

KAUP020022642025



***BEFORE THE ADDITIONAL MOTOR
ACCIDENTS CLAIMS TRIBUNAL & PRINCIPAL SENIOR
CIVIL JUDGE AND CJM., UDUPI.***

Present: Sri.M.Purushothama,
B.B.M, M.S.W., L.L.M., P.G.D.H.R.M.

Prl. Senior Civil Judge & CJM., Udupi.

Dated this the 10th day of July, 2026

M.V.C.No.543/2025

Between:

Sharada,
Aged about 52 years,
W/o. Vijaya,
R/at 5-68, Tai Krupa, Merdi,
VTC-Basrur, PO-Basrur,
Kundapura Taluk, Udupi District.

R/at Bannanje, Udupi Taluk and District.

: Petitioner

[Rep. By Sri. P.K., Advocate]

V/s

1. Mr. Ghanashyam Malpe,
Aged about 46 years,
S/o. Late M. Shridhar,
R/at 1-77/1, Parijatha,
Badanidiyoor Village and Post,
Udupi Taluk and District.

2. New India Assurance Company Ltd.,
Rep. by Divisional Manager,
2nd Floor, Sri Ram Arcade,
Opp. Head Post Office, Udupi

: Respondents

(R1 - Exparte)

(R2 - Rep. by Sri. A.P.H., Advocate)

J U D G M E N T

The petitioner has filed the petition under Section 166 of Motor Vehicles Act, 1988 seeking compensation of Rs.8,45,000/- with interest at the rate of 7% p.a. from the date of accident till the date of payment.

2. The case of the petitioner is as follows:

That on 15.02.2025 at about 08.50 hours, the petitioner was travelling in a Bus bearing Reg.No.KA-19-D-8000 from Karavali side towards Ambalpady side, in a rash and negligent manner, when she reached near Brahmagiri circle, Ambalpady, Jodukatte road, Moodanidamboor village, Udupi, without following the traffic rules and regulations, suddenly applied the break, due to which the petitioner was thrown inside the bus on its floor and was glided from the back door and thrown on to the road. As a result, the petitioner had sustained injuries. Immediately after the accident, the petitioner was taken to

District Hospital, Udupi and first aid treatment was given to her and admitted there as inpatient from 15.02.2026 to 20.02.2025 for a period of 6 days. Thereafter the petitioner visited the said hospital as an outpatient for several times. She spent an amount of Rs.10,000/- for medical expenses, a sum of Rs.5,000/- for future medical expenses and for attendant charges and attendants food, she spent a sum of Rs.34,000/- and for special nourishment of food, she spent a sum of Rs.63,000/-. The petitioner was hale and healthy prior to the accident. She was aged 52 years at the time of the accident and she was working in Basrur Grama Panchayath and thereby earning a sum of Rs.15,000/-. Due to the injuries suffered in the accident, she is disabled and she could not attend her work from the date of accident till this day and in future also. The accident was occurred solely due to rash and negligent driving of the Bus bearing registration No.KA-19-D-8000 by its driver. Hence respondent No.1 and 2 are jointly and severally liable to pay the compensation. Accordingly, prayed to allow the petition.

3. The respondent No.1 did not appeared before the court inspite of issuance of notice. Respondent No.2 appeared before the court and filed written statement. Respondent No.2 in its written statement has stated that the petition is false, frivolous, vexatious and highly speculative to the knowledge of

petitioner and is not maintainable either on facts or in law or on merits against the respondent. Respondent No.2 denied the entire petition averments much less the manner of accident, occupation, income, date, time and place of the accident. This respondent submits that the alleged accident did not take place as stated by the petitioner. The petitioner has failed to show the true picture of the alleged accident. This respondent further submits that without prejudice to its contentions that the conductor of the bus bearing Reg.No.KA-19-D-8000 has not taken care of the safety of the passengers property. He has not closed the doors, before bus started to move. Therefore, there was contributory negligence on the part of the conductor of the bus by name Sathish Saphaliga. The said conductor was also charge sheeted for the offence punishable under Sec.125(b) of BNS Act. Therefore, the said conductor is also necessary and proper party to this claim petition and the said conductor was also responsible for the alleged accident and he is also liable to pay compensation to the petitioner. Among other grounds, prays for dismissal of the petition.

