

KABC020742572024



**BEFORE MOTOR VEHICLES ACCIDENT CLAIMS
TRIBUNAL, BENGALURU CITY**

SCCH-4

PRESENT: Smt.Gayathri S Kate,
B.Com., LL.B.,
XVIII ADDL., JUDGE & ACJM,
Court of Small Causes,
BENGALURU.

Dated this the 1st day of July-2026

MVC No.8243/2024

PETITIONERS:

Sri.Kamlaraju.M.V
S/o.Venkatesh Murrthy.B.T,
Aged about 19 years,
R/at Maruthi Nagar,
Bukkapattana Post,
Koratagere Taluk,
Tumkur Dist. - 572129.

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

V/s

RESPONDENTS:

1.Siddagangappa
S/o.Radha,
R/at No.832, Near Ganesha
Temple, Vinayakangara,
Arasinakunte Post,
Nelamangala Taluk,

Bengaluru Rural District-
562123.

(Exparte)

2. The Manager,
The United India Insurance,
Co.,Ltd., T.P.Hub, Krushi
Bhavan Building, 6th Floor,
Hudson Circle,
Bangalore-560001.

(By Sri.K.P. Adv.,)

JUDGMENT

The petitioner has filed the present claim petition against the respondents under section 166 of MV Act seeking compensation towards the accidental injuries from date of accident till the date of payment together with cost and interest.

2. The factual matrix of the petition in the nutshell is as follows:

On 28.10.2024 at about 10.00 a.m., the petitioner was proceeding in a motor cycle bearing Reg.No.KA-06-HU-1306 Near Beladar, in front of SV Lodge Restaurant &

Bar, Madhugiri-Tumkur SH-33 Road, Kora Hobli, Tumkur. At that time the rider of the motor cycle chasis bearing No.D2B72BX1RCE4977 and Engine No.JEXCRE1925 came in a rash and negligent manner and suddenly took right turn without showing any indication and have not put any indicator. The petitioner lost control over the vehicle and hit against the said motor cycle. Due to the impact of accident, the petitioner fell down and sustained grievous injuries to various parts of the body.

3. Immediately after the accident, the petitioner was shifted to Govt. Hospital, Tumkuru for first aid and later shifted to Victoria Hospital Bengaluru for further treatment and underwent surgeries.

4. The petitioner further pleaded that he has incurred huge amount towards hospitalization, conveyance, medical treatment, attendant, nursing care and other incidental expenses.

5. Petitioner further submits that, he was hale and healthy and was aged about 19 years as on the date of accident. He was a student. Due to the accidental injuries he could not able to do any kind of work compared to his previous strategy. The disability sustained in the accident has impacted on his earning capacity and as such himself and his family have suffered a lot by mentally, physically and financially.

6. The accident has taken place due to the rash and negligent riding of the rider of the motor cycle chasis bearing No.D2B72BX1RCE4977 and Engine No.JEXCRE1925. The respondent No.1 is the owner and respondent No.2 is the insurer of the said vehicle thereby the vicarious liability is operated on respondent No.2 on the indemnified contract and as such, the respondents are liable to pay the compensation.

7. The respondent No.1 is the owner and respondent No.2 is the insurer of the offending vehicle,

are jointly severally liable to pay the compensation to the petitioner. Hence, prays to award compensation of Rs.20,00,000/- with interest from the date of accident till realization.

8. After registration of the petition, notices were issued against respondents. In spite of service of the notice, the respondent No.1 remained absent and was placed ex parte. The respondent No.2 appeared before the court through its counsel and has filed its written statement by denying the entire petition averments. The respondent No.2 pleaded that the insurance policy was in force as on the date of the accident and liability if any is subjected to terms and conditions of the policy. Further denied the age of the petitioner, avocation, income, injuries sustained, treatment underwent by the petitioner, disability certificate obtained by the petitioner, medical expenses, conveyance and nourishment of the said petitioner. Further denied the other contents of the

petition. The compensation claimed by the petitioner is highly excessive and exorbitant. Hence, prays to dismiss the petition.

