

KAMS080010802023



**IN THE COURT OF PRINCIPAL SMALL CAUSES &
SENIOR CIVIL JUDGE & M.A.C.T. AT MYSURU.**

Presided Over by SRI AFTHAB.K

Dated on this the 15th day of June, 2026

M.V.C./677/2023

Petitioner :

Sri. Mahadeva H.N S/o. Late Nagaraju,
R/at Hebbal village, Hebbal hobli,
K.R. Nagara taluk, Mysuru district.

(By – Sri. Dushyanth Kumar R., Advocate)

Vs.

Respondents:

1. Sri. Akash K.B S/o. Karibasappa,
Age: 24 years, R/at #24/1, 110/3, 2nd stage,
Beside Devayyanahundi village,
Srirampura, Mysuru.
Rider of the Honda Deo bearing No.KA-12/K-7314

2. Sri. Karibasappa S/o. Theerthappa,
Age: 50 years, R/at #24/1, 110/3, 2nd stage,
Beside Devayyanahundi village,
Srirampura, Mysuru.
Owner of the Honda Deo bearing No.KA-12/K-7314

3.Acko General Insurance Co. Ltd.,
#301, 3rd floor, E-Wing, Lotus Corporate park,
Goregaon (E), Mumbai-400063.
Branch Office: 1st floor, Mysuru Trade Center, L-36/D,
opposite of KSRTC bus stand, near Bhima Jewellers,
Bengaluru – Nilgiris road, Mysuru.
Insurer of the Honda Deo bearing No.KA-12/K-7314
Policy No.DBTR00482538052/00
valid from 16.02.2022 to 15.02.2023

(R1 & 2 – Sri. Vijayakumar P.B, Advocate)
(R3 – Sri. B.G. Kumar, Advocate)

* * * *

J U D G M E N T

The petitioner has filed this petition under section 166 of Motor Vehicles Act 1989, seeking compensation of ₹.12,80,000/- along with interest at the rate of 12% per annum from the date of petition till the date of realization of the amount for the injuries sustained by him in the road traffic which occurred on 22.10.2022.

2. The brief fact of the petitioner case is as follows :

On 22.10.2022, at around 12.25 p.m., on JLB road, at Dasappa circle, Devaraja Mohalla, Mysuru city, when the petitioner was proceeding as a pedestrian and was crossing the JLB road, the respondent No.1 being the rider of the Honda Deo bearing No.KA-12/K-7314 rode the same at a high speed and in a rash or

negligent manner and dashed against the petitioner from the rare side and caused the accident.

2.1. Further in the said accident, the petitioner sustained grievous injuries all over the body. Further immediately after the accident, the petitioner was admitted to GC'S Sports Medicine Center and Multiplicity Hospital, Mysuru, where it was diagnosed that the petitioner had sustained fracture of both tibia and fibula of left leg and apart from other injuries for which the petitioner underwent treatment as an inpatient in ICU during which he even underwent surgeries. Further after undergoing treatment as an inpatient from 22.10.2022 to 25.10.2022, the petitioner was discharged from the hospital, however, even after being discharged, the petitioner is taking follow up treatment on OPD basis.

2.2. Furthermore, prior to the accident, the petitioner was hale and healthy and was into business from which he was earning ₹.60,000/- per month and was maintaining his family. Further now due to injuries sustained by him in the accident, the petitioner is unable to do the work which he was doing prior to the accident as such the petitioner has lost his income. Further the petitioner has become dependent on others for his day to day activities, as such due to injuries sustained in the accident, the petitioner has not only suffered physically, but also mentally, psychologically and economically.

2.3. Furthermore, the accident occurred due to rash and negligent riding of the Honda Deo bearing No.KA-12/K-7314 by its rider. Further the

respondent No.1 being the rider, the respondent No.2 being the registered owner and respondent No.3 being the insurer are jointly and severally liable to pay compensation to the petitioner. On these amongst other grounds, it is prayed that the petition be allowed as prayed for.

3. In response to the notice issued by this court, the respondents appeared through their counsel. The respondent No.1 and 2 have filed their common objection and respondent No.3 has filed its detailed objections to main petition.

