

KAKP020007132021



**IN THE COURT OF THE SENIOR CIVIL JUDGE AND ADDL.
MACT, AT KOPPAL.**

Present: Sri. Malakari .R. Wadeyar
B.A., L.L.B. (Spl).
Senior Civil Judge & CJM.,
Koppal.

Dated on this the 4th Day of June 2026.

M.V.C. No.334/2021

Petitioner:

- 1) Sri. Murtujsab S/o Dadasab,
Nurabasha, Age: 33 years,
Occ: Business, R/o Talakal Village,
Tq. & Dist: Koppal.

(Rep. By Sri. L.G.G., Advocate)

:: VERSUS ::

Respondents:

- 1) Sri. Maruti S/o Indhrappa Hire Kurubar,
Age: 28 years, Occ: Rider of motorcycle
bearing No.KA-37/U-5875, R/o Gabbur
Village, Tq. & Dist: Koppal.
- 2) Sri. Gavisiddayya S/o Shekarayya
Hosamani, Age: Major, Occ: Owner of
motorcycle bearing No.KA-37/U-5875,
R/o Hoovinal Village, Post: Bahaddurbandi,
Tq. & Dist: Koppal.



- 3) Sri. Thatanagouda S/o Basanagouda
Piddanagouda, Age: Major, Occ: Owner of
motorcycle bearing No.KA-37/EC-5575,
R/o Talakal Village, Tq. Kukanoor,
Dist: Koppal.
- 4) The Manager, National Insurance Company
Ltd., Regional Office, Arihant Plaza, Opp.
SBI Zonal Office, Keshwapura, Hubli.
(Policy No.39010231166203751957)
(Valid from 03-12-2016 to 02-12-2017)

(R-1 & 2 By Sri. M.C., Advocate)
(R-3 By Sri. B.V.S., Advocate)
(R-4 By Sri. S.R.H., Advocate)

:: J U D G M E N T ::

The petitioner has filed this petition against the respondents under Section 166 of Motor Vehicles Act 1989, for the relief of compensation.

2. The brief facts of the case is as follows:

That on 20-10-2017 at about 3.40 p.m. petitioner along with a pillion rider by name Mahibubsab proceeding towards the Talakal from Koppal on a motorcycle bearing No.KA-37/EC-5575 belongs to respondent No.3 through left side of the road by following traffic rules. Meantime



respondent No.1 came from opposite direction on his motorcycle bearing No.KA-37/U-5875 in high speed, rash and negligent manner endangering to human life and caused the accident, due to this accident petitioner and his pillion rider fell down and sustained grievous injuries all over the body.

3. Immediately after the accident petitioner has been shifted to KIMS Hospital Koppal, thereafter shifted to Chirayu Critical Care Hospital Gadag, wherein taken treatment as in door patient since 20-10-2017 to 29-10-2017 and spent an amount of Rs.1,50,000/-. Due to this accident Koppal Rural Police have registered the crime No.235/2017 against the respondent No.1 and petitioner for the offences punishable U/Sec. 279, 337, 338 of IPC.

4. At the time of the accident, petitioner was aged about 33 years and he was doing business, thereby earning Rs.35,000/- per month and maintaining his family, due to this accident, he has lost his working capacity and income.



5. Respondent No.1 is the rider, respondent No.2 is the owner of the motorcycle bearing No.KA-37/U-5875, respondent No.3 is the owner and respondent No.4 is the insurer of the motorcycle bearing No.KA-37/EC-5575 ridden by him, hence, they are jointly and severally liable to pay the compensation, so that, prays to allow the petition and grant compensation of Rs.25,60,000/- with 24% interest.

6. On service of notice, respondent No.1 and 2 have appeared through Sri. M.C. Advocate but not filed their written statement. Respondent No.3 has appeared through Sri. B.V.S Advocate and filed written statement, wherein taken contention that, entire case of the petitioner is false, vexatious and concocted and far away from the truth, further taken contention that, claim of the petitioner is not at all maintainable either in law or on facts. Further taken contention that, petitioner has to prove the allegations made by him, further he has to prove his age, income and the medical expenses incurred by him.