9. In order to substantiate his claim, the petitioner got examined himself as PW.1 and got marked documents as per Ex.P.1 to Ex.P.12. In addition to his evidence, the petitioner got examined the Medical Record Technician at Victoria Hospital is examined as PW.2 and got marked as per Ex.P.13 and Ex.P14. Dr.Banu Prakash, Neuro & Spine surgeon at Victoria Hospital is examined as PW.3 and got marked as per Ex.P.15 to Ex.P17. Thereby the evidence of petitioner side was completed and case was posted for respondent evidence. The respondent No.2 insurance company has examined its official as RW.1 and got marked documents as per Ex.R.1 to Ex.R.6. and the case was posted for the arguments.

10. Heard the arguments on both side and perused the materials on record.

11. Based on the above said pleading, this tribunal has framed the following issues:

1. Whether the petitioner proves that, he has sustained grievous injuries due to the actionable negligent riding of motor cycle bearing Reg.No. No.D2B72BX1RCE4977 and Engine No.JEXCRE1925 by its driver, in RTA took place on 28.10.2024 at about 10.00 a.m., near Beladar, in front of S.V.Lodge Restaurant and Bard, Madhugiri SH-33 Road, Kora Hobli, Tumkuru?

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

3. What Order or Award?

12. My findings on the above issues are as under.

Issue No.1 : In the Affirmative;
Issue No.2 : Partly in the affirmative,
Issue No.3 : As per the final orders
for the following:-

: R E A S O N S:

ISSUE NO.1 :

13. The petitioner has made stand towards fact and factum of the accident that on 28.10.2024 at about

10.00 a.m., the petitioner was proceeding in a motor cycle bearing Reg.No.KA-06-HU-1306 Near Beladar, in front of SV Lodge Restaurant & Bar, Madhugiri-Tumkur SH-33 Road, Kora Hobli, Tumkur. At that time the rider of the motor cycle chasis bearing No.D2B72BX1RCE4977 and Engine No.JEXCRE1925 came in a rash and negligent manner and suddenly took right turn without showing any indication and have not put any indicator. The petitioner lost control over the vehicle and hit against the said motor cycle. Due to the impact of accident, the petitioner fell down and sustained grievous injuries to various parts of the body.

14. The petitioner has claimed compensation against the respondents urging that the alleged accident took place on the alleged date, time, place and thereby the petitioner was called upon to substantiate the said stand.

15. By responding to the one way burden the petitioner has come up with oral and documentary evidence. The petitioner examined himself as PW.1 and got marked 12 documents in total on his behalf. Further, the petitioner got examined MRD at Victoria Hospital as PW.2 and got marked documents at Ex.P13 and Ex.P14. Further, the petitioner examined doctor as PW.3, who has issued disability certificate to him and got marked 3 documents as per Ex.P15 to Ex.P17. In his chief-examination, PW.1 has reiterated the petition averments and has specifically stated that, the alleged accident has occurred due to rash and negligent parking of the offender vehicle in the middle of the road.

16. The petitioner was subjected to cross-examination by learned counsel for respondent No.2. During the course of cross-examination of PW.1 nothing was elicited from the mouth of PW.1, so as to disbelieve his version.

The Respondent No.2 has examined its official as RW.1 and got marked documents at Ex.R.1 to Ex.R.6. RW.1 has reiterated the contents of written statement filed by the respondent No.1 in his examination in chief. RW.1 was subjected to cross-examination by learned counsel for petitioner during the course of cross-examination of petitioner he had admitted that he has deposed his evidence on the basis of documents submitted by him. He does not have any personal knowledge about the case. The policy was in force as on the date of occurrence of the accident. The police have filed charge sheet against the driver of our insured vehicle.

It is further admitted that based upon police documents RW.1 deposing that the driver of offender vehicle did not possessed valid driving license as on day of occurrence of accident. It is also admitted that RW.1 has not made any efforts to obtain information from any

RTO or through investigating officer of the respondent No.2 insurance company to show that driver of the offender vehicle did not possessed any valid driving license as on day of occurrence of accident. It is also admitted that, the notice issued by respondent No.2 insurance company against RC owner of the offending vehicle is returned with shara insufficient address.

