

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 24TH DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.101749 OF 2015

C/W.

MISCELLANEOUS FIRST APPEAL NO.101750 OF 2015

IN MFA NO.101749/2015
BETWEEN

KUMARI PRIYANKA D/O. RAGHAVENDRA GONDALI @ JOSHI
AGE: 10 YEARS, OCC: STUDENT,
SINCE MINOR R/BY M/G MOTHER
SMT. GEETHA W/O. RAGHAVENDRA GONDALI @ JOSHI,
AGE: 34 YEARS, OCC: AGRICULTURE,
R/O: TAVARAGERA,
TQ: KUSTAGI, DIST: KOPPAL,
NOW AT GOURISHANKAR NAGAR,
RANEENNUR, TQ: RANEENNUR, DIST: HAVERI.

...APPELLANT

(BY SRI G.S.HULMANI, ADVOCATE)

AND

- 1 . MALLESH S/O. SHIVAPPA MADIWALAR
AGE: MAJOR, OCC: BUSINESS
R/O: SECTOR NO.42, PLOT NO.24,
NAVANAGAR, BAGALKOT, DIST: BAGALKOT.
- 2 . THE DIVISIONAL MANAGER
NATIONAL INSURANCE CO. LTD.,
SUJATHA COMPLEX, OPP. P.B. ROAD, HUBBALLI.

...RESPONDENTS

(BY SRI M.K. SOUDAGAR, ADVOCATE FOR R2;
R1-NOTICE DISPENSED WITH)

THIS MFA IS FILED U/S.173(1) OF MV ACT, 1988, PRAYING TO
CALL FOR RECORDS AND MODIFY THE JUDGMENT & AWARD

DATED:05.01.2015, PASSED IN MVC.NO.627/2013, ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND MEMBER, ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, RANEBENNUR AND ENHANCE THE COMPENSATION AS PRAYED FOR, COST OF THE APPEAL AND ETC.,

IN MFA NO.101750/2015
BETWEEN

LAXMAN S/O. HANUMANTHAPPA @ HANUMANTHASHASTRI JOSHI
AGE: 25 YEARS, OCC: AGRICULTURE AND MEDICAL
REPRESENTATIVE NOW NIL,
R/O: TAVARAGERA,
TQ: KUSTAGI, DIST: KOPPAL,
NOW AT GOURISHANKAR NAGAR,
RANEBENNUR, TQ: RANEBENNUR, DIST: HAVERI.

...APPELLANT

(BY SRI G.S. HULMANI, ADVOCATE FOR APPELLANT)

AND

1 . MALLESH S/O. SHIVAPPA MADIWALAR
AGE: MAJOR, OCC: BUSINESS,
R/O: SECTOR NO.42, PLOT NO.24,
NAVANAGAR, BAGALKOT, DIST: BAGALKOT.

2 . THE DIVISIONAL MANAGER
NATIONAL INSURANCE CO. LTD.,
SUJATHA COMPLEX, OPP. P.B. ROAD, HUBBALLI

...RESPONDENTS

(BY SRI M.K. SOUDAGAR, ADVOCATE FOR R2;
R1-NOTICE DISPENSED WITH)

THIS MFA FILED U/S 173(1) OF MV ACT 1988, PRAYING TO CALL FOR THE RECORDS AND MODIFY THE JUDGMENT AND AWARD DATED 05.01.2015 PASSED IN MVC NO.629/2013 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND MEMBER ADDITIONAL MOTOR ACCIDENT CLAIM TRIBUNAL, RANEBENNUR, AND ENHANCE THE COMPENSATION AS PRAYED FOR, COST OF THE APPEAL AND ETC.,

THESE APPEALS HAVING BEEN HEARD AND RESERVED ON 07.11.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, DELIVERED THE FOLLOWING:

CAV JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

These appeals are listed for admission. However, with the consent of learned counsels for the parties they are heard together and disposed of by this common judgment.

2. Both these appeals arise out of common judgment and award dated 05.01.2015 passed in M.V.C. No.627/2013 and M.V.C. No.629/2013 by the Additional Senior Civil Judge and Additional Motor Accident Claims Tribunal, Ranebennur (for short, 'the Tribunal') relating to the same accident.

3. The appeal in M.F.A. No.101749/2015 is filed by the claimant in M.V.C. No.627/2013 and M.F.A. No.101750/2015 is filed by claimant in M.V.C. No.629/2013 praying for enhancement of the compensation.