7. Further taken contention that, he is the owner of motorcycle bearing No.KA-37/EC-5575 insured with respondent No.4, at the time of accident insurance policy was in force, hence, respondent No.4 is liable to pay the compensation, accordingly prays to dismiss the petition.

8. On service of notice, respondent No.4 has appeared through Sri. S.R.H. Advocate and filed written statement. Wherein he has denied the petitions averments, alleging that, they are false, vexatious, frivolous and concocted story made by the petitioner and petitioner has to prove the same, further taken contention that, the offending motorcycle bearing No.KA-37/EC-5575 was validly insured with this respondent as on the date of accident, since the policy particulars provided by the petitioner is not yet confirmed.

9. Further taken contention that, petitioner had no effective driving license at the time of the accident, further contended that, respondent No.3 has entrusted his motorcycle to the petitioner knowing fully well that, petitioner was not holding



effective DL to ride the motorcycle involved in this accident. Further taken contention that, petitioner himself is a joint tort feaser and charge-sheet is filed against petitioner for the offences punishable U/Sec. 279, 337, 338 of IPC and Section 3 R/w 181 of IMV Act, he being a joint tort feaser, he cannot take benefit of his own negligence, hence petitioner is stepped into the shoes of the owner. Hence prays to dismiss the petition with cost.

10. On going through the rival pleadings of the parties, the following issues have been framed:

Issues

- 1) Whether the petitioner proves that, he has sustained grievous injuries in a road traffic accident that occurred on 20-10-2017 at 03.40 p.m. on NH-63, Dadegal Village in Koppal Taluka due to rash and negligent driving of rider of the motorcycle bearing No.KA-37/U-5875 by the respondent No.1 as alleged in the petition ?
- 2) Whether the petitioner is entitled for compensation ? If so, what is the quantum and from whom ?
- 3) What order or award ?



11. In order to prove his case, the petitioner has deposed his evidence as per PW-1 and got marked 8 documents as per Ex.P-1 to 8 and closed his evidence. On the other hand, Chief Business Manager of the respondent No.4 has deposed is evidence as per RW-1 and got marked 3 documents as per Ex.R-1 to 3 and closed their evidence. Respondent No.3 has not deposed his evidence.

12. Counsel for respondent No.4 has furnished written arguments. Heard the arguments submitted by the petitioner and respondents, perused the materials available on record, then my findings to the above issues are as under:

Issue No.1: In the Partly affirmative.

Issue No.2: In the Partly affirmative.

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

:R E A S O N S:

13. Issue No.1: It is the specific case of the petitioner that, petitioner along with pillion rider by name Mahibubsab



proceeding towards the Talakal from Koppal on a motorcycle bearing No.KA-37/EC-5575 belongs to the respondent No.3 through left side of the road by following traffic rules. Meantime respondent No.1 has ridden the his motorcycle bearing No.KA-37/U-5875 in high speed, rash and negligent manner endangering to human life from opposite side and dashed to the petitioner's motorcycle bearing No.KA-37/EC-5575, due to this accident petitioner has sustained grievous injuries and taken treatment at Chirayu Critical Care Hospital Gadag as inpatient for the period from 20-10-2017 to 29-10-2017 by spending an amount of Rs.1,50,000/-, so that prays to allow the petition and grant compensation of Rs.25,60,000/- with interest.

14. It is defense of the respondent No.3 that, he is the owner of motorcycle bearing No.KA-37/EC-5575 and insured with respondent No.4 at the time of accident, further insurance policy was in force at the time of the accident, hence,



respondent No.4 is liable to pay the compensation, accordingly prays to dismiss the petition.