17. The accident in question is not in dispute. Whereas Ex.P.1 is the FIR with complaint, Ex.P2 is the spot mahazar with sketch, Ex.P.3 is the IMV Report, Ex.P4 is the wound certificate, Ex.P5 is the charge sheet which clearly shows that, on the alleged date, time and place of the accident has occurred and in the said accident the offender vehicle is involved in the occurrence of the same.

18. However, the above referred documents clearly indicates that, the accident took place due to the rash and negligent riding of the offender vehicle motor cycle

chasis bearing No.D2B72BX1RCE4977 and Engine No.JEXCRE1925. It is clear from the records that petitioner has sustained grievous injuries and extended with treatment. There is no any adverse material available to disbelieve the stand taken by the petitioner to the extent of the factum of accident as introduced by him. Thus, this tribunal has answered **Issue No.1 in the affirmative.**

ISSUE NO.2:

19. The petitioner has claimed compensation for a sum of Rs.20,00,000/- with interest from the date of accident till its realization. On the basis of the materials on record, it is necessary to examine claim of petitioner in appropriate manner. In support of the case petitioner has come up with various materials. As such it is necessary to examined the materials on record in the parameter of pecuniary and non-pecuniary character.

1. **Pecuniary loss:-** This head of compensation includes compensation towards the loss of earning capacity, medical and future medical expenditure, expenditure incurred towards conveyance allowance, attendant charges, special diet and other miscellaneous expenditure. As such these aspects are to be examined by examining the available materials on record.

(A) **Loss of earning capacity and loss of future income/earnings:-**

In order to determine the compensation under this head, it is necessary to consider the age of injured person, occupation, quantum of income, nature of injuries, percentage of disability and multiplier applicable are to be worked out on the available materials.

(i) **The age and applicable multiplier:-** The petitioner has contended in his petition that, as on the date of accident he was aged about 19 years. The

material pertaining to Cr.No.0122/2024 and other medical documents contemplated as on the date of accident, the petitioner was aged about 19 years. In addition to that, as per driving license, the date of birth is mentioned as 30.07.2005. The date of accident is 28.10.2024. Upon computing the age of the petitioner based on all these materials, it clearly shows that, the petitioner is aged of **19 years** as on the date of occurrence of accident.

As per the documentary evidence available on record, the age of the petitioner is considered as 19 years as on the date of the accident. Applying the law laid down by the **Hon'ble Apex Court in Sarla Verma and others V/s Delhi Transport Corporation and Others Case reported in 2009 ACJ SC 1298**, the multiplier of 19 is applicable to the present content. Hence, the multiplier of **19** is considered to determine the claim made herein.

(ii) **The occupation of petitioner and quantum of income:-** The petitioner has contended that, prior to the accident he was hale and healthy and was Student of EC. He has not produced any documents to prove the said income. Hence, in the absence of express proof, it is necessary to determine the income of the petitioner based on the principles of notional income.

The Karnataka State Legal Service Authority has fixed a chart for notional income. By placing reliance on the said income slab. The income of the petitioner is to be determined. As per the said chart the income of the petitioner is considered as **Rs.16,500/-** per month as operated to the **year 2024**. The annual income of the petitioner shall arrive at **Rs.1,98,000/-** (Rs.16,500 X 12)

(iii) **Nature of injury and percentage of disability:-** To prove the nature of injuries sustained by the petitioner he has examined one doctor Banu Prakash., Orthopedic Surgeon at Shreyas Clinic, Senior

Consultant Neurosugeon and Spine Surgeon, Bengaluru, is examined as PW.3 and got marked documents as per Ex.P.15 to Ex.P.17. PW.3/doctor has deposed that, the petitioner has sustained head injury left ear bleed, left temporal contusion EDH, leg occipital SAH, left foot degloving injury with fracture. This witness has opined that, petitioner has sustained permanent physical total disability of the whole body is 53%.

