

KABC020275192023



IN THE COURT OF III ADDL.JUDGE AND MOTOR
ACCIDENT CLAIMS TRIBUNAL,
COURT OF SMALL CAUSES BENGALURU
(SCCH-18)

Dated: this the 13th day of August 2025

Present: DHANESH MUGALI
B.Com., LL.B.,(Spl.)
III ADDL. JUDGE & MEMBER, MACT,
COURT OF SMALL CAUSES,
BENGALURU.

MVC No.5982/2023

Petitioner : Shri D.Chandrashekar,
Son of D.Venkatramana,
Aged about 40 years,
Residing at No.13-54,
Rampalli Village,
Bheemaganipalli post,
Punganur Mandal,
Chittoor District,
Andhra Pradesh.
(Pleader by Shri T.V.Ramesh)

V/s

Respondents : 1.Shri V.Nagaraja,
Son of Venkatappa,
Major,
Residing at No.1-78,

Sivadi village,
Peddapanjani Mandal,
Chittoor District,
Andhra Pradesh.

(Pleader by Shri C.N.Sonnappa)

2.The New India Assurance
Company Limited,
Third Party HUB,
Mahalakshmi Chambers,
M.G. Road,
Bengaluru-560 001.

**(By Pleader Shri Datrayana
M.Joshi)**

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J U D G M E N T

The petitioner has filed this petition under Section 166 of Motor Vehicles Act, 1988, claiming compensation of Rs.60,00,000/- for the injuries sustained by him in a road traffic accident.

The brief facts of the petitioner's case are as under:

2. That on 5.8.2023 at about 1.40 p.m. the petitioner was riding his motor cycle bearing registration No.AP-03-AV-2572 slowly and cautiously on the correct side of Punganur-Madanapalle road when he reached infront of Gangamma temple, Punganur Mandal,

Chittoor District, Andhra Pradesh, one Maruthi Swift D'Zire car bearing registration No.AP-03-BC-7410 drove the same in a rash and negligent manner without following the traffic rules dashed against motor cycle. As a result of which, the petitioner fell down and sustained grievous injuries.

3. It is further stated that, immediately he was shifted to Government Hospital, Punganur for first aid, then he was shifted to CMC Hospital, Vellore, wherein he took treatment as an inpatient and spent more than a sum of Rs.8,00,000/- towards conveyance, nourishment, medical expenses and other incidental charges.

4. It is stated that, prior to the accident the petitioner was hale and healthy, aged about 40 years and mason and earning Rs.30,000/- per month. Due to accidental injuries, he could not able to do his work as earlier.

5. It is stated that, the accident occurred due to rash and negligent driving of driver of the Maruthi Swift D'zire car bearing registration No.AP-03-BC-7410. Hence, Punganur Police have registered criminal case

against driver of the offending vehicle in Crime No.275/2023. As such, the respondents are jointly and severally liable to pay compensation to the petitioner. Hence, the petitioner has filed the instant petition, seeking compensation.

6. In response to service of notice, the respondents have appeared through their respective counsel and respondent No.2 has filed the written statement. On the other hand, inspite of sufficient opportunities, the respondent No.1 has not filed his written statement.

7. In the written statement, the respondent No.2 has contended that, the petition is not maintainable either in law or on facts. Further, admitted about issuance of insurance policy in respect of Maruthi Swift D'zire car bearing registration No.AP-03-BC-7410 and the liability of this respondent is subject to terms and conditions of the policy. It is also contended that driver of the offending vehicle had no valid and effective driving licence as on the date of the accident. It is the defence of the respondent that the accident occurred due to sole negligence on the part of the rider of the motor cycle and not on the part of the driver of the offending vehicle. Hence, the petition is bad for non joinder of necessary

parties as the RC owner and Insurer of the motor cycle are not made as parties to the proceedings. Further denied the age, avocation and income of the petitioner. Ultimately, stated that the compensation claimed by the petitioner is highly excessive, exaggerated and arbitrary. With all these main grounds, prayed to dismiss the petition with cost.

8. On the basis of rival pleadings of both the parties, this court has framed the following issues;

ISSUES

- 1) Whether the petitioner proves that, on 5.8.2023 at about 1.40 p.m. when he was riding a motor cycle bearing reg.No.AP-03-AV-2572 on Punganur-Madanapalle road, when reached in front of Gangamma Temple, Punganur Mandal, Chittoor District, A.P. at that time, the driver of the Maruthi Swift D'zire car bearing reg. No.AP-03-BC-7410 came from opposite direction at high speed in a rash and negligent manner and dashed the petitioner's motor cycle and caused the accident. As a result of which, he fell down and sustained grievous injuries?
- 2) Whether the petitioner is entitled for compensation as prayed for? If so, at what rate? from whom?
- 3) What order or award?

