



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 14TH 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. 100329 OF 2023 (MV-I)

BETWEEN:

RAMACHANDRA SUBRAMANYA BHOVI
S/O. SUBRAMANYA BHOVI
AGED ABOUT 36 YEARS ,
R/AT: NIDAGOD, SIRSI TALUK,
UTTARA KANNADA-581340.

...APPELLANT

(BY SMT. VIDYA IYER, ADVOCATE)

AND:

THE MANAGING DIRECTOR NWKRTC,
GOKUL ROAD, HUBLI TALUK,
DHARWAD DISTRICT-580030,
REP. BY DIVISIONAL CONTROLLER,
SIRSI DIVISION, SIRSI
BUS BEARING REG NO.KA-42 F-993.

...RESPONDENT

(BY SRI KINI N.S., ADVOCATE)

THIS MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 20.08.2019 PASSED IN MVC NO.112/2018 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, SIRSI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.



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 MRS JUSTICE GEETHA K.B.)

The appellant is before this Court under Sec.173(1) of Motor Vehicles Act, 1988 (for short 'the MV Act') praying for modifying the judgment and award passed in M.V.C. No.112/2018 on the file of Senior Civil Judge and Addl. MACT, Sirsi (for short, ' the Tribunal'), in respect of saddling 50% contributory negligence on the rider of motor vehicle and also praying for enhancement of compensation.

2. Parties would be referred to by their ranks, as they were before the Tribunal, for sake of convenience and clarity.

3. Petitioner has filed claim petition under Section 166 of MV Act, praying for compensation in respect of the injuries he sustained in the road traffic accident that had



taken place on 12.10.2017 at 08.45 a.m. at Kemmangatti Taggu, Yelugar involving Motorcycle bearing registration No.KL-31-L-4199 and NWKRTC bus bearing registration No.KL-42-F-993.

4. Case of the claimant in nutshell is that on 12.10.2017 at 08.45 p.m., when petitioner was riding his motorcycle bearing registration No.KL.31-L.4199 near Kemmangatti Taggur, Yelulgar, a NWKRTC Bus bearing registration No.KL.42-F.993 came from opposite direction from Heroor to Balesar cross side in great speed, rashly and negligently and dashed against the motorcycle and thereby caused the accident which resulted in grievous injuries to the face, hands, legs of claimant. Immediately, he was shifted to KIMS Hospital, Hubballi, wherein his leg was operated and then he has taken treatment at SDM Hospital, Dharwad for mandible injuries and after discharge, he has attended periodical check-up. Before the accident, claimant was hale and healthy, doing coolie work and earning ₹9,000/- per month and due to accidental impact, he is



unable to work as earlier. There is permanent disability to his leg. Hence, claimed compensation under different heads.

5. Respondent appeared through his counsel and filed its objection statement wherein he denied the manner of accident stated in the petition, the injuries sustained by the claimant and further contended that the accident happened mainly because of rash and negligent riding of the motorcycle bearing registration No.KL-31-L-4199, who came suddenly from opposite direction by cross-road with great speed and dashed against the bus and thereby caused the accident. Hence, prayed for dismissal of the petition.

6. On behalf of claimant, claimant was examined as P.W.1, examined doctor as P.W.2 apart from marking Exs.P.1 to P.18 and closed his side before the Tribunal. On behalf of respondent, R.W.1 is examined and authorisation letter is marked as Ex.R.1 before the Tribunal.

7. After recording evidence of both sides, hearing arguments of both sides, the Tribunal came to the



conclusion that totally the claimant is entitled for ₹5,29,700/- as compensation under following different heads:-

1.	Towards pain and sufferings.	Rs. 70,000-00
2.	Towards medical expenses.	Rs. 33,700-00
3.	Towards food, nourishment charges	Rs. 20,000-00
4.	Towards Transportation charges	Rs. 20,000-00
5.	Towards laid up charges	Rs. 48,000-00
6.	Towards loss of future earning capacity on account of permanent disability	Rs.2,88,000-00
7.	Towards loss of amenities	Rs. 50,000-00
Total		Rs.5,29,700-00

8. But there was contributory negligence of 50% on the part of rider of the motorcycle and thus awarded compensation of ₹2,64,850/- against the respondent.