The Hon'ble High Court of Madhya Pradesh on the 23rd of September, 2023 in MISC. APPEAL No. 3496 of 2019 has opined that

“This court is of the considered opinion that merely because Dr.Ashish Mehrotra was not the treating doctor, his testimony cannot be discarded, and the Claims Tribunals should also keep this aspect in mind that not all the doctors are always willing to come to court to be subjected to cross examination, and in such circumstances, if a disability certificate has been issued by a non-treating doctor, its evidentiary value should be assessed on its own merits, without being influenced by the fact that the doctor issuing the same is not a treating doctor. This court is also of the opinion

that merely because a disability certificate has been issued after some delay, it cannot be rejected on its face value, unless some specific reasons are assigned for the same.”

However, in Human Anatomy i.e., the scientific study of structure of human body, the said human body is divided into 3 parts i.e., Head, Trunk and Tail. Applying the said study to the assessment of the disability, then the disability to particular limb is to be divided by 3, wherein we arrive disability to whole body.

In the present case, the doctor has assessed 53% disability to the whole body. But, this Court calculates disability to whole body as **1/3rd**. Therefore, disability to whole body at 1/3rd arrives at 17.66% which can be rounded as **18%**. **The said 18% is considered as a disability to the whole body in this case.**

To prove the nature of her injuries the petitioner has examined one Nagaraja.G.V., Medical Record Technician at Victoria Hospital, Bengaluru, as PW.2,

though him, authorization letter and inpatient records are marked under Ex.P.13 and Ex.P.14. These documents shows that petitioner has taken treatment in Victoria hospital, Bengaluru.

Annual income X Multiplier X permanent physical disability = Loss of earning capacity.

Rs.1,98,000 X 18 X 18/100= Rs.6,41,520/-.

Thereby the petitioner is entitled to compensation of **Rs.6,41,520/-** towards **loss of earning capacity and future earnings.**

The petitioner was student and contended that, he used to earn Rs.16,500/- per month. As the petitioner has not produced any documents to prove his income. In the absence of proof, the notional income is considered as Rs.16,500/- per month. Under the circumstances, the per day income of the petitioner would arrive at Rs.550/-.

As per the discharge summary the petitioner was admitted to hospital as an inpatient for 12 days and after discharge from the hospital there must be necessary to take bed rest for at least 48 days. So, the petitioner is entitled to compensation towards **laid up period with one attendant charge** at the same rate which comes to **Rs.66,000/-** (60 days X 550 = Rs.33,000 + 33,000).

(B) Medical expenditure:-

The petitioner contended that, he has incurred huge expenses towards hospitalization, conveyance, medical treatment, attendant and nursing care expenses. The petitioner has placed his reliance on medical bills. On perusal of the same it is arrived at **Rs.9,930/-** as per Ex.P.9.

(C) Future medical expenditure

The petitioner has claimed compensation towards future medical expenses, follow up treatment and even

the doctor/PW.3 has deposed in this regard. **Therefore, the petitioner is not entitled for the compensation under this head.**

(D) Conveyance allowances, food, nourishment and special diet:-

As per the available material it is clear that the petitioner was under treatment for a period of 12 days. This shows that petitioner has incurred expenditure towards conveyance, food, nourishment and special diet to meet the treatment. Under the circumstances if the conveyance charges fixed at Rs.1,000/- per day then it is necessary to award compensation of **Rs.12,000/-** (Rs.1,000/- X 12 days) towards conveyance allowance, food, nourishment and special diet.

(e) Pain and sufferings and mental agony:-

According to medical records, the petitioner has sustained injuries as on the date of accident. The said

accidental injuries have caused lot of pain to suffer in the future life span. Pain and suffering would be categorized as a non-pecuniary loss as it is incapable of being arithmetically calculated. Therefore, when compensation is to be awarded for pain and suffering, special circumstances of the claimant have to be taken into account including the victim's age, the unusual deprivation the victim has suffered, the effect thereof on his or her future life. Considering the nature of the injuries caused to the petitioner. Hence the petitioner is awarded with compensation of **Rs.20,000/-** under this head.

