BEFORE THE MOTOR VEHICLE ACCIDENTS CLAIMS TRIBUNAL-CUM-PRINCIPAL DISTRICT JUDGE, ANANTHAPURAMU

Present: **E.BHIMA RAO**,

Chairman, MACT-Cum-Principal District Judge, Ananthapuramu

Friday, this the 08th day of May, 2026

M.V.O.P.No.8/2023

Between :

Rangappagari Aswarthanarayana Reddy. **…Petitioner.**

And

1. Illuru Md. Jabivulla.
   (Driver of offending Auto bearing No.AP.39.UA.6274)

2. C.Dhanunjaya.
   (Owner of offending Auto bearing No.AP.39.UA.6274)

3. MAGMA HDI General Insurance Co. Ltd.,
   Rep. by its Executive Legal, Hyderabad.
   (Insurer of offending Auto bearing No.AP.39.UA.6274)
   Policy No.POO 22300034/4103/102281 valid from 27.12.2021
   to 26.12.2022.

... Respondents.

This petition is coming on 23.04.2026 for final hearing before me in the presence of Sri P.Ravindranatha Reddy, advocate for petitioner and of Sri G.Seetharama Rao, Advocate for 3rd respondent and the respondents 1 and 2 remained exparte and upon perusing the material available on record, and upon hearing arguments of both sides, and the matter having stood over for consideration till this day, the Court made the following:-

:: A W A R D ::

1. This is a claim petition filed by the under section 166 of Motor Vehicle Act, 1988 and Rule 455 of A.P. M.V.Rules, 1989, claiming compensation of Rs.20,80,000/- against the respondents due to the injuries received by him in a motor vehicle accident that occurred on 03.08.2022 at about 5:10 PM, near Rudrampet circle, Ananthapuramu.

2. The brief averments mentioned in the petition are as follows:-

(a) On 03.08.2022 in the evening hours, the petitioner left his house to attend the duties at District Crime Record Bureau, Ananthapuramu, while he was proceeding on his motorcycle bearing No.AP02.BL.5921, at about 5:30 PM while he was going slowly on the left side of the road, at that time the offending Auto bearing No.AP39-UA-6274 came in opposite direction without following road rules on wrong side of the road, driven by it’s driver in a rash and negligent manner and dashed the motorcycle of the petitioner. As a result, the petitioner sustained multiple fractures on the femur bone and patella portion and other parts of the body, immediately he was shifted to Govt. General Hospital, Anantapuramu and due to gravity of the injuries, he was shifted to Hosmat Hospital, Bangalore and admitted on 04.08.2022 where he underwent for surgeries, he took treatment as inpatient at Hosmat Hospital and discharged on 10.08.2022.

Again on 15.09.2022 the petitioner got admitted in the hospital and undergone surgery for right knee spanning ex-fix removal and also for right distal femur ORIF done on 16.09.2022 and he incurred Rs.4,00,000/- for his treatment. Due to injuries sustained on right femur bone and tibia portion leading to deviation from normal rhythm resulting to irregular heart beat which causes mental agony and frustration in leading normal life. The petitioner received intra articular fracture that crosses a joint surface and involve some cartilage damage and fractures to joints are more complicated as it involves multiple bones, due to fracture involve a weight bearing joint and includes loss of knee motion and by taking vehicle on hire basis for regular checkups and he could not sit as a normal man and by spending Rs.15,000/- to Rs.20,000/- for vehicle charges apart from other incidental charges and attendant benefits for every time.

(b) On the complaint of the petitioner, a case in Cr.No.46/2022 U/Sec.337 IPC was registered by Ananthapuramu Traffic police against the driver of the offending Auto bearing No.AP39.UA.6274 and after due investigation, the Investigating Officer laid charge sheet U/Sec.338 of IPC.

(c) The petitioner was aged about 55 years, quite hale and healthy by the date of accident and was working as Asst. Sub-Inspector of Police, District Crime Record Bureau, Ananthapuramu and getting salary of Rs.1,12,979/- per month. The petitioner blessed with two sons who are studying B.Tech courses and he is the head of the family, looking after his family with all amenities and financing for the education of the children. The petitioner is going to get promotion in short period as Sub-Inspector of Police and would have drawn high salary. After the accident, all the hopes in getting promotions in future are marred at present as he could not in a position to work as effectively as he was doing previously for no fault of him because of the injuries sustained in the accident. The petitioner has got wife, children and aged parents, he has been looking after the needs of the family by contributing his salary and he is the sole earning person in the family and all the family members are depending on the earnings of the petitioner. The petitioner is not completely healed and taking treatment for every 15 days once and he has to undergo for future surgeries and required another sum of Rs.3,00,000/- to Rs.4,00,000/- for future medication. Due to the accident the life of the petitioner was crippled and he has to depending on others for his day to day needs. The petitioner was on leave from 03.08.2022 to 03.01.2023 and incurred loss of leave and suffered mentally and physically and he sustained leave benefits of Rs.6,00,000/-.

(d) The accident occurred solely due to rash and negligent driving of the offending Auto bearing No.AP.39.UA.6274 by the 1st respondent, therefore, the 1st respondent being driver, 2nd respondent being owner and the 3rd respondent being insurer of offending Auto, all are jointly and severally liable to pay compensation of Rs.20,80,000/- to the petitioner. Hence the petition.

