

KAYG210004442021



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC AND ADDITIONAL M.A.C.T-IV, SHAHAPUR**

Present: **Smt.Hema Pastapur, B.A., LL.B.**
Senior Civil Judge and JMFC
and Addl. M.A.C.T. IV, Shahapur.

MVC.No.212/2021

Dated this 01st day of September – 2026

Petitioner:- Abhiman S/o Umesh Rathod,
Age: 28 years, Occ: Agriculture,
R/o: Mansing Nayak Tanda, Kannekolur
village, Tq: Shahapur, Dist: Yadgir.

(By Sri. U.B.M. Advocate)

Versus

Respondents:- 1. Umesha S/o Manu Nayak Rathod,
Age: 53 years, Occ: Agriculture,
R/o: Mansing Nayak Tanda, Kannekolur
village, Tq: Shahapur, Dist: Yadgir.
(Owner of the offending Motorcycle
bearing No.KA-33-W-0205)

2. The Divisional Manager, National Insurance Company Ltd., Bilgundi Complex 1st floor, Opp. NCC office, Station road, Kalburgi.

(Insurer of the offending Motorcycle bearing No.KA-33-W-0205)

(Respondent No.1 by P.N.J. Advocate and respondent No.2 by Sri. S.V.P. Advocate)

J U D G M E N T

That, the petitioner has submitted the claim petition under Section 166 of the Indian Motor Vehicles Act, claiming the compensation of Rs.30,00,000/- with cost and interest.

Facts of the case are as under :-

1. That, the respondent No.1 is the Owner of the Motorcycle bearing No.KA-33-W-0205 and the respondent No.2 is the Insurer of the said vehicle. That, on 23.01.2021 at about 09.35 p.m., the petitioner and one Shri Sangappa in a Motorcycle bearing No.KA-33-W-0205 were proceeding on the main road of Dhoranahalli –

Mansing Nayak Tanda and on alleged date the said Sangappa was riding the said motorcycle in a rash and negligent manner and due to which the said motorcycle turtle and the petitioner – pillion rider had fell down from the said motorcycle and had sustained the grievous injuries.

2. That, immediately, after alleged accident the petitioner was shifted to Government Hospital, Shahapur, for treatment and thereafter, to United Hospital, Gulbarga, for higher treatment. That, the petitioner had spent more than Rs.2,00,000/- for his treatment. That, the Shahapur police have registered the case against the said rider in Crime No.22/2021.

3. That, on alleged date of accident, the petitioner was aged about 28 years and was doing agriculture work and getting the income of Rs.20,000/- per month. That, due to alleged accidental injuries the petitioner is unable to carryout his day today routine works and his said

avocation and leading a miserable life. Hence, this petition.

4. That, on notices being served, the respondents have appeared before this Tribunal through their learned counsel. That, the respondent No.1 has submitted his counter to claim petition, wherein he denied all contentions of the petitioner and has pleaded that the petitioner colluding with the police filed this false claim petition. That, this respondent No.2 has further averred that on alleged date of accident his said motorcycle was insured with the respondent No.2 company. That, the claim putforth by the petitioner is exorbitant. That, the respondent No.1 in view of his aforesaid contentions has prayed for dismissing the claim petition against him.

5. That, the respondent No.2 has submitted his objections to claim petition, wherein he denied objections to claim petition, wherein he denied all contentions of the petitioner and has pleaded that the alleged accident was

not occurred due to the negligent act of the rider of the said motorcycle. That, the respondent No.1 is the father of the petitioner. Hence, the present petition is not maintainable.

6. That, the respondent No.2 has further averred that on alleged date of accident the said rider was not possessing with the valid and effective driving license to ride the said motorcycle. That, this respondent No.2 is not liable to indemnify the petitioner unless and until it is proved that the Registration certificate, Fitness certificate and Permit of the said vehicle were in order. That, the claim putforth by the petitioner is exorbitant. That, the respondent No.2 in view of his aforesaid contentions has prayed for dismissing the claim petition against him.

7. That, on the basis of the pleadings of both the parties, the following issues were struck:-

1. Whether the petitioner proves that, on
23.01.2021 at about 09.35 p.m. one

Sangappa and petitioner moving on motorcycle bearing Regn. No.KA-33-W-0205 on Dhoranhalli to Mansing Nayak Tanda main road said Sangappa was riding and petitioner was pillion rider and near by their uncle land rider of the motorcycle drove it in rash and negligent manner and in high speed due to which motorcycle was skid on the road by its rider ?

2. Whether the petitioner proves that, he has suffered grievous injuries more particularly sustained the injuries fractures over his left leg tibia and fibula and also sustained other injuries all over his body?
3. Whether the petitioner proves that he has borne an amount of Rs.2,00,000/-

as on date of petition towards medical expenses?