9. In order to substantiate his case, the petitioner examined himself as PW1 and got marked the documents at Ex.P1 to Ex.P15, Ex.P18 & Ex.P19. In addition to his evidence placed the evidence of Dr.S.A.Somashekar as PW2 and got marked the documents at Ex.P16 & Ex.P17.

10. On the other hand, the respondent No.2 has not led any rebuttal evidence on its behalf.

11. Heard the arguments and perused the materials available on record.

12. My answer to the aforesaid issues are as follows:

Issue No.1: In the Affirmative.

Issue No.2: Partly in the Affirmative.

Issue No.3: As per final order,
for the following:

R E A S O N S

ISSUE No.1:-

13. It is the specific case of the petitioner that due to the actionable negligence on the part of the driver of the Maruthi Swift D'zire car bearing registration No.AP-

03-BC-7410 the alleged accident had taken place, consequently he had sustained grievous injuries.

14. On the other hand, the respondent No.2, though not disputed the accident and the injuries sustained by the petitioner, but seriously disputed the actionable negligence on the part of the driver of the offending vehicle.

15. In the light of the rival contentions of both the parties, on going through the above issue burden is on the petitioner to prove the above issue on the touch stone of preponderance of probabilities.

16. The petitioner in order to prove his case got examined himself as PW1. He has reiterated the averments made in the petition. The petitioner in support of his oral evidence has relied upon the police documents as per Ex.P1 to Ex.P9. Ex.P1-copy of F.I.R. Ex.P2- copy of the first information statement, Ex.P3-Kannada translation complaint, Ex.P4-true copy of statement of petitioner, Ex.P5-Kannada translation of statement of petitioner, Ex.P6-true copy of spot sketch, Ex.P7-true copy of accident information report, Ex.P8-true copy of wound certificate and Ex.P9-true copy of charge sheet.

17. On perusal of the police documents, it could be seen that based upon the first information statement given by one Gangulappa, the S.H.O. of Punganur Police station has registered the case against the driver of the offending vehicle for the offences punishable under Section 337 of I.P.C. Upon investigation, the Investigation Officer of the case has filed charge sheet against the driver of the offending vehicle alleging that he has committed the offences punishable under section 338 of IPC.

18. The respondent No.2 though disputed the actionable negligence on the part of the driver of the offending vehicle, but not examined either driver of the offending vehicle or any of the independent eye witness to prove his contention.

19. Apart from this, even at the time of cross-examination of PW1, nothing has been elicited to believe the defences of the respondent No.2 about the denial of allegation made against the driver of the offending vehicle.

20. In the light of the evidence placed on record, it is crystal clear that, the alleged accident was occurred due to rash and negligent driving of driver of the Maruthi

Swift D'zire car bearing registration No.AP-03-BC-7410 and in the said accident the petitioner has sustained injuries. As such, the petitioner has placed satisfactory and convincing evidence on record to prove the above issue. Hence, I am answering the **issue No.1 in the Affirmative.**

ISSUE No.2:

21. This issue is with respect to the entitlement of reliefs claimed by the petitioner. The petitioner through this petition, claiming compensation of **Rs.60,00,000/-** on account of the injuries sustained by him in the accident under different heads.

22. Before appreciation of the evidence placed by the petitioner about the injuries sustained by him, in the accident and its consequences, it is apt to note herein, the preposition laid down in the following landmark judgment, while appreciating the injuries cases in Motor Vehicle Act.

**Civil Appeal No.8981/2010 D.D. 18.10.2010
Rajkumar V/s Ajay Kumar & Another of the Hon'ble
Supreme Court of India.**

“In the aforesaid case, it was held that, the court has to make judicious attempt to award compensation to the loss suffered by the claimant. The compensation should not be assessed conservatively. On the other hand, compensation should also not be endeavouring to secure some uniformity and consistency. The object of awarding compensation is to make good the loss suffered as a result of wrong done, as far as money can do so, in a fair reasonable and equitable manner.” “while determining quantum of compensation, in such cases, the court has to strike a balance between the inflated and unreasonable demands of a victim and the equally untenable claim of the opposite party saying that nothing is payable. That sympathy for the victim does not, and should not, come in the way of making a correct assessment. But if a case is made out, and the court must not be chary of awarding adequate compensation. “