3. The respondent Nos.1 and 2, who are the driver and owner of offending Auto bearing registration No.AP.39.UA.6274 remained exparte to the proceedings.

4. The 3rd respondent/Insurance Company filed its written-statement by denying all the allegations mentioned in the petition. The 3rd respondent denied the manner of the accident as alleged in the petition, as the petitioner was riding the motor cycle bearing No.AP02-BL-5921

without holding any Driving Licence and without wearing headgear or helmet and dashed the auto bearing No.AP39-UA-6274 and got injured owning to his self negligence and influenced the police and registered the case against driver of auto. The petitioner is hereby called upon to prove with strict proof with regard to his avocation, age and earnings by way of oral and documentary evidence. Unless the Petitioner proved that the auto bearing No.AP39-UA-6274 was duly insured with 3rd Respondent Insurance Company, this Respondent Company cannot be held liable. If the Petitioner proves the policy positively, the liability if any will be subject to the terms, conditions, limitations and exceptions of the alleged policy only. The Petitioner is also has to prove that the owner of the said vehicle was having valid vehicle records and the driver of the said vehicle possessed valid driving licence at the time of accident. The allegation in the petition that due to the accident the Petitioner received grievous injuries and taken treatment in various Hospitals and incurred heavy medical expenses, which resulted that the Petitioner is unable to do any work is to be proved by the Petitioner by adducing evidence as required under Law. The claim of the petitioners as claimed under different heads for the amount of Rs.20,80,000/- towards general and special damages is excessive, exorbitant and exaggerated. The petitioners claimed interest which is highly excessive and same is contrary to sec.3 of Interest Act-1978. The petitioner is not entitled for interest as claimed. Finally prays to dismiss the case with costs.

5. The 2nd Respondent filed petition vide I.A.No.454/2026 U/Sec.170 (b) of M.V Act and the same was allowed on 05.03.2026 by giving permission to the 3rd respondent to contest the claim all or any of the grounds that are available to the 2nd respondent.

6. Basing on the above pleadings, the following issues were settled for trial:-

1. Whether the accident was occurred on 03.08.2022 at about 5:10 PM, near Rudrampet Circle, Ananthapuramu town due to rash and negligent driving of 1st respondent being driver of offending Auto bearing No.AP.39.UA.6274?

2. Whether the petitioner sustained injuries as a result of accident?

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

4. To what relief?

7. To prove the claim of the petitioner, the petitioner examined himself as PW.1 besides examining Dr. U.Sriram as PW.2, U.S.Shanthi Krishna as PW.3, R.Nesan as PW.4 and Dr.A.Chethan as PW.5, Smt. V.Vijayalakshmi as PW.6 and got marked Exs.A.1 to A.16 and Ex.C1 to C3 documents.

On behalf of the 3rd respondent, K.Ravi Ram Naik, Administrative Officer, District Police Office, Ananthapuramu was examined as RW.1 and Ex.B1 was marked on it's behalf.

8. Heard the arguments on both sides. Perused the record.

9. **Issue Nos.1 and 2**: -

Since these two issues are interrelated, they are taken up together for common discussion, at once, in order to avoid repetition of evidence and also appreciation of evidence.

10. It is the contention of the petitioner that on 03.08.2022 in the evening hours, the petitioner left his house to attend the duties at District Crime Record Bureau, Ananthapuramu, while he was proceeding on his motorcycle bearing No.AP02.BL.5921, at about 5:30 PM while he was going slowly on the left side of the road, at that time the offending Auto bearing No.AP39-UA-6274 came in opposite direction without following road rules on wrong side of the road, driven by it's driver in a rash and negligent manner and dashed the motorcycle of the petitioner, due to which, the petitioner sustained multiple fractures on the femur bone and patella portion and other parts of the body, immediately he was shifted to Govt. General Hospital, Anantapuramu and due to gravity of the injuries, he was shifted to Hosmat Hospital, Bangalore and admitted on 04.08.2022 where he underwent for surgeries, he took treatment as inpatient at Hosmat Hospital and discharged on 10.08.2022. Again on 15.09.2022 the petitioner got admitted in the hospital and undergone surgery for right knee spanning ex-fix removal and also for right distal femur ORIF done on 16.09.2022 and he incurred Rs.4,00,000/- for his treatment. On the complaint of the petitioner, a case in Cr.No.46/2022 U/Sec.337 IPC was registered by Ananthapuramu Traffic police against the driver of the offending Auto bearing No.AP39.UA.6274 and after due investigation, the Investigating Officer laid charge sheet U/Sec.338 of IPC.

11. It is the contention of the 3rd respondent/Insurance company that the accident caused due to the self negligence on the part of the rider [petitioner] of the motor cycle as he did not wear head guard [helmet] and not holding DL hence, there are violations of MV Act and the liability of the respondents is subject to terms and conditions of the policy.