4. The gist of the common objection raised by respondent No.1 and 2 is as follows:

The petition is neither maintainable under law nor facts and hence is liable to be dismissed *in limine*. Further, the petition averments are denied *in toto*, more particularly the averments regarding the age, income and occupation of the petitioner. Further the accident occurred due to actionable negligence on the part of the petitioner himself as he tried to cross the road without observing the movement of vehicles on the busy road and while do so went in front of the motorcycle of the respondent No.1, as such there was no negligence on the part of rider of the Honda Deo bearing No.KA-12/K-7314.

4.1 Further it is admitted that the respondent No.1 was the rider of the Honda Deo bearing No.KA-12/K-7314 and respondent No.2 is the owner of the offending vehicle at the time of accident. Further at the time of accident, the Honda Deo bearing No.KA-12/K-7314 was duly insured with respondent No.3 company under policy No.

DBTR00482538052/00 and the policy was in force from 16.02.2022 to 15.02.2023. Furthermore, even the rider of the motorcycle possessed valid and subsisting driving license to drive the said class of vehicle, as such, in the event of this tribunal coming to the conclusion that the petitioner is entitled for compensation, the respondent No.3 may be directed to pay the same. Further the compensation and interest claimed are high and exorbitant. On these amongst other grounds, it is prayed that the petition as against the respondent No.1 and 2 be dismissed.

5. The gist of the objection raised by respondent No.3 is as follows:

The petition is neither maintainable under law nor facts and hence is liable to be dismissed *in limine*. Further, the petition averments are denied *in toto*, more particularly the averments regarding the age, income and occupation of the petitioner. Further, it is admitted that Honda Deo bearing No.KA-12/K-7314 registered in the name of one Sri. Karibasappa was duly insured with respondent No.3 insurance company at the time of the accident under policy No. DBTR00482538052/00 and the policy was in force from 16.02.2022 to 15.02.2023, however the policy was issued subject to terms and conditions. Further the rider of the Honda Deo bearing No.KA-12/K-7314 did not possess a valid and effective DL to ride the said class of vehicle at the time of accident and yet the respondent No.2 allowed the vehicle to be ridden by an unauthorized person and thereby violated the terms and conditions of the policy as well as provisions of M.V. Act, for this reason also the petition is liable to be dismissed.

5.1. Further the accident occurred due to actionable negligence on

the part of the petitioner herself who tried to cross the road without observing the movement of vehicles and yet the actual facts were twisted while lodging the FIS to suit the claim of the petitioner. Further the petitioner even managed to get the FIR registered against the respondent No.1 and even got the chargesheet filed against the respondent No.1 so as to maintain this claim petition. On these amongst other grounds, it is prayed that the petition as against the respondent No.3 be dismissed.

6. On the basis of pleadings, documents and other materials available on record, this tribunal framed the following issues :

1. *Whether the petitioner proves that he had sustained grievous bodily injuries in road traffic accident which occurred on 22.10.2022 at around 12.25 p.m., on JLB road, at Dasappa circle, Devaraja Mohalla, Mysuru city, when the petitioner was proceeding as a pedestrian, due to rash or negligent riding of the Honda Deo bearing No.KA-12/K-7314 by its rider?*
2. *Whether the petitioner is entitled for the compensation? If so, from whom; and what is the quantum ?*
3. *What order or award ?*

7. In order to discharge the burden cast on him, the petitioner examined himself as PW.1 through whom Ex.P1 to P17 documents got

exhibited and closed his side. Though, the respondent No.3 cross-examined PW.1 and 2 at length, it did not prefer to lead any oral evidence on its behalf, hence respondents' evidence is taken as nil and matter stood posted for arguments.

8. Heard arguments canvassed by learned counsel for the petitioner and respondent No.2 on main.

9. After giving its anxious consideration to arguments canvassed and after meticulously going through the oral and documentary evidence adduced by the petitioner, the aforesaid issues are answered as under;

(a) Issue No.(i) : In the Affirmative.