9. Aggrieved by the same, the claimant-appellant has preferred the present appeal.

10. Learned counsel for appellant Smt. B.Vidya Iyer would submit that even as per the KSLSA guidelines, notional income of claimant ought to have been taken at ₹10,250/- per month as the accident happened during October 2017. But the Tribunal Court has taken it as only



₹8,000/- per month. The claimant was inpatient for 47 days. Hence, laid up charges granted by the Tribunal is insufficient and the compensation awarded on all other heads is on lower side. Furthermore, when there is an accident between motorcycle and the NWKRTC bus, the Tribunal ought not to have held that there was 50% contributory negligence on the part of rider of Motorcycle. Learned counsel for appellant would further submit that the road was up-gradient from the side of motorcyclist and down-gradient from the side of NWKRTC bus and hence, the contributory negligence of 50% considered by the Tribunal is incorrect. Hence, prayed for allowing the appeal.

11. Sri Kini N.S. learned counsel for respondent would submit that in the cross-road, the appellant-rider of the motorcycle came rashly and negligently towards the main road and hit towards the NWKRTC bus and thus considering this, rightly the Tribunal assessed contributory negligence of 50% to the rider of the motorcycle. He further would submit that the compensation awarded by the



Tribunal on all heads is correct except fairly conceding that the income of claimant ought to have been taken at ₹10,250/- instead of ₹8,000/- per month. Hence prayed for dismissal of the appeal.

12. Having heard the arguments of both sides and verifying the appeal papers and trial Court records, the points that would arise for consideration are:

- i) Whether considering 50% contributory negligence on the part of rider of motorcycle by the Tribunal is proper?
- ii) Whether claimant is entitled for enhanced compensation?

13. Our finding on point No.1 is in 'negative' and point No.2 in 'affirmative' for the following reasons:-

14. **POINT No.1:-** The date, time and place of accident are not in dispute. On perusal of trial Court records especially the spot panchanama as per Ex.P3, it



prima facie reveals that the bus dragged the motorcycle for some distance before stopping and the rider of motorcycle had sustained bleeding from his ear and was not in a position to speak. Bus was coming from Balesar road and motorcycle was going from its opposite direction. FIR and charge sheet is filed against the driver of the NEKRTC bus.

15. The driver of the bus was examined as R.W.1. In his cross-examination, R.W.1 has deposed that he had been to police station to lodge the complaint against rider of the motorcycle, but the complaint was not received by the police. However, to substantiate it, he has not furnished any material. Further, admittedly charge sheet is filed against him and he was facing trial of criminal case at the time of giving evidence.

16. The rider of motorcycle i.e., the claimant was not having valid driving licence at the time of accident and he has specifically deposed in his cross examination that he was in a hurry to go to his job and hence he was going on



the motorcycle of his brother; bus was coming from down-gradient and he was going up-gradient and there is a curve in the road at the place of accident.

17. The above facts clearly establish that the accident happened on the curve of the road and the claimant was also in a hurry to go to his job and was not having valid and effective driving licence at the time of driving the vehicle. These facts clearly establish that there is contributory negligence on the part of claimant in causing the accident. However, it is not 50% as decided by the Tribunal. On perusal of the spot panchanama, oral evidence of P.W.1 and R.W1, we are of the opinion that there is 10% contributory negligence from the side of claimant in riding the motorcycle. However, the Tribunal has exaggerated it and enhanced it to 50%. Hence, to that extent, the finding of Tribunal is to be modified. Accordingly, this point is answered in 'negative'.



