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TITLE SHEET

IN THE COURT OF SENIOR CIVIL JUDGE & MACT AT KUNDAPURA

***PRESENT : SRI KUMARA G. B.COM. LL.B.
SENIOR CIVIL JUDGE, &
ADDITIONAL MACT, KUNDAPURA***

***MVC NO.219 OF 2024
DATED ON THIS 23RD DAY OF JUNE, 2026***

***petitioners : MINOR AYISHA HALIMAH SULTHANA,
D/O ABDUL HAJID,
R/O "HANIYA MANZIL",
MARUR CROSS, BELVE POST,
HENGAVALLI VILLAGE,
KUNDAPURA TALUK, UDUPI DISTRICT.***

***MIONOR & HENCE REPRESENTED BY HER
MOTHER NAMELY SMT RAJIYA BEGUM,
AGED ABOUT 35 YEARS ACTING AS
NATURAL GUARDIAN.***

(REPRESENTED BY SRI PJS, ADVOCATE)

VERSUS

***RESPONDENTS : 01. SRI MANJUNATH NAYAK,
S/O SRI SADASHIVA NAYAK,
AGED ABOUT 51 YEARS,
R/O "VATHSALYA", NANDIGUDDE,
MATPADI VILLAGE, BRAHMAVARA TALUK.***

***02. NATIONAL INSURANCE
COMPANY LIMITED,
BRANCH OFFICE: KUNDAPURA.***

**(R-1 IS REPRESENTED BY SRI PS; R-2 IS
REPRESENTED BY SRI KBS, ADVOCATE)**

JUDGMENT IN MVC NO.219 OF 2024

This judgment arises out of claim petition filed by the mother of the minor petitioner against the respondents under section 166 of ***Motor Vehicles Act, 1988 (hereinafter referred as "Act")*** for awarding compensation stating that the minor petitioner had suffered injuries and disability in the road traffic accident occurred on 01-03-2023 at about 05-00 PM near Someshwara Ghat, I Cross, of Nadapalu Village, Hebri on Agumbe-Hebri road.

02. The case of the mother of the minor petitioner in nutshell is that on 01-03-2023, the minor petitioner was travelling as passenger along with other family members from Koppa side towards Kundapura direction on Agumbe-Hebri road in Mini Bus bearing No.KA-40/A-0362 owned by the respondent No.1. The driver of the said Mini Bus drove it in rash and negligent manner so as to endanger to the human life and at about 05-00 PM, near Someshwara Ghat, I Cross of Nadapalu Village, he drove the vehicle to his extreme left side, lost control over the vehicle and dashed to drainage and caused the accident. Due to the said accident, the Mini Bus capsized and fully damaged and the petitioner and other passengers have suffered injuries. Immediately, the minor petitioner was shifted to Government Hospital, Hebri and after the first aid, she has been

shifted to KMC Hospital, Manipal and treated as in-patient. The mother of the petitioner has spent huge amount for the treatment of the minor petitioner and she also requires amount towards future treatment.

03. At the time of the accident, the minor petitioner was aged about 07 months. Due to the accident, she has suffered injuries and permanent disability. Due to the injuries and permanent disability, she is unable to do her daily activities and the injuries have affected her future prospects and her general health is impaired. The accident was occurred solely due to rash and negligent driving on the part of the driver of Mini Bus. The respondent No.1 was the owner of the Mini Bus and he insured it with respondent No.2-Insurer and the Insurance Policy was in force as on the date of accident. Hence, the respondent No.1 being the owner and respondent No.2 being the insurer, both are jointly and severally liable to pay the compensation. For the aforesaid reasons the petitioner has prayed for awarding compensation of Rs.20,00,000/- under various heads.

04. In pursuance of service of notice of the claim petition, the respondent No.1 has appeared before this tribunal through advocate. But in spite of availing sufficient time, he had not filed written statement. Hence, the written statement of respondent No.2 is taken as not filed.

05. In pursuance of service of notice of the claim petition, the respondent No.2-Insurer appeared through advocate and filed written statement by denying the claim petition averments. However, the respondent No.2-Insurer has admitted that the respondent No.1 was the owner of the Mini Bus bearing registration No.KA-40/A-0362, he insured the vehicle with it and the Insurance Policy was in force as on the date of alleged accident. It is specifically contended that the driver of the Mini Bus was not holding valid and effective Driving License at the time of accident; the respondent No.1 had handed over the vehicle to un-authorized person and thereby he had violated material terms and conditions of Insurance Policy and therefore, the respondent No.2 is not liable to pay the compensation. It is further contended that the petitioner is claiming excessive and exorbitant compensation for which he is not entitle for. For the aforesaid reasons, respondent No.2-Insurer has prayed for rejection of claim petition with exemplary costs.

