

KABC020035462025



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

Dated: this the 15th day of July 2026

Present: DHANESH MUGALI

B.Com., LL.B.,(Spl.)

III ADDL. JUDGE & MEMBER, MACT,
COURT OF SMALL CAUSES,
BENGALURU.

MVC No.426/2025

Petitioner : Dr. Mohd Rafi H Hakeem
S/o Husen Sab,
Aged about 53 years,
R/at No.4/5, Guitar Street,
1st Main, 1st Cross,
St. Thomas Town,
Lingarajapuram,
Bangalore North,
Karnataka - 560084.
(Pleader by Shri Sathisha T)

V/s

Respondents : 1. Mr. Srinivas B.C.
Aged about 35 years,
No.108, Honnanahatti Tavarekere,
Bangalore 562130.
(Pleader by Shri Rakesh B.C)
2. The Manager,
Liberty General Insurance

Company Ltd., #21/15,
Mahathma Gandhi Road,
Near Metro Station,
Trinity Craig Park Layout,
Ashok Nagar, Bengaluru,
Karnataka – 560001.
(Pleader by Shri M.Ravi)

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.20,00,000/- 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 04.12.2024 at about 9.00 p.m., the petitioner was riding his motor cycle bearing Reg.No.KA-03/JV-1816 on Anandarao Circle – Sheshadripuram Police station road, Bangalore, when he reached near Anandarao Circle, at that time rider of Royal Enfield Motor cycle bearing Reg.No.KA-02/KD-6777 rode the same in a rash and negligent manner with high speed from opposite direction on right side of the road of Swasthik junction to

Anandarao Circle and dashed against the petitioner's motor cycle and caused the accident.

3. It is further stated that, immediately he was shifted to Sheshadripuram Apollo Hospital, wherein he took treatment as an inpatient and spent more than Rs.7,00,000/- amount towards medicines, attendant charges, food and nourishment etc.

4. It is stated that prior to the accident, he was hale and healthy and was working as a Government Ayurvedic Doctor in Bengaluru and earning Rs.2,30,000/- p.m. Due to accidental injuries, he could not able to do his work as earlier, thereby suffering from permanent disability.

5. It is stated that, the accident occurred due to rash and negligent riding of the rider of the Royal Enfield Motor cycle bearing Reg.No.KA-02/KD-6777. Hence, High grounds Police station have registered criminal case against rider of the offending vehicle in Crime No.133/2024. 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 issuance of notice, respondent No.1 & 2 appeared through their respective counsel and filed their written statements.

7. In the written statement, the respondent No.1 has contended that the petition is not maintainable either in law or on facts. The respondent No.1 has stated that he is the RC owner of the Royal Enfield Motor cycle bearing Reg.No.KA-02/KD-6777 and said vehicle was insured with respondent No.2 and policy was in force as on the date of accident. Further contended that this accident occurred due to sole negligence on the part of the petitioner himself. Further denied the age, avocation and income of the Petitioner and expenses incurred towards medical and other incidental charges. 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. In the written statement, the respondent No.2 has contended that the petition is not

maintainable either in law or on facts. This respondent has admitted about issuance of insurance policy in respect of Royal Enfield Motor cycle bearing Reg.No.KA-02/KD-6777 and liability of this respondent is subject to terms and conditions of the policy. Further this respondent denied all the averments made in the petition. It is the defence of the respondent that the accident was not occurred due to the negligence on the part of the rider of the offending vehicle. It is contended that the accident occurred due to sole negligence on the part of the petitioner himself. Further denied the age, avocation and income of the petitioner and expenses incurred towards medical and other incidental charges. 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.

9. On the basis of rival pleadings of both the parties, this court has framed the following:

ISSUES

- 1) Whether the petitioner proves that he had sustained grievous injuries in a motor vehicle accident that took place on

04.12.2024 at about 9-00 p.m., near Sheshadripuram Police station junction, Ananda rao circle, Bengaluru due to rash and negligent riding of the rider of the Royal Enfield motor cycle bearing Reg.No.KA-02-KA-6777 in an actionable negligence?