4. Based on the above pleadings, the following issues have been framed.

ISSUES

1. Whether the petitioner proves that on 15.02.2025 at 08.50 hours, while she was travelling in a Bus bearing Reg.No.KA-19-D-8000 from Karavali side towards Ambalpady side, near Brahmagiri circle, Ambalpady – Jodukatte road, Moodanidamboor village, Udupi, the driver drove the bus in a rash and negligent manner and suddenly applied the break, due to which she was thrown on to the road, due to which she sustained injuries?
2. Whether the petitioner is entitled for compensation? If so, how much and from whom?
3. What order or award?

5. The petitioner is examined as P.W.1 and produced 14 documents which are marked as Ex.P1 to P14. On the side of respondents, none is examined but got marked 1 document as Ex.R1 i.e. Insurance policy by consent.

6. Heard arguments. Perused the entire materials available on record.

7. My findings to the above 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:

REASONS

Issue No.1:

8. The claim of the petitioner is that on 15.02.2025 at about 08.50 hours, the petitioner was travelling in a Bus bearing Reg.No.KA-19-D-8000 from Karavali side towards Ambalpady side, in a rash and negligent manner, when she reached near Brahmagiri circle, Ambalpady, Jodukatte road, Moodanidamboor village, Udupi, without following the traffic rules and regulations, suddenly applied the break, due to which the petitioner was thrown inside the bus on its floor and was glided from the back door and thrown on to the road. As a result, the petitioner had sustained injuries.

9. The respondent No.1 has not filed the written statement. Respondent No.2 appeared before the court and filed the written statement denying the rash and negligent driving of the Bus bearing Reg.No.KA-19-D-8000. Hence, the burden is on the petitioner to prove the rash and negligent driving of the Bus bearing Reg.No.KA-19-D-8000 by its driver and the petitioner sustained injuries in the accident.

10. The petitioner is examined as PW1 by filing affidavit as her examination-in-chief to substantiate the petition averments and in total marked 14 documents as Ex.P1 to P14. Ex.P1 is the FIR, Ex.P2 is the First information, Ex.P3 is the Wound certificate, Ex.P4 is the Mahazar, Ex.P5 is the True copy of IMV Report, Ex.P6 is the AIR Report, Ex.P7 is the True copy of Aadhar card, Ex.P8 is the Charge sheet, Ex.P9 is the Sketch, Ex.P10 is the Notice under Sec.133, Ex.P11 is the Reply to notice, Ex.P12 is the Discharge summary, Ex.P13 is the Drugs prescription, Ex.P14 is the X- Ray. Ex.R1 is the True copy of Insurance policy, marked on the side of respondent No.2 by consent.

11. On perusal of Ex.P1, the police attached to Udupi Traffic police station registered FIR in Cr.No.0022/2025 on 16.02.2025, based on the first information given by the petitioner's brother on 16.02.2025. The alleged accident was occurred on 15.02.2025 and soon after the accident, she was admitted to the hospital which could be seen from the Ex.P3 wound certificate. The priority is to take treatment and not to lodge first information. There is a delay of one day in lodging the first information that cannot be viewed doubtfully since the priority is to take treatment. Hence, the delay in lodging first

information cannot be doubted. The wound certificate marked as Ex.P3 reveals that the petitioner sustained injuries in a road traffic accident. Respondent No.1 did not file the counter to the allegations made against the driver of the Bus. Hence, the cause of the injuries sustained by the petitioner in the accident and involvement of the vehicle cannot be doubted.

12. The petitioner was passenger at the relevant point of time is not disputed. According to the petitioner, the driver of the Bus applied break and as a result, she fell on the floor of the bus and thereafter she was thrown out of the bus. It is a duty of the driver of the bus and conductor to close the doors before proceed further from the place where he stopped the vehicle. If the driver moved the bus without closing the door, then it is a gross negligence on part of the both the driver as well as the conductor. As such the I.O. filed charge sheet as per Ex.P8. The said charge sheet is not disputed by any of the respondents. The petitioner is not the close relative of the I.O. to file such a false charge sheet against the driver and conductor of the Bus. Infact, they are known to the I.O. and not the petitioner. Though there are some small discrepancies in the evidence of P.W.1 but it will not go to the roots of the case to reject the claim of the petitioner. The driver of the Bus bearing Reg.No.KA-19-D-8000 drove the same in a high speed and as

such he unable to avoid the accident. There is no evidence that the police prepared the false sketch and mahazar. The IMV report marked as Ex.P5 reflects that there is no mechanical defect in the vehicle. So the accident occurred due to rash and negligent driving of the Bus by its driver. It was suggested to P.W.1 by the learned counsel for respondent No.2 that the accident was occurred due to her own negligence which was denied by P.W.1. Hence, this tribunal is of the view that the accident was occurred due to rash and negligent driving of the Bus by its driver. Accordingly, **I answered Issue No.1 in the Affirmative.**

Issue No.2:

13. The petitioner has claimed total compensation of Rs.8,45,000/-. The petitioner sustained injuries in a road traffic accident which is evident from Ex.P1 to P14. Hence, the petitioner is entitled for compensation under various heads.