4. Whether the petitioner is entitled for compensation? If so, to what extent, from which respondent?
5. What order or award ?

8. That, the petitioner to demonstrate his aforesaid contentions has deposed himself as PW-1 and got marked the documents at Exs.P1 to 19. That, the petitioner to strengthen his contentions has got examined one Doctor by name Shri. Shivabasanagouda Patil S/o Nagannagouda Patil as PW-2 and got marked the documents at Ex.P13(a) and (b) and closed his side.

That, the respondent No.1 to establish his aforesaid contentions has deposed himself as RW1 and got marked the documents at Exs.R1 to 3 and closed his side.

That, the respondent No.2 to probabalise his aforesaid contentions has got examined one Doctor – Shri Gangadhar S/o Siddappa as RW2 and got marked the copy of MLC as Ex.R4 and closed his side.

9. That, I have heard the arguments and perused the materials placed on record. That, My answer to the aforesaid issues are as under:-

Issue No.1 :- In the **AFFIRMATIVE**

Issue No.2 :- In the **AFFIRMATIVE**

Issue No.3 :- As wrongly framed, deleted

Issue No.4 :- **PARTLY** in the **AFFIRMATIVE**

Issue No.5 :- As per the final order for
following:-

REASONS

10. **Issues No.1 and 2**:- That, as these two issues are connected together, I have taken them for joint discussion to avoid repetition of facts. That, the petitioner has specifically pleaded that on 23.01.2021 at about 09.35 p.m., he and the said Sangappa in a Motorcycle bearing

No.KA-33-W-0205 were proceeding on the main road of Dhoranahalli – Mansing Nayak Tanda and on alleged date the said Sangappa was riding the said motorcycle in high speed and in a rash and negligent manner and due to which the said motorcycle turtle and in alleged process he fell down form the said motorcycle and had sustained the grievous injuries. It is further case of the petitioner that, immediately, after alleged accident he was shifted to Government Hospital, Shahapur, for treatment and thereafter, to United Hospital, Gulbarga, for higher treatment and the Shahapur police have registered the case against the said rider in Crime No.22/2021. That, the petitioner in his chief affidavit has reiterated the said facts and got marked the documents at Exs.P1 to 8. That, the Ex.P2 is the certified copy of Complaint. That, the respondent No.1 had lodged the Complaint against the said rider – Sangappa S/o Taranath Rathod in Shahapur police station. That, the Ex.P1 is the certified copy of FIR. That, the said police inpursuance of Ex.P2 have registered

the case against the said rider in Crime No.22/2021 for the offences punishable under Sections 279 and 338 of the Indian Penal Code. That, the Ex.P3 is the certified copy of Final report. That, the Investigating officer has charge sheeted against the said rider – Sangappa for the alleged offences.

11. That, the Ex.P4 is the certified copy of Crime details form. That, the contents of the said document depicts that the alleged accident was occurred near the land of brother of the respondent No.1 i.e. Shri Ramarao S/o Manu Nayak Rathod. That, the Ex.P5 is the certified copy of Statement of the petitioner. That, the Ex.P6 is the certified copy of Wound certificate of the petitioner, issued by the United Hospital, Kalaburagi. That, the Ex.P7 is the certified copy of Motor vehicles accident report, wherein at column No.10 it has mentioned that the alleged accident was not occurred due to any mechanical defect in the said Motorcycle bearing KA-33-W-0205. That, the Ex.P8 is the

certified copy of Property seizure memo pertaining to the said Motorcycle.

12. That, the respondents No.1 and 2 in their pleadings have simply evaded the occurrence of alleged accident. It is well settled law that, pleadings must be specific. That, the respondent No.2 in cross-examination of PW1 has tried to demonstrate that he fell down somewhere and had sustained the injuries but, all his efforts were went in vain.

13. That, the respondent No.2 has got examined the RW2 and got marked the copy of MLC report at Ex.R4. That, the respondent No.2 in cross-examination of PW1 has tried to elicit that he and his father colluding with the police have lodged the false Complaint – Ex.P1.

14. It is pertinent to note here that, there is a delay of seven days in lodging the Ex.P1 – Complaint. That, just because there is delay in lodging the complaint, it always cannot be a ground to suspect the claim petition. That,

soon after the accident the para amount thing is to get medical treatment rather than searching the offending vehicle and lodging prompt complaint before the police. Hence, the said contention of the respondent No.2 do not assume any importance.

15. That, the Investigating officer in Ex.P3 – Final report has specifically mentioned that the alleged accident was occurred due to the negligent act of the said rider – Sangappa and due to his actionable negligence the petitioner had sustained the grievous injuries. That, the respondents have not challenged the Ex.P3 in any Forum.