15. It is defense of the respondent No.4 that, the offending motorcycle bearing No.KA-37/EC-5575 was validly insured with this respondent as on the date of accident, since the policy particulars provided by the petitioner is not yet confirmed. Further taken contention that, petitioner/rider of the motorcycle bearing No.KA-37/EC-5575 had no effective driving license at the time of the accident,

16. Further contended that, respondent No.3 has entrusted his motorcycle to the petitioner knowing fully well that, petitioner was not holding effective DL to ride the motorcycle involved in this accident. Further taken contention that, petitioner himself is a joint tort feaser and charge-sheet filed against petitioner for the offences punishable U/Sec. 279, 337, 338 of IPC and Section 3 R/w 181 of IMV Act, he being a joint tort feaser, he cannot take benefit of his own negligence, hence



petitioner is stepped into the shoes of the owner. Hence prays to dismiss the petition with cost.

17. In order to prove his case, petitioner has deposed his evidence as per PW-1 byway of reiterating the facts narrated in the petition, so that, in order to avoid the repetition of facts and evidence, chief examination affidavit of the petitioner is not reiterated here and petitioner has got marked 8 documents. Wherein Ex.P-1 is the copy of FIR, Ex.P-2 is the copy of complaint, Ex.P-3 is the copy of charge-sheet, Ex.P-4 is the copy of spot panchanama, Ex.P-5 are the copies of 2 indemnity bonds executed by respondent No.2 and 3 at the time of releasing of the vehicles, Ex.P-6 is the copy of IMV report, Ex.P-7 is the copy of wound certificate, Ex.P-8 are the 41 medical bills for an amount of Rs.85,472/-.

18. In cross examination PW-1 also reiterated the place, date and time of the accident, it is stated that, he had DL and produced the same, but infact he has not produced the DL, further admitted that, charge-sheet is against him and against



respondent No.1, he has denied that, he had no DL and he has no experience to run the motorcycle.

19. On the other hand, Manager of the respondent No.3 has deposed his evidence as per RW-1 and got marked 3 documents, wherein Ex.R-1 is the authorization letter, Ex.R-2 is the copy of insurance policy, Ex.R-3 is the RC extract in respect of motorcycle bearing No.KA-37/EC-5575. In cross-examination admitted that, insurance policy is issued by their company pertains to the motorcycle bearing No.KA-37/EC-5575 and which was in force at the time of the accident.

20. As per case of the petitioner, due to negligence of the respondent No.1, very accident is occurred, but respondent No.1 and 2 have appeared before this court through MC advocate but not filed the written statement and not contested the petition. Owner of his motorcycle bearing No.KA-37/EC-5575/respondent No.3 has appeared before this tribunal and filed written statement but not entered into the witness box and not deposed his evidence. Even the counsel for



respondent No.3 has not cross examined the PW-1, as per case of the respondent No.4 there is contributory negligence of the both the riders, further petitioner had no DL at the time of the accident, so that, he is not liable to pay the compensation. It is noticed that, petitioner has stepped into the shoes of the respondent No.3 byway of riding the motorcycle belongs to the respondent No.3, said fact is not in dispute.

21. Counsel for respondent No.4 has furnished his written argument, contending that, it is case of contributory negligence, as per the charge-sheet marked at Ex.P-3 there is contributory negligence of petitioner and respondent No.1, so that, there is charge-sheet against petitioner for the offences u/s 279, 338 of IPC along with Section 181 R/w 3 of the IMV Act 1988, further there is charge-sheet against respondent No.1 for the offences u/s 279, 338 of IPC along with Section 181 R/w 3 of the IMV Act 1988, it is noticed that, both the riders have ridden their motorcycle without DL, even at the stage of trial neither the petitioner nor the respondents have



produced the DL. Under such circumstances, it is clear that, they have no DL at the time of the accident. Considering the same this tribunal comes to the conclusion that, petitioner has proved that, there is contributory negligence of the respondent No.1, so that, I have answered the above **issue No.1 partly in the affirmative.**