06. Basing on the pleadings of the parties, the following issues have been framed for determination: -

ISSUES

01. Whether the guardian of the petitioner proves that, when petitioner was being the passenger in Mini Bus bearing Reg.No.KA-40/A-0362 on 01-03-2023 at about 05.00 PM,when she reached place near Someshwara Ghat, 1st cross,Nadapalu Village, Hebri within the limits of Hebri Police Station, at the same time, the driver of the said mini bus drove the same in a rash and negligent manner so as

to endanger human life and lost the control over it and dashed to the drainage and as a result she sustained injuries?

02. Whether the petitioner is entitled for compensation? If so, at what quantum and from whom?

03. What Order or Award?

07. In order to substantiate the claim petition contentions, the mother of the petitioner examined as PW-1 and she got marked 15 documents as per Exhibit P-1 to P-15. The Assistant Manager of respondent No.2-Insurer has been examined as RW-1 and two documents got marked as per Exhibit R-1 and 2.

08. After closure of evidence, heard the arguments advanced by Sri PJS, the learned counsel for petitioner and Sri KBS, the learned counsel for the respondent No.2-Insurer.

09. Perused the oral and documentary evidence placed on records.

10. Upon hearing the arguments and on perusal of oral and documentary evidence let in before this tribunal, my answers to the above issues are as follows:

Issue No.1 :- In the affirmative,
Issue No.2 :- In the affirmative and
Issue No.3 :- As per the final order for the following:

REASONS

11. ISSUE NO.1:- In order to substantiate the claim petition averments, the mother of the petitioner examined as PW-1 in the form of affidavit and re-

iterated all the petition averments once again in the affidavit filed in lieu of chief-examination. Hence, I am not going to discuss the contents of affidavit once again as it is nothing but re-iteration of contents of claim petition. During the course of chief-examination, PW-1 has got marked Exhibit P-1 to P-15.

12. Exhibit P-1 is the First Information given by one Sri Abdul Ajeez relating to the accident in question alleging that the accident was occurred due to rash and negligent driving on the part of driver of Mini Bus. Exhibit P-2 is the First Information Report registered by Hebri police in their Crime No.11/2023 against the driver of the Mini Bus relating to the accident in question for the offences punishable under section 279, 337 and 338 of Indian Penal Code, 1860. Exhibit P-3 is the Accident Spot Panchanama and Exhibit P-4 is Accident Spot Sketch and they show that the accident was occurred at Someshwara Ghat, I curve, Nadapalu Village of Hebri Taluk on Hebri-Agumbe road. Exhibit P-5 is the Wound certificate of the petitioner issued by KMC Hospital, Manipal and it shows that the petitioner has suffered depressed skull fracture on right parietal region which is grievous in nature. Exhibit P-6 is the Motor Vehicles Inspection Report and it shows that Mini Bus involved in the accident has suffered damages in the accident and the accident was not occurred due to any mechanical defects of the vehicle. Exhibit P-7 is the First Information Report Register. Exhibit P-8 is the Discharge Summary issued by KMC Hospital, Manipal

and it show that the petitioner has been treated as in-patient from 01-03-2023 to 04-03-2023 for 04 days pertaining to the injuries suffered by her in the accident.

13. Exhibit P-1 to P-8 prima facie shows that on 01-03-2023 at about 05-00 PM, an accident was taken place near Someshwara Ghat, I cross, Nadapalu Village, Hebri Taluk on Hebri-Agumbe road due to rash and negligent driving on the part of driver of Mini Bus owned by respondent No.1. They further disclosed that the petitioner suffered grievous injury to her head in the accident and she had taken treatment as in-patient from KMC Hospital, Manipal for 04 days.

14. The mother of the petitioner who examined before this tribunal as PW-1 has specifically deposed that the accident was occurred solely due to rash and negligent driving on the part of the driver of the Mini Bus and the petitioner has suffered injuries in the said accident. PW-1 has relied upon the contents of documents placed on record as per Exhibit P-1 to P-8. Though PW-1 has been cross-examined from respondent No.2-Insurer side and put so many suggestions to the effect that the accident was not occurred due to rash and negligent riding on the part of the respondent No.1 and the petitioner has not suffered any injuries in the accident, nothing has been elicited in that regard. Similarly, nothing has been elicited in the cross-examination of PW-1 either to disbelieve or discard her oral evidence and also contents of documents placed