16. *It is settled principle of law that, in case of accident it is not mandatory to prove the guilt of the accused beyond all reasonable doubt. That, for the purpose of claim petition mere proof of accident due to negligence is sufficient. That, in National Insurance Company Versus Pushpa Rama and other, reported 2009 ACJ 287 it has held that, the certified*

copy of the Criminal Court records such as FIR, Recovery memo and mechanical Inspection report of Vehicle documents are sufficient proofs to reach the conclusion that the driver was negligent. Proceedings under Motor Vehicles Act are not akin to proceedings in a Civil Suit and hence, strict rules of evidence are not required to be followed in this regard.

17. That, in present case from police records coupled with ocular evidence of PW1 it clearly appears that due to the negligent act of the said rider the petitioner had sustained the grievous injuries. Hence, without much discussion issues No.1 and 2 are answered in the **AFFIRMATIVE.**

18. Issue No.4:- That, the petitioner is entitled for the compensation under the following heads :-

a) **Pain and suffering:-** That, in Ex.P6- Wound certificate of the petitioner, the concerned

doctor has mentioned that in alleged accident he had sustained the following injuries :-

1. Punctured wound over left leg.
2. abrasion over left eye with edema.
3. contusion over right parietal scalp.
4. fracture of sphenoid bone, right parietal and temporal bone.
5. fracture of left tibia and fibula bone and the said injuries are grievous in nature.

That, the petitioner due to said injuries might have sustained pain and inconvenience. Hence, it is feasible to award Rs.50,000/- under this head.

b) **Attendant and conveyance, Food and**

Nutrition charges etc. :- That, the petitioner has got marked her Discharge summary at Ex.P11 issued by the United Hospital, Kalaburagi. That, from the said document it appears that the petitioner was admitted in the said hospital as an inpatient from 24.01.2021 to 28.07.2021 i.e. for 04 days. That, during the said tenure of 04 days some person would have spent some amount. Hence, it is feasible to award Rs.1,000/- per day. i.e., $1,000 \times 04 = 04,000/-$. That, the petitioner is entitled for Rs.04,000/- under this head.

c) **Medical Expenses:-** That, the petitioner has got marked his Medical bills at Ex.P11 (39 bills) and Medical prescriptions at Exs.P17 to 19. That, the total amount of said bills comes to Rs.1,70,637/-. That, the respondents have

not disputed the said bills. That, the petitioner is entitled for Rs.1,70,637/- under this head.

d) **Loss of future income**:- That, the petitioner though, has pleaded that on alleged date of accident he was aged about 28 years but, to probabalise the same has not produced his school records and birth certificate. That, the respondents have not seriously disputed the said age of the petitioner on alleged date of accident. Hence, the age of the petitioner on alleged date of accident has taken as 28 years. That, as being guided in **Sarla Verma and others Versus Delhi Transport Corporation and another**, decided in **Civil Appeal No. 3483 of 2008 decided on 15.04.2009** the appropriate multiplier for the age group of 26 to 30 years is 17.

19. That, the petitioner though, has pleaded that prior to alleged accident he was doing agriculture and getting the income of Rs.20,000/- per month but, to probabalise the same has not adduced any documentary evidence. That, as per revised Notional income chart prepared by the Karnataka State Legal Services Authority, Bengaluru, dated:- 26.02.2022 the income of the petitioner is taken at Rs.14,250/- per month (for the year 2021).

20. That, the petitioner has pleaded that due to alleged accidental injuries he is not in a position to carryout his day today routine works and his said avocation.

21. That, the PW2 in his chief affidavit has deposed tht the petitioner on 27.08.2022 had visited his clinic for the purpose of disability and at that time he gone through his Wound certificate – Ex.P6 and the patient is having following physical impairment :-

1. pain over left knee.
2. restriction of movements of left knee.

3. unable to squat, sitting cross legged.

On clinical examination patient
is having the following findings :-

1. old healed scar over knee left.
2. restricted left knee movements.
3. hard prominence present.

22. That, the PW-2 has further deposed that petitioner is having physical impairment of 23% to the left lower limb and to the whole body permanent disability of 23%.

23. It is an admitted fact that, the PW2 had not treated the petitioner. That, the petitioner has not properly explained what difficulty he is facing to carryout his said avocation as prior to alleged accident and the PW2 has also not properly explained the same. That, from the entire evidence of PW2 it appears that he had assessed the disability at higher stage. Hence, it is feasible to take the disability to the whole body to the extent of 15%.

24. That, the compensation is calculated as under :-

$$14,250 \times 12 = 1,71,000/-$$

$$\frac{1,71,000 \times 15 \% (\text{disability}) \times 17 (\text{multiplier})}{100}$$

$$= 4,36,050/-$$

That, the petitioner is entitled for

Rs.4,36,050/- under this head.

