



**IN THE HIGH COURT OF KARNATAKA, AT DHARWAD**

**DATED THIS THE 18<sup>TH</sup> DAY OF DECEMBER, 2025**

**PRESENT**

**THE HON'BLE MR. JUSTICE S G PANDIT**

**AND**

**THE HON'BLE MRS JUSTICE GEETHA K.B.**

**MISCELLANEOUS FIRST APPEAL NO. 104423 OF 2023 (MV-I)**

**C/W**

**MISCELLANEOUS FIRST APPEAL NO. 101812 OF 2023**

**IN MFA NO.104423/2023**

**BETWEEN:**

SHRI SUNIL S/O. SUBHASH NAIK  
AGE: 30 YEARS, OCC. HEAVY TRUCK DRIVER (NOW  
NIL)  
R/O. GAVADAWADA, JOIDA,  
TQ. JOIDA, DIST. KARWAR.

...APPELLANT

(BY SRI ASHOK A. NAIK, ADVOCATE)

**AND:**

1. SHRI IRFAN S/O. GULAB MOMIN  
AGE: 55 YEARS, OCC. TRANSPORT BUSINESS  
R/O. YADAV COLONY, PETH VADAGAON,  
TQ. HATAKANAGLE, DIST. KOLHAPUR 416109.
2. THE MANAGER  
UNITED INDIA INSURANCE CO. LTD.,  
NO. 4576, PHARALE BUILDING,  
KC ROAD, NEAR PRABHAKAR TALKIES,



**NC: 2025:KHC-D:18633-DB**  
**MFA No. 104423 of 2023**  
**C/W MFA No. 101812 of 2023**

AT POST. CHIKKODI, DIST. BELAGAVI 591201.

...RESPONDENTS

(BY SRI N.R. KUPPELUR, ADVOCATE FOR R2;  
NOTICE SERVED TO R1)

THIS MFA IS FILED U/S.173(1) OF MV ACT, 1988,  
PRAYING THAT, THE JUDGMENT AND AWARD DATED 26.08.2022  
PASSED IN MVC NO.501/2018 ON THE FILE OF THE SENIOR  
CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS  
TRIBUNAL, HALIYAL, IN AWARDING COMPENSATION OF  
RS.11,59,515.71/- WITH 9% INTEREST P.A. KINDLY MODIFIED  
BY ENHANCE TO RS.24,40,485/- WITH INTEREST @ 12% PER  
ANNUM FROM THE DATE OF PETITION, TILL THE DATE OF  
PAYMENT, BY HOLDING RESPONDENT NO.1 AND 2 HEREIN  
JOINTLY AND SEVERALLY LIABLE TO PAY THE COMPENSATION,  
BY ALLOWING THIS APPEAL, IN THE INTEREST OF JUSTICE AND  
EQUITY.

**IN MFA NO.101812/2023**  
**BETWEEN:**

THE MANAGER,  
UNITED INDIA INSURANCE COMPANY LIMITED,  
NO.4576, HARALE BUILDING,  
KC ROAD, NEAR PRABHAKAR TALKIES,  
AT POST. CHIKKODI, DIST. BELAGAVI,  
REP. THROUGH ITS REGIONAL OFFICE,  
TP-HUB, N.K. COMPLEX, 1<sup>ST</sup> FLOOR,  
KESHWAPUR ROAD, HUBBALLI,  
REP. BY ITS AUTHORIZED SIGNATORY.