Pain and Sufferings:

14. On perusal of Ex.P3 wound certificate, it reveals that the petitioner has sustained the following injuries:

1. Laceration over the scalp 2 cm x 1cm x skull deep over the parieto – occipital region.

Injury No.1 is simple in nature. Ex.P12 discharge summary reveals that the petitioner was admitted to the District Hospital, Udupi on 15.02.2025 and discharged on 20.02.2025. She was aged about 48 years at the time of the accident. Hence, by considering the nature of injuries and inpatient period in the hospital and the age, the **petitioner is entitled for Rs.15,000/- under the head of pain and sufferings.**

Medical expenses:

15. The petitioner was admitted in the District Government Hospital Udupi. She has not produced any bills. Hence, the **petitioner is not entitled for any compensation under this head.**

Loss of income during laid up period :

16. According to the petitioner, she was hale and healthy prior to the accident. She was aged 45 years at the time of the accident and working as SLRM in Basrur Grama Panchayath and earning Rs.9,000/- per month. But not produced any documents to substantiate her income and work. The petitioner was taken treatment for a period of 6 days and thereafter took rest for another 24 days. Hence, **an amount of Rs.9,000/- is awarded under this head.**

Food, conveyance and attendant charges expenses:

17. Though the petitioner has stated that she had spent amount towards food, conveyance and attendant charges, but she has not produced any documents to prove the same. However, by considering the fact that she was inpatient for a period of 6 days in total and during that time she spent amount towards food and she had obtained the follow up treatment after her discharge. Accordingly, the petitioner is entitled for **Rs.5,000/- under this head.**

18. The above summarized as follows:

Pain and sufferings	Rs. 15,000/-
Food, conveyance and attendant charges expenses	Rs. 5,000/-
Loss of income during laid up period	Rs. 9,000/-
Total	Rs. 29,000/-

19. The petitioner has claimed interest at the rate of 7% per annum. As far as interest is concerned the petitioner is entitled interest at the rate of 6% per annum in view of the law laid down by the Supreme Court. The respondent No.2 admits the policy issued in favour of the offending vehicle. Hence, the

2nd respondent is liable to indemnify. Accordingly, **I answered this issue partly in the Affirmative.**

Issue No.3:

20. In view of the findings on above issues, I proceed to pass the following:-

ORDER

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

The petitioner is entitled for total compensation of **Rs.29,000/-(Rupees twenty nine thousand only)** with interest at the rate of 6% p.a. from the date of petition till date of realization.

The respondents No.1 and 2 are jointly and severally liable to pay compensation and respondent No.2 is directed to deposit the compensation within 30 days from the date of this order.

Upon deposit of the compensation amount the petitioner is entitled to receive entire compensation amount.

Office is hereby directed to transfer entire amount to the petitioner after obtaining copy of the pass book, copy of Aadhar card and PAN card if any.

Advocate fee is fixed at Rs.1,000-00.

Draw award accordingly.

(Dictated to the Stenographer, computerized by her, corrected, signed and then pronounced by me in the open court on this the 10th day of July, 2026).

(M.Purushothama)

Prl. Sr. Civil Judge & ADDL.MACT,
Udupi.

ANNEXURE

List of witness examined for the petitioner:

P.W.1 : Sharada

List of documents exhibited for the petitioner:

Ex.P1 : FIR

Ex.P2 : First information

Ex.P3 : Wound certificate

Ex.P4 : Mahazar

Ex.P5 : True copy of IMV Report

Ex.P6 : AIR Report

Ex.P7 : True copy of Aadhar card

Ex.P8 : Charge sheet

Ex.P9 : Sketch

- Ex.P10 : Notice under Sec.133
Ex.P11 : Reply to notice
Ex.P12 : Discharge summary
Ex.P13 : Drugs prescription
Ex.P14 : X- Ray.

List of witnesses examined for the respondents:

None

List of documents exhibited for the respondents:

- Ex.R1 : True copy of Insurance policy.

Prl. Sr. Civil Judge & ADDL.MACT,
Udupi.