on record as per Exhibit P-1 to P-8. Though the respondent No.2-Insurer has examined its Assistant Manager as RW-1, it has not produced any rebuttal evidence as against the documents placed on record from petitioner side and also to substantiate the contentions took-up in the written statement. Moreover, the occurrence of the accident as on the alleged date; place and time and also as to the manner in which the accident was taken place and also sustainment of the injuries by the petitioner is not seriously in dispute. Similarly, involvement of Mini Bus owned by respondent No.1 is also not in dispute seriously. Therefore, I found no reasons or grounds to discard or disbelieve the oral evidence of PW-1 and contents of documents placed on records as per Exhibit P-1 to P-8. The evidence let in by petitioner as to rash and negligent driving of the Mini Bus on the part of its driver and sustainment of injuries by the petitioner in the accident has remained un-impeached. Therefore, basing on the oral evidence of PW-1 and documentary evidence placed on record from the petitioner side and in the light of undisputed facts and also in the light of injuries sustained by the petitioner, I am of the firm opinion that on the above said date; place and time an accident was occurred in the above alleged manner due to rash and negligent riding on the part of driver of Mini Bus owned by the respondent No.1 and due to the accident, the petitioner has suffered injuries and she had obtained treatment as in-patient for 04 days. Hence, I am answering to ***Issue No.1 in the affirmative.***

15. ISSUE NO.2: - In order to prove the nature of injuries suffered in the accident, the guardian/mother of the petitioner has produced wound certificate as per Exhibit P-4 and Discharge Summary as per Exhibit P-8. They show that the petitioner has suffered depressed skull fracture on right parietal region and the said injury is grievous in nature. Though the mother of the minor petitioner asserted in the claim petition and also stated in the affidavit evidence that the minor petitioner has suffered permanent disability, she has not produced the dis-ability certificate and also not examined the doctor. So I am of the opinion that though the mother of the minor petitioner is able to prove that the minor petitioner has suffered greivous injury in the road traffic vehicular accident she has failed to prove that the petitioner had suffered permanent disability due to injuries suffered in the road traffic accident. Hence, question of awarding compensation under the head of loss of future income did not arise.

16. In order to prove the Medical Expenses, the mother of the petitioner has produced the Bills and Receipts as per Exhibit P-9 to P-12 and they show that the mother of the petitioner has spent Rs.83,838/- towards Medical Expenses. Hence, the petitioner is entitle for Rs.84,000/- (rounded-off amount of Rs.83,838/-) under the head of Medical Expenses. By looking to the nature of greivous injury suffered by the minor petitioner to her head, she is entitle for Rs.50,000/- under the head of Pain, Agony and Sufferings due to injuries

suffered in the accident. The petitioner is also entitle for Rs.10,000/- towards loss of amenities and happiness in the life; Rs.15,000/- towards nutrition and extra nourishment; Rs.15,000/- towards food, conveyance and attendant charges. Thus, the petitioner in all entitled for just compensation under the following heads:

SL.NO	NATURE OF THE HEADS	COMPENSATION
1	Medical Expenses (Rounded-off amount of Rs.83,838/-)	Rs.84,000=00
2	Pain and suffering	Rs.40,000=00
3	Loss of amenities and happiness in the life	Rs.10,000=00
4	Nutrition and extra nourishment	Rs.15,000=00
5	Food, Conveyance and Attendant charges	Rs.15,000=00
	TOTAL	Rs.1,64,000=00

17. I am already given finding to Issue No.1 in the affirmative holding that the accident was occurred on 01-03-2023 at about 05-00 PM near Someshwara Ghat, I Cross, Nadapalu Village of Hebri on Agumbe-Hebri road due to rash and negligent driving on the part of driver of Mini Bus owned by the respondent No.1 and out of the accident the petitioner has suffered injuries. It is not in dispute that the respondent No.2 had insured the vehicle with respondent No.2-Insurer and the Insurance Policy was in force as on the date of accident.

18. The learned counsel for the respondent No.2 has argued that there was no permit for the Mini Bus as on the date of accident and therefore, the respondent No.2-Insurer is not liable to pay the compensation. The learned counsel for the respondent No.2 has produced the Permit of the offending Mini bus and it shows that it was valid from 03-03-2023. The accident was occurred on 01-03-2023. So, it is clear that there was no permit for the Mini Bus as on the date of accident.

19. The learned counsel for the petitioner has argued that even if there was no permit as on the date of accident, the Insurer is liable to pay the compensation if the insurance was valid as on the date of accident. He has relied upon the decision reported in ***2025 SCC On line SC 2297 in a case between K. Nagendra versus New India Insurance Company Limited*** rendered by the Hon'ble Supreme Court where in it is held that even if there was no permit as on the date of accident, the Insurer is liable to pay the compensation to the victims first if the insurance was valid as on the date of accident and then it can recover the same from the owner of the offending vehicle. As I already discussed, there was no permit as on the date of accident pertaining to offending vehicle. But there was valid Insurance Policy. Hence the respondent No.2-Insurer is liable to pay the compensation to the petitioner first and then it can recover the same from the respondent No.1. Hence, I am answering to

Issue No.2 in the affirmative holding that minor petitioner is entitle for total compensation of Rs.1,64,000/- from respondent No.2 with simple interest at the rate of Rs.6/- percent per annum from the date of petition till the date of deposit before this tribunal.

20. ISSUE NO.3: - In view of my findings to Issues No.1 and 2, the petitioner is entitled for the compensation at the above rate from respondent No.2. The compensation awarded to the minor petitioner has included huge medical expenses more than Rs.84,000/- which was already incurred by his mother towards treatment. Hence, I am of the opinion that Rs.1,00,000/- can be released and remaining amount with accrued interest shall be kept in the name of the minor petitioner as FD in any nationalized bank. Accordingly, I proceed to pass the following:

ORDER

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

The minor petitioner is awarded with total compensation of Rs.1,64,000/- (Rupees One Lakh and Sixty-Four Thousand only) with simple interest at the rate of Rs.6/- percent per annum from the date of petition till its realization.

Out of the total compensation awarded to minor petitioner, only Rs.1,00,000/- shall be released in favour of the mother of the minor petitioner and remaining amount with accrued interest shall be deposited as FD for 5 years or till the minor petitioner attain the majority whichever occurs later in the name of the minor petitioner

in any nationalized bank of the choice of his mother and no premature withdrawal or availment of loan is permitted without the prior and specific order by this tribunal.

However, the mother of the petitioner is at liberty to withdraw the periodical interest once in 03 months.

The respondent No.2-Insurer is liable to pay the compensation to the petitioner and directed to transfer only Rs.1,00,000/- directly to the bank account of the mother of the minor petitioner and deposit the remaining amount along with interest before this tribunal.

The respondent No.2 is directed to pay the compensation with interest first to the minor petitioner and he then recover the same from respondent No.1.

The mother of the petitioner is directed to furnish bank accounts details, PAN Card and Adhar Card details along with other particulars which are necessary for transfer of amount forthwith.

Return Case sheet of the petitioner to the concerned hospital after getting proper acknowledgement.

Draw the award accordingly.

(Dictated to the stenographer directly on the laptop, typed by her, corrected, then signed and pronounced in the open court on this 23rd day of June, 2026)

**(KUMARA G.)
SENIOR CIVIL JUDGE &
ADDITIONAL MACT, KUNDAPURA.**

ANNEXURES

I. LIST OF WITNESSES EXAMINED FROM PETITIONER SIDE:

PW-1 : Smt Rajiya Begum (mother of petitioner)

II. LIST OF DOCUMENTS EXHIBITED FROM THE PETITIONER SIDE:

Exhibit P-1 : First Information

Exhibit P-2 : First Information report
Exhibit P-3 : Accident Spot Panchanama
Exhibit P-4 : Accident Spot sketch
Exhibit P-5 : Wound certificate
Exhibit P-7 : First Information Report Register
Exhibit P-8 : Discharge Summary
Exhibit P-9 to P-12 : Medical Bills and Receipts
Exhibit P-13 : Treatment Certificate
Exhibit P-14 : Adhar card of the petitioner
Exhibit P-15 : Pen Drive
Exhibit P-15(a,b) : Photographs

III. LIST OF WITNESSES EXAMINED FROM RESPONDENTS SIDE:

RW-1 : Sri Damodar Jattipalla

IV. LIST OF DOCUMENTS EXHIBITED FROM THE RESPONDENTS SIDE:

Exhibit R-1 : Authorization Letter
Exhibit R-2 : Insurance Policy

V. LIST OF CITATIONS RELIED UPON BY THE PETITIONER:

(a) 2025 SCC On line SC 2297 in a case between K. Nagendra versus New India Insurance Company Limited,

(b) Civil Appeal No. 2253 OF 2018 in a case between Amrit Paul Singh & Anr. Appellant(s) versus TATA AIG General Insurance Co. Ltd. & Ors

VI. LIST OF CITATIONS RELIED UPON BY THE RESPONDENTS:

-NIL-

**(KUMARA G.)
SENIOR CIVIL JUDGE &
ADDITIONAL MACT, KUNDAPURA.**