18. **Point No.2:** The accident was taken place during October-2017. There is no document produced to show the actual income of the claimant. Under those circumstances, as per the notional income fixed by KSLSA for Lok Adalat is to be considered. According to it, the notional income of claimant is to be taken at ₹10,250/-. But the Tribunal has taken it at ₹8,000/- which is incorrect.

19. On perusal of the evidence of doctor and other material evidence, it could be assessed that the claimant has sustained fracture of femur bone and right zygomatico maxillary complex fracture, right condylar & right parasymphysis and fracture of mandible. Doctor assessed disability of 40% to right lower limb; the Tribunal assessed that there is disability of 20% to the whole body. However, the doctor has given evidence that the disability would come down after removal of implants. Hence, the disability to particular limb is to be taken at 30% and it will be 10% to the whole body; but the Tribunal wrongly assessed it at 20%. Hence, it requires interference.



20. The income of claimant is to be taken at ₹10,250/- per month. The age of claimant is 36 years. Hence, as per the guidelines given by Hon'ble Supreme Court in the case of ***Sarla Verma and Others vs. Delhi Transport Corporation and Another*** reported in **(2009) 6 SCC 121**, the relevant multiplier is 16; but The Tribunal wrongly applied multiplier of 15. Thus, the loss of future income of the claimant would be $₹10,250 \times 12 \times 16 \times 10\% = ₹1,96,800/-$.

21. Considering three fractures to the claimant, the Tribunal rightly assessed pain and sufferings at ₹70,000/- and by examining medical bills, it has awarded ₹33,700/-. We do not find requirement of interference on these two heads. Considering the total laid up period of claimant as 47 days, and the nature of injury sustained by the claimant, towards food nourishment and attendant charges total ₹40,000/- is to be awarded instead of ₹20,000/- awarded by the Tribunal; likewise towards transportation charges total of ₹25,000/- is to be awarded instead of ₹20,000/-



awarded by the Tribunal. As far as laid up charges is concerned, Tribunal assessed ₹48,000/- under this head by taking his income at ₹8,000/-. However, as discussed above, his income is to be taken at ₹10,250/- per month. Hence, under this head, he is entitled for ₹10,250 x 6 = ₹61,500/-. Towards loss of amenities, he is entitled for compensation of ₹70,000/- instead of ₹50,000/- awarded by the Tribunal.

22. Thus, the claimant would be entitled to modified compensation as under:

1.	Towards pain and sufferings.	Rs. 70,000-00
2.	Towards medical expenses.	Rs. 33,700-00
3.	Towards food, nourishment charges	Rs. 40,000-00
4.	Towards Transportation charges	Rs. 25,000-00
5.	Towards laid up charges	Rs. 61,500-00
6.	Towards loss of future earning capacity on account of permanent disability	Rs.1,96,800-00
7.	Towards loss of amenities	Rs. 70,000-00
Total		Rs.4,97,000-00

23. Thus claimant is entitled for total compensation of ₹4,97,000/-. Out of this amount 10% is to be deducted towards contributory negligence from the claimant himself.



Thus, claimant is entitled for (₹4,97,000/- minus 10% i.e. ₹49,700/- = ₹4,47,300/- with interest at 6% per annum from date of petition till realisation. Hence, we proceed to pass the following order.

24. Hence, we pass the following order:

ORDER

- a) The appeal is ***allowed in part.***
- b) The impugned judgment & award passed by the Tribunal is modified to an extent that the claimant would be entitled to total compensation of **₹4,47,300/-** as against ₹2,64,850/- awarded by Tribunal.
- c) The enhanced compensation amount will bear interest at the rate of 6% per annum from the date of petition till realization.



- d) Respondent-Insurance Company shall deposit the enhanced compensation amount along with accrued interest before the Tribunal within a period of six weeks from the date of receipt of certified copy of this judgment.
- e) On such deposit, the same shall be released in favour of the appellant/claimant.
- f) Draw modified award accordingly.

**Sd/-
(S G PANDIT)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**