

KAKP420009932023



**IN THE COURT OF THE I ADDITIONAL DISTRICT
AND SESSIONS JUDGE AND PRESIDING OFFICER,
M.A.C.T, KOPPAL (SIT AT GANGAVATHI)**

Dated this the 20th day of July 2026

Present: **SRI.VEDAMOORTHY B.S.,** B.A.(L)., LL.B.,
I Addl. District & Sessions Judge and MACT, Koppal
(Sit at Gangavathi)

M.V.C. No.206/2021

PETITIONER

T.N.Nageshwararo, S/o Eranna,
Age: 58 years, Occ: Agriculturist &
Milk vending business,
R/o Basavanna Camp,
Tq: Karatagi, Dist: Koppal.

(By Sri.M.Govindarao, Advocate)

V/s

RESPONDENTS

1. Venkata Surya Ramesh,
S/o Chandrarao,
Age: 38 years,
Occ: Driver of Tractor bearing
Reg.No.MH-47-TCA-104,
R/o C.S.F 01, New Camp Road,
Javalagera Village, Tq: Sindhanur,

Dist: Raichur,
State: Karnataka - 584143.

2. Mahindra & Mahindra Ltd.
Tractor Division, FES,
Akurli Road, Kandivali East,
Mumbai, Maharashtra - 400101.
3. The Legal Manager,
HDFC Ergo General Insurance
Company Ltd..
1st Floor, Opp: KIMS Main Gate,
PB Road, Vidyanagar,
Hubli - 580021.

Policy No.2349 2026 6600
5902000
Date 18.12.2020 to 17.12.2021.

(Sri.Srikanth Nayak, Advocate for
the 1st respondent, Sri.Parashuram
H.Myali, Advocate for the 2nd
respondent and Sri.S.N.Muttagi,
Advocate for the 3rd respondent)

JUDGMENT

This petition is filed by the above named petitioner under Section 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.19.50 lakhs for the injuries caused to him in the Road Traffic Accident.

2. The brief facts averred in petition are that on 08.01.2021 at 5:30 p.m., when the petitioner as pillion rider and his relative T.Veeraraju as rider were proceeding on his motorcycle bearing Reg.No.KA-37-EC6702 from Nadugadi Camp, Manvi Taluk to Gangavathi on Sindhanur - Raichur Main Road, near Church at Jawalgera Village, the 1st respondent being the driver of Mahindra Tractor bearing Reg.No.MH-47-TCA-104, drove it in rash and negligent manner and dashed the motorcycle. As a result of the said accident, the petitioner fell down on the road and sustained grievous at all over his body. Immediately after the accident, he was shifted to Government Hospital, Sindhanur in 108 Ambulance and after first aid, he was shifted to Sree Mallikarjuna Multi Speciality Hospital, Gangavathi. Due to the severe condition of the petitioner, he was shifted to Tatwadharsh Hospital, Hubli for treatment. Surgery was conducted to the petitioner and rod and screw were inserted to the fractured parts of his body. He admitted as inpatient for 30 days and took rest

for three months as per the advice of the doctor. Even now, the petitioner is taking treatment at Private Hospitals. He spent Rs.6.50 lakhs for treatment, hospitalization and traveling. He took hand loan from his relatives. After the accident, Karaturi Krishna Prasad filed complaint before Balaganur Police Station in Crime No.6/2021 against the 1st respondent for the offences punishable under Sections 279 and 338 of the Indian Penal Code.

3. The petitioner further averred in the petition that before accident, he was hale and healthy. He was an agriculturist and he was doing milk vending business. He was earning Rs.30,000/- per month. Due to the injuries sustained in the accident, he lost his income. He is also suffering from pain and agony. He lost pleasure of life throughout his future life. The accident was taken place solely due to the negligence of the 1st respondent. The 2nd petitioner was the owner and the 3rd respondent was the insurer of Tractor bearing Reg.No.MH-47-TCA-104. As on the date of accident, its Insurance Policy was in force with the

3rd respondent covering all risks. Therefore, the respondents are jointly and severally liable to pay compensation to the petitioner. Hence, the petitioner has filed this petition.

4. After due service of notices to the respondents, they have appeared before this Tribunal. They have filed their separate written statements. The 1st respondent in his written statement denied the entire petition allegations as false. His contentions are that the injured himself fell from moving vehicle and caused the accident. There is no fault on the 1st respondent in the alleged accident. Therefore, the petitioner is not entitled for compensation as claimed. As on the date of accident, the 1st respondent was holding valid and effective driving license. There was valid insurance to the tractor. Therefore, the 1st respondent is not liable to pay compensation to the petitioner. Hence, prayed to dismiss the petition against respondents No.1 and 2.