Pain and Sufferings;

23. PW1 has stated in his evidence that, he has sustained the injuries in a road traffic accident. In connection with the injuries he has produced wound certificate marked as **Ex.P8**. The said document discloses that, he had sustained the following injuries:-

- 1) Swelling and deformity with lacerated wound of 1 cm X 3 cm red color on right leg***
- 2) Laceration of 2 cm X 1 cm, skin deep, red in colour on right big toe, linear shape***

- 3) Laceration of 2cm X 2 cm., linear on frontal region of scalp, red in colour skin deep**
- 4) Laceration of 10 cms x 4 cms, red colour linear with deformity on right fore arm**
- 5) pain in both sides of chest**

**Discharge summary shows; right open ulna fracture with radial head dislocation, right leg both open fracture
left 2nd and 3rd ribs fracture.
Left mild haemo-pneumo thorax**

24. In connection with the above said injuries the doctor is of the opinion that, the injury No.2 & 3 are simple in nature and the injury No.1,4 & 5 are grievous in nature. The petitioner has produced discharge summaries marked at Ex.P10 issued by C.M.C. Vellore, which discloses that he was admitted from 6.8.2023 to 23.8.2023, 9.1.2024 to 13.1.2024, 1.7.2024 to 6.7.2024, 3.9.2024 to 6.9.2024. Another discharge summary marked at Ex.P18 of CMC Vellore reveals and he was admitted on 18.2.2025 and discharged on 27.2.2025. In addition to his evidence placed the evidence of Dr.S.A.Somashekar as PW2. PW2 has stated in his evidence that the petitioner has sustained right open ulna fracture with radius head dislocation and right leg

open both bone fracture. He has placed OPD and x-ray as per Ex.P16 & Ex.P17. By taking into consideration of the nature of the injuries and the treatment taken by the petitioner, he might have undergone pain and sufferings while taking treatment, as an in patient as well as an outpatient. Hence, the petitioner is entitled for compensation of **Rs.70,000/- under the head of Pain and Sufferings.**

Loss of income during treatment period:

25. PW1 has stated that, he was working as a mason and earning a sum of Rs.30,000/- per month. In this regard, there is no iota of documents to show the income of the petitioner. Hence, in the absence of the documents, it is apt to take the notional income as per law. On perusal of discharge summaries marked at Ex.P10 issued by C.M.C. Vellore, which discloses that he was admitted from 6.8.2023 to 23.8.2023, 9.1.2024 to 13.1.2024, 1.7.2024 to 6.7.2024, 3.9.2024 to 6.9.2024. Another discharge summary marked at Ex.P18 of CMC Vellore reveals and he was admitted on 18.2.2025 and discharged on 27.2.2025. During the period of treatment, definitely, there was some difficulty to his to do daily routine work and to do his work for livelihood at least for a period of three months by looking

in to the nature of the injuries sustained by him. Hence, I am of the view that, it is just and proper to award compensation of **Rs.48,000/- towards loss of income during the laid up period and rest period.**

Medical Expenses;

26. The petitioner in connection with his treatment expenses petitioner has produced medical bills of Rs.8,09,763/- as per Ex.P14, along with consolidated receipts at Ex.P15. Further placed another medical bill at Ex.P19 for Rs.91,248/-. There are no contra materials available on record to disprove the medical bills. Hence, it is just and proper to award compensation of **Rs.9,01,011/- towards medical expenses.**

Attendant charges, food and nourishment and conveyance charges;

27. The petitioner herein, as per the medical records and also on going through the discharge summaries the petitioner has taken treatment as an inpatient and as an outpatient, definitely the petitioner could have spent some amount towards, food, nourishment, conveyance, as well as towards attendant charges. Hence, the petitioner is entitled for

compensation of **Rs.30,000/- towards attendant charges, food, nourishment and conveyance charges.**

Loss of future income;