2. Whether petitioner is entitled for compensation? If so, at what rate and from whom?

3. What order or award?

10. In order to substantiate his case, the petitioner got examined himself as PW1 and got marked the documents at Ex.P1 to Ex.P14. In addition to his evidence, placed the evidence of Dr.S.A.Somashekara as PW2 and got marked documents at Ex.P15 & Ex.P16.

11. On the other hand, respondent No.1 and 2 have not adduced any oral or documentary evidence on their behalf.

12. Heard the arguments of both the counsel and perused the materials available on record.

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

Issue No.1: In the Affirmative

Issue No.2: Partly in Affirmative

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

R E A S O N S

ISSUE No.1:-

14. It is the specific case of the petitioner that due to actionable negligence on the part of the rider of the Royal Enfield Motor cycle bearing Reg.No.KA-02/KD-6777 the alleged accident had taken place, consequently he had sustained grievous injuries.

15. On the other hand, the respondents though not disputed the accident and the injuries sustained by the petitioner, but seriously disputed the actionable negligence on the part of the rider of the offending vehicle.

16. 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.

17. 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.P12. Ex.P1-true copy of F.I.R. Ex.P2-true copy of the first information statement, Ex.P3-true copy of spot mahazar, Ex.P4-true copy of sketch, Ex.P5-true copy of IMV report, Ex.P6 and Ex.P7-Notice U/sec.133 of IMV Act and reply to said notice, Ex.P8 is the Indemnity bond, Ex.P9-true copy of Charge sheet copy and Ex.P12 –Wound certificate.

18. On perusal of the police documents, it could be seen that based upon the first information statement given by Abbar Hussain, the S.H.O. of High Ground Traffic Police have registered the case against the rider of the offending vehicle for the offences punishable under Sections 281 and 125(a) of BNS. Upon investigation, the Investigation Officer of the case has filed charge sheet against the rider of the offending vehicle alleging that he has committed the offences punishable under section 281 and 125(b) of IPC.

19. Though the respondents have disputed the actionable negligence on the part of the rider of the offending vehicle, but not examined either rider of the offending vehicle or any of the independent eye witness to prove their contention.

20. Apart from this, even at the time of cross-examination of PW1, no material answers culled out to believe the defences of the respondents about the denial of allegation made against the rider of the offending vehicle.

21. In the light of the evidence placed on record, it is crystal clear that, the alleged accident was occurred due to rash and negligent riding of rider of the Royal Enfield Motor cycle bearing registration No.KA-02-KD-6777 and in the said accident the petitioner has sustained grievous 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:-

22. This issue is with respect to the entitlement of reliefs claimed by the petitioner. The petitioner through this petition, claiming compensation of **Rs.20,00,000/-** on account of the injuries sustained by him in the accident under different heads.

23. 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 proposition 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, comes 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;

24. 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.P6**. The said document discloses that, he had sustained the following injuries:-

Right tibia fracture

25. In connection with the above said injuries, the doctor is of the opinion that, the said injuries is grievous in nature. The petitioner has produced discharge summary at Ex.P13 issued by Apollo Hospital, which reveals that petitioner was admitted from 4.12.2024 to 6.12.2024. In addition to his evidence, placed the evidence of Dr.S.A.Somashekara as PW2. PW2 has stated in his evidence that the petitioner has sustained right leg tibia and fibula fracture delayed/hydr trophic non-union and underwent surgeries in the form of right tibia CRIF with IMIL nailing under SA on 5.12.2024. He has

placed outpatient record and X-ray at Ex.P15 & Ex.P16. 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.30,000/- under the head of Pain and Sufferings.**

Loss of income during treatment period:

26. PW1 has stated that, he was working as a Government Ayurvedic Doctor and drawing salary of Rs.2,30,000/- per month. In this regard, he has not placed any documents to show his occupation and income. In the absence of the documents, by considering his profession, it is just and proper to consider the income of the petitioner as Rs.60,000/- per month. In the cross-examination he has stated that he took earned leave for a period of 45 days. The petitioner is working as a Government, Ayurvedic Doctor, but has not produced his leave sanction letter to show that how many days he had availed leave for the injuries sustained in the accident. On perusal of discharge summary at Ex.P13 issued by

Apollo Hospital, which reveals that petitioner was admitted from 4.12.2024 to 6.12.2024. By considering the nature of the injuries, definitely, there was some difficulty to him to do daily routine work and to do his work for livelihood at least for one month 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.60,000/- towards loss of income during the laid up period and rest period.**

Medical Expenses;

27. The petitioner in connection with his treatment expenses, at the time of his evidence, placed medical bills of Rs.5,46,186/- as per Ex.P14. In the cross-examination he has admitted that in Ex.P27 to Ex.P30 are invoices and for the said invoices there is not receipt for having paid the amount. On perusal of medical bills, Sl.No.27 to 34 are the invoices for Rs.43,300/- Rs.50,300/- Rs.50,300/-, Rs.45,300/-, Rs.22,500, Rs.45,000/-, Rs.22,500 and Rs.31,500/- shall not be considered as the petitioner has not placed any receipt for having paid the amount and also has not placed

doctor's advice for having taken the physiotherapy treatment. Further, petitioner has not made an effort to examine the author of the documents to show that how many days he required physiotherapy treatment. Hence, it is just and proper to award compensation of **Rs.1,85,786/- towards medical expenses.**

Attendant charges, food and nourishment and conveyance charges;

28. The petitioner herein, as per the medical records and also on going through the discharge summary 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.3,000/- towards attendant charges, food, nourishment and conveyance charges.**

Reduced eligibility of employment or damages due to disability;

29. 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 as per Ex.P12 goes to show that, he had sustained grievous injuries. Apart from this, another material witness by name **Dr.S.A.Somashekara** examined as PW2. PW2 has stated in his evidence that petitioner has sustained right tibia and fibula fracture delayed/hyper trophic non-union and underwent CRIF with IMIL nailing under SA on 5.12.2024. In support of his evidence he has placed outpatient record and x-ray at Ex.P15 & Ex.P16.

30. On the basis of entire evaluation of the disability of the petitioner, PW2 had opined that, petitioner had disability of **right lower limb at 42% and whole body is at 21%.**

31. In the cross-examination PW2 has admitted that fracture is united. Further denied the suggestion that he has assessed the disability as imaginary.

32. In the evidence of PW1 has stated that, he was working as a Government Ayurvedic Doctor and drawing salary of Rs.2,30,000/- per month. In this regard, he has not placed any documents. In his cross-examination he has clearly admitted that he has continued his job. In such a situation, when the petitioner has continued his job as usual, question of awarding compensation for loss of future income does not arise.

33. At this stage it is relevant to rely the decision reported in **ILR 2010 KAR 2439 between Subash Vs. The New India Assurance Co. Ltd., represented by its Manager and Others.**

34. On perusal of the supra decision, it is observed that “ **if the claimant is continued in service, then the question of awarding compensation towards loss of future income does not arise.**”

35. At the same time, it is to be noted that, due to the nature of the injuries sustained by the petitioner, there would be some difficulty to him to do normal work, as he was earlier. Hence, I relied the

decision reported in, **ILR 2015 KAR 167 in between Dr.Yashawanth Dongre Vs. Salman Rasheed and Others**, it was observed, that.

“The claimant has got disability to the extent of 46%. The doctor has not spoken about the disability with regard to the whole body. The claimant has permanent disability and thus has permanent diminution of his earning capacity, but he has been continued in the same employment without deduction of salary, the claimant is entitled for compensation for his handicap in the labor market. In many cases of comparatively not serious injuries, though there is some permanent disability, the disability has no immediate adverse effect on his salary. He may be getting the pre-accident salary. However, such a man is at a disadvantage when compared with his co-workers in the labour market. It may so happen that he continues to work with difficulty and gets the same salary but if there is reduction in the workforce by the employers, this worker with disability is likely to be sent off first.”

36. On perusal of the above said decision, it is observed that, though the claimant is in a position to work physically after the accident as before, the after effects of the accident may make it more difficult for

him to find work or to retain him work. There would be some degree of physical handicap. Since the claimant is continuing his employment, he may be entitled for compensation under the head of reduced eligibility of employment. In this regard, a suitable sum has to be awarded by way of damages, having regard to his disability.

37. In the instant case, on going through the nature of the injuries sustained by the petitioner and also on going through the evidence given by the doctor in connection with the disability of the petitioner, I am of the view that, though the petitioner has continued his job, he has to suffer with the said disability throughout his life and the eligibility of his employment has been reduced due to the disability sustained by him, in a road traffic accident. So, suitable sum has to be awarded by way of damages having regard to his disability. Considering the above facts, I am of the view that, it is just and reasonable to grant for compensation of **Rs.1,50,000/- under the head of reduced eligibility of employment or damages due to disability.**

Loss of amenities;

38. PW1 has stated in his evidence that due to the accidental injuries, he cannot do his work as earlier. On perusal of evidence of PW1 & 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.20,000/- towards loss of amenities.**

Future Medical Expenses;

39. PW2 has stated that the petitioner needs one more surgery for removal of implants, which would cost of Rs.50,000/-. The petitioner has not placed any estimation in this regard. By considering nature of injuries it is just and proper to award compensation of **Rs.20,000/- under the head of future medication.**

40. 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. 30,000-00
2.Loss of income during laid-up period and rest period	Rs. 60,000-00
3. Medical expenses	Rs.1,85,786-00
4. Attendant, Nourishment and Conveyance Charges	Rs. 3,000-00
5. Reduced eligibility of employment or damages due to disability	Rs.1,50,000-00
6. Loss of Amenities	Rs. 20,000-00
7.Future medical expenses	Rs. 20,000-00
Total	Rs.4,68,786-00

41. Accordingly, the petitioner is entitled for compensation of **Rs.4,68,786/- (Rupees four lakhs sixty eight thousand seven hundred and eighty six 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:

42. As regards the liability is concerned, it is the assertion of the petitioner that, due to actionable negligence on the part of the rider of the Royal Enfield Motor cycle bearing registration No.KA-02-KD-6777 alleged accident had taken place. The evidence given by the petitioner in connection with the issue No.1, remained unshaken.

43. As per the records, the insurance policy was valid from **6.12.2019 to 5.12.2024**. The alleged accident was taken place on **4.12.2024**. As such, I am of the view that, the respondent No.1 being the owner and the respondent No.2 being insurance company 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:

44. 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.4,68,786/- (Rupees four lakhs sixty eight thousand seven hundred and eighty six 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.1,000/-.

Draw award accordingly.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in open court on this the **15th day of July 2026**).

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

ANNEXURE

List of witnesses examined on petitioner's side:

PW1	Dr. Mohd Rafi H Hakeem
PW2	Dr. S.A. Somashekar

List of documents exhibited on petitioner's side:

Ex.P1	FIR
Ex.P2	Complaint
Ex.P3	Spot mahazar
Ex.P4	Spot sketch
Ex.P5	IMV report

Ex.P6	Notice U/sec.133 of IMV Act
Ex.P7	Reply to notice U/sec.133 of IMV Act
Ex.P8	Indemnity bond
Ex.P9	Charge sheet
Ex.P10	Notarized copy of D.L.
Ex.P11	Notarized copy of Aadhar card
Ex.P12	Wound certificate
Ex.P13	Discharge summary
Ex.P14	Medical bills
Ex.P15	OPD record
Ex.P16	X-ray

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.**