering the fact that he was inpatient for a period of 5 days and during that time he spent amount towards food, the petitioner is entitled for **Rs.3,000/- under this head.**

18. Disability: Disability refers to any restriction or lack of ability to perform an activity in the near future. Permanent disability refers to the residuary in capacity or loss of use of some part of the body, found existing at the end of the period of treatment. After achieving the maximum bodily improvement or recovery, which is likely to remain for the remainder life of the injured. Permanent disability can be either partial or total. Partial permanent disability refers to a person inability to perform all the duties and functions that he could perform, though he is able to perform some of them and

still able to engage in some gainful activity. Total permanent disability refers to a person's inability to perform any avocation or employment, related activities as a result of the accident.

19. In order to award compensation under this head it is mainly depend upon the effect and impact of such permanent disability on his earning capacity. In this connection I would like to rely the ruling reported in *2011 ACJ page 1* in between **Rajkumar Vs. Ajay Kumar**, wherein the Hon'ble Supreme Court held that the tribunal is required to assess the disability on the basis of evidence and what is the effect of the permanent disability of the earning capacity of the injured.

20. PW2 is a doctor, who deposed that he examined and treated Riyaz, who was brought to City hospital, Udupi on 27-02-2025 with a history of road traffic accident. On examination of the injured, he found 2 injuries, out of which one injury is grievous in nature and one injury is simple in nature. The injured was in the hospital for a period of 5 days as an inpatient and after discharged on 03-03-2025. After discharge he visited the hospital for follow up treatment. During that period x-rays were taken, bandages were put, operation was conducted and

closed distal femoral interlocking nailing done under AB on 27-02-2025 and other expertise treatments were given to him. At the time of discharge, he was also advised to take 12 week bed rest. He has also visited the said hospital as an out patient for several times. After scientific analysis of all the difficulties he is found to have a permanent physical impairment of 18.06% in relation to left lower limb. The implant of left knee needs to be removed which may cost around Rs.35,000/- and he had to be admitted for 2 days with 2 weeks bed rest.

21. During the course of cross examination, he has deposed that he himself treated the injured and the treatment of the injured was completed, but the implant is not yet removed. There is no compulsory to remove the implant, but if the injured getting pain, then it will be necessary to remove the implant, which may cost Rs.35,000/-. On perusal of entire evidence of PW2 the fracture is properly united, the implants are not yet removed, the petitioner can do his avocation as he was done prior to the accident. However, he unable to sit on crossed legs. The doctor has not assessed the disability based on the avocation. Further the doctor has not

assessed the disability of the petitioner to the whole body. The percentage of disability should not exceed 100% , the doctor has stated that the petitioner has sustained 18.06% of disability for particular limb. Hence, by considering the nature of injuries, the operation done on the petitioner and the discharge summary, this Tribunal is of the view that the petitioner has sustained disability to an extent of 6%, which is a functional disability. The age of the petitioner is 30 years. Hence, the proper multiplier is '17'. Accordingly, the petitioner is entitled for Rs. 18,000/- x 12 x 17 x 6% = Rs. 2,20,320/-. Hence, the petitioner is entitled compensation **of Rs.2,20,320/- under the head of loss of income due to disability.**

22. Future prospectus: The age of the petitioner is 30 years. Hence, 40% is to be added towards future prospectus, which comes to **Rs.88,128/- (Rs.2,20,320/- x 40%).**

23. Future medical expenses: The petitioner has claimed future medical expenses of Rs.80,000/-. PW2 doctor deposed that the removal of implant may cost Rs.35,000/-. The estimate is not produced. Moreover if the petitioner is getting pain, then only the implants are

to be removed, otherwise there is no compulsory. Hence, by considering the same the petitioner **is entitled for Rs.20,000/- under this head.**

24. The above summarized as follows:

Pain and sufferings	Rs. 35,000/-
Medical expenses	Rs. 1,14,994/-
Food and attendant charges expenses	Rs. 3,000/-
Loss of income for laid up period	Rs. 18,000/-
Disability	Rs. 2,20,320/-
Future prospectus	Rs. 88,128/-
Future medical expenses	Rs. 20,000/-
Total	Rs. 4,99,442/-

25. The petitioner has claimed interest at the rate of 7% 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 pay the interest from the said date and also liable to indemnify. Accordingly, **I answered this issue partly in the Affirmative.**

26. Issue No.4: 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.4,99,442/- (Rupees four lakhs ninety nine thousand four hundred forty two only)** with interest at the rate of 6% p.a. on Rs.3,91,314/- from the date of petition till date of realization (No interest on loss of future prospectus of Rs.88,128/- and future medical expenses of Rs.20,000/-)

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 30 days from the date of this order.

Upon deposit of the compensation amount the petitioner is entitled to receive the 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 28th day of July, 2026).

(M.Purushothama)

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

ANNEXURE

List of witness examined for the petitioner:

P.W.1 : Riyaz
P.W.2 : Dr. Harish R. Nayak

List of documents exhibited for the petitioner:

Ex.P1 : FIR
Ex.P2 : Certified copy of
first information statement
Ex.P3 : Wound certificate
Ex.P4 : Spot mahazar
Ex.P5 : Sketch
Ex.P6 : IMV report
Ex.P7 : Form No.1
Ex.P8 : Aadhar card
Ex.P9 : Copy of Final report
Ex.P10 : Notice u/s.133 of IMV Act
Ex.P11 : Reply to the notice
Ex.P12 : Discharge summary
Ex.P13 : Disability certificate
Ex.P13(a) : Signature of PW2
Ex.P14 : Copy of driving license
Ex.P15 : Inpatient bill
Ex.P16 : Medical bills
Ex.P17 : Ambulance bill
Ex.P18 : Case sheet
Ex.P19 : X-ray

List of witnesses examined for the respondents:-

None

List of documents exhibited for the respondents

Ex.R1 : Insurance policy

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