12. The petitioner in order to prove his contention, examined himself as PW.1 and he narrated all the averments of the petition in his chief-examination. The petitioner filed First Information Report as Ex.A.1 and Charge sheet as Ex.A.3. During cross-examination P.W.1 admitted that on the date of accident, he is travelling on his own motor cycle, the accident occurred on Rudrampeta Bye pass road, regular vehicular traffic is passing through the said road, the scene of offence exactly located on a service road which leads to Alamuru village. He denied the suggestion that there is no negligence on the part of R.1 while causing the said accident, due to his rash and negligent driving only he met with the said accident.

13. On perusal of oral and documentary evidence i.e., Exs.A1 and 3, which would show that after investigation, the Investigating Officer filed charge sheet against the driver of the Auto bearing No.AP39.UA.6274, namely Illuru Md Jabivulla [R3]. No doubt, in the fatal accident, P.W.1 sustained severe injuries and fractures, which leads to hospitalization and underwent surgeries treatment. The respondent No.3 have not filed any documentary proof to deny the case of the petitioner with regard to the nature of the accident. In a dictum reported in **2007 (4) ALD 85 (SC) Oriental Insurance Company Ltd. Vs. Prem Lata Shukla & Ors.,** wherein it is held that:

> **"Accident proved by FIR, once part of the contents of the document admitted cannot be permitted to turn round."**

In another dictum reported in 2012 ACJ 1370 **New India Assurance Company Ltd. Vs. Pazhaniammal and others**, wherein it is held that:

> **"Production of the charge sheet/Accident Register is prima facie sufficient evidence of negligence for purpose of claim U/Sec.166 of M.V. Act."**

In another dictum reported in **2011 ACJ 787 United India Insurance Co. Ltd., Vs., Kankanti Satteiah,** wherein it is held that:

> **"Negligence is a matter of proof and not a assumption. Absence of evidence - contributory negligence cannot be looked."**

14. Though the 3rd respondent/Insurance Company cross examined P.W.1, nothing was elicited with regard to nature of the accident and negligence on the part of the petitioner while riding his motor cycle without helmet and Driving Licence. On the other hand, the contents of the First Information Report under Ex.A1 and the charge-sheet under Ex.A3 clearly goes to show that the accident was occurred due to the rash and negligent driving of the offending-vehicle by the 1st respondent only. There is no contra evidence to disbelieve the case of the petitioner to this extent.

15. In a citation in between **Suman and others, V. Somveer and others, reported in 2017 ACJ 1654 of the Hon'ble High Court of Punjab and Haryana Chandigarh (FAO Nos.9080 and 9772 of 2014 (O&M), decided on 27.4.2016**, wherein it was held that:-

> ***(Para-16) "It is settled principle of law that the proceedings before the Tribunal are in the nature of summary inquiry. In a criminal case the rule is to prove the case beyond shadow of reasonable doubt but in civil cases on the basis of preponderance of probabilities. If there is some evidence before the criminal court regarding***

the involvement of the vehicle and the negligence of its driver, it is not appropriate to non-suit the claimants simply on the basis of doubt or suspicion".

Hon'ble Supreme Court in **Bimla Devi V. Himachal Road Trans. Corpn., 2009 ACJ 1725 (SC),** has laid down as under:

"(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".

So, by virtue of the observations of the Hon'ble Apex Court and Hon'ble High Court of Punjab and Haryana as above, it is clear that the strict principle of pleading cannot be applied while deciding the claim petition. The proceedings before the Tribunal are in the nature of summary inquiry. In a criminal case the rule is to prove the case beyond shadow of reasonable doubt but in civil cases on the basis of preponderance of probabilities. In a situation of this nature, the Tribunal has to taken a holistic view of the matter. The standard of proof beyond reasonable doubt could not have been applied.

In the instant case as per the averments of the claim petition and cross-examination portion of P.W.1 done by the Respondent No.3, the accident is not in dispute and injuries sustained by the petitioner/injured is also not in dispute. As already observed, the documents under Exs.A1 and A3 clearly proved the factum of 1st respondent being the driver of the offending-vehicle caused the accident by rash and negligent driving of the offending-vehicle. So, in view of my above discussion, This Tribunal of the clear opinion that the material on record goes to show that in occurrence of accident, there is negligence on the part of

3rd respondent being the driver of offending-vehicle as on the date of accident, as such, the petitioner sustained injuries in the accident.

Accordingly, issue Nos.1 and 2 are answered.

16. **Issue No.3 ::-**

According to the petitioner, immediately, after the accident, the petitioner was shifted to Government Hospital, Ananthapuramu and from there, he was shifted to Hosmat Hospital, Bangalore for better treatment and admitted on 04.08.2022 where he underwent for surgeries, took treatment as inpatient at Hosmat Hospital and discharged on 10.08.2022, again on 15.09.2022 the petitioner got admitted in the hospital and undergone surgery for right knee spanning ex-fix removal and also for right distal femur ORIF done on 16.09.2022 and he incurred Rs.4,00,000/- for his treatment and he is taking follow up treatment in the Hospital as per the advice of the Doctors.