(f) Loss of enjoyment of life and amenities of life:-

This includes a variety of matters such as the inability to walk, run or sit, etc. This shows that the injuries caused to petitioner has impacted on the enjoyment of the personal life and amenities of life.

Hence, it is necessary to award compensation of **Rs.10,000/-** under this head.

20. Based on aforesaid considered heads of compensation the tabulations is calculated as below:

Sl.No.	Particulars	Amount
1	Loss towards earning capacity/ loss of future income	Rs. 6,41,520/-
2	Loss of income during the laid up period	Rs. 66,000/-
3	Medical expenses	Rs. 9,930/-
4	Future Medical expenses	-NIL-
5	Conveyance allowance, food, nourishment and special diet	Rs. 12,000/-
6	Pain and sufferings	Rs. 20,000/-
7	Loss of enjoyment and loss of amenities of life	Rs. 10,000/-
	Total	Rs. 7,59,450/-

Hence, the petitioner is entitled for total compensation award amount of **Rs.7,59,450/-** which is just and proper.

21. Admittedly, the respondent No.1 is the owner and respondent No.2 is the insurer of the offending vehicle. Hence, the respondents No.1 and 2 are jointly and severally liable to pay compensation to the petitioner. The respondent No.2 being the insurer is bound to indemnify the respondent No.1. Hence, respondent No.1 is liable to pay the compensation to petitioner with interest at the rate of 6% p.a., **Accordingly, I answer this issue partly in the affirmative.**

ISSUE NO.3:

22. For the foregoing reasons, I proceed to pass the following:

ORDER

The petition filed by the petitioner U/s 166 of the Motor Vehicles Act is hereby allowed in part with cost.

The petitioner is entitled for total compensation amount of **Rs.7,59,450/-**
{future medical expenses shall not carry

any interest}, with interest at the rate of **6%** p.a., from the date of petition till the realization from respondents.

The respondent No.2 is directed to deposit the compensation amount within 60 days from the date of this order.

Considering the quantum of amount awarded to petitioner, it is ordered to release the entire amount in his favour.

Advocate fee is fixed at 1,500/-.

Draw up award accordingly.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced in the open court on this the 1st day of July, 2026)

(Gayathri S Kate)
XVIII ADDL.JUDGE & ACJM
Court of Small Causes
Bengaluru.

ANNEXURE

List of witnesses examined for petitioners:

PW.1	Sri.Kamalraju M.V.
PW.2	Sri.Nagaraja.G.V.
PW.3	Dr.Banu Prakash.S

List of documents marked on behalf of the petitioners:

Ex.P1	True copy of FIR with complaint
Ex.P2	True copy of Spot Mahazar along with sketch
Ex.P3	True copy of IMV report
Ex.P4	True copy of Wound certificate
Ex.P5	True copy of Charge sheet
Ex.P6	Notarized copy of DL
Ex.P7	Original OPD book
Ex.P8	Original discharge summaries along with follow up records
Ex.P9	Medical bills
Ex.P10	Medical prescriptions
Ex.P11	Ultra sound scan report with film
Ex.P12	Photographs with CD
Ex.P13	Authorization letter
Ex.P14	Inpatient records
Ex.P15	OPD records with clinical assessment review and calculation of the disability
Ex.P16	Follow up records with audiometer report
Ex.P17	Neuropsychological assessment

List of witnesses examined for Respondents:

RW.1 : Sri Prashanth N.G.

List of documents marked on behalf of the Respondents:

Ex.R1 : Authorization letter
Ex.R2 : Insurance policy
Ex.R3 : 133 notice

Ex.R4 : Reply
Ex.R5 : Office copy of letter dated
19.12.2024 issued against
respondent No.1
Ex.R6 : Unserved RPAD postal cover with
shara insufficient address

*XVIII ADDL.JUDGE & ACJM
Court of Small Causes
Bengaluru.*