

KABC020387952023



**IN THE COURT OF XXI ADDL.SMALL CAUSE JUDGE AND
MOTOR ACCIDENT CLAIMS TRIBUNAL, BANGALORE.
(SCCH-23)**

DATED THIS THE 4th DAY OF JULY - 2026

PRESENT: **Sri. Shreyansh Doddamani**
B.Com. LL.B, (Spl)
XXI ADDL. SCJ & ACJM
MEMBER – MACT, BENGALURU.

MVC. No.7926/2023

Petitioner: Smt. Revamma,
W/o Revana Siddaiah,
Aged about 65 years,
Gangadhareshwara Nilaya,
Devanuru Main road,
Someshwarapuram,
Tumkur.

(By Sri.Kiran.C.B., Adv)

v/s

Respondents : 1) Chetak Supply Chain Pvt. Ltd.,
Chetak House, Old Delhi,
Kapashera, Gurgaon Road-110037.
(RC Owner of Tata Carrier
No.HR-38-X-4981)

(Exparte)

- 2) Bajaj Allianz General Insurance Co Ltd.,
No.1/2, Golden Heights, 4th Floor,
59th - C Cross, 4th M Block,
Rajajinagar, Bangalore-10.
Policy No. OG-23-1101-1803-00004092
Valid from 07-08-2022 to 06-08-2023

(By Sri.Raghavendra Bhat., Adv)

J U D G M E N T

This claim petition is filed u/s 166 of the M.V. Act, seeking compensation for the injuries sustained in a RTA.

2. The facts leading to the filing of the instant petition are that on 10.06.2023 at about 8.45 p.m, the petitioner was proceeding as an inmate in the car bearing Reg.No.KA-02-MQ-5888, the driver of the car drove the same in slowly and cautiously by observing all the traffic rules and regulations. When they reached near Doddapayalagurki Cross, Bangalore - Hyderabad NH-44 Road, Chikkaballapur Taluk and District, at that time a Container lorry bearing Reg.No.HR-38-X-4981 which was being driven by its driver in a rash & negligent manner and without observing the traffic rules and regulations dashed against the hind side of the car of the

petitioner's. Due to the terrific impact the petitioner sustained grievous injuries. It is contended that immediately after the accident she was shifted to Chikkaballapura Government Hospital and thereafter to Manipal Hospital for treatment. She has spent substantial amount towards her treatment. It is specifically urged that due to the said accident she lost her earning capacity and become disabled. It is further urged that the accident happened because of rash and negligent driving of the driver of the Container Lorry. The respondent No.1 & 2 being the owner and insurer and they are jointly and severally liable to pay compensation, as such prayed to grant a compensation amount.

3. Notice was duly served to respondent No.1, the respondent No.1 did not appear before this Tribunal. Hence he placed exparte.

4. After service of notice, respondent No.2 filed written statement by contending that the petition itself is not maintainable either law or on facts. This respondent

admitted the issuance of insurance policy in respect of lorry bearing Reg.No.HR-38-X-4981. However the liability if any is pleaded to be subject to the terms & conditions of the policy. It is also urged that there was inordinate delay of 1 day in lodging the complaint that itself vibrantly discloses that the case is foisted so as to wangle the compensation amount from the insurance company. This respondent specifically and empathically denied the occurrence, mode and manner of accident and also involvement of the vehicle in the accident. It is contended that the petition is bad for non-joinder of necessary parties. This respondent denied the negligent driving of the driver of the Container Lorry, per contra it is contended that the accident was occurred due to sole negligence of the driver of the car bearing reg No.KA-02-MQ-5888 as the driver of the car was parked the car on the middle of the road for no reasons and without putting any indications as the time of alleged accident was 8.40 p.m, and night hours the driver of the Container lorry couldn't able to

notice the parked car and collided. Hence the proximate cause for the alleged accident is negligent parking the car by its driver but not the driver of the lorry hence necessary contributory need to be attributed against the driver of the car. Without prejudice to the said contention it is averred that the driver of the insured vehicle did not possess valid & effective DL and further the said insured vehicle did not holding valid and effective Permit and FC. Non-compliance of section's 134(c) and 158(6) of MV Act is pleaded. On account of willful breach of the terms & conditions of the policy by the insured, the insurance company is not liable to indemnify him. Further denied all the allegation made in the petition. Hence prayed to dismiss the petition.

5. On the basis of above pleadings the following issues were framed :

ISSUES

1. Whether the petitioner proves that she sustained injuries in a road traffic accident that occurred on 10.06.2023 at about 8.45 p.m., near Doddapayalagurki Cross, NH-44

road, Chikkaballapura Taluk,
Chikkaballapura District due to actionable
negligence of the driver of Container lorry
bearing Reg.No.HR-38-X-4981?

2. Whether the petitioner is entitled for compensation as prayed for ? If so, at what rate and from whom?
3. What order or award ?

6. The petitioner examined herself as PW.1. Ex's.P1 to 11 were marked on her behalf. Dr. Nagaraj B.N. was examined as PW.2, through him got marked Ex.P.12 & 13 documents. Further more the Medical Record Officer of Manipal hospital, Bangalore was examined as PW.3 and Ex.P14 to 17 were marked. The respondent No.2 did not choose to lead any evidence on their behalf.