It is further contention of the petitioner that petitioner was on leave from 03.08.2022 to 03.01.2023 and incurred loss of leave and suffered mentally and physically and he sustained leave benefits of Rs.6,00,000/-. Hence, the petitioner claimed compensation of Rs.20,80,000/- under different heads, which are as follows:

1.	For loss of earnings due to injuries caused due to deformity and Disability.	Rs.5,00,000-00
2.	For causing mental agony & frustration	Rs. 50,000-00
3.	For Pain and Suffering	Rs. 50,000-00
4.	For loss of amenities life	Rs. 50,000-00
5.	For medical expenses	Rs.4,00,000-00
6.	For loss of leave from 3.8.2022 to 1.2.2023	Rs.6,00,000-00
7.	Lost promotional chances & allowances & for future medical expenses	Rs.4,00,000-00
8.	Damages to the Motor cycle	Rs. 30,000-00
	Total:	Rs.20,80,000-00

17. To prove the bonafides with regard to sustaining of injuries, taking of treatment, loss of income, the petitioner himself is examined as P.W.1. The evidence of P.W.1 is nothing but replica of the averments of the petition. The cross-examination of P.W.1 was not shaken in any angle with regard to the accident and sustaining of injuries and taking treatment at Govt. General Hospital, Anantapuramu and Hosmat Hospital, Bangalore. It is further elicited from P.W.1 during cross-examination by the learned counsel for R.3 that he rejoined his duty on 1.4.2023 as ASI of Police, DCRB, Ananthapuramu, he got 148 days of EL and he availed the said EL and the rest of the period 152 days medical leave, so far there is no loss of his salary to him, still he got five years of service and he will get only 75 days as EL in future instead of life time earned leave of 300 days, for the present he is getting his salary as usual. He further admitted that his net salary is Rs.97,813/- as per Ex.A.15, he did not get any loss towards his salary, as per Ex.A.7, the Reliance General Insurance Company paid an amount of Rs.1,16,000/- as medical expenses to him, He denied the suggestion that he is not entitled any future prospects as he is continuing his job. P.W.1 further denied the suggestion that he sustained simple injuries in the accident and taking advantage of injuries in the accident, he claimed higher percentage of compensation.

18. To prove the avocation and economic status of the petitioner in order to estimate loss of income during the period of hospitalization, Adminsitrative Officer, District Police Office examined as R.W.1. He stated in his chief examination that he is dealing with EHS and Bhadratha scheme as DDO, he received summons from the court to give evidence with regard to availing of EHS and Bhadratha Scheme

Medical benefits by A.Aswarthanarayana Reddy [PW1], who is working as ASI in District Crime Record Bureau, Ananthapuramu and P.W.1 has not availed the EHS and Bhadratha Scheme for his treatment as he has taken treatment at Bangalore Hospital, for which there is no coverage for him to reimburse the medical bills and as per records, P.W.1 has not availed any medical reimbursement from their office for his treatment.

19. In order to prove the pain and sufferance, nature of treatment and medical expenses, the petitioner examined the Doctor, namely V.Sriram, Asst., Professor [Ortho], East Point Hospital, Bangalore, who rendered treatment to P.W.1 as P.W.2, who stated that patient namely R.Aswrtha Narayana Reddy/petitioner underwent operation conducted by Dr M.N.Kumar four months back for right distal femur comminuted fracture with proximal tibia intra articular fracture, it was operated 1st on 5.8.2022 and external fixation was done and subsequently it was removed after 1 ½ month and definite fixation with ORIF with plating done on 16.09.2022, after four months the patient presented to East Point Hospital on 30.01.2023 for stiff right knee with old right distal femur fracture with implant insitu and subsequently operated on 3.2.2023 right quadriceps-plasty for right knee post operatively patient was stable and was advised for physiotherapy and range of movement exercising of Right knee, the patient was discharged on 8.2.2023. He further stated that “it is true that distal femur comminuted fractures is a break in the lower part of thigh bone just above knee and it can be painful and debilitating injury that limits mobility and intra-articular fracture extends in to knee joints separating the bones surface into multiple parts. He further stated that patient undergone for quadriplasty that improves knee flexion by leasin the quadriceps muscle, mal united

fracture of right distal femur with severe artois's to right knee as sequel around the knee joint, so the patient will have paid, and patient has to undergo for surgery for removal of implants and total knee replacement in case of pain in full knee, difficulty in squatting and standing for long hours. Ex.C.1 is case sheet of East Point Hospital.

During cross-examination, P.W.2 stated that patient is anemic at the time of admission and also developed secondary anemia as a result of blood loss during the surgical procedure, the patient is pre-disbetic. He further stated that the patient admitted in their hospital after five months of 1st admission at Hosmat Hospital, the restricted movement in Right leg is one of the reason due to non follow up of medical advice, but can also occurred due to severity of the fracture caused around the knee. He further admitted that plates are inserted in the right distal feur is not yet removed as per the recent X-ray report, dt.11.11.2024 and there is facility of removes of implants at any Govt., Hospital in free of cost.