5. The 2nd respondent in the written statement has denied the entire petition averments as false. Its contentions are that it is a company duly incorporated and registered under the provisions of the Companies Act, 1913. It is India's leading automobile manufacturer. It engaged in the business of manufacturing of motor vehicles of various segments including tractors and supplying them through its authorized dealers. The 2nd respondent is nothing to with the accident. The driver of the tractor had valid driving license to drive the said vehicle at the time of accident. Therefore, there is no violation of the traffic Rules by the driver. The 1st respondent was the contractual employee of the 2nd respondent. The tractor was insured with the 3rd respondent and the Insurance Policy of the said vehicle was in force as on the date of accident covering third party risks. Therefore, the 3rd respondent is liable to answer the claim of the petitioner. The petitioner filed false claim before this Tribunal. The claim made by the is highly

exaggerated. Hence, prayed to dismiss the petition against the 2nd respondent.

6. In the written statement filed by the 3rd respondent, the entire pleadings in the claim petition are denied as false. Its defences are that if the tractor in question was insured, the liability of the 3rd respondent is subject to the terms and conditions stated in the Insurance Policy. The 1st respondent was not holding valid and effective driving license to drive the said category of vehicle at the time of accident. The 2nd respondent entrusted the tractor to the 1st respondent knowing the fact that he had no valid and effective driving license to drive the said category of vehicle. Respondents No.1 and 2 have not produced the documents of the tractor before the 3rd respondent. Therefore, they have not complied with the statutory obligation. For the said reason, an adverse inference has to be drawn that there were no valid documents to the vehicle and its driver as on the date of accident. The tractor was plying beyond the permitted area. Therefore,

there are violation of the terms and conditions of the Insurance Policy. There are two vehicles involved in the accident. The petitioner has not made the rider, owner and the insurer of the motorcycle as party to this proceedings. Therefore, the petition is bad for non-joinder of necessary parties. The accident was taken place due to the rash and negligent riding of the rider of the motorcycle. He was not holding driving license to ride the said category of vehicle at the time of accident. The riders of the said vehicle were no wearing helmets at the time of accident. Therefore, the 3rd respondent is not liable to pay compensation to the petitioner. The compensation and interest claimed by the petitioner are baseless and exorbitant. It is without any basis and documentary proof. Hence, prayed to dismiss the petition.

7. Based on the above pleadings of the parties, the following Issues were framed by this Tribunal.

1. Whether the Petitioner proves that, on 08.01.2021 at about 5.45 p.m., at

Sindhanur - Raichur main road, near Javalagere Church, he being the pillion Rider of the Motorcycle bearing registration No.KA-37/EC-6702 had met with an accident due to rash and negligent driving of the Tractor bearing registration No.MH-47/TCA-104 by its driver and sustained injuries in the accident as averred?

2. Whether the Petitioner proves his age, income and occupation as stated in the claim Petition?

3 Whether the Petitioner is entitled for compensation and if so, what amount and from whom?

4. What order or award?

8. To prove the above Issues, the petitioner has produced his oral evidences as PW1. He has produced the documentary evidences Ex.P1 to Ex.P19. The petitioner has also produced the oral evidences of Dr.Mallanagouda H. as PW2. Through him, the petitioner has produced the documentary evidences Ex.P20 and Ex.P21. The 1st

respondent has produced his oral evidences as RW1. He has produced the documentary evidence Ex.R1. The 3rd respondent has produced the oral evidences of its Legal Claim Manager Satish Rao Kulkarni as RW2. Through him, the 3rd respondent has produced the documentary evidences Ex.R2 and Ex.R3. The 3rd respondent has also produced the oral evidences of Senior Clerk at Borivali RTO Office, Mumbai by name Nitin as RW3. Through him Ex.R4 is produced by the 3rd respondent. The 2nd respondent has produced the oral evidences of its Commercial Manager Babu T. as RW4. Through him, the 2nd respondent has produced the documentary evidences Ex.R5 to Ex.R12.

9. Heard the arguments of the learned Counsels for the petitioners and the respondents. The learned Counsels for the petitioners and respondents No.2 and 3 have filed their written arguments. The learned Counsel for the petitioner relied the following judgments are relied:

- i. The judgment of the Hon'ble Supreme Court in the case between Raj Kumar V/s Ajay Kumar [(2011) 1 SCC 343].
- ii. The judgment of the Hon'ble Supreme Court in the case between Pappu Deo Yadav V/s Naresh Kumar & others (AIR 2020 SC 4424).
- iii. The judgment of the Hon'ble Supreme Court in the case between Sarla Verma & others V/s Delhi Transport Corporation & another (AIR 2009 SC 3104).
- iv. The judgment of the Hon'ble Supreme Court in the case between K.Suresh V/s New India Assurance Co. Ltd. & another (AIR ONLINE 2012 SC 633).
- v. The judgment of the Hon'ble High Court of Karnataka in MFA No.4426/2024 dated 09.09.2025.
- vi. The judgment of the Hon'ble High Court of Karnataka in MFA No.8575/2016 dated 14.10.2020.
- vii. The judgment of the Hon'ble Supreme Court in Civil Appeal No.1175/2025 dated 21.09.2025.