7. Heard counsel for the petitioner and respondent No.2 on merits. Perused the entire materials placed on record.

Issue No.1 : **In the Affirmative**

Issue No.2 : **Partly in the Affirmative,**

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

REASONS

8. ISSUE NO.1 : The petitioner has knocked the doors of justice with a relief to grant a compensation of an amount to the tune of Rs.15 lakhs together. The evidence on record reveals that after the receipt of complaint, the jurisdictional police conducted thorough investigation and filed charge sheet against the driver of Container Lorry bearing Reg.No.HR-38-X-4981, for the offences punishable u/s's 279, 337, 338 of IPC and u/s 134 and 187 of IMV Act. There is nothing on record to believe that the charge sheet filed by the police is defective or collusive. Though the respondent No.2 has denied the cause of the accident, it has not let in any cogent evidence to prove its defence or to disprove the evidence led by the petitioner. Therefore, the evidence of PW.1 which is supported by police documents has to be accepted. Consequently I hold that the accident is proved to have been caused due to the actionable negligence of the driver of Container Lorry. Therefore, this Tribunal answers Issue No.1 '**In the Affirmative**'.

9. ISSUE NO.2 : As already discussed above the petitioner has proved that the accident took place due to the actionable negligence of the driver of the offending vehicle. Therefore he is entitled for compensation.

10. **AGE, AVOCATION AND INCOME** : The petitioner has produced her Aadhaar card which is marked as Ex.P.8, as per the above said document wherein her date of birth is reflected as 16.07.1947. This indicates that she was aged (75 years 10 months 25 days) **75** years on the date of accident.

11. The petitioner deposed that prior to the accident she was an agriculturist and earning Rs.20,000/- p.m. No documents have been produced to establish the avocation and income of the petitioner as alleged in his evidence affidavit. Further the cause title itself discloses that the age of the petitioner was 65 years and as per the Aadhar card she was aged about 75 years, hence it is clear that the petitioner is a senior citizen aged about 75 years. In the evening of her

life one cannot earn what she was earning at the younger age by doing the agricultural work / physical activities. In the absence of proof, it is the practice of the Courts to take the notional income. Considering the age of the petitioner, her notional income is taken at **Rs.9,000/- p.m.**

12. As per the medical records the petitioner has sustained the following injuries : 1) Tenderness over lumber region. It is needless to say that the injury is grievous in nature. As per Ex.P.17/ discharge summary which was produced by PW.3, which discloses that the petitioner has taken treatment as an inpatient at Manipal Hospital from 11.06.2023 to 13.06.2023 and same was disclosed in Ex.P.9/IP Bill (3 days in total). During the course of treatment she was managed with medications, MRI LS Spine which showed acute compression fracture L1 vertebral body for which she suggested kyphoplasty but patient wants to wait and consider it at later state, and discharged with an advice to regular follow up treatment.

13. It is the specific case of the petitioner that owing to the accidental injuries she has become disabled and has thereby lost her earning capacity. Therefore she got examined Dr.Nagaraj.B.N as PW.2 who stated that the petitioner has sustained L-1 Compression fracture left tibia type I fracture. Further PW.2 who stated that on clinical examination conducted by him, he found that petitioner has sustained total permanent physical disability of 36% to the left lower limb and 12% disability to the whole body. On perusal of the cross-examination of PW.2 it becomes clear that he was not treated the petitioner and was also not taken opinion from the treated doctor. He admitted that petitioner taken conservative treatment and presently the fracture is united. He denied that the petitioner was aged old, and the said disability assessed is age related and not due to the accident. He admitted that he examined the petitioner after 2 years 7 months from the date of accident and he did not know the condition of the patient at the time of accident. However from

the careful examination of the medical records, it is seen that PW.2 has assessed the disability on the higher side. Be that as it may, the law is well settled that it is the impact of the physical disability on the particular avocation of the petitioner which is relevant for the purpose of assessment of compensation under the head of loss of future income as held by the Hon'ble Apex Court in Rajkumar's case reported in (2011) 1 SCC 343. Further the petitioner in her chief affidavit she stated that she was agriculturist. In the evening of her life one cannot earn what she was earning at the younger age by doing the physical activities. Considering the nature of injuries, line of treatment and on appreciation of the clinical findings noted by the doctor, the possibility of the fact that the petitioner may be having economical or functional disability to the extent of 9%, cannot be ruled out. Therefore, I consider the functional disability of the petitioner at **9%**.

14. **ATTENDANT CHARGES, EXTRA NUTRITIOUS FOOD & CONVEYANCE CHARGES** : The period of hospitalization of 3 days is proved with a help of discharge summary. During the aforesaid period the petitioner might have also spent a considerable amount towards special diet, transportation and nutrition. Considering the rate of inflation and rise in the price index, the same is quantified at Rs.1,500/- per day and a sum of **Rs.3,600/-** (1,200 X 3) is awarded under this head.