28. The petitioner herein, asserting that, he had sustained permanent disability, consequent upon the injuries sustained by him. In order to prove the same, the petitioner has relied on his evidence along with the wound certificate and other medical documents. In the evidence of the PW1, reiterated the same thing forthcoming in the main petition. As already discussed above, wound certificate placed by him as per Ex.P8 goes to show that, he had sustained grievous injuries for which he took the treatment as an inpatient. Apart from this, another material witness by name **Dr.S.A.Somashekar** examined as PW2. PW2 has stated in his evidence that, the petitioner has sustained right open ulna fracture with radius head dislocation and right leg open both bone fracture. For which he underwent right forearm debridement with ORIF ulna, right leg wound debridement and exfix right TA cover with STSG under GA, right ilizarov fixation with proximal corticotomy+fibulectomy+free flap over right elbow under GA, right forearm free flap elevation+excision of ulna non-union +iliac bone grafting+right tibia, K-wire

exist and bone debridement, right ulna broken implant removal with cement spacer and steirriman pin insertion and debridement right ulna flap elevation, cement spacer removal ORIF. Further, PW2 has stated that, at the time of examination of the petitioner for assessment of disability, the petitioner has difficulty in walking and climbing stairs, using the right upper limb for daily living, inability to lift weight, squat and sit cross legged and walks with limping wasting of right upper and right lower limb is seen SSG scars and contractures are seen over right leg with illizarov fixation in situ. The x-ray shows united fracture right ulna with implants in situ, mal united fracture right tibia with implants in situ. PW2 has assessed permanent physical disability of both limbs at 64% and whole body is 32%.

29. At the time of cross-examination of PW2, admitted that he is not the treated doctor. Further denied the suggestion that he assessed the disability of the petitioner on higher side to help the petitioner.

30. Over all appreciation of evidence of PW2 along with the entire medical documents the whole body disability expressed by PW2 as physical disability for limb is **64% and whole body is 32%**. Hence, by taking

into consideration of point of disability expressed by PW2, it is apt to take whole body disability as **17% instead of 32%**. The same will meets the ends of justice.

31. At the time of arguments, the learned counsel for the petitioner has argued that, the petitioner is entitled for future prospects, in this regard relied **MFA 103807/2016 C/W 103835/2016 between New India Assurance Co. Ltd., Vs. Abdul & Others**

Wherein the Hon'ble High Court of Karnataka held that, **"in case of an injury without amputation resulting in whole body disability to the extent of 20% which ultimately has a bearing on the reduced earning capacity, 25% of injured established income will have to be factor in towards compensation of loss of future prospects"**.

32. In this case the tribunal has come to conclusion that the petitioner is suffering from wholebody disability to the extent of 17%. On perusal of supra decision the Hon'ble High Court of Karnataka has awarded the future prospects in the case of an injury without amputation resulting whole body disability to the extent of 20%. Therefore, with due respect to the supra decision, the principle laid down in the supra

decision is not applicable to the present case on hand. Hence, the petitioner is not entitled for future prospects.

33. In connection with the age of the petitioner is concerned, on going through the cause title of the petition reveals that, as on the date of the petition, his age was 40 years. In support of the age proof, he has placed Aadhar card and driving licence marked at Ex.P11 & Ex.P12 for consideration. On going through the said documents, the date of birth of the petitioner has been mentioned as 1.1.1983 & 7.7.1985 respectively. The accident occurred on 5.8.2023. if the date of birth of the petitioner is considered as 1.1.1983, the age of the petitioner as on the date of accident was 40 years. Therefore, as on the date of accident, the age of the petitioner is considered as **40 years**. To the said age as per **Sarla Verma case, multiplier '15'** is to be taken into consideration.

34. Next factual aspect of the income of the petitioner is concerned, in his evidence the petitioner has stated that, prior to the accident he was working as a mason and getting an income of Rs.30,000/- per month. In this regard, he has not placed any iota of documents. In the absence of the material documents,

notional income has to be taken into consideration. But the said notional income is to be taken judiciously, by taking into consideration of the year of the accident. It is pertinent to note that, in the case on hand, the alleged accident had taken place in the year 2023. As per the notional income chart, I am of the view that, it is apt to take the notional income of the petitioner as Rs.16,000/- for the year 2023.

35. In the light of my detailed discussions held above, no doubt injuries sustained by the petitioner, definitely come in the way of his future, in a slight manner, to do his daily routine work, as well as to do his work for livelihood on going through his age criteria. Hence, the petitioner herein, is entitled for compensation under loss of future income as follows:

Rs.16,000 X12 X 15 X17/100= Rs.4,89,600/-.

