



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 19TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 100151 OF 2022 (MV-I)

BETWEEN:

VISHWANATH S/O. NARAYAN NAIK
AGE ABOUT 58 YEARS,
OCC. AGRICULTURE AND COOLIE
R/O. YANTAGADDE, BALEGADDE,
SIRSI TALUK, UTTARA KANNADA DIST-581 401.

...APPELLANT

(BY SRI K. RAGHAVENDRA RAO K. AND
SMT. V. VIDYA IYER, ADVOCATES)

AND:

1. KARIBASAPPA S/O. CHANDRASHEKHARAPPA
MAJOR,
R/O. VINAYAK COLONY,
NEAR PRASHANTI, HKH HOSPITAL SIRSI,
UTTARA KANNADA, DIST-581 401.
(OWNER OF THE MARUTI ALTO CAR BEARING REG.
NO.K.A-31-M-7076)
2. I.C.I.C.I LOMBARD GENERAL INSURANCE
COMPANY LIMITED



I.C.I.C.I LABORD HOUSE 414,
VEERA SAVARKAR MARG, NEAR SIDDHI,
VINAYAKA TEMPLE, PRABHADEVI,
MUMBAI-400025,
REPRESENTED BY ITS
DIVISIONAL MANAGER,
(POLICY NO.3001/A/MI-04601543/00/000
VALIDITY. 31-03-2017 TO 30-03-2018)

3. NAGARAJ S/O. SHANKAR NAIK
MAJOR,
R/O. TUMBEMANE,
SHIVALLI, PANCHALINGA POST,
SIRSI TALUK, UTTARA KANNADA
DISTRICT-581 401.

(DRIVER OF THE MARUTI ALTO
CAR BEARING REG.NO.KA-31-M-7076)

...RESPONDENTS

(BY SRI SURESH S. GUNDI, ADVOCATE FOR R2;
NOTICE TO R1 AND R3 DISPENSED WITH)

THIS MFA IS FILED U/S.173 (1) OF MOTOR VEHICLES ACT,
1988, PRAYING TO ENHANCE THE COMPENSATION AND MODIFY
THE JUDGMENT AND AWARD DATED 26.03.2021 PASSED IN
MVC NO.282/2018 ON THE FILE OF THE SENIOR CIVIL JUDGE
AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, SIRSI.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.



ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

Injured claimant is before this Court under Section 173(1) of the Motor Vehicles Act, 1988 (for short, 'Act, 1988') not being satisfied with the quantum of compensation awarded under judgment and award dated 26.03.2021 in MVC No.282/2018 on the file of Senior Civil Judge and Additional MACT, Sirsi (for short, 'Tribunal') and praying for enhancement of compensation.

2. The claimant filed claim petition under Section 166 of Act, 1988 claiming compensation for the accidental injuries suffered in an accident that occurred on 08.03.2018 involving motorcycle bearing Reg.No.KA-31/Y-9482 and Maruthi Alto Car bearing Reg.No.KA-31/M-7076. It is stated that the claimant had sustained GA type III B left distal radius fracture with radial styloid bone loss with loss of ECRB and EPL tendon with superficial radial nerve injury. It is stated that the injured appellant was earning a sum of



₹.15,000/- as agricultural coolie and was aged about 46 years.

3. On issuance of notice, respondent No.2-insurance company appeared through its counsel and filed its objection contending that there was no negligence on the part of the driver of the Maruti Alto Car and accident occurred solely due to the rash and negligent driving of the appellant-rider of the motorcycle. It is also contended that the driver of the Maruti Alto Car had no valid and effective licence to drive the vehicle as on the date of accident.

4. The Tribunal on scrutiny of the material on record, awarded total compensation of ₹.6,67,200/- to the appellant on the following heads:

01.	Towards pain and sufferings.	₹.70,000-00
02.	Towards medical expenses.	₹.75,200-00
03.	Towards Food, nourishment charges	₹.20,000-00
04.	Towards Transportation charges	₹.20,000-00
05.	Towards laid up charges	₹.60,000-00
06.	Towards loss of future earning capacity on account of permanent disability	₹.3,12,000-00



07.	Towards loss of amenities	₹.70,000-00
08.	Towards Attendant charges	₹.15,000-00
09.	Towards Future expenses	₹.25,000-00
Total		₹.6,67,200-00

5. Not being satisfied with the quantum of compensation, the claimant-appellant is before this Court in this appeal.

6. Heard learned counsel, Smt.V.Vidya Iyer for appellant and learned counsel, Sri Suresh S Gundi for respondent No.2-insurer. Perused the entire appeal papers including trial court records.

7. Learned counsel for the appellant would contend that the Tribunal committed an error in assessing the income of the appellant-claimant injured at ₹.10,000/- per month. Learned counsel would submit that, in the absence of the material to establish income, the Tribunal ought to have assessed the income of the claimant-appellant notionally placing reliance on the chart prepared by the



Karnataka State Legal Services Authority. Learned counsel would submit that in terms of the chart prepared by the the Karnataka State Legal Services Authority, the income to be taken for accidents of the year 2018 is ₹.11,750/-. Therefore, she prays that the income of the claimant-appellant be assessed at ₹.11,750/- per month.

8. Further, learned counsel would submit that the Tribunal without there being any material on record, fastened contributory negligence of 50% on the claimant-appellant, which is wholly erroneous. Learned counsel would submit that there is no material whatsoever to establish that the claimant-appellant was negligent in his driving and due to his negligence, the accident has taken place.

9. On the other hand, learned counsel for the appellant would submit that only on the ground that the appellant had no valid and effective licence to drive the two-wheeler, the Tribunal has presumed that the appellant was negligent in driving and fastened 50% contributory



negligence on the claimant-appellant. Hence, it is prayed to set aside the said finding and to fasten the entire liability on the insurer.