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

5. The claimants have filed the claim petitions under Section 166 of Motor Vehicles Act praying for compensation in respect of the accident that has taken place in between motor cycle bearing Reg.No.KA-15/S-726 and KA-29/M-1570 on

12.02.2013 at 02.30 p.m. on Ilkal-Hungund NH-50 road near Prakash Dhaba and due to that both claimants have sustained grievous injuries. Thus, the claimants have filed separate claim petition seeking compensation.

6. On receipt of notice, respondent No.1 appeared through his counsel and filed his objection statement denying the entire averments of the petitions and further held that his vehicle was insured with respondent No.2 and driver was having valid and effective driving licence as on the date of accident and hence, if the Tribunal comes to the conclusion that compensation to be payable to the claimants, then it shall be saddled upon respondent No.2-insurer and hence prayed for dismissal of the petitions.

7. On service of notice, respondent No.2 appeared through its counsel and filed objection statement, wherein it denied the entire averments made in the petition except admitting that the TATA Sumo bearing Reg.No.KA-29/M-1570 was validly insured with it and contended that the driver was not having valid driving licence. It would further contend that the accident happened in between two vehicles and it is mainly due

to rash and negligent riding of the rider of the motor cycle bearing Reg.No.KA-15/S-726 and thus prayed for dismissal of the claim petitions.

8. On behalf of claimants, 4 witnesses were examined as P.W.1 to P.W.4 apart from marking Exs.P.1 to P.57 and closed their side before the Tribunal. On behalf of respondents, R.W.1 was examined apart from marking Ex.R.1-policy copy.

9. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that the accident is proved and further it is held that due to rash and negligent driving of driver of TATA Sumo vehicle, the accident was occurred.

10. In MVC No.627/2013, the Tribunal has awarded compensation of ₹.1,71,550/- and in MVC No.629/2013, it has awarded ₹.3,12,940/- along with interest at 6% per annum.

11. Not satisfied with the aforesaid compensation, claimants in MVC No.627/2013 and MVC No.629/2013 are before this Court.

12. Heard arguments of learned counsels for appellants/claimants and respondents.

13. Learned counsel for claimants Sri G.S.Hulmani would submit that the Hon'ble Apex Court in ***Master Mallikarjun vs. Divisional Manager, National Insurance Company Limited and Another*** reported in ***2013 ACJ 2445*** has awarded compensation of ₹.3,00,000/- in case disability of the minor child is in between 10% and 30% under the head pain and suffering to the minor claimant; instant case also the disability of minor claimant to the whole body comes in between 10% and 30%. He would further submit that the compensation awarded under other heads by the Tribunal is also less and hence, prayed for enhancement of compensation in MVC No.627/2013.

14. Learned counsel for appellant/claimant in MVC No.629/2013 would further submit that, the wound certificate establishes three fracture injuries and there is disability of 70%; thus, the Tribunal ought to have taken it at least 30% to the whole body because there are fractures of major bones i.e., femur and tibia. He would also submit that even the

compensation awarded under other heads is also less. Hence, prayed for allowing both appeals.

15. Learned counsel for respondent No.2 Sri M.K.Soudagar would submit that the compensation awarded by the Tribunal was just and proper and hence it requires no interference. Hence, he prayed for dismissal of both appeals.

16. Having heard the arguments of both sides, verifying the records with certified copies of records of the Tribunal, the following point would arise for consideration:

“Whether the claimants in both appeals are entitled for enhanced compensation?”

17. The finding of this Court on the above point is in “affirmative” for the following reasons:

18. The factum of accident is not seriously disputed by the respondent-insurer.

19. The claimant in M.V.C. No.627/2013 (MFA No.101749/2015) is a minor girl, who was aged about 8 years as on the date of the accident and she sustained following injuries

mentioned in Ex.P.24-wound certificate and Ex.P.25-Discharge

Summary:

- i) Fracture of right shaft femur
- ii) Comminuted fracture of tibia and fibula.