20. Petitioner also examined Dr A.Chethan, Orthopedic Surgeon of Hosmat Hospital, Bangalore stated that the patient by name R.Aswartha Narayana Reddy was admitted on 4.8.2022 with history of RTA with injuries 1, Right distal Femur comminuted fracture and 2. Proximl tibia intra-articular fracture, the petitioner undergone operation to his right knee spanning exfix done on 5.8.2022 and discharged on 10.8.2022, again admitted on 15.09.2022 and undergone surgery i.e., right knee spanning exfix removal and right distal femur ORIF with LCP done on 16.09.2022 and discharged on 17.09.2022. He further stated that Distal femur is a break in thigh bone near the knee portion and it is a

comminuted fracture, the femur bone is a weight bearing bone in the human body, in this case, it is very difficult to squat on the ground as a normal and also it is a very difficult for stand for hours together, the fracture of comminuted in nature include fracture of supra-condylar or intra-condylor reason of thigh, he advised to go further surgery for removal of implants and it will costs of Rs.80,000/-, due to the injuries sustained by the petitioner, he has difficult in performing knee movement, the case sheet pertaining to the patient issued by Hosmat Hospital, Bangalore under Ex.C.2 and latest x-ray report under Ex.C.3.

During cross-examination, P.W.5 stated that the fractures are united and the wounds are also healed, patient was discharged in the stable and fit condition, the treatment and operations for the injuries sustained by the petitioner also available in Govt., Hospital on free of costs, after surgery there are no neurological defects for the injury at the time of his examination and the mental and physical parameters of the injured is okay, except the injuries caused to right thigh all the body organs are working properly. He further stated that separate billing section with regard to pharmacy and billing superintendent is competent person to speak with regard to prescriptions and bills, the removal of implants in the Govt., Hospital is free of cost and their hospital is Private Hospital and treatment charges will be more than Government Hospital.

21. The petitioner examined P.Ws.3, 4 and 6 to with regard to medical bills issued by East Point Hospital, Bangalore and Hosmat Hospital, Bangalore.

P.W.3 deposed that Exs.A.5 to A.9 are the bills issued by their Hospital in total Rs.31,490/-. During cross-examination, he stated that as per the record the patient has not availed medical reimbursement from their hospital.

P.W.4 deposed that Ex.A.10 is issued by Sripada Pharma Medical bills for Rs.45,315/-. During cross-examination, he stated that as per the record, the patient has not availed medical imbursement from the hospital.

P.W6 stated that Ex.A.7 consisting of 36 bills in total amount of Rs.6,15,099/- and out of the said amount an amount of Rs.1,60,000/- paid by the Reliance General Insurance Company and the patient paid Rs.4,55,099/- to the hospital.

During cross-examination, she stated that Hospital authority did not recover any amount under the medical reimbursement. She denied the suggestion that the medical bills are not supported by prescription to correlate and Ex.A.7 medical bills are inflated in order to help the patient.

22. There is no yardstick to measure the compensation, for which this court relied on the case law reported in **2018 ACJ 1011 (Jagdish Vs. Mohan and others)**, wherein the Hon'ble Supreme Court had held that:

> **"The measure of compensation must reflect a genuine attempt of the law to restore the dignity of the being. Our yardsticks of compensation should not be so abysmal as to lead one to question whether our law values human life. If it does, as it must, it must provide a realistic recompense for the pain of loss and the trauma of suffering. Award of compensation are not law's doles. In a disclosure of rights, they constitute entitlements under law. Our conversations about law must shift from a paternalistic subordination of the**

> **individual to an assertion of enforceable rights as intrinsic to human dignity."**

Before awarding the compensation under the heads of pain and sufferance, medical expenses, conveyance etc., this court relied upon a dictum reported in **2012 (3) ALD 53 (SC) Mourya Vs., Divisional Manager, Oriental Insurance Co., Ltd., and another** wherein it is held that:

> **"Adequate compensation should be awarded not only for physical injury and treatment, but also for pain, suffering and trauma caused due to accident, loss of earning and victim's inability to lead a normal life and enjoy amenities which he would have enjoyed but for the disability caused due to accident."**

Herein the case on hand, the petitioner has contended due to the accident, he sustained fractures, underwent surgeries and became disabled person and not in a position to set as a normal man. He further stated that after surgeries he is attending to the Hospital at Bangalore for regular checkups as per the advice of doctors by engaging private vehicle.

It is the contention of the petitioner that petitioner was on leave from 03.08.2022 to 01.02.2023 and incurred loss of leave and suffered mentally and physically and he sustained leave benefits of Rs.6,00,000/-. During cross-examination, P.W.1 stated that he rejoined his duty on 1.4.2023 as ASI of Police, DCRB, Ananthapuramu and getting his salary of Rs.97,813/- under Ex.A.15 as usual and he did not get any loss towards his salary during the period of treatment in the hospital as he availed Earned Leave and Medical Leave. The petitioner being Government Employee and he availed leave and thereby he has not sustained any loss of salary for the leave period during hospitalization.

R.W.1 Administrative Officer of District Police Office categorically stated that P.W.1 is working as ASI in District Crime Record Burequ, Ananthapuramu and P.W.1 has not availed the EHS and Bhadratha Scheme for his treatment as he has taken the treatment at Bangalore Private Hospitals. He further stated that as per their records, P.W.1 has not availed any medical reimbursement from their office for his treatment. The claimant was paid *salary* during his *leave* period, but he lost the benefit *of* encashment *of* Earned *leave*. Generally such encashment facility is provided for 300 days for the Government Employees. PW.1 categorically admitted that he got 148 days of Earned Leave and he availed the said EL and the rest of the period 152 days of medical leave, so far there is no loss of his salary,. But it is grievance of the petitioner that he got five years of service and he will get only 75 days as E.L in future instead of life time earned leave of 300 days. As seen from the evidence of P.W1 and R.W.1, it shows that the petitioner applied Earned Leave for 148 days and 152 days of medical leave, thereby he sustained loss of Leave for hospitalization.

In New India Assurance Co. Ltd v. Sangeetaben Satishkumar Raval & 1 Other(s), dt.3.2.2022, the High Court Of Gujarat At Ahmedabad held that:

> “That applicant has examined Taluka Education Inspector at Exh.147, wherein he has deposed that applicant took 144 days leave as half pay leave, and 615 days leave without pay. That if applicant could have not met with this accident, applicant would have enjoy these much leave in future. Considering this aspects,

applicant is entitled to leave salary for 615 days i.e. Rs.1,20,000/- (Rs.6000/- X 20 months)."

As seen from the above case law, it is clear that a victim *of* a motor vehicle accident cannot be made to suffer *loss of* his full pay *leave* or the medical *leave* for the benefit *of* the tortfeasor. An employee loses an opportunity for encashment *of leave* at the time *of* his superannuation if the leaves are exhausted during service. In the circumstances, the Appellant is entitled to be paid full *salary* for leave period. The medical leave availed by the petitioner, the leave can be sanctioned when the employee is hospitalized (or) detained in hospital and receiving medical aid as outpatient. But there is no facility for encashment of Medical leave after the superannuation of petitioner. Hence, considering on the head of, loss of *Earned* leave salary comes it to **Rs.4,82,544/-** [i.e., Rs.97,813/- per month and Rs.3,260/- per day for loss of 148 days of Earned Leave] .

On perusal of medical record, it is clear that the petitioner underwent surgeries for leg fractures, but he has not filed any Disability certificate issued by Medical Board to establish his version that due to the accident he became disabled person and not in a position to sit and walk properly. Therefore by considering the gravity of injuries sustained by the petitioner and nature of the treatment rendered to the petitioner while undergoing treatment for long time at Private hospitals i.e., Hosmat Hospital and East Point Hospital, Bangalore and also considering the sustaining of grievous injuries/fractures as per Ex.A.2 wound certificate, and taken treatment as inpatient in the hospital from 30.1.2023 to 08.02.2023 and taken follow up treatments and also due for removal of implants, this Tribunal is granting an amount of **Rs.3,00,000/-** towards pain and sufferance caused due to deformity and disability, **Rs.25,000/-** towards special diet, extra nourishment and **Rs.25,000/-** towards attendant charges and **Rs.25,000/-** towards transportation and **Rs.25,000/-** for attending regular checkups and removal of implants.

It is the contention of the petitioner that due mishap he spent huge amount for treatment and medical expenses. On perusal of evidence of P.Ws.2 to 5, it is clear that petitioner has sustained fractures and after surgery he taken treatment as inpatient in the hospital and incurred amount for mediation.

On this point of view this court relied on the case law reported in The **New India Assurance Co Ltd vs Sri Manish Gupta on 11 October, 2012 Equivalent citations: 2013 AAC 2330 (KAR), 2013 (3) AKR 344,** wherein their lordships held that:

> **“the amount, which is reimbursed under the Mediclaim is liable to deducted from the total compensation awardable under the heading of medical expenses as determined by the Tribunal.”**

Having relied on the above case law and also with regard to the totality of the circumstances and also the nature of injuries, insofar as per the evidence of P.W6 that Ex.A.7 consisting of 36 bills in total amount of Rs.6,15,099/- and out of the said amount an amount of Rs.1,60,000/- paid by the Reliance General Insurance Company and the patient paid Rs.4,55,099/- to the hospital. It is not in dispute that a sum of Rs.1,60,000/- was spent towards medical treatment of the claimant has been reimbursed under the Reliance General Insurance Company. Hence, this Tribunal propose to deduct the said amount from the total compensation awarded under the Heading of medical expenses. If Rs.1,60,000/- is deducted from Rs.6,15,099/-, the amount would work out to Rs.4,55,099/-.

As per record, the petitioner filed Exs.A.7 for Rs Rs.4,55,099/-, Ex.A.8 for Rs.26,490/-, Ex.A.9 for Rs.5,500/-, Ex.A.10 for Rs.22,490/-, Ex.A.11 for Rs.19,800/-, Ex.A.12 for Rs.1636/-, Ex.A.13 for Rs.7200/-, Ex.A.14 for Rs.19,000/- in total an amount of **Rs.5,57,215/-** towards Medical expenses and the same is awarded to the petitioner by making it round figure as **Rs.5,57,220/-.**

Further the petitioner claimed an amount of Rs.30,000/- under the head of damages to the Motor cycle bearing No.AP02-BL-5921. Section 166 of the M.V. Act enables victims of road accidents who have suffered property damage to claim compensation. Hence, the petitioner is entitled to damages for motor vehicle damage under the Motor Vehicles Act when they prove, typically through a FIR, IMV report, and estimated repair costs, that the damage was caused by a rash/negligent act of the opposite party, with compensation calculated based on the actual, reasonable costs of repairs or the reduced value of the vehicle. It is settled law that the claim must be supported by evidence, such as the Inspection Motor Vehicle Report (IMV), photographs of the damage, and bills/ estimates for repairs. Here in the case on hand, the petitioner has not produced any oral or documentary evidence to show that he incurred amount towards repairs of the motor cycle, which was damaged in the accident. Hence, without proof, this Tribunal is not inclined to award amount under this head of damages.

Further the petitioner claimed for lost of promotional chances and loss of amenities of life. As seen from the evidence of P.W.1, he joined duty on 1.4.2023 as ASI and getting his salary as usual. There is no evidence on record to show that P.W.1 is not fit for doing his job or lost his promotional chances. Hence, considering the evidence on record, after surgeries, the petitioner joined his duty as ASI and drawing salary of Rs.1,06,000/- per month. Hence, the avocation and his rank as ASI in police department and got four years of service, there is no chance of losing his promotion or allowances.

From the above over all discussion in all, the petitioner is entitled to the following amounts:-

Sl.No	**Head**		**Compensation amount**
a) Pain and sufferance		:	Rs. 3,00,000-00
b) Loss of leave [EL]		:	Rs. 4,82,544-00
b) Special diet and extra Nourishment		:	Rs. 25,000-00
c) Transportation		:	Rs. 25,000-00
d) Attendant charges		:	Rs. 25,000-00
e) Future medical expenses		:	Rs. 25,000-00
d) Medical Bills		:	Rs. 5,57,220-00
Total:-			**Rs.14,39,764-00**

Making it round figure: 14,40,000-00

23. The 3rd respondent/Insurance Company while traversing with the material averments with regard to manner of accident, rash and negligence on the part of the driver of the crime vehicle, nature of injuries, age and avocation of the petitioner, the liability to pay compensation, contended that the petitioner did not wear helmet while proceeding on his vehicle and he was negligent, in occurrence of the accident and more so he did not possess DL at the time of accident, therefore, the 3rd respondent is not liable to pay compensation to the petitioner. The 3rd respondent though denied the case of the claimant and contended that the petitioner is not wearing helmet while proceeding on the vehicle and that the petitioner was negligent but did not adduce any evidence contra to the police opinion and to establish that the accident was occurred due to self negligence of the petitioner.

24. In the case on hand though the respondent No.2/Insurance Company has vehemently opposed the claim of the petitioner, but did not establish its contentions from the cross-examination of P.W.1 that there is no Insurance coverage of the offending vehicle Auto bearing No.AP39-U-6274 and the policy did not covers the risk of the third parties and there are violation of policy conditions and thereby the Insurance company is not liable to pay compensation. As seen from Ex.B.1 Insurance policy, it covers the third party risk and petitioner is the third party to the offending vehicle and it is valid from 27.12.2021 to 26.12.2022. The accident in this case was occurred on 03.08.2022. So, at the time of accident, the policy was in force. Coming to the liability of the respondents 1 and 2, who are the driver and owner of the crime vehicle did not adduce any evidence to deny the case of the petitioner. As such in the absence of any record or evidence, it is con-

cluded that the 1st respondent is the driver and 2nd respondent is registered owner, who insured the crime vehicle with insurer/3rd respondent.

25. With regard to fixing of interest, this Tribunal relied on a case law reported in **Special Leave Petition No.11340 of 2020 between the Oriental Insurance Co., Ltd., Vs Niru @ Niharika & Ors.,** wherein their lordships observed that "With the advent of the 21st century and the economic recession world over, the interest rates fell considerably, but even now the rates offered by National Banks for long term deposits are 7% or more. Considering the over-all circumstances especially the long delay caused, they are of the opinion that 9% interest rate granted by the Tribunal is perfectly in order especially noticing the accident having occurred in the year 1995."

For fixing of interest, this Tribunal would like to rely another decision of the Hon'ble Supreme Court of India in **Jaik Hussein v. Sabir and others 2015 (3) ALD 115 [SC]** held that:

> **"As regards the rate of interest to be awarded on the compensation awarded in this appeal, we are of the view that the Tribunal and High Court have erred in granting interest at only 07% p.a. and 08% p.a. respectively on the total compensation amount instead of 09% by applying the decision of this Court in Municipal Corporation of Delhi v. Association of Victims of Uphaar Tragedy (2011) 14 SC 481 = AIR 2012 SC 100. Accordingly, we award the interest @ 09% p.a. on the compensation determined in the present appeal."**

In view of the above observations, the respondents 1 and 2 are liable to pay interest @ 9% p.a. on compensation jointly and severally to the petitioners.

Accordingly, the Issue No.3 is answered.

26. **ISSUE NO.4:-**

In the result, petition is allowed, in-part, with proportionate costs, by granting the following reliefs:-

1. Petitioner is entitled for a total compensation of **Rs.14,40,000-00**

2. Petitioner is entitled for interest @ 9% per annum on the amount awarded from the date of presentation of petition i.e., from 26.12.2022, to till the date of realization.

3. The respondents 1 to 3 are jointly and severally liable to pay the compensation to the petitioner.

4. Taking into consideration the injuries sustained by the petitioner in the accident, on deposit of compensation, petitioner is permitted to withdraw **7,40,000/-** of the compensation amount with accrued interest thereon and entire costs and the remaining balance of **Rs.7,00,000/-** shall be kept in Fixed Deposit in any Nationalized Bank, for a period of three years.

5. Time granted for deposit of amount is 30 days from the date of Award.

6. Advocate fee is fixed at Rs.5,000/-.

7. Rest of the claim of the petitioner is here-by dismissed.

8. Petitioner is directed to furnish photocopies of his bank account pass-book, PAN card and Aadhar Card to 3rd respondent and on such furnishing the documents by him, 3rd respondent is **directed to transfer the amount into the Savings bank account of the claimant/petitioner with intimation to the Tribunal** by following the procedure as prescribed by the Hon'ble Supreme Court in **"Bajaj Allianz General Insurance Company Pvt., Ltd., Vs Union bank of India & Ors in Writ Petition (s) (Civil) No (s) 534 of 2020** and in "**Paraminder Singh Vs Honey Goyal, dt.18.03.2025 in Civil Appeal No. of 2025 [Arising out of S.L.P. (C) No.4484 of 2020]"**

9. When the amount is transferred by the Insurance Company in the account of claimant/petitioner, Compliance should be furnished to this Tribunal by the Insurance Company as well as concerned Bank authorities.

10. If the petitioner not furnished copies of his bank account pass-book, PAN card and Aadhar card, within reasonable time, 2nd respondent is directed to deposit the amount by deducting TDS as per rules without waiting for furnishing of the documents as per the time fixed by this Tribunal.

11. Office is directed to verify whether any exemption was taken for payment of court fee at the time of filing of petition. Petitioner is entitled for copy of decree, subject to clearance of court fee dues if any.

Typed to my dictation by the Stenographer, corrected and pronounced by me in open-Court, this the 8th day of May, 2026.

Sd/- E.BHIMA RAO
Chairman,
Motor Accidents Claims Tribunal
-cum- Principal District Judge,
Ananthapuramu.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR PETITIONER:	**FOR 3rd RESPONDENT**:
PW-1: R.Aswarthanarayana Reddy	RW.1: K.Ravi Ram Naik.
PW-2: Dr. V.Sriram	
PW-3: U.S.Shanthi Krishna	
PW-4: R.Nesan	
PW-5: Dr.A.Chethan	
PW-6: Smt. V.Vijayalakshmi.	

EXHIBITS MARKED FOR PETITIONER:

Ex.A1 : Attested copy of FIR in Cr.No.46/2022 of Traffic Police Station, Ananthapuramu.

Ex.A2 : Attested copy of wound certificate of petitioner,

Ex.A3 : Attested copy of charge sheet in Cr.No.46/2022 of Traffic Police Station, Ananthapuramu filed against driver of auto bearing No.AP39.AU.6274.

Ex.A4 : Discharge summary record, issued by HOSMAT Hospital, Bangalore.

Ex.A5 : Discharge summary record, issued by HOSMAT Hospital, Bangalore.

Ex.A6 : Discharge summary record, issued by EAST POINT Hospital, Bangalore.

Ex.A7 : Medical bills issued by Hosmat Hospital, Bangalore (36 in Nos.) from 03.08.2022 to 15.10.2022 amount to Rs.6,15,099/-

Ex.A8 : East Point College of Medical Sciences & Research Center, Bangalore date of admission 30.01.2023 to 08.02.2023 with final inpatient bill amounting to Rs.26,490/-

Ex.A9 : East Point College of Medical Sciences & Research Center, Bangalore medical bills from 12.12.2022 to 27.03.2023 amounting to Rs.5,500/-

Ex.A10: Sripadha Pharma Jnana Prabha Campus Bangalore issued bills from 14.11.2022 to 09.02.2023 amounting to Rs.22,490/-

Ex.A11: Bills, issued by Amulya Physiotherapy Ramnagar for Rs.19,800/-.

Ex.A12: KIMS Saveera Hospital, Ananthapuramu bills 3 in numbers for Rs.1636/-.

Ex.A13: Bills, issued by office of the Secretary, Bangalore dt.18.08.2022 (mess bill) for Rs.7200/-

Ex.A14: Bill for purchasing physio track equipment from Delhi for Rs.19,000/-.

Ex.A15: Salary certificate of the petitioner.

Ex.A16: Sick leave order (Office of the Superintendent of Police, Ananthapuramu) dt.15.04.2023.

Ex.C1 : Case sheet relating to the petitioner, issued by East Point Hospital, Bangalore.

Ex.C2 : Case sheet of the petitioner, issued by Hosmat Hospital, Bangalore.

Ex.C3 : Follow-up record latest examination report along with latest X-Ray of the petitioner.

EXHIBITS MARKED FOR 3rd RESPONDENT

Ex.B1 : Certified copy of Policy, insurer name V.Dhanalakshmi/R1 for period of coverage from 20.08.2023 to 19.08.2024 for commercial goods carriage.

Sd/- E.BHIMA RAO
Chairman,
Motor Accidents Claims Tribunal
-cum- Principal District Judge,
Ananthapuramu.