- viii. The judgment of the Hon'ble Madras High Court in CMA No.1432/2009 dated 11.08.2016.
 - ix. The judgment of the Hon'ble High Court of Karnataka in MFA No.8396/2018 dated 28.01.2024.
 - x. The judgment of the Hon'ble High Court of Karnataka in MFA No.25028/2010 dated 28.06.2022.
 - xi. The judgment of the Hon'ble Supreme Court in the case between Munnala Jain & another V/s Vipin Kumar Sharma & others (2015 AIR SCW 3105).
 - xii. The judgment of the Hon'ble Supreme Court in the case between Sidram V/s The Divisional Manager, United India Insurance Co. Ltd. & another [2022 LiveLaw (SC) 968].
10. Perused the materials available on record.
11. My answers to the above Issues are as under:
- | | | |
|------------|---|--|
| Issue No.1 | : | In the Affirmative, |
| Issue No.2 | : | Partly in the Affirmative, |
| Issue No.3 | : | In the Affirmative, |
| | | The petitioner is entitled for compensation of Rs.13,70,443/- |

together with interest at the rate of 6% p.a. from the date of petition till the date of realization from the 3rd respondent.

Issue No.4 : As per final order for the following:

REASONS

12. **ISSUE No.1** :-As per the case of the petitioner, on 08.01.2021 at about 5.45 p.m., at Sindhanur – Raichur main road, near Javalagere Church, he being the pillion Rider of the Motorcycle bearing registration No.KA-37/EC-6702 had met with an accident due to rash and negligent driving of the Tractor bearing registration No.MH-47/TCA-104 by its driver and sustained injuries in the accident. The respondents have denied the above pleadings of the petitioner.

13. To prove this Issue, the petitioner has produced his oral evidences as PW1. He has filed his affidavit by way of examination-in-chief. In the said affidavit, he has reiterated the facts averred in Para No.22 of the claim petition. In support of his oral evidences, he has produced the

documentary evidences Ex.P1 to Ex.P21. Among them, Ex.P1 is the certified copy of the First Information Report and Ex.P2 is the certified copy of the First Information in Crime No.6/2021 of Balaganoor Police Station, Ex.P3 is the certified copy of the Charge Sheet, Ex.P4 is the certified copy of the Spot Mahazar with Spot Sketch, Ex.P5 is the certified copy of the Property Form, Ex.P6 is the certified copy of Witness Statements, Ex.P7 is the certified copy of the Wound Certificate, Ex.P8 is the certified copy of the Motor Vehicle Accident Report, Ex.P9 is the certified copy of the Order Sheet, Ex.P16 is the Medical Certificate of the petitioner, Ex.P17 is the Discharge Summary of the petitioner and Ex.P19 is X-Ray Sheets.

14. PW2 has deposed in his affidavit filed by way of examination-in-chief about the injuries sustained by the petitioner as a result of the accident took place on 08.01.2021. As per his oral evidences, the petitioner has sustained fracture to left lower end femur with commented fracture left febiya fibula and left patellar tendon avulsion.

15. Per contra, the 1st respondent has produced his oral evidences as RW1. He has filed his affidavit by way of examination-in-chief. In the said affidavit, he has deposed that the petitioner was driving his motorcycle in rash and negligent manner. Suddenly he turned his vehicle without following the traffic Rules. He himself fell on the road and sustained injuries. The accident in question was taken place solely due to the negligence on the part of the petitioner.

16. The 3rd respondent has produced the oral evidences of its Legal Claims Manager Satish Rao Kulkarni as RW2. He has filed his affidavit by way of examination-in-chief. In the said affidavit, he has deposed that the accident was taken place due to the rash and negligence on the part of the rider of the motorcycle by name Veeraraju. He was riding the motorcycle without observing vehicle movement and dashed to the tractor. He was not wearing helmet.

17. The 2nd respondent has produced the oral evidences of its Commercial Manager Babu T. as RW4. He has filed his affidavit by way of examination-in-chief. In the said affidavit, he has reiterated the facts averred in the written statement of the 2nd respondent.

18. The Hon'ble Supreme Court in the case between Bimla Devi & others V/s Himachal Road Transport Corporation & others (AIR 2009 SC 2819) held as follows:

"15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties."

(underlined by me)

19. It is clear from the above principles of law that in a case of like nature, the degree of proof of negligence in cause of accident is preponderance of probability and not beyond reasonable doubt. In the light of the above principles of law, the evidences produced by both parties to this proceedings have to be appreciated.

20. PW1, PW2, RW1, RW2 and RW4 are cross-examined by their adverse parties. I read the entire oral and documentary evidences produced by both parties to this proceedings. To depose about the manner in which the accident took place i.e., the cause of accident, the best and reliable witnesses are the petitioner and the 1st respondent. Because, the petitioner is the injured who was the pillion rider of the motorcycle and the 1st respondent was the driver of the offending tractor at the time of the accident. The petitioner who is examined as PW1 has deposed that the accident was taken place due to the actionable negligence on the part of the 1st respondent. The said evidences of PW1 are remained undisputed by the

1st respondent. The 1st respondent who has given his evidences as RW1 has deposed that the accident in question took place due to the actionable negligence on the part of the petitioner who was the rider of the motorcycle. If the accident was taken place due to the negligence on the part of the petitioner, the 1st respondent would file the First Information with regard to the accident in question. RW1 has deposed in his cross-examination that FIR and Charge Sheet are registered against him. He has also admitted that he has admitted plea of guilt before Sindhanur Court.