20. Ex.P.53-Physically Disabled Certificate reveals 50% disability to the right lower limb.

21. After assessing the evidence, the Tribunal has granted total compensation of ₹.1,71,550/- under the following heads:

1.	For pain and suffering	₹.40,000/-
2.	Medical expenses	₹.82,300/-
3.	Conveyance, diet, extra nourishment charges food and attendant charges	₹.4,000/-
4.	Loss of income during laid up period	Nil
5.	Loss of future earning capacity on account of permanent physical disability	₹.20,250/-
6.	Loss of amenities and enjoyment of life	₹.15,000/-
7.	Towards loss of education	₹.10,000/-
Total		₹.1,71,550/-

22. Learned counsel for the claimant would rely upon **Master Mallikarjun's** case cited supra, wherein it was held that

the compensation of ₹.3,00,000/- to be awarded in case of disability to a minor is in between 10-30% to the whole body.

23. In the recent judgment, the Hon'ble Apex Court in Civil Appeal No.10278/2025 dated 08.08.2025 between **Hitesh Nagjibhai Patel vs. Bababhai Nagjibhai Rabari and Another**, has re-assessed the compensation to be granted to the minor child and granted the total compensation at ₹.35,90,489/- considering the disability of the minor girl at 90% in respect of the accident held on 14.10.2012 by relying upon the **Master Mallikarjun's** case cited supra; **Kajal vs. Jagdish Chand and Others** reported in **(2020) 4 SCC 413** and **Baby Sakshi Greola vs. Manzoor Ahmad Simon and Another** reported in **2024 SCC OnLine SC 3692**.

24. In the instant case, the disability to the right lower limb of minor girl was 50%. Thus, to the whole body, it would be 16%. Considering the grant of compensation in Hitesh Nagjibhai Patel's case cited supra, the income of the minor girl ought to have been taken at ₹.7,000/- and it should be multiplied by 12 to decide the annual income and future prospects at 40% is to be added to it and then multiplier 18 is to be applied. Thus,

₹.9,800/- (₹.7,000/- + 40%) would be the monthly income. The total compensation payable under the head loss of future earning capacity on account of permanent physical disability would be ₹.3,38,688/- (₹.9,800 x 12 x 18 x 16%).

25. As far as pain and suffering is concerned, it should be enhanced to ₹.50,000/- from ₹.40,000/-. As far as medical expenses are concerned, the Tribunal has granted the actual medical expenses by verifying the bills and hence, it needs no interference. Conveyance, diet, extra nourishment charges, food and attendant charges would be ₹.10,000/- instead of ₹.4,000/-. Discomfort, inconvenience and loss of earnings during laid up period is to be taken at ₹.25,000/- to the parents who had taken care of the claimant during that period. Towards loss of amenities, ₹.25,000/- is to be awarded. Towards loss of marriage prospects, ₹.3,00,000/- is to be awarded.

26. Thus, the claimant in M.V.C. No.627/2013 is entitled for the following compensation:

Sl. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1	Loss of future earning capacity on account of permanent physical disability	₹.20,250/-	₹.3,38,688/-
2	Pain and suffering	₹.40,000/-	₹.50,000/-

3	Medical expenses	₹.82,300/-	₹.82,300/-
4	Conveyance, diet, extra nourishment charges, food and attendant charges	₹.4,000/-	₹.10,000/-
5	Discomfort, inconvenience and loss of earnings during laid up period	Nil	₹.25,000/-
6	Towards loss of amenities	₹.15,000/-	₹.25,000/-
7	Towards loss of marriage prospects	Nil	₹.3,00,000/-
8	Towards loss of education	₹.10,000/-	Nil
	Total	₹.1,71,550/-	₹.8,30,988/-

27. Thus, the claimant in M.V.C. No.627/2013 is entitled for total compensation of ₹.8,30,988/- instead of ₹.1,71,550/- awarded by the Tribunal.

28. The claimant in M.V.C. No.629/2013 (MFA No.101750/2015) has sustained following injuries in the accident as per Ex.P.7-wound certificate:

- (i) fracture of right mandible angle,
- (ii) fracture of shaft segmental femur,
- (iii) fracture of right tibia.

29. Ex.P.17 is the physically disabled certificate issued by P.W.2. According to it, the disability suffered by claimant to his face is 10% and disability to the right lower limb is 60% and thus, assessed the disability at 70%. The disability to face i.e. right mandible is not a functional disability because claimant is not a singer. Insofar as 60% disability to his right lower limb is

concerned, the same is to be taken at 20% to whole body. The claimant was aged about 23 years as on the date of accident and hence the relevant multiplier to be adopted is 18.