15. **PAIN & SUFFERINGS** : On account of the accidental injuries the petitioner would have had undergone pain and mental agony. Having regard to the fractures suffered by the petitioner to weight bearing bones and such other attending circumstances. Thus this Tribunal awards a sum of **Rs.40,000/-** under this head.

16. **LOSS OF INCOME DURING LAID-UP PERIOD:**
Considering the nature of injuries, treatment given and

duration of her stay in the hospital, it is quite natural that petitioner could not have carried out her avocation for atleast 3 months. Thus by taking into account the notional income of the petitioner, this Tribunal awards **Rs.27,000/-** (9,000 X 3) under this head.

17. **MEDICAL EXPENSES** : As per the IP bill marked at Ex.P9, the petitioner has spent Rs.98,372/- towards medical expenses. Nothing worthwhile was elicited during the course of his cross-examination, so as to doubt the genuineness of these bills. Hence petitioner is entitled for Rs.98,372/-which is rounded off to **Rs.98,400/-** towards medical expenses.

18. **LOSS OF FUTURE INCOME DUE TO DISABILITY:**
As per Sarla Verma's case, the appropriate multiplier applicable is '**5**' as the petitioner was aged about **75 years**. This Tribunal has already assessed the notional income of the petitioner at Rs.9,000/- p.m. Hence a sum of

Rs.48,600/- (Rs.9,000 X 12 X 5 X 9/100) is awarded under this head.

19. **LOSS OF FUTURE AMENITIES AND HAPPINESS:**

The disability referred above would have necessarily caused physical deformity with which the petitioner has to live the rest of her life. Hence a sum of **Rs.50,000/-** is awarded under this head.

20. **FUTURE MEDICAL EXPENSES** : No evidence is brought on record to demonstrate the requirement for further treatment and the medical & incidental expenses to be incurred therefrom. In the absence of proof no amount is awarded under this head.

21. The calculation table stands as follows :

1	Attendant charges, extra nutritious food & conveyance charges	:	3,600-00
2	Pain & sufferings	:	40,000-00
3	Loss of income during laid-up period	:	27,000-00
4	Medical expenses	:	98,400-00

5	Loss of future income due to disability	:	48,600-00
6	Loss of future amenities & happiness	:	50,000-00
7	Future medical expenses	:	- Nil -
Total			2,67,600-00

22. REGARDING INTEREST & LIABILITY : Having regard to the nature of the claim and current bank rate of interest, this Tribunal is of the view that if interest at the rate of 6% p.a is awarded, it would meet the ends of justice.

23. There is no dispute with regard to the issuance of insurance policy with respect to container lorry and its validity as on the date of accident. Therefore, the respondent No.1 & 2 being the owner and insurer of the container lorry thereof are jointly and severally liable to pay the aforesaid award amount to the petitioner together with interest @ 6% p.a from the date of claim petition till realization of the entire amount. However the respondent No.2 being the insurer is primarily liable to satisfy the award amount together with

interest within one month from the date of this order. Hence this issue is answered as **Partly in the affirmative**.

24. **ISSUE NO.3** : In view of the discussion made supra, this Tribunal proceeds to pass the following :

ORDER

The petition filed u/s 166 of M.V. Act 1988, is hereby partly allowed with costs in the following terms :

The petitioner is entitled for compensation of **Rs.2,67,600/-** with interest at the rate of **6% p.a.**, from the date of claim petition till realization of the entire award amount.

The **respondent No.2** is liable to pay and directed to deposit the compensation amount within a period of **Two months** from the date of award.

After deposit of compensation amount the office is directed to release the entire share with interest of the petitioner through NEFT/RTGS by way of E-payment on proper identification.

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

Draw award accordingly.

(Dictated to the Stenographer directly on computer and printout taken by him, then corrected and pronounced by me in the open court on this the **4th day of July - 2026**)

(Shreyansh Doddamani)
XXI Addl. Small Causes Judge
& ACJM, Bengaluru.

ANNEXURES

List of witnesses examined for the petitioner/s:

PW.1 : Smt. Revamma
PW.2 : Dr.Nagaraj. B.N
PW.3 : Miss. Mamatha.B.C

List of documents got marked for the petitioner/s:

Ex.P.1 Certified copy of FIR
Ex.P.2 Certified copy of Complaint
Ex.P.3 Certified copy of Spot Mahazar
Ex.P.4 Certified copy of Wound Certificate
Ex.P.5 Certified copy of IMV Report
Ex.P.6 Certified copy of IMV Report
Ex.P.7 Certified copy of Chargesheet
Ex.P.8 Notarized copy of the Aadhaar card of petitioner
Ex.P.9 9 Inpatient bills
Ex.P.10 Medical reports (10 in Nos.)
Ex.P.11 Advance receipts (2 in Nos.)
Ex.P.12 Clinical notes
Ex.P.13 X-ray film

Ex.P.14 Authorization letter

Ex.P.15 MLC

Ex.P.16 Police intimation

Ex.P.17 Inpatient record

List of witnesses examined for the respondent/s:

- None -

List of documents marked for the respondent/s:

- Nil -

(Shreyansh Doddamani)
XXI Addl. Small Causes Judge
& ACJM, Bengaluru.