21. It appears from the Police documents produced by the petitioner that based on the First Information of the son-in-law of the petitioner, the crime in respect of the alleged accident was registered. During investigation, the Investigation Officer conducted the mahazar at the place of incident. Ex.P4 is the certified copy of the said Mahazar. It is annexed with the Spot Sketch. PW1 has deposed in his cross-examination that he was on the way from Manvi to

Karatagi. It appears from the Spot Sketch annexed to Ex.P4 that the accident took place on the left side of Raichur – Sindhanur Road. From the said document, it appears that the negligence is on the part of the 1st respondent. The documentary evidences produced by the petitioner are also remained undisputed by the 1st respondent. To depose that whose negligence, the accident in question took place, RW2 and RW4 are not competent witnesses. RW2 has deposed in his cross-examination that he has no personal knowledge about the case and he is deposing based on the documents. None of the documents say that the accident was taken place due to the negligence of the rider of the motorcycle Viraraju as deposed by RW2 in his examination-in-chief. Therefore, his evidence in that regard is not trustworthy to rely. On the other hand, the evidences produced by the petitioner both oral and documentary are more reliable and believable. For the above reasons, the petitioner has proved this Issue. Hence, I answer **Issue No.1 in the Affirmative.**

22. **ISSUE No.2** :- As per the averments in the claim petition, the age of the petitioner as on the date of accident was 58 years; he was an agriculturist and he was doing milk vending business and he was earning Rs.30,000/- per month. The respondents have denied the above petition averments as false. PW1 has deposed in his examination-in-chief that as on the date of accident, he was an agriculturist and he was doing milk vending business and he was earning Rs.30,000/- per month. To prove the age of the petitioner, he has produced the Notarized copies of his Aadhar Card as Ex.P10, Driving License as Ex.P11 and Unique Disability ID as Ex.P15. In Ex.P10 and Ex.P15, his year of birth is mentioned as 1962. If these documents are considered, it appears that the age of the petitioner as on the date of accident was 59 years. In Ex.P11, his date of birth is mentioned as 28.10.1966. If the said document is considered, as on the date of accident, his age was 55 years. However, the admitted age of the petitioner is 58 years. Considering the above

evidences, the proved age of the petitioner as on the date of accident was 59 years.

23. The petitioner has produced RTC Extracts in respect of the lands bearing Sy.No.103/A/1 and Sy.No.103/* of Bevinala Village, Karatagi Hobli, Karatagi Taluk as Ex.P13. They are for the year 2019-20 and 2020-21. It appears from the contents of the said document that 2 acres 21 guntas of land in each Survey Numbers are standing in the name of the petitioner and the crop of the said lands is paddy. He has also produced one Certificate dated 10.04.2021 issued by Basavanna Camp Milk Producers Co-Operative Society Ltd. as Ex.P14, As per the contents of the said document, he was supplying 30 liters of milk to the said Society every day; he was receiving Rs.5,500/- every week; Rs.22,000/- every month and since 08.01.2021, he has not supplied milk to the said Society. But, the said document does not contain the cost of milk production. Therefore, the said amount mentioned in the said document can not be considered as an actual income

of the petitioner from supply of milk. However, from the above documentary evidences, the petitioner has proved that as on the date of accident, he was an agriculturist and he was supplying milk. But, the petitioner has not produced any documentary evidences with regard to actual his income as on the date of accident.

24. It is well settled principles of law laid down by the Hon'ble Supreme Court that to determine the compensation under the head of loss of future income, in the absence of any proof of income, the minimum wages fixed under the Minimum Wages Act can be considered as guidelines depending upon the facts and circumstances of the case. The said judgments are in the cases between Meena Pawaria and others V/s Ashfrali and others (2021 SCC OnLine 1083), Jakir Hussain V/s Sabir [(2015) 7 SCC 252], Smt.Neeta and others V/s Divisional Manager, MSRTC Kolhapur [(2015) 3 SCC 590], Kala Devi and others V/s Bhagwan Das Chouhan and others [(2015) 2 SCC 771], Sonobanu Nazirbhai Mirza V/s Ahmadabad Municipal

Transport Service [(2013) 16 SCC 719], Pushkar Mehra V/s Brij Mohan Kushwaha and others [(2015) 12 SCC 688], Govinda Yadav V/s The New Indian Insurance Company Limited and others [(2011) 10 SCC 683] and Ningamma and another V/s United India Insurance Company Limited [(2009) 13 SCC 710].