22. Issue No.2: The petitioner has proved that, there is contributory negligence of the respondent No.1, said fact is not disputed by the respondent No.1 and 2, there is no evidence of the doctor, there is no discharge summary, there is no disability certificate, there is no case sheet, under such circumstances, wound certificate speaks that, there are 5 injuries, out of which only injury No.3 is grievous in nature, so that, only on the basis of wound certificate and medical bills and police papers, this tribunal is comes to the conclusion that, it is just and necessary to grant global compensation. So that, considering the prayer made by the petitioner global compensation of Rs.50,000/- is awarded along with medical



bill of Rs.85,472/-, in total petitioner No.1 is entitled for compensation amount of **Rs.1,35,472/-**, respondent No.1 is rider and respondent No.2 is owner of the motorcycle bearing No. KA-37/U-5875, under such circumstances, naturally respondent No.2 being owner of another offending motorcycle bearing No.KA-37/U-5875 is liable to pay the award amount with interest @ 50% with interest.

23. On the other hand, in his written argument counsel for respondent No.4 submitted that, even there is a PA coverage policy to the motorcycle bearing No.KA-37/EC-5575 but it is applicable only in the case of death or personal disability like amputation of limb etc., further taken contention that, said principle is applicable only to the owner of the motorcycle but not others, petitioner is not owner of the motorcycle bearing No.KA-37/EC-5575, he is only borrower of the motorcycle from the respondent No.3, so that, petitioner is not entitled for compensation.



24. In this regard, he has relied upon the judgment of the Hon'ble Supreme Court of India, in the case of **Ningamma and another Vs United India Insurance Co. Ltd.**, reported in AIR 2009 Supreme Court 3056, wherein at para No.13, 19 and 20 of the judgment Hon'ble Supreme Court of India observed as follows;

Para No.13: In the light of the aforesaid submissions, the question that falls for our consideration is whether the legal representatives of a person, who was driving a motor vehicle, after borrowing it from the real owner meets with an accident without involving any other vehicle, would be entitled to compensation under Section 163-A of MVA or under any other provision(s) of law and also whether the insurer who issued the insurance policy would be bound to indemnify the deceased or his legal representative?

Para No.19: We have already extracted Section 163-A of the MVA herein before. A bare perusal of the said provision would make it explicitly clear that persons like the deceased in the present case would



step into the shoes of the owner of the vehicle. But if it is proved that the driver is the owner of the motor vehicle, in that case the owner could not himself be a recipient of compensation as the liability to pay the same is on him. This proposition is absolutely clear on a reading of Section 163-A of the MVA. Accordingly, the legal representatives of the deceased who have stepped into the shoes of the owner of the motor vehicle could not have claimed compensation under Section 163-A of the MVA.

Para No.20: However, the question remains as to whether an application for demand of compensation could have been made by the legal representatives of the deceased as provided in Section 166 of the MVA. The said provision specifically provides that an application for compensation arising out of an accident of the nature specified in sub-section (1) of section 165 may be made by the person who has sustained the injury;

When an application of the aforesaid nature claiming compensation under the provisions of Section 166 is received, the Tribunal is required to hold an enquiry into the claim and



then proceed to make an award which, however, would be subject to the provisions of Section 162, by determining the amount of compensation, which is found to be just. Person or persons who made claim for compensation would thereafter be paid such amount. When such a claim is made by the legal representatives of the deceased, it has to be proved that the deceased was not himself responsible for the accident by his rash and negligent driving.

25. Further relied upon judgment of Hon'ble High Court of Karnataka in between **G. Nagarathan and others Vs G. Manjunath and another**, in MFA No.2850/2017 (MV-D) dated 23-11-2024, in the said judgment at para No.14, Hon'ble High Court of Karnataka observed as follows;

Para No.14: Insofar as entitlement of compensation and maintaining the claim petition under Section 166 of the Act, the Hon'ble Supreme Court in the judgment in **Ningamma's** case,

It has further observed that when such claim is made by the legal representatives of the deceased, it



has to be proved that the deceased was not himself responsible for the accident by his rash and negligent driving and it would also be necessary to prove that the deceased would be covered under the policy so as to make the Insurance Company liable to make payment to the legal heirs. In the instant case, admittedly the accident occurred due to the rash and negligent driving of the deceased himself and he being self tort-feasor, the legal heirs cannot claim any compensation for his death, otherwise it would amount to a person who committed breach getting the compensation for his own wrongs. In the instant case, the deceased has borrowed the vehicle in question from respondent No.1, hence, he stepped into the shoes of the owner of the vehicle and for the negligence of the owner or borrower of the vehicle, the Insurance Company cannot be compelled to indemnify for such wrongs.