...APPELLANT

(BY SRI N.R. KUPPELUR, ADVOCATE)



**NC: 2025:KHC-D:18633-DB**  
**MFA No. 104423 of 2023**  
**C/W MFA No. 101812 of 2023**

**AND:**

1. SUNIL S/O. SUBHAS NAYAK  
AGED 29 YEARS, OCC. TRUCK DRIVER,  
R/O. GAVADEWADA, JOIDA,  
TQ. JOIDA, DIST. KARWAR (UTTAR KANNADA)-  
581212.
2. IRFAN S/O. GULAB MOMI,  
AGED 54 YEARS, OCC. TRANSPORT BUSINESS,  
R/O. YADAV COLONY PETH, VADAGAON,  
TQ. HATAKANAGALE, DIST. KOLHAPUR,  
STATE. MAHARASHTRA.  
(OWNER OF THE TRUCK  
BEARING NO.MH09/Q51118)

...RESPONDENTS

(BY SRI ASHOK A. NAIK, ADVOCATE FOR R1;  
R2-DISPENSED WITH)

THIS MFA IS FILED U/S.173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING THAT, THE JUDGMENT AND AWARD DATED 26.08.2022 PASSED IN MVC NO.501/2018 ON THE FILE OF THE SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, HALIYAL, AT HALIYAL AND SET ASIDE AWARD DATED 26.08.2022 AS AGAINST THE APPELLANT, IN THE INTEREST OF JUSTICE.

THESE APPEALS, COMING ON FOR ORDERS, 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.)

These appeals are filed under Section 173(1) of Motor Vehicles Act, 1988, by the insurer and claimant respectively questioning the Judgment and Award passed in MVC No.501/2018 dated 26.08.2022 on the file of Senior Civil Judge and Additional MACT, Haliyal (for short 'the Tribunal').

2. The insurer has filed the appeal challenging the quantum of compensation on the ground of percentage of disability taken by the Tribunal and the claimant has filed the appeal praying for enhancement of compensation under several heads.

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

4. The claimant has filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, praying for compensation in respect of the accident that had taken



place on 08.01.2018 at 02.30 p.m., near Jomathale village at Kanapur-Ramnagar road involving the motorcycle bearing registration No.KA-65/H-1579 and truck bearing registration No.MH-09/Q-5118. The contention of claimant is that due to the accident he has sustained following injuries:-

- 1)Ileum right side
- 2)Fracture of metacarpal little finger,
- 3)Fracture of left patella
- 4)Fracture of shaft of left femur and
- 5) Dislocation of right shoulder joint.

5. The claimant has taken treatment as an inpatient and an outpatient in several hospitals and he was advised to take rest. He was working as a labourer before the accident and thus he has sustained 100% functional disability, because he cannot do the manual labour work which he was doing earlier. Hence, prayed for compensation under several heads.

6. On receipt of notice, respondent No.1 filed his written statement, wherein, he contended that the accident



happened due to rash and negligent riding of motorcycle bearing Registration No.KA-65/H-1579 by the claimant and not because of the driver of truck bearing Registration No. MH-09/Q-5118. Further it was contended that his vehicle is validly insured with respondent No.2 and hence, he is not liable to pay compensation. The owner and insurer of motorcycle are not made as parties to the petition. Hence, petition is bad for non-joinder of necessary parties. Hence, prayed for dismissal of the petition.

7. Respondent No.2 filed its written statement wherein it took contention that the driver of the truck was not having a valid and effective driving license at the time of accident. Further, the owner has not fulfilled the requirement of Rule 3 of Central Motor Vehicles Rules, 1989. The truck in question was not having a fitness certificate. Hence, there is a breach of policy conditions and thus, it is not liable to pay compensation.

8. On behalf of claimant, claimant was examined as PW1, apart from examining two doctors as PW.2 and PW.3,



and marking Exs.P.1 to P.16 before the Tribunal. On behalf of respondents, no oral evidence is let in, except marking Exs.R.1 to R.3.

9. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that the accident occurred due to rash and negligent driving of the driver of the truck bearing Registration No.MH.09/Q-5118 and that it is validly insured with respondent No. 2 and thus saddled the liability on respondent No. 2.

10. Not satisfied with the compensation awarded, the claimant has preferred the appeal, and challenging the percentage of disability taken by the Tribunal the insurer has preferred the appeal.

11. Heard arguments of both sides.

12. Learned counsel for appellant Kumari Vinaya Kuppellur for Sri.N.R.Kuppelur would submit that as per the disability certificate, the disability was 30% to lower limb