30. Learned counsel for claimant vehemently submitted that the claimant was appointed as a Business Development Executive with effect from 05.12.2012 as per Ex.P.12 and his salary was fixed at ₹.10,000/- and because of the accident, he resigned his job on 25.03.2013. Hence, he prayed for taking the income of the claimant at ₹.10,000/- per month. However, the person, who issued Ex.P.12 was not examined and the alleged job is also a temporary job. Except Ex.P.13, there is no material to show that claimant attended the said job and had drawn monthly salary at ₹.10,000/-. Hence, these documents cannot be considered to assess the income of the claimant.

31. When there is no admissible cogent evidence to assess the actual income of the injured, as per the guidelines given by Karnataka State Legal Services Authority for Lok-Adalat, the notional income of injured is to be taken at ₹.7,000/- per month for the accident of the year 2013. Hence, the income of the claimant is assessed at ₹.7,000/- per month.

32. As stated above, disability is assessed at 20% to whole body, the notional income of the claimant is taken at ₹.7,000/- per month, and the appropriate multiplier is 18. On re-calculation, the claimant would be entitled to a sum of ₹.3,02,400/- ($₹.7,000 \times 20\% = ₹.1,400 \times 12 \times 18$) towards loss of future earning capacity as against ₹.1,16,640/- awarded by the Tribunal.

33. The claimant was inpatient in the hospital for 14 days as per Ex.P.8-discharge summary and undergone the surgery. Considering the nature of injuries sustained by the claimant, I am of the opinion that the claimant is entitled for the compensation under the head pain and sufferings at ₹.50,000/- instead of ₹.35,000/- which is on lower side; towards 'conveyance, diet, food and nourishment, the claimant is entitled to compensation at ₹.10,000/- instead of ₹.4,000/-, awarded by the Tribunal, which is on lower side; towards 'loss of amenities and enjoyment of life, the claimant is entitled to compensation at ₹.10,000/- instead of ₹.5,000/-, awarded by the Tribunal, which is on lower side. Considering the nature of injuries suffered, the claimant must have taken rest at least for three months. Hence,

the claimant is entitled for a sum of ₹.21,000/- instead of ₹.6,000/- awarded by the Tribunal.

34. The Tribunal has awarded a sum of ₹.1,46,300/- towards medical expenses based on the medical bills and it needs no interference.

35. Thus, the claimant in M.V.C. No.629/2013 is entitled for compensation under following heads:

Sl. No.	Heads	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	Pain and suffering	₹.35,000/-	₹.50,000/-
2.	Loss of future earnings	₹.1,16,640/-	₹.3,02,400/-
3.	Medical expenses	₹.1,46,300/-	₹.1,46,300/-
4.	Conveyance, diet, extra nourishment charges, food and attendant charges	₹.4,000/-	₹.10,000/-
5.	Loss of amenities and enjoyment in life	₹.5,000/-	₹.10,000/-
6.	Loss of earnings during laid up period	₹.6,000/-	₹.21,000/-
	Total	₹.3,12,940/-	₹.5,39,700/-

36. Thus, the claimant in M.V.C. No.629/2013 is entitled for compensation of ₹.5,39,700/- instead of ₹.3,12,940/- awarded by the Tribunal.

37. In the result, I proceed to pass the following:

ORDER

- (i) Both the appeals are allowed in part;
- (ii) The impugned judgment and award, dated 05.01.2015, passed in M.V.C. No.627/2013 and M.V.C. No.629/2013 by the Tribunal are modified as follows:
 - (a) The appellant/claimant in M.F.A. No.101749/2015 (M.V.C. No.627/2013) is entitled for total compensation of ₹.8,30,988/- instead of ₹.1,71,550/- awarded by the Tribunal;
 - (b) The appellant/claimant in M.F.A. No.101750/2015 (M.V.C. No.629/2013) is entitled for compensation of ₹.5,39,700/- instead of ₹.3,12,940/- awarded by the Tribunal;
- (iii) 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;
- (iv) Respondent No.2-Insurance Company, in both the appeals, shall deposit the enhanced compensation amount with accrued interest before the Tribunal within four weeks from the date of receipt of certified copy of this judgment;

- (v) The disbursement and deposit of the enhanced compensation shall be as per the award of the Tribunal;
- (vi) No order as to costs.

Draw modified award accordingly.

Sd/-
(GEETHA K.B.)
JUDGE

sh
CT-CMU, LIST NO.: