

KAUP200010622024



**IN THE COURT OF
SENIOR CIVIL JUDGE AND ACJM AT KARKALA,UDUPI
Presided Over by Sri.PRAVEEN NAYAK, LL.M.,**

Dated:- This the 13th day of August, 2026.

M.V.C. NO. 1046/2024

Sri. Sachin,
Aged about 31 years,
S/o. Shiva Naik,
R/at 2-B, Boothhukuli,
Shivapura Village & Post,
Hebri taluk, Udupi District. ...Petitioner.

(By Sri. Bharath Shetty S., Advocate.)

- Vs -

1. Sri. K. Chandru,
Aged about 73 years,
S/o. Balakrishna Nairy,
R/o 7/196, Uggelbettu,
Kolalagiri, Uppooru Village,
Udupi Taluk, Udupi District.

2. Sri. Pradeep,
Aged about 41 years,
S/o. K. Chandru,
R/o. 7/196, Uggelbettu,
Kolalagiri, Uppooru Village,
Udupi Taluk, Udupi District.



3. Division Manager,
ICICI LOMBARD General
Insurance Co.Ltd.,
414, ICICI LOMBARD House,
Veer Savarkar Marg, Near Siddhi
Vinayak Temple Main Gate,
Prabhadevi, Mumbai-400 025,
Maharashtra.

.. Respondents.

(Respondent No.1 and 2 - By
Sri. Anuraj K., Advocate

Respondent No.3 – By
Sri. Madhukesh Rai, Advocate)

J U D G M E N T

This petition is filed seeking compensation of Rs.10,00,000/- with interest for the injuries sustained by the petitioner during road traffic accident.

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

That on 15-03-2024 at 7.45 A.M., the petitioner was riding his motor cycle bearing Reg.No.KA-20-EL-1029 from Perdoor towards Uppoor side. When the two wheeler reached Galimara Bus stop, Keelanje of Havanje Village, Brahmavara Taluk, 1st respondent drove Suzuki Access 125 bearing Reg.



No.KA-20-EQ-2531 from Uppoor towards Perdoor , in a rash and negligent manner, tried to overtake a bus near the bus stop, came to wrong side and dashed against the motor cycle of the petitioner and the petitioner sustained injuries. The petitioner was a tempo driver and earning Rs.30,000/- per month. Due to the accident, he is unable to attend his work. Thus prays to grant compensation as sought for.

3. The respondent No.1 and filed written statement and denied the entire averments of the petition. It is contended that if at all the respondents have to pay any compensation, then the 3rd respondent has to pay the same as the vehicle of 2nd respondent had been insured with 3rd respondent at the time of accident. Hence prays to dismiss the petition.

4. The respondent No.3 filed written statement by denying the entire averments of the petition. The claim of the petitioner is restricted to the terms, conditions and limitations of the



insurance policy. The interest claimed is exorbitant and excessive. Hence prayed to dismiss the petition.

5. On the basis of the above pleadings the following issues are framed.

ISSUES

1. Whether the petitioner proves that he sustained injuries in a road traffic accident on 15-03-2024 at 7.45 A.M., Opposite Galimara Bus stop, Keelinje , Havanje Village, due to rash and negligent driving of Suzuki Access 125 bearing Reg. No. KA-20-EQ-2531 by its rider as contended?

2. Whether the petitioner is entitled for the compensation amount, if so what is the amount and from whom it is recoverable?

3. What Order or Award?

6. In order to substantiate the allegations, the petitioner herself got examined as PW1 and one witness by name Dr.Monappa Naik as P.W.2. Ex.P.1 to Ex.P.16 are marked.



The Legal Executive of respondent No.3 – insurance company is examined as R.W.1. Ex.R.1 and Ex.R.2 are marked.

7. I have heard arguments and perused the written arguments filed by the counsel for petitioner and respondent No.3.

8. My findings on the above issues are as follows:-

Issue No. 1 – In the Affirmative,

Issue No. 2 – As per findings,

Issue No. 3 - As per final Order,
for the following ,

REASONS

9. **Issue No.1:-** It is the case of the petitioner that on 15-03-2024 at 7.45 A.M., the petitioner was riding his motor cycle bearing Reg.No.KA-20-EL-1029 from Perdoor towards Uppoor. When the two wheeler reached Galimara Bus stop, Keelanje of Havanje Village, Brahmavara Taluk, 1st respondent



drove Suzuki Access 125 bearing Reg. No.KA-20-EQ-2531 from Upoor towards Perdoor , in a rash and negligent manner and tried to overtake a bus near the bus stop, came to wrong side and dashed against the motor cycle of the petitioner and the petitioner sustained injuries. That he was shifted to KMC Hospital, Manipal underwent treatment as inpatient for five days. That he spent money towards medical treatment, hospital, medicine, conveyance, food and attendant charges . The petitioner was a tempo driver and earning Rs.30,000/- per month. Due to the injuries sustained, he could not attend his duty. That the respondent No.1 is the rider , respondent No.2 is the owner and respondent No.3 is the insurer of the Suzuki Access 125 bearing Reg. No.KA-20-EQ-2531 .

10. In order to substantiate the case, the petitioner got examined as P.W.1 and filed his affidavit in lieu of chief examination by reiterating the averments of the petition. To prove the case, the petitioner has produced the copy of complaint filed by Kiran Kumar, at Ex.P.2, wherein it is stated



that while he was proceeding in his motor cycle bearing Reg. No.KA-19-EN-8052 from Perdoor to Upporu , near Galamara Bus stop , the petitioner was proceeding in his motor cycle in front of him. At that time a two wheeler came from opposite side , behind a bus and suddenly turned his vehicle towards rightside, as a result the motor cycle proceeding in front of his motor cycle, lost control and dashed against the two wheeler which came from opposite side, as a result he sustained grievous injuries to his left foot . He stopped his motor cycle and rushed to the spot and came to know the registered number of the vehicle as KA-20-EL-1029 and the name of rider as Sachin Naika, thereafter they took the injured to KMC Hospital, Manipal. He has also stated the registration number of the two wheeler which hit the injured , as KA-20-EQ-2531 . The FIR is lodged as per Ex.P.1 against the rider of two wheeler bearing Reg. No.KA-20-EQ-2531 for the offences under Section 279, 338 of IPC. The statement of the petitioner is marked as per Ex.P.3. The spot Mahazar and the sketch are



marked as per Ex.P.4 and Ex.P.5. The Motor Vehicles Inspection report is marked as Ex.P-6, depicting damages to the motor cycle at front left left side and damages on the offending vehicle on left side. The wound certificate is marked as Ex.P.7. The chargesheet is filed against the rider of the offending vehicle alleging the offences punishable under Section 279, 338 of I.P.C., which is at Ex.P.8.

11. The Respondent no.2 , by filing an application under Section 170 of the I.M.V.Act, sought to take up all the defences available to the owner of the vehicle, which was permitted by this court. Thus, during the cross examination of the PW-1, the contention of respondent No.2 was that there was no negligence on the part of rider of the offending vehicle and the accident occurred due to the negligence of the petitioner.

12. In a decision reported in **2023 SCC Online 632**, *Mathew Alexandar Vs. Mohammed Shafi and another* , it is held that 'negligence will have to be assessed based on pleadings and evidence brought on record'. There is no dispute



that the the accident had occurred as claimed by the petitioner. The police records such as Ex.P.1 to Ex.P.6 , Ex.P.7 Wound certificate , Ex.P.8 – Chargesheet are sufficient to prove the case of the petitioner. It is settled law that in case relating to Motor Accident Claim, the claimants are not required to prove the case as it is required to be done in a criminal trial. The said preposition of law is rendered in a decision reported in **2022 SCC Online 1699** , *Rajwati alias Rajjo and another Vs. United India Insurance Company and others*. Accordingly the above Issue No.1 is answered in affirmative.

13. **Issue No.2:** The petitioner deposed that he was shifted to KMC Hospital, Manipal, underwent treatment as inpatient for five days. The wound certificate marked as Ex.P.7 issued by KMC Hospital, Manipal shows that the petitioner has sustained perforating injury with entry wound , with a metal component present in situ and exit wound involving front, back and inner aspect of left foot, which is grievous in nature, abrasion over front of right foot , laceration tissue deep



over front of left great toe. In the remarks it is stated that X-ray : left 1st and 2nd meta tarsal fracture. Petitioner submits that he underwent surgery and is suffering permanent disability and to prove the same, he got examined Dr. Monappa Naik, Associate Professor of Orthopaedics, KMC Manipal , as P.W.2. He has deposed that the petitioner was brought to their hospital for the injuries sustained in the road traffic accident on 15-03-2024. He has deposed that on examination, petitioner had open left 1st and 2nd metatarsal fracture with foreign body in situ which are grievous in nature. Further deposed that petitioner was admitted on 15-03-2024 and underwent treatment for wound debridement, foreign body removal and slap application and discharged on 20-03-2024. The petitioner reviewed on 27-03-2024, 18-04-2024, 10-05-2024, 12-06-2024, 14-08-2024, 17-10-2025 and 10-02-2026. Further deposed that the petitioner has 17% permanent disability in his left lower limb locomotor function. There is no contrary evidence on record to disbelieve the evidence of P.W.2, where this court can consider that



petitioner has 17% permanent disability of left upper limb. Thus whole body disability to an extent of 1/3rd which tunes to 5% can be considered.

14. P.W.1 has deposed that he was a tempo driver and earning Rs.30,000/- per month and that now due to accident, he is not in a position to attend the said work. But the petitioner has not produced any documents to prove his avocation and income. Aadhar card is at Ex.P.9 , depicting date of birth of petitioner as 22-02-1993 , which means he was aged 31 years at the time of accident. The accident occurred on 15-03-2024 as per Ex.P.1 and Ex.P.2 It is pertinent to state that the Karnataka State Legal Services Authority has prepared a chart of notional income and directed the Tribunals to follow the same. At this juncture , it is profitable to refer the decision rendered by Hon'ble High Court of Karnataka in ***MFA No.10307/2017 dated 13-07-2023*** , *Umalu S/o. Laskareppa Lamani alias Naik and another Vs. M/s. Delhi, Gujarat Lete Motor Cycleries Pvt. Limited and others*, wherein it has held that



‘When there is no cogent and acceptable evidence to show the actual income of the victim of road traffic accident, the notional income to be decided based on the chart of Lok-Adalat. The said preposition of law has been reiterated in **2018 SCC Online KAR 2862** , *Legal Manager IFFCO TOKYO GIC Ltd., Vs. Srinivas and others.* In the absence of any material to prove the income, the court can consider the notional income of Rs.17,000/- based on the recent chart prepared by Karnataka State Legal Services Authority. Thus the notional income to an extent of Rs.17,000/- can be considered. The petitioner has produced discharge summary at Ex.P.12 which depicts that the petitioner was admitted as inpatient in KMC Hospital, Manipal from 15-03-2024 to 20-03-2024. The petitioner was hospitalized for a period of five days. Thus, the petitioner may be expected to be in the bed rest for about one month. Hence the petitioner is entitled for compensation amount of Rs.17,000/- under the head ‘loss of income during laid up period’.



15. As discussed above, the petitioner was aged 31 years, where the appropriate multiplier applicable is '16'. Hence the petitioner is entitled for Rs.1,63,200/- ($17,000 \times 5\% \times 16 \times 12 = 1,63,200/-$) under the head loss of future income.

16. P.W.1 has produced Ex.P.10 - medical bills and receipts for Rs.28,849.50 , Ex.P.12 receipts for Rs.2,150/- in total Rs.30,999.50 Hence the petitioner is entitled for Rs.30,999.50 rounded of to Rs.31,000/- under the head 'medical expenses'.

17. The petitioner has sustained grievous injuries and undergone surgery, admitted in the hospital for 5 days. Except suggesting that the the disability certificate is not as per the injuries sustained by the petitioner, which is denied , nothing is brought out during the cross-examination of P.W.2 to disbelieve his evidence. Therefore in the above given situation,



the petitioner can be compensated under the head pain and agony for a sum of Rs.50,000/-.

18. The petitioner was treated as inpatient for 5 days in KMC Hospital, Manipal. In this situation the petitioner is absolutely entitled for compensation under the head 'food and nourishment' to an extent of Rs.2,500/-. Petitioner submits that he had engaged an attendant at the time of taking treatment in the hospital. As such, the Attendant charges to an extent of Rs. 3,750/- can be paid. Further, the petitioner was taken from the accident spot to KMC Hospital, Manipal, where he has taken treatment as inpatient. Hence, a sum of Rs.5,000/- can be granted as conveyance charges.

19. P.W.2 has not deposed regarding future medical expenses pertaining to the petitioner. Hence the petitioner is not entitled for compensation under the head 'future medical expenses' . Thus the petitioner is entitled for compensation under the following heads.



Sl.No	Heads	Amount
1.	Pain and sufferings	Rs. 50,000/-
2.	Conveyance expenses	Rs. 5,000/-
3.	Food and nourishment	Rs. 2,500/-
4.	Attendant charges	Rs. 3,750/-
5.	Medical expenses	Rs. 31,000/-
6.	Loss of income during laid up period	Rs. 17,000/-
7.	Loss of future income	Rs. 1,63,200/-
	Total	Rs. 2,72,450/-

Liability: In this case there is no dispute that the offending vehicle was insured with 3rd respondent and policy was in force as on the date of accident. Hence this ***issue is answered accordingly*** burdening the respondent No.2 to pay the compensation to the petitioner along with interest at 6% p.a. from the date of petition till the date of deposit .

20. **Issue No.3** : The question of limitation is already answered by this court while passing order on IA No.I. In view



of findings on the above issues, I proceed to pass the following:-

ORDER

The petition filed by the petitioner is hereby partly allowed with costs.

The petitioner is entitled to a total compensation of Rs. 2,72,450/- along with interest at 6% p.a., from the date of petition till the date of deposit .

The respondents No.2 and 3 are jointly and severally directed to pay the award amount with accrued interest thereon to the petitioner and respondent No.3 being the insurer is directed to deposit the same within sixty days from the date of this order .

On deposit of the compensation amount , same shall be released in favour of the petitioner through E- payment after due identification .

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



Draw award accordingly.

(Dictated to the stenographer directly in the computer , corrected and then pronounced by me in open court, on this the 13th day of August, 2026.)

(PRAVEEN NAYAK)
Senior Civil Judge & AMACT, Karkala.

ANNEXURE

List of witness examined on behalf of petitioner:-

P.W.1 - Sachin
P.W.2 - Dr. Monappa Naik

List of documents marked on behalf of petitioner:-

Ex. P.1 - Copy of FIR
Ex. P.2 - Copy of complaint
Ex. P.3 - Copy of statement of petitioner
Ex. P.4 - Copy of Spot Mahazar
Ex.P.5 - Copy of sketch
Ex. P.6 - Copy of Accident Motor Vehicles Inspection Report
Ex. P.7 - Copy of wound certificate
Ex.P.8 - Copy of chargesheet
Ex.P.9 - Notarized copy of Aadhar card
Ex.P.10 - Bills and receipts



- Ex.P.11 - Discharge summary
- Ex.P.12 - Medial receipts
- Ex.P.13 - Disability certificate
- Ex.P.13(a) - Signature of P.W.2
- Ex.P.14 - Treatment certificate
- Ex.P.14(a) - Signature of P.W.2
- Ex.P.15 - Case sheet
- Ex.P.16 - X-ray films

List of witnesses examined for respondents:-

- R.W.1 - Vikram Shetty

List of documents marked on behalf of respondents:-

- Ex.R.1 - Authorization letter
- Ex.R.2 - Insurance policy.

Senior Civil Judge & AMACT.,
Karkala.