25. That, the petitioner is entitled for the total compensation under the following heads :-

HEADS	COMPENSATION IN RUPEES
Pain and suffering	50,000.00
Attendant and conveyance, Food and nutrition charges, etc.	04,000.00
Medical expenses	1,70,637.00
Loss of future income	4,36,050.00
Total	6,25,687.00

26. Interest:- That, as being guided by the **Hon'ble High of Karnataka in Regional Manager Oriental Insurance Company Limited Versus Pushpa and others** decided in **MFA No.5956/2017 clubbed with 6310/2017 (MV)** it is just and proper to award the

interest at the rate of 6% per annum from the date of petition till its realization.

27. Liability:- That, the respondent No.2 has pleaded that on alleged date of accident the said rider Sangappa was not owning the effective and valid driving license.

28. That, the respondent No.1 has pleaded that on alleged date of accident his said motorcycle bearing No.KA-33-W-0205 was insured with the respondent No.2 company. That, the respondent No.1 has got marked the documents at Exs.R1 to 3. That, the Ex.R1 is the notary attested copy of certificate of Registration of said vehicle from which it appears that it is registered up to 22.01.2023. That, the Ex.R2 is the notary attested copy of Insurance policy of the said Motorcycle bearing No.KA-33-W-0205 from which it appears that it was valid from 06.01.2021 to 05.01.2022. That, the Ex.R3 is the notary attested copy of Driving license of said rider – Sangappa, from which it appears that it was issued on 16.05.2019 and valid till 15.05.2039. That, from Ex.R2 it appears that

on alleged date of accident the insurance of the said vehicle was in force and from the Ex.R3 it appears that on alleged date of accident the said rider was possessing with the valid and effective driving license. That, in this the respondent No.2 is liable to indemnify the petitioner. Hence, without much discussion, issue No.4 is answered **partly** in the **AFFIRMATIVE**.

29. Issue No.5:- That, as discussed on issues No.1, 2 and 4, I proceed to pass the following :-

ORDER

That, the petition filed by the petitioner under Section 166 of the Indian Motor Vehicles Act, is partly allowed with cost.

That, the petitioner is entitled to recover from the respondent No.2 the compensation amount of Rs.6,25,687/- with interest at the rate of 6 % per

annum from the date of petition till realization.

That, the respondent No.2 is hereby directed to deposit the said compensation amount within 30 days from the date of passing of award.

That, on deposit of said compensation amount by the respondent No.2, entire amount shall be released infavour of the petitioner forthwith through e-banking on due identification.

That, draw the award accordingly.

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

(Directly dictated to the stenographer, typed by him, corrected and then signed and pronounced by me in the open Court on this 01st day of September - 2026)

(Hema Pastapur)
Sr. Civil Judge and Addl., MACT-
IV, Shahapur.

ANNEXURE**List of witnesses examined on behalf of petitioner:-**

PW-1: Abhiman S/o Umesha Rathod.

PW-2 : Shivabasanagouda Patil
S/o Naganagouda Patil.

List of documents marked on behalf of petitioner:-

- | | |
|-------|--|
| Ex.P1 | Certified copy of F.I.R. |
| Ex.P2 | Certified copy of Complaint. |
| Ex.P3 | Certified copy of Final report. |
| Ex.P4 | Certified copy of Crime details form. |
| Ex.P5 | Certified copy of Statement of PW1. |
| Ex.P6 | Certified copy of Wound certificate of PW-1. |
| Ex.P7 | Certified copy of Motor vehicles accident report. |
| Ex.P8 | Certified copy of Property seizure memo. |
| Ex.P9 | Certified copy of Notice under Section 133 of the Indian Motor Vehicles Act. |

- Ex.P10 Certified copy of Reply to notice under
 Section 133 of the Indian Motor
 Vehicles Act.
- Ex.P11 Discharge summary.
- Ex.P12 Medical bills (39)
- Ex.P13 Disability certificate of PW1.
- Exs.P13(a) Signatures of PW2.
 and (b)
- Exs.P14 X-ray films (03).
 to 16
- Ex.P17 to Medical prescriptions (03).
 19

**List of witnesses examined on behalf of the
respondent No.1 :-**

RW-1 : Umesha S/o Manu nayak Rathod.

**List of documents marked on behalf of the
respondent No.1 :-**

- Ex.R1 : Notary attested copy of Certificate of
 Registration of vehicle No.KA33W 0205.
- Ex.R2 : Notary attested copy of Insurance policy
 of Motorcycle bearing No.KA-33-W-0205.

Ex.R3 : Notary attested copy of Driving license of Sangappa.

List of witnesses examined on behalf of the respondent No.2 :-

RW-2 : Gangadhar S/o Siddappa.

List of documents marked on behalf of the respondent No.2 :-

Ex.R4 : Copy of MLC.

**(Hema Pastapur)
Sr. Civil Judge and Addl., MACT-
IV, SHAHAPUR.**