25. The question came before the Division Bench of the Hon'ble High Court of Karnataka in the case between Smt.Mariyamma and others V/s Sri.Suyambulingam V/s and another (MFA No.7404/2014 vide judgment dated 06.12.2022) that whether the guideline issued by the Legal Services Authority can be adopted or whether the Tribunals have to depend upon the Minimum Wages Act. The Division Bench of the Hon'ble High Court of Karnataka held in the said judgment as follows:

“33. Coming to the question whether the guidelines issued by the Legal Services Authority can be considered or not, it is pertinent to note that the guidelines, a copy of which is made available to this court, by and

large are on the same lines as fixed under the Minimum Wages Act, for settlement of the cases before the Lok Adalath, which is on the basis of the mutual agreement between the parties, shuts down all the approaches for a re-assessment of the compensation by the appellate Courts. Considering this aspect, a slightly higher wages have been set down as guidelines and we do not see any reason to have any qualms with the same. However, such guidelines cannot take the place of a statutory guidelines and therefore, we hold that it would be proper to rely on the wages fixed under the Minimum Wages Act and the Tribunal has to consider the minimum wages prescribed under the Minimum Wages Act, as a guideline and assess whether the deceased was a skilled or unskilled labourer. The range of a highly skilled labourer and unskilled labourer could be considered by the Tribunals, if there is no other proof of income. We hasten to add that the notional income cannot be adopted, with precision, as prescribed under the Minimum Wages Act also, but it acts as beacon only.”

26. Therefore, keeping in view of the fact that occupation of the petitioner was agricultural work and supply of milk

as on the date of accident which is not a skilled labor work and basing the Notification issued by the Government of Karnataka under Minimum Wages Act i.e., Employment in Agricultural and Related Works Notification No.KAE 228LWA 2018 dated 11.12.2019, minimum wages and VDA from 01.04.2020 to 31.03.2021, this Tribunal is assessing the notional income of the petitioner as on the date of accident as Rs.11,045/- per month. Hence, I answer **Issue No.2 partly in the Affirmative.**

27. **ISSUE No.3** :- The petitioner has claimed the compensation of Rs.19.50 lakhs on various heads together with interest at the rate of 18% p.a. from the date of petition. For the reasons stated in Issue No.1, since the petitioner has proved that on 08.01.2021 at about 5.45 p.m., at Sindhanur – Raichur main road, near Javalagere Church, he being the pillion Rider of the Motorcycle bearing registration No.KA-37/EC-6702 had met with an accident due to rash and negligent driving of the Tractor bearing

registration No.MH-47/TCA-104 by its driver and sustained injuries in the accident, he is entitled for the compensation.

28. For the reasons stated in Issue No.2, the petitioner proved his age as on the date of accident was 59 years, his occupation was agricultural work and supply of milk and his notional was Rs.11,045/- per month.

29. Coming to the quantum of compensation entitled for by the petitioner, he has relied certain judgments of the Hon'ble Supreme Court and the Hon'ble High Court of Karnataka. The Hon'ble Supreme Court in its judgment in the case between Raj Kumar V/s Ajay Kumar [(2011) 1 SCC 343] relied by the learned Counsel for the petitioner has laid down the principles as follows:

“The heads under which compensation is awarded in personal injury cases are the following :

Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation,

nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity)

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of

marriage) and loss of expectation of life. Assessment of pecuniary damages under item (i) and under item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses - item (iii) - depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non - pecuniary damages - items (iv), (v) and (vi) - involves determination of lump sum amounts with reference to circumstances such as age, nature of injury/deprivation/disability suffered by the claimant and the effect thereof on the future life of the claimant."

30. As per the petition averments and the oral evidences of PW1 deposed in his examination-in-chief are that he is the resident of Basavanna Camp, Karatagi and the accident took place at Jawalgera Village, Sindhanoor - Raichur Road within the territorial jurisdiction of Balagoor Police Station, Sindhanoor Circle, Raichur District. As a result of the accident, he has sustained lower end femur fracture Grade-III, severe comminuted fracture tibia Grade-

II compound Potelolar tendon avulsion and open wound at left proximal tibia bleeding present. He was taken to Government Hospital, Sindhanoor in 108 ambulance and after first aid, he was admitted to Shree Mallikarjuna Multy Speciality Hospital, Gangavathi. He was taken to Tatwadarsh Hospital, Hubli for further treatment. He was treated with surgery, rod and screws were fixed to the fracture parts of his body. He admitted as inpatient for 30 days and took rest for three months as per the advice of the doctor. Even now, the petitioner is taking treatment at Private Hospitals. He spent Rs.6.50 lakhs for treatment, hospitalization and traveling. He took hand loan from his relatives. Due to the injuries sustained in the accident, he lost his income. He is also suffering from pain and agony. He lost pleasure of life throughout his future life.

31. Ex.P7 is the certified copy of the Wound Certificate issued by the Government Hospital, Sindhanoor where, he took first aid. As per the contents of the said document, as a result of the accident in question, the petitioner

sustained fracture of lower end femur, severe comminuted fracture of tibia and Patellar tendon avulsion which are grievous in nature. Ex.P17 is the Discharge Summary issued by Tatwadarsh Hospital, Hubli. As per the contents of the said document, on 09.01.2021, he was admitted to the said Hospital under the history of road traffic accident for treatment and there was complain of Open wound at left proximal tibia, bleeding and pain present, inability to walk and LOC or ENT bleeding. The treatment given to him was OR + IF + DLF and LCP on 09.01.2021 for femur and tibia. On 21.01.2021, he was discharged from the said hospital with an advice for follow up treatment after one month.

32. Ex.P18 contains the Medical Prescriptions, Medical Bills and Receipts for the expenses made by the petitioner for treatment, medicine and conveyance. The total Bill amount is Rs.6,02,578/-.

33. PW2 has deposed in his examination-in-chief that on 19.07.2024, the petitioner came to him for the assessment of disability and want of Physical disability Certificate. He has assessed his disability. The petitioner had the complaints of pain in the left knee joint, left leg and left thigh, he was unable to squat and sit crossed leg, he was unable to walk without support and he was unable to do his routine activities. After clinical examination, he found that there was disfiguring scar present over left leg, operative scar present over left thigh and leg, bowing of left lower limb, tenderness present over left tibia, left lower limb muscle wasting present, girth of the left thigh is reduced by 2 cm due to wasting of thigh muscles, girth of the left calf reduced by 1 cm due to wasting of muscle, shortening of left lower limb by 3 cm, Flexion of the left hip beyond 90 degree not possible and Flexion of the left knee beyond 30 degree not possible. X-Ray of left leg knee shows Malunited Fracture Left Proximal Tibia with Fibula with broken implant with angulation of tibia less than 30

cm and Grade III OA changes and X-Ray of left thigh shows united fracture left distal femur with implant in-situ. He opined that as per Alimco Guideline, the permanent partial disability to the petitioner to left thigh is 30 to 35%, to the left leg 60 to 65% and to the whole body 35 to 40%. He has further deposed that he issued Disability Certificate as per Ex.P20. He has identified that Ex.P21 is the X-Ray of the petitioner. Nothing has been elicited during cross-examination of PW1 and PW2 to disbelieve the above evidences produced by the petitioner.

34. Keeping in view of the above principles of law laid down in the judgments of the learned Counsel for the petitioner and the above evidences produced by the petitioner, the following compensation is awarded to the petitioner which are just and reasonable.

- a. Keeping in view of the Bills produced by the petitioner at Ex.P18, he is entitled for compensation of **Rs.6,02,578/-** under the head of **conveyance expenses, Medical and Treatment Expenses.**

- b. Keeping in view of the number of days the petitioner took treatment as inpatient at hospital i.e., for a period of 14 days as per Ex.P17 and the nature of the injuries sustained by him, it cannot be ruled out that he needed an attendant during hospitalization and the doctors will normally suggest nutritious food. Therefore, just and reasonable compensation that may be awarded to the petitioner under the head of **Attendant charges and nourishing food expenses** is **Rs.28,000/-**.
- c. Keeping in view of the nature of the injuries sustained by the petitioner as a result of the accident in question and the treatment undergone and to be undergone by him for them, just and reasonable compensation that may be awarded to the petitioner under the head of **pain, suffering and trauma as a consequence of injuries** is **Rs.1,00,000/-**.

- d. Keeping in view of the nature of the injuries sustained by the petitioner as a result of the accident in question and treatment undergone him for them, it cannot be ruled out that the petitioner might have taken rest minimum for a period of six months. Therefore, the just and reasonable compensation to be awarded to the petitioner under the head of **loss of income during the period of treatment** is **Rs.66,270/-**.
- e. It appears from the oral evidences of PW2 that as a result of the injuries sustained by the petitioner, in his future life, he may find difficult in doing many works including his daily works which can be done by a normal person. There may also be loss of life expectation to the petitioner. Keeping in view of the same, the just and reasonable compensation to be awarded to the petitioner under the head of **discomfort and loss of life expectation** to the petitioner is **Rs.75,000/-**.

- f. It appears from the oral evidences of PW2 that as a result of the injuries sustained by the petitioner, the average permanent physical disability to the petitioner to his whole body is 38%. It appears that the petitioner is an agricultural labor. Keeping in view of his occupation, it appears that the aforesaid disability assessed by PW2 will affect to his future income in the same rate. The proved age of the petitioner is 59 years as on the date of accident. In view of the settled principles of law laid down by the Hon'ble Supreme Court and the High Court of Karnataka in its various judgments, while awarding compensation under the loss of future income of the petitioner, as he is self employed, 10% addition has to be taken to the income as future prospects for the person between the age of 50 - 60 years. Therefore, the total income of the petitioner has to be considered after addition of future prospects as Rs.12,149/-. The applicable multiplier as per Sarala Verma's case to

the age group of 56 - 60 years is 9. Considering the quantum of disability assessed by PW2 and the above factors, the compensation that may be awarded to the petitioner under the head of the **loss of future income to the petitioner** is **Rs.12,149/- X 12 X 38% X 9 = Rs.4,98,595/-**.

35. Therefore, the petitioner is entitled for compensation of **Rs.13,70,443/-** under the following heads;

Towards Conveyance, Medical and Treatment expenses.	Rs. 6,02,578/-
Towards Attendant charges and nourishing food expenses.	Rs. 28,000/-
Towards pain, suffering and trauma as a consequence of injuries.	Rs. 1,00,000/-
Towards loss of income during the period of treatment.	Rs. 66,270/-
Towards discomfort and loss of life expectation.	Rs. 75,000/-
Towards loss of future income.	Rs. 4,98,595/-
Total	Rs.13,70,443/-

36. The petitioner has claimed the compensation together with interest at the rate of 18% p.a. from the date of petition. The said rate of interest claimed by the petitioner is excessive. The reasonable rate of interest to be awarded is 6% p.a. from the date of petition till the date of realization. Under these circumstances, the petitioner is entitled for total compensation of **Rs.13,70,443/-** together with interest at the rate of 6% p.a. from the date of petition till the date of realization.

37. So far as liability is concerned, it is undisputed fact that as on the date of accident, the 1st respondent was the driver, the 2nd respondent was the owner and the 3rd respondent is the insurer of Tractor bearing Reg.No.MH-47-TCA-104 and its Insurance Policy was in force as on the date of accident. Ex.R3 and Ex.R11 are the copies of the Insurance Policy. It is Motor Trade - Road Risks Liability Only Policy. RW2 has admitted in his cross-examination that the Insurance Policy was valid at the time of accident.

38. The 3rd respondent is denying its liability to pay the compensation to the petitioner by assigning a reason that the 1st respondent was not holding valid and effective driving license to drive the said category of vehicle as on the date of accident. RW2 has deposed the said fact in his examination-in-chief. RW1 has deposed in his examination-in-chief that he had valid and effective driving license to drive the said vehicle as on the date of accident. He has produced the Notarized copy of his Driving License as Ex.R1. The 2nd respondent has produced the Notarized copy of the Driving License of the 1st respondent as Ex.R11. It appears from the said documents that as on the date of accident, he had valid and effective driving license to drive the LMV. RW2 has admitted in his cross-examination that the 1st respondent had valid driving license at the time of accident. For the aforesaid reasons, there is no merits in the reason assigned by the 3rd respondent to deny its liability to pay compensation to the petitioner.

39. The 3rd respondent is denying its liability to pay the compensation to the petitioner by assigning another reason that the petition is bad for non-joinder of necessary party. Two vehicles are involved in the accident. One is tractor and another is two wheeler. There is contributory negligence on the part of the rider of the motorcycle. The rider, owner and insurer of the said vehicle are not made as parties to this petition. There is no merits in the said defence because, for the reasons stated in Issue No.1, the accident was taken place solely due to the actionable negligence on the part of the 1st respondent. Such being the circumstances, the rider, owner and insurer of the said vehicle are not proper and necessary parties.

40. The 3rd respondent is denying its liability to pay the compensation to the petitioner by assigning one more reason that the insured vehicle plied beyond the permitted area i.e., a radius of 80 k.m. from the insured address mentioned in the Policy. RW2 has deposed this fact in his affidavit filed by way of examination-in-chief. RW2 has

deposed in his cross-examination that the Insurance Policy was issued on the basis of the Trade Certificate. Ex.R4 is the Trade Certificate. RW3 has deposed in his examination-in-chief that it was issued to the Manufacturer. The manufacturer will send the vehicle to the Dealer. It should not be run in the public road unless it is registered. Permit will be issued only after the registration of the vehicle. Ex.R9 is the Delivery Challan of the tractor. It is dated 12.02.2020. Ex.R10 is E-Way Bill. It is also dated 12.02.2020. It appears from the said documents that the subject tractor as supplied to the 2nd respondent. The oral evidences of RW4 deposed in his examination-in-chief are that the movement of unregistered new vehicles is legally permissible under a valid Trade Certificate and does not require a transport permit. There are no pleadings in the written statement filed by the 2nd respondent with regard to the above oral evidences deposed by RW4. RW4 has admitted in his cross-examination that they are having testing camp at Javalagere of Sindhanoor Taluk for their

vehicles. Govinda Chavhan and he were overseeing the management of testing camp. There are no documents evidences produced by the 2nd respondent that the subject tractor was plying during the course of motor trade from the testing camp. RW1 has deposed in his cross-examination that the said tractor was at testing site and he was going in the tractor to fill fuel. There are contradictions between the oral evidences of RW1 and RW4 with regard to the purpose for which the tractor was plying on the road. Therefore, the 2nd respondent has not proved that the subject tractor was plying during the course of motor trade from the testing camp.