26. Further relied upon **Indian Motor Tariff GR.36, NB.** On perusal of the same it is noticed that, personal accident (PA) cover under motor policy covers only the registered owner in person, others are not entitled for compensation.



27. Looking to the observations made by the Hon'ble Supreme Court of India and Hon'ble High Court of Karnataka in the above cited decisions and Indian motor tariff, this tribunal is of the opinion that, he being a tort feaser petitioner is not entitled for compensation from respondent No.4 in spite of having policy at the time of the accident. On the other hand, there is contributory negligence of the respondent No.1, so that, petitioner is entitled for the global compensation along with medical bills from respondent No.2 to the extent of 50% with interest @ 6% since date of filing of this petition.

28. As per the guidelines issued by the Hon'ble Supreme Court of India in the case of **re-compensation amounts deposited with motor Claims Tribunals and Labour Courts**, in **suo moto WP No.(c) 7/2024 dated 22.04.2025**, respondent No.2 has to pay the 50% of the award amount with interest in favour of petitioner directly to his account. With these views, I have answered the above **Issue No.2 partly in the Affirmative.**



29. Issue No.3: For the reasons assigned and findings given on the above issues, this tribunal proceed to pass the following:

ORDER

The petition filed by the petitioner against respondents under Section 166 of Motor Vehicle Act is hereby allowed in part with costs.

The petitioner is entitled for global compensation of **Rs.1,35,472/-** with interest at the rate of 6% p.a. from the date of petition till realization of entire amount.

Respondent No.2 has to pay the 50% of the compensation amount of **Rs.1,35,472/-** in favour of the petitioner directly to his account within 60 days from the date of this order with interest @ 6% p.a. till realization of entire amount.

Bank Details of the petitioner for payment

Murtujasab S/o Daddasab Noorabasha
Account No.50100001429511,
HDFC Bank Ltd., Hospet road,
Koppal Branch,



IFSC Code: HDFC0001979,
Adhar No.872670173566,
Mobile No.9845805848,
PAN Card No.BKIPM3842F.

The advocate fee is fixed for an amount of
Rs.1,000/-.

Draw award accordingly.

[Dictated to the Stenographer directly on computer, typed by him and corrected, signed and then pronounced by me in the Open Court on this the **4th Day of June 2026**].

(Malakari .R. Wadeyar)
Sr. CIVIL JUDGE & ADDL.MACT,
KOPPAL.

:: ANNEXURE ::

List of witnesses examined the for the petitioner:

PW-1 : Sri. Mrutujasab.

List of witnesses examined for the respondents:-

RW-1 : Sri. Vasantkumar .K.

List of documents exhibited for the petitioner:

Ex.P-1 : Copy of FIR,
Ex.P-2 : Copy of complaint,
Ex.P-3 : Copy of charge-sheet,
Ex.P-4 : Copy of spot panchanama,
Ex.P-5 : Copies of 2 indemnity bonds
Ex.P-6 : Copy of IMV report,
Ex.P-7 : Copy of wound certificate,
Ex.P-8 : 41 medical bills of Rs.85,472/-.



List of documents exhibited for the respondents.

- Ex.R-1 : Authorization letter
Ex.R-2 : Insurance policy,
Ex.R-3 : RC extract in respect of motorcycle
bearing No.KA-37/EC-5575.

**(Malakari .R. Wadeyar)
Sr. CIVIL JUDGE & ADDL.MACT,
KOPPAL.**