10. Per contra, learned counsel, Sri Suresh S Gundi for insurer would not dispute the notional income to be assessed at ₹.11,750/- in terms of the chart prepared by the Karnataka State Legal Services Authority. However, learned counsel would submit that admittedly the appellant-claimant had no licence to drive two-wheeler as on the date of accident and non-possession of the licence itself is negligence on the part of the appellant rider of the motorcycle.

11. Further, learned counsel would submit that the accident is head-on-collision as observed by the Tribunal and when there is head-on-collision, unless negligence is on both the drivers of the vehicle, the head-on-collision would not occur. Hence, he submits that the Tribunal is justified in fastening liability of 50% on the rider of the motorcycle.



Thus, he would pray for passing appropriate order in the above appeal.

12. Having heard learned counsels for the parties and on perusal of the entire appeal papers including the trial court records, the following points would arise for consideration:

1. Whether the income assessed by the Tribunal at ₹.10,000/- per month of the appellant/claimant injured is proper and correct?
2. Whether the Tribunal is justified in fastening 50% of contributory negligence on the claimant-appellant?

13. Our answer to the above points would be in the '**negative**' for the following reasons:

14. The accident that took place on 08.03.2018 involving motorcycle bearing Reg.No.KA-31/Y-9482 and Maruthi Alto Car bearing Reg.No.KA-31/M-7076 and the accidental injuries sustained by the claimant-appellant is



not in dispute in this appeal. The claimant is before the Court praying for enhancement of compensation not being satisfied with the quantum of compensation awarded by the Tribunal.

15. The claimant-appellant states that he was an agricultural coolie and was earning ₹.15,000/- per month, but no material whatsoever is placed on record to establish his income. In the absence of material to establish income, it is for the Tribunal to assess the income notionally. The notional income determined by the Karnataka State Legal Services Authority for the accidents of the year 2018 is ₹.11,750/- p.m. The income of the appellant-claimant assessed by the Tribunal at ₹.10,000/- p.m. is on the lesser side and it needs to be reassessed at ₹.11,750/-. Accordingly, the income of the claimant-appellant is reassessed at ₹.11,750/- per month.

16. The claimant had sustained GA type III B left distal radius fracture with radial styloid bone loss with loss



of ECRB and EPL tendon with superficial radial nerve injury and the Tribunal based on the medical evidence, has assessed the whole body disability at 20%, which needs no interference. The multiplier adopted by the Tribunal is just and proper. Hence, the compensation payable under the head loss of future earning capacity on account of permanent disability would be ₹.3,66,600/- ($₹.11,750 \times 12 \times 13 \times 20\%$) as against ₹.3,12,000/- awarded by the Tribunal.

17. Further, the compensation awarded by the Tribunal towards laid up period needs to be reassessed taking the income of the injured at ₹.11,750/-. Considering the nature of injuries sustained by the claimant, the claimant would be entitled for ₹.70,500/- ($₹.11,750 \times 6$ months) under the head laid up period.

18. As far as the compensation awarded by the Tribunal under other heads is concerned, the same needs



no interference. Thus, the claimant is entitled for the following compensation:

Sl.No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
01.	Towards pain and sufferings.	₹.70,000-00	₹.70,000-00
02.	Towards medical expenses.	₹.75,200-00	₹.75,200-00
03.	Towards Food, nourishment charges	₹.20,000-00	₹.20,000-00
04.	Towards Transportation charges	₹.20,000-00	₹.20,000-00
05.	Towards laid up charges	₹.60,000-00	₹.70,500/-
06.	Towards loss of future earning capacity on account of permanent disability	₹.3,12,000-00	₹.3,66,600/-
07.	Towards loss of amenities	₹.70,000-00	₹.70,000-00
08.	Towards Attendant charges	₹.15,000-00	₹.15,000-00
09.	Towards Future expenses	₹.25,000-00	₹.25,000-00
Total		₹.6,67,200-00	₹.7,32,300/-



19. The Tribunal is not justified in coming to the conclusion that there is negligence on the part of the claimant-appellant in the accident and fastening liability to an extent of 50%. At paragraph No.16, the Tribunal has given a finding that accident is a head-on-collision, which shows both the rider and the car driver are equally negligent on their part in driving the vehicles. The said finding is without any basis and the spot panchanama would indicate that the accident had taken place 4 feet from the edge of the road and road width was more than 18 feet. It also indicates that the car, which was coming from the opposite side had taken to right and dashed to the claimant-appellant, who was riding the motorcycle. Merely because the claimant, who was riding the motorcycle had no licence, the Tribunal could not have fastened contributory negligence to an extent of 50% on the claimant-appellant. Moreover, charge-sheet has been filed on the driver of the Maruti Alto car.



20. In the absence of material to establish negligence on the part of the claimant-appellant, the finding of the Tribunal that the rider of the motorcycle is equally negligent, is erroneous and perverse. Thus, the said finding is set aside. The insurer is liable to indemnify the claimant-appellant with entire compensation awarded to the claimant.

21. In the above circumstances, we pass the following:

ORDER

a) Appeal is ***allowed in part.***

b) The impugned judgment and award of the Tribunal is modified holding that the claimant is entitled to a total compensation of **₹.7,32,300/-** as against **₹.6,67,200/-** awarded by the Tribunal.



- c) The enhanced compensation amount will bear interest at the rate of 6% per annum from the date of claim petition till the date of realization.
- d) The respondent-Insurer shall deposit the compensation amount with accrued interest before the Tribunal within eight weeks from the date of receipt of certified copy of this judgment.
- e) Draw modified award accordingly.
- f) No order as to costs.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(GEETHA K.B.)
JUDGE

SH
LIST NO.: 1 SL NO.: 37