41. The purpose of Trade Certificate is in Rule 41 of the Central Motor Vehicles Rules, 1989. It is as follows:

41. Purposes for which motor vehicle with trade certificate may be used.— The holder of a trade certificate shall not use any vehicle in a public place under that certificate for any purpose other than the following:—

- (a) for test, by or on behalf of the holder of a trade certificate during the course of, or after completion of, construction or repair; or
- (b) for proceeding to or returning from a weigh bridge for or after weighment, or to and from any place for its registration; or
- (c) for a reasonable trial or demonstration by or for the benefit of a prospective purchaser and for proceeding to or returning from the place where such person intends to keep it; or
- (d) for proceeding to or returning from the premises of the dealer or of the purchaser or of any other dealer for the purpose of delivery; or
- (e) for proceeding to or returning from a workshop with the objective of fitting a body to the vehicle or painting or for repairs; or
- (f) for proceeding to and returning from airport, railway station, wharf for or after being transported; or
- (g) for proceeding to or returning from an exhibition of motor vehicles or any place at which the vehicle is to be or has been offered for sale; or
- (h) for removing the vehicle after it has been taken possession of by or on behalf of the financier due to any default on the part of the

other party under the provisions of an agreement of hire-purchase, lease or hypothecation.

42. It is not the pleadings of the 2nd respondent or the oral evidences of RW4 that the subject tractor was used under the Trade Certificate for any one of the purpose stated in the above Rule. Therefore, there is merit in the above contention of the 3rd respondent. RW2 has admitted in his cross-examination that the petitioner is the third party to the Insurance Policy. For the above reasons, the 3rd respondent being the insurer is liable to indemnify respondents No.1 and 2 with liberty to recover the compensation from the 2nd respondent. Hence, I answer Issue No.3 in the Affirmative holding that the petitioner is entitled for compensation of **Rs.13,70,443/-** together with interest at the rate of 6% p.a. from the date of petition till the date of realization from the 3rd respondent with liberty to recover the same from the 2nd respondent.

43. **ISSUE No.4** :- In view of the above findings on Issue No.3, the petition is liable to be allowed in part with cost. In the result, I proceed to pass the following;

ORDERS

The petition filed by the petitioner under Section 166 of the Motor Vehicles Act is allowed in part with cost.

The petitioner is entitled for compensation of **Rs.13,70,443/- (Rupees Thirteen Lakhs Seventy Thousand Four Hundred Forty Three only)** together with interest at the rate of 6% p.a. from the date of petition till the date of realization from the 3rd respondent.

The 3rd respondent shall deposit the compensation amount within 30 days from the date of this order.

Thereafter, the 3rd respondent is at liberty to recover the same from the 2nd respondent.

In the event of deposit of the compensation by the 3rd respondent, a sum of Rs.4.00 lakhs shall be deposited by the

petitioner in any Nationalized or Scheduled Bank of his choice for a period of 5 years with liberty to draw periodical interest and the remaining amount shall be released to the petitioner through NEFT on proper identification.

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

Draw the award accordingly.

(Typed by me in the laptop, printout taken, corrected and then pronounced by me in the open court today on this the 20th day of July 2026)

(VEDAMOORTHY B.S.)

I Addl. District & Sessions Judge and
MACT, Koppal (Sit at Gangavathi)

ANNEXURE

List of witnesses examined on behalf of petitioner :-

PW1 : T.Nageshwararao,
PW2 : Dr.Mallikarjunagouda H.

List of documents marked on behalf of petitioner :-

Ex.P1 : Certified copy of First Information,
Ex.P2 : Certified copy of First Information Report,
Ex.P3 : Certified copy of Charge Sheet,
Ex.P4 : Certified copy of Spot Mahazar,

- Ex.P5 : Certified copy of Property Form,
- Ex.P6 : Certified copy of Witness Statements,
- Ex.P7 : Certified copy of Wound Certificate,
- Ex.P8 : Certified copy of MVA Report,
- Ex.P9 : Certified copy of Order Sheet,
- Ex.P10 : Notarized copy of Aadhar Card,
- Ex.P11 : Notarized copy of Driving License,
- Ex.P12 : Notarized copy of RC Card,
- Ex.P13 : RTC Extracts,
- Ex.P14 : Letter dated 10.04.2021,
- Ex.P15 : Notarized copy of Disability Certificate,
- Ex.P16 : Referral Letter dated 09.01.2021,
- Ex.P17 : Discharge Summary,
- Ex.P18 : Medical Bills and Prescriptions,
- Ex.P19 : X-Rays,
- Ex.P20 : Disability Certificate,
- Ex.P21 : X-Rays.

List of witnesses examined on behalf of respondents :-

- RW1 : Venkata Surya Ramesh,
- RW2 : Satish Rao Kulkarni,
- RW3 : Nitin,
- RW4 : Babu T.

List of documents marked on behalf of respondents :-

- Ex.R1 : Notarized copy of Driving License,

- Ex.R2 : Authorization Letter,
- Ex.R3 : Insurance Policy,
- Ex.R4 : Certified copy of Permit Register Extract,
- Ex.R5 : Letter of Authorization,
- Ex.R6 : Copy of Trade Certificate,
- Ex.R7 : Copy of Receipt,
- Ex.R8 : Copy of Renewal Trade Certificate,
- Ex.R9 : Copy of Delivery Challan,
- Ex.R10 : Copy of E-Way Bill,
- Ex.R11 : Copy of Insurance Policy,
- Ex.R12 : Copies of Driving Licenses.

(VEDAMOORTHY B.S.)

I Addl. District & Sessions Judge and
MACT, Koppal (Sit at Gangavathi)