Loss of amenities;

36. PW1 has stated in his evidence that due to the accidental injuries, he is unable to walk , limping while sit, squat, climb stairs, unable to bear weight. On perusal of evidence of PW1 and PW2 and also medical documents, I am of the view that, the petitioner will suffer a slight problem in future also, to do his normal

work, as well as his work for livelihood. Hence, it is just and proper to award compensation of **Rs.30,000/- towards loss of amenities.**

Future Medical Expenses;

37. PW2 has stated that the petitioner requires one more surgery for removal of implants, which would cost around Rs.50,000/-. Either PW2 or PW1 has not placed any estimation in this regard. On going through the escalation of rates in the medical field, it is just and proper to award compensation of **Rs.25,000/- under the head of future medication.**

38. In view of my discussions held above, on various aspects the petitioner is entitled for compensation in to to, under the following heads:

Compensation heads	Compensation amount
1.Pain and Suffering	Rs. 70,000-00
2.Loss of income during laid-up period and rest period	Rs. 48,000-00
3. Medical expenses	Rs. 9,01,011-00
4. Attendant, Nourishment and Conveyance Charges	Rs. 30,000-00

5. Loss of future income due to disability	Rs. 4,89,600-00
6. Loss of Amenities	Rs. 30,000-00
7.Future medical expenses	Rs. 25,000-00
Total	Rs.15,93,611-00

39. Accordingly, the petitioner is entitled for compensation of **Rs.15,93,611/- (Rupees fifteen lakhs ninety three thousand six hundred and eleven only), along with interest @ 6% per annum**, as per the proposition laid down by the Honourable High court of Karnataka in, ***MFA No.103557/2016, between Sri Ram General Insurance Company Limited V/S. Lakshmi And Others dated. 20.03.2018. And MFA No.30131/2019 dated.12.5.2020***, from the date of the petition, till the realization of the award amount.

LIABILITY:

40. As regards the liability is concerned, it is the assertion of the petitioner that, due to actionable negligence on the part of the driver of the Maruthi Swift D'zire car bearing registration No.AP-03-BC-7410 alleged accident had taken place. The evidence given by the petitioner in connection with the issue No.1, remained unshaken.

41. As per the records, the policy was valid from **17.2.2023 to 16.2.2024**. The alleged accident was taken place on **5.8.2023**. As such, I am of the view that, the respondent No.2 being the insurance company and the respondent No.1 being the owner of the offending vehicle are jointly and severally liable to pay compensation to the petitioner. In view of the valid insurance policy, the respondent No.2 is liable to pay the compensation with interest at **6% p.a.** from the date of petition, till its realization. **Accordingly, I am answering the issue No.2 partly in the Affirmative.**

ISSUE NO.3:

42. In view of above discussions on issue Nos.1 & 2, I proceed to pass the following;

O R D E R

The claim petition filed by the petitioner U/s 166 of M.V. Act is partly allowed with cost.

The petitioner is entitled for compensation of **Rs.15,93,611/- (Rupees fifteen lakhs ninety three thousand six hundred and eleven only)** along with interest @ **6% per annum**, from the date of the petition till the realization of the award amount.

The respondents are jointly and severally liable to pay the compensation. In view of the valid insurance policy, the respondent No.2 is liable to pay the compensation with interest at **6% p.a.** from the date of petition till its realization within two months from the date of this order.

The expenses to be incurred for future medication shall not carry any interest.

After deposit of the compensation amount with interest, **40%** is directed to be deposited in any Nationalized/Scheduled bank in F.D for a period of **3 years** and remaining **60%** shall be released to the petitioner through due process of law.

Advocate fee is fixed at Rs.1000/-.

Draw award accordingly.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this the **13th day of August 2025**).

(DHANESH MUGALI)
III ADDL.SMALL CAUSES JUDGE,
MEMBER MACT & ACJM,
BENGALURU.

ANNEXURE**List of witnesses examined on petitioner's side:**

PW1 Shri D.Chandrashekar
PW2 Dr.S.A.Somashekar

List of documents exhibited on petitioner's side:

Ex.P1 FIR
Ex.P2 First information statement
Ex.P3 Kannada translation of complaint
Ex.P4 Statement of petitioner
Ex.P5 Kannada translation of statement
of petitioner
Ex.P6 Spot sketch
Ex.P7 Accident information report
Ex.P8 Wound certificate
Ex.P9 Charge sheet
Ex.P10 Discharge summary
Ex.P11 Aadhar card
Ex.P12 D.L.
Ex.P13 Photographs and CD
Ex.P14 Medical bills
Ex.P15 Consolidated receipts
Ex.P16 Outpatient record
Ex.P17 X-ray
Ex.P18 Discharge summary
Ex.P19 Medical bills

List of witnesses examined on respondents' side:

Nil

List of documents exhibited on respondents' side:

Nil

**III ADDL.SMALL CAUSES JUDGE
MEMBER MACT & ACJM,
BENGALURU.**