(b) Issue No.(ii) : Partly affirmative and regarding the amount of compensation and from whom the same needs to be recovered, the same is detailed in final order.

*(c) Issue No.(iii) : As per the final order
for the following:*

REASONS

10. ISSUE No.I :

At the very outset it is necessary to set out the facts leading to the present case, according to the petitioner, as can be seen from the petition averments are that on 22.10.2022, at around 12.25 p.m., on JLB road, at Dasappa circle, Devaraja Mohalla, Mysuru city, when the petitioner was proceeding as a pedestrian and was crossing the JLB road, the

respondent No.1 being the rider of the Honda Deo bearing No.KA-12/K-7314 rode the same at a high speed and in a rash or negligent manner and dashed against the petitioner from the rare side resulting in the petitioner sustaining grievous injuries all over the body; and immediately after the accident, the petitioner was admitted to GC'S Sports Medicine Center and Multiplicity Hospital, Mysuru, where it was diagnosed that the petitioner had sustained fracture of both tibia and fibula of left leg apart from other injuries for which the petitioner underwent treatment as an inpatient from 22.10.2022 to 25.10.2022 during which he even underwent surgeries and was discharged from the hospital and the petitioner is taking follow up treatment on OPD basis as per the advise of the doctors.

11. In order to discharge the burden cast on him, regarding the proof of the accident, the petitioner examined himself as PW.1 and has reiterated the petition averments thereby standing in support of the petition averments that the accident occurred due to rash or negligent riding of the Honda Deo bearing No.KA-12/K-7314 by its rider, resulting in the petitioner sustaining the injuries. To substantiate these aspects, the petitioner has relied on the Ex.P1 and 2, which are the true copies of the FIR and FIS pertaining to Crime No.32/2022 registered at Devaraja Traffic Police station; and FIS was lodged by petitioner himself. Further the petitioner has produced Ex.P3 and P7 which are the chargesheet filed by Devaraja Traffic Police in Crime No.32/2022 against the rider of the Honda Deo bearing No.KA-12/K-7314; and the wound certificate pertaining to the

petitioner, respectively. Perusal of the chargesheet reveals that the police after investigation *prima facie* found that the rider of the Honda Deo bearing No.KA-12/K-7314 was at fault, thereby opining that it was due to rash or negligent riding of the Honda Deo bearing No.KA-12/K-7314 that the accident leading to the present case occurred. Hence the police documents make it amply clear that the said accident indeed occurred due to rash or negligent riding of the Honda Deo bearing No.KA-12/K-7314 resulting in petitioner sustaining injuries narrated at Ex.P7.

12. It is necessary to state, even at the cost of repetition that the Devaraja Traffic who registered the FIR on the basis of FIS lodged by petitioner himself have charge sheeted the driver of the Honda Deo bearing No.KA-12/K-7314, thereby *prima facie* opining that the said accident occurred due to rash or negligent driving of the Honda Deo bearing No.KA-12/K-7314 i.e., respondent No.1. The respondent No.3 company has come up with two fold defense:

Firstly, the accident occurred due to negligence on the part of petitioner himself as he was jay-walking on the road.

Secondly, the rider of the Honda Deo bearing No.KA-12/K-7314 did not possess a DL at the time of accident

As regards the latter contention, the same will be discussed while considering Additional Issue No.1.

13. As regards the contention of the respondent No.3 that the accident occurred due to actionable negligence on the part of the petitioner

himself who tried to cross the road without observing the movement of vehicles. Perhaps, the PW.1 was cross-examined by learned counsel for the respondent No.3, but nothing which could support of the contention of the respondent No.3 that it was due to the fault of the petitioner that the accident occurred could be elicited from the mouth of PW.1 and there is nothing before the court to hold that there was contributory negligence on the part of the petitioner.

14. Even otherwise when the Ex.P5 which is the rough sketch of the spot is analyzed, it is clear that the accident occurred at a junction where four roads meet and the point of impact is situated at a distance of about 5 feet from the traffic signal pole. This goes to show that the petitioner had already crossed around 5 feet and had the rider of the motorcycle been more cautious and alert, he could have easily sighted the petitioner and could have avoided the collision. Perhaps, the fact that the spot is situated close to a junction itself would have sufficed for the rider of the motorcycle to ride the same at a moderate speed anticipating movement of vehicles and pedestrians. Since it is a busy area where it is quite obvious that there is moderate to high movement of pedestrians had the rider of the motorcycle been more cautious and ridden the same at a moderate speed, he could have averted the accident by applying brakes timely, as such contributory negligence cannot be attributed to the petitioner. Perhaps the fact that the rider of the motorcycle could not avoid the mishap despite the fact that the petitioner had covered almost 5 feet from the traffic signal pole makes it clear that the rider of the Honda

Deo bearing No.KA-12/K-7314 was riding the same at a high speed and was not concentrating on the road.

15. In fact the Hon'ble High Court of Karnataka in a similar set of facts in *The Managing Director vs Smt. Padmavathi @ Paddamma rendered in M.F.A.No.6346 of 2017 on 14 February, 2020* held thus :

11. No doubt, a pedestrian is not expected to cross the road suddenly, especially in a high way. However, a pedestrian committing an infraction of a rule cannot by itself lead to the conclusion that he had contributed to the actual accident. The KSRTC driver is a trained driver and is expected to drive defensively and being a professional driver would have the knack of preventing accidents. The evidence of the driver, that the petitioner crossed the divider in a fraction of second and therefore he could not prevent the accident cannot be accepted. Therefore, the finding of the tribunal regarding contributory negligence cannot be find fault with. The reliance placed upon by the learned counsel of the Division Bench in MFA.No.4701/2005, in which this Court has held as follows:

"9. Indeed, it is the duty of the driver of a vehicle to keep a good look out. He must look out for other traffic which may be expected to be on the road in front of him, behind him or along side of him especially at cross roads junctions and bends. The driver of the vehicle is required to be more prudent and circumspect while driving. But however, we are of the view that it cannot be lost sight of the fact that a duty

is also cast on a pedestrian and other users and they should exercise due care and caution in going upon and crossing the road and it is his duty to look out for the on coming traffic.

10. Insofar as the duty cast on the pedestrian is concerned, it is needless to say that he has to give the driver plenty of time to see and slow down and start before he attempts to cross or put one foot on the crossing.

11. It is the duty of the persons, who are driving over a crossing for foot-passengers, which is at the entrance of a street, to drive slowly, cautiously, and carefully. But it is also the duty of a foot- passenger to use due care and caution in going upon a crossing at the entrance of a street, so as not to get among the carriages, and thus receive injury.

12. A finding of contributory negligence turns on a factual investigation whether the user contributed to his or her own loss by failing to take reasonable care of his or her person or property. What is reasonable care depends on the circumstances of the case. In many cases it may be proper for the claimants to rely on the respondents to perform its duty. But there is no absolute rule. The duties and responsibilities of the respondents are variable factor in determining whether contributory negligence exists and if so, to what degree, in some cases, the nature of the duty owed may

exculpate the claimant from a claim of contributory negligence, in other cases, the nature of the duty may reduce the claimant's share of responsibility for the damage suffered and in yet other cases the nature of the duty may not prevent a finding that the claimant failed to take reasonable care for the safety of his or her person or property."

It is for this reason that the contention of respondent No.3 company that since the petitioner was a pedestrian and he was trying to cross the road where there was no zebra crossing, as such contributory negligence needs to be attributed to the petitioner cannot be accepted. Moreover the rough sketch reveals that had the rider of the motorcycle been vigilant and had he ridden the motorcycle cautiously in anticipation of movement of vehicles and persons on the road, he could have easily averted the accident.

16. To add to this, as already observed, IO has charge-sheeted the rider of the Honda Deo bearing No.KA-12/K-7314 i.e., respondent No.1, thereby making it clear that the accident occurred due to negligence on the part of the rider of the motorcycle and there is absolutely nothing in the form of evidence before this tribunal which could move this tribunal to hold that the opinion of the IO expressed in the charge-sheet is incorrect or improper.

17. The view taken by this Court that the police records are *prima facie* proof in support of the case of the petitioner, is supported by the decision rendered in ***Kishan Gopal and another Vs. Lala and others***

reported in **2013 (4) T.A.C 5 (S.C.)**, wherein the Hon'ble Apex Court has categorically held thus:

16. In view of the aforesaid facts, the Tribunal should have considered both oral and documentary evidence referred to supra and appreciated the same in the proper perspective and recorded the finding on the contentious issue No. 1 & 2 in the affirmative. But it has recorded the finding in the negative on the above issues by adverting to certain statements of evidence of AW-1 and referring to certain alleged discrepancies in the FIR without appreciating entire evidence of AW-1 and AW-2 on record properly and also not assigned valid reasons in not accepting their testimony. The Tribunal should have taken into consideration the pleadings of the parties and legal evidence on record in its entirety and held that the accident took place on 19.07.1992, due to which Tikaram sustained grievous injuries and succumbed to the same and the case was registered by the Uniarra Police Station under Sections 279 and 304-A, IPC read with Sections 133 and 181 of the M.V. Act against the first and second respondents. The registration of FIR and filing of the charge-sheet against respondent Nos.1 & 2 are not in dispute, therefore, the Tribunal should have no option but to accept the entire evidence on record and recorded the finding on the contentious issue Nos.1 and 2 in favour of the appellants.

(Emphasis supplied by me)

It is necessary to reassert that in a claim for compensation filed under Section 166 of Motor Vehicles Act, 1988, the claimant is expected to

prove the incident on the basis of principle of *preponderance of probabilities* and the view taken by this Court is fortified by the decision rendered by the Hon'ble Supreme Court in *Kusum and others V/s Satbir and others* which is reported in **2011 SAR (CIVIL) 319**. Further the Hon'ble Supreme Court in case of *Bimla Devi and others v. Himachal Road Transport Corporation and others* reported in **(2009) 13 SCC 530** has observed that, *it is 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 are merely required to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied.* Further the Hon'ble High Court of Karnataka in *National Insurance Co. Ltd. Vs. Krishnappa and another* reported in **2001 ACJ 1105**, where the Hon'ble High Court of Karnataka by considering the fact that the driver of the offending vehicle was not examined to prove any contributory negligence on the part of scooterist held that the accident had occurred due to rash or negligent driving by the driver of the offending van. Even here the respondent No.3 has not examined the rider of the offending motorcycle or any other eye witness to prove its contention that there was contributory negligence on the part of the petitioner and even otherwise, the IO, as already observed, has clearly opined that the accident occurred only due to the fault of the rider of Honda Deo bearing No.KA-12/K-7314 and respondent No.1 was charge sheeted.

18. In view of the ratio laid down in the authorities referred to above and applying the settled principle of law to the case at hand, which is further supported by the oral and documentary evidence

adduced by PW.1, this Tribunal is of the considered opinion that the accident leading to this case indeed occurred due to the actionable negligence on the part of the rider of the Honda Deo bearing No.KA-12/K-7314 resulting in petitioner sustaining injuries. This would infer to mean that the respondent No.3 has failed to prove that the accident occurred due to the contributory negligence on the part of the petitioner. *Wherefore Issue No.I is answered held in the Affirmative.*

19. ISSUE No.II:

This Court has already held Issue No.I in the affirmative which makes it more than obvious that the petitioner is entitled for compensation. Needless to state the quantum of compensation which is awarded has to be proportionate to the nature of the injuries and the compensation has to be awarded by keeping in mind the pecuniary damages and non-pecuniary damages suffered by the injured-claimant. By pecuniary damages this Court is referring to the actual loss sustained by the petitioner, which can be determined in terms of money, by taking into account the oral or documentary evidence whereas by non-pecuniary damages this Court is referring to the losses that the claimant has though suffered, but will not be able to prove for the reason that it can neither be calculated in terms of the money nor can it be proved leading documentary evidence. Perhaps the non-pecuniary damages can be figured out by looking into the facts of each case by taking into account the nature of injuries and the aftermath. It is required to be reminded to oneself that compensation in a case arising out of injury can never be granted on

mathematical precision and invariably a good amount of guesswork is involved while determining the compensation in such cases. Perhaps unlike in a fatal case, in a case involving bodily injury the victim is left to suffer throughout his life; and hence it becomes the bounden duty of the tribunal to award compensation to a victim of permanent disability so as to bring in sustainability and also to ensure that victim is not pushed to poverty.

20. In order to demonstrate the pecuniary loss suffered by him due to the injuries, the petitioner has led oral and documentary evidence. The PW.1 in his oral evidence has asserted on oath that immediately after the accident, he was admitted to GC'S Sports Medicine Center and Multiplicity Hospital, Mysuru where he underwent treatment as an inpatient from 22.10.2022 to 25.10.2022. Further the petitioner has supported the said contention by producing Ex.P7, P12 and P15 which make it clear that indeed the petitioner underwent treatment at GC'S Sports Medicine Center and Multiplicity Hospital, Mysuru where he underwent treatment as an inpatient from 22.10.2022 to 25.10.2022. Further he has asserted that he has spent huge amount towards his treatment and has sought to prove the same by producing Ex.P16 which are the medical bills which are further supported by Ex.P7 and P15 which are the wound certificate and discharge summary respectively. As regards the nature of injuries and the disability suffered, the petitioner has produced Ex.P7 which is the wound certificate. It is keeping these facts in mind that the compensation has to be determined.

21. While determining the compensation this court has to look into the pain the sufferings, medical expenses, diet food, nourishment, attendant and conveyance charges and loss of amenities and enjoyment of life, which are discussed herein below:

(A) TOWARDS PAIN AND SUFFERINGS:

The petitioner has relied upon Ex.P7, P15 and P16 which are the wound certificate, discharge summary and medical bills which reveal that the injuries sustained by him are in the nature of fracture of both bones of right leg which are grievous in nature. According to the petitioner he has obtained treatment at GC'S Sports Medicine Center and Multiplicity Hospital, Mysuru where he underwent treatment as an inpatient from 22.10.2022 to 25.10.2022 and is under follow-up treatment even to this day. The petitioner has relied upon wound certificate, x-ray films and medical bills in order to show that he had sustained injuries and underwent pain and sufferings. As already observed, the petitioner had sustained grievous injuries which required him to undergo treatment at GC'S Sports Medicine Center and Multiplicity Hospital, Mysuru where he underwent treatment as an inpatient from 22.10.2022 to 25.10.2022. Considering the nature of the injuries mentioned in wound certificate, it can be said that the petitioner must have undergone some amount of physical pain and sufferings, *for which, an amount of ₹.30,000/- can be held to be just and proper compensation under this head.*

(B) TOWARDS MEDICAL EXPENSES:

The petitioner has contended that he has spent huge amount towards medical expenses and treatment; and has produced medical bills for having spent money towards medical expenses which are exhibited as Ex.P16 which are supported by Ex.P7 and P12 wound certificate and discharge summary respectively. The sum total of the medical bills is ₹.85,164/-, there is no serious dispute regarding the bills got exhibited by the petitioner. Hence the total of medical bills is ₹.85,164/- which can be rounded off to ₹.85,200/-. *Accordingly, the petitioner is entitled for an amount of ₹.85,200/- towards medical expenses.*

(C) TOWARDS DIET, FOOD, NOURISHMENT, ATTENDANT AND CONVEYANCE CHARGES:

As already observed the Ex.P7 which is wound certificate makes it amply clear that the petitioner underwent treatment at GC'S Sports Medicine Center and Multiplicity Hospital, Mysuru where he underwent treatment as an inpatient from 22.10.2022 to 25.10.2022. Further during the said period the petitioner might have taken assistance from others and taken diet food. On consideration of the injuries sustained by the petitioner, period of stay in the hospital and mode of commutation, *this Tribunal is of the opinion that it is just and proper to award an amount of ₹.25,000/- under this head.*

**(D) TOWARDS LOSS OF FUTURE EARNING CAPACITY
ON ACCOUNT OF PERMANENT DISABILITY:**

Though the petitioner has contended that due to accidental injuries, he has suffered disability, but he has not made any efforts to prove the disability. Even otherwise the nature of injuries are such that the same would not result in functional disability more particularly considering the avocation of the petitioner who was running a business. Further considering the fact that the injuries sustained by the petitioner are on the left leg, the same would certainly not come in the way of the petitioner doing his avocation as such certainly the petitioner has not suffered any functional disability due to injuries sustained in the accident, however, the same might affect his enjoyment of life and the same will be considered at the time of determining amount to which the petitioner is entitled under the head of amenities. Wherefore, this court is of the firm opinion that the petitioner would not be entitled for any compensation under this head. *Accordingly, the petitioner is not entitled for any compensation under this head.*

(E) TOWARDS LOSS OF INCOME DURING LAID UP PERIOD:

According to the petitioner, prior to accident, he was hale and healthy and was running a business and was also working in some company and was earning ₹.60,000/- per month. But the petitioner has not produced any document to substantiate

his contention regarding his income. Under such circumstances, this Tribunal is of the opinion that the notional income of the petitioner has to be determined. Perhaps, the court will now have to consider the notional income of the injured and considering the avocation of the petitioner and the year of accident. In this regard it is relevant to note that the Principal Bench of the Hon'ble High Court of Karnataka, at Bengaluru while holding Lok-Adalath is determining the notional income at ₹.15,500/- if the accident had occurred in the year 2022, in cases where the actual income of the deceased or injured, as the case may be, is not proved; and the same had been circulated by the Hon'ble Karnataka State Legal Services Authority, Bengaluru directing the courts, dealing with the motor vehicle compensation cases, to determine the notional income as determined therein, while holding lok-adalaths at District Courts. Hence, this Tribunal is of the opinion that it is just and proper to fix the notional income of deceased at ₹.15,500/- per month, in the absence of proof of income of the petitioner. Hence the income of petitioner can be notionally considered at the rate of ₹.15,500/- per month. Considering the nature of injuries and the avocation of the petitioner, it is more than obvious that petitioner might not have attended his regular work at least for a period of 3 months as he had sustained grievous injuries in the accident. As such the petitioner is entitled for compensation under the head of loss of income

during laid up period and this court finds it just and reasonable to award ₹.46,500/- towards loss of income during laid up period. *As such ₹.46,500/- is awarded to the petition under this head.*

(F) TOWARDS LOSS OF AMENITIES AND ENJOYMENT OF LIFE:

As already observed while discussing whether or not the petitioner is entitled for the amount under the head future loss of income, due to injuries sustained in the accident, though the petitioner has not suffered any functional disability but the injuries sustained might have certainly affected his day to day life and might certainly have deprived him of basic comforts. *Therefore, it is just and proper to award him a reasonable sum of ₹.15,000/- under this head.*

Thus, the petitioner is entitled for compensation under the following heads:-

Towards pain and sufferings	-	₹.	30,000.00
Towards Medical expenses	-	₹.	85,200.00
Towards diet, food, nourishment, attendant and conveyance charges	-	₹.	25,000.00
Loss of income during laid up period	-	₹.	46,500.00
Towards loss of amenities	-	₹.	15,000.00
Total	-	₹.	2,01,700.00

Totally, the petitioner is entitled compensation of ₹. 2,01,700/-.

22. The petitioner has claimed the interest at the rate of 12% per annum. In this regard the Hon'ble High Court of Karnataka in the decision reported in *Shriram General Insurance Co. Ltd v. Smt. Laxmi and others* rendered in MFA No.103557/2016 rendered on 20.03.2018 serves as a guiding lamp and in the said decision, the Hon'ble High Court of Karnataka awarded interest at the rate of 6% per annum by considering the relevant provisions. Considering the aforesaid decision and also prevailing Bank rate of interest, this tribunal also deems it proper to award interest at the rate of 6% per annum. Hence, issue No.III is held partly in the affirmative and the petitioner is entitled for total compensation of ₹.2,01,700/- (*Rupees Two Lakhs One Thousand and Seven Hundred only*) with interest at the rate of 6% p.a. from the date of petition till the realization including the interim compensation if any awarded.

23. **LIABILITY:**

Now that this court has ascertained the compensation amount, the last aspect of the matter is regarding fixation of liability i.e., *who should be made liable to pay the compensation to the petitioner?*. Though the respondent has contended that there was negligence on the part of the petitioner at the time of accident. But this tribunal while answering issue No.I has touched upon the said point and concluded that the said contention is not substantiated by the respondents. This apart, the respondent No.3 has admitted that Honda Deo bearing No.KA-12/K-7314 was duly insured with respondent No.3 insurance company at the time of the accident under policy

No. DBTR00482538052/00 which was in force from 16.02.2022 to 15.02.2023 and the same is clear from the objections filed by the respondent No.3. Since the respondent No.3 has failed to prove violation of policy conditions, the respondent No.3 has to be made liable to pay the compensation. It is necessary to clarify that as the respondent No.1 is the rider of the offending motorcycle, he cannot be made liable to pay the compensation to the petitioner either jointly or severally, as such, the petition as against him is liable to be dismissed.

24. For the foregoing reasons this court finds no hesitation in holding that the respondents are jointly and severally liable to pay the compensation to the petitioner and the respondent No.3 being the insurer is liable to indemnify the respondent No.2 in payment of compensation to the petitioner. *Accordingly, it is held that the petitioner is entitled for compensation of ₹.2,01,700/- (Rupees Two Lakhs One Thousand and Seven Hundred only) along with interest at the rate of 6% per annum from the date of petition till the date of realization of amount and it is also held that the respondents are jointly and severally liable to pay the compensation to the petitioner and the respondent No.3 being the insurer is liable to indemnify the respondent No.2 in paying compensation to the petitioner; and petition as against respondent No.1 is liable to be dismissed.*

25. **ISSUE No.III:**

In view of the reasons assigned in the foregoing paragraphs of this judgment and in view of the finding given on Issue No. I and II,

this court finds no hesitation to pass the following:

"ORDER"

"The claim petition is allowed in part with costs.

Petitioner is entitled for compensation of ₹.2,01,700/- (Rupees Two Lakhs One Thousand and Seven Hundred only) with interest at the rate of 6% per annum from the date of petition till its realization including interim compensation if any awarded.

The respondent No.2 and 3 are jointly and severally liable to pay compensation to the petitioner within one month from the date of this judgment.

Further the respondent No.3 shall indemnify the respondent No.2 in payment of compensation to the petitioner.

It is further clarified that the petition as against respondent No.1 is dismissed.

Considering the fact that the quantum of compensation awarded in favor of petitioner is

meager, after deposit of the compensation amount, the entire compensation amount shall be released in favor of the petitioner, by following the procedure prescribed in that regard.

Advocate's fee is fixed at ₹.1,000/-.

Draw award accordingly."

(Dictated to the stenographer, computerized by her, corrected and then pronounced by me in the open court, this the 15th day of June, 2026)

(AFTHAB.K)

Prl. Judge, Court of Small Causes
& MACT, Mysuru

ANNEXURE:

Witnesses examined for the petitioner:		
PW.1	-	Sri. Mahadeva H.N.
Documents marked for the petitioner :		
Ex.P1	-	FIR
Ex.P2	-	Complaint
Ex.P3	-	Charge-sheet
Ex.P4	-	Spot panchanama
Ex.P5	-	Rough sketch
Ex.P6	-	IMV report
Ex.P7	-	Wound certificate
Ex.P8	-	Police intimation

Ex.P9	-	MLC referral letter
Ex.P10	-	Police intimation
Ex.P11	-	MLC register along with one document issue by CSI
Ex.P12	-	Copy of OPD record
Ex.P13	-	Copy of the Police intimation
Ex.P14	-	MLC register issued by K.R. Hospital
Ex.P15	-	Discharge summary
Ex.P16	-	Medical bills
Ex.P17	-	4 X-ray films

Witnesses examined for the respondents:		
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		NIL
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Documents marked for the respondents:		
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		NIL
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(AFTHAB.K)
 Prl. Judge, Court of Small Causes
 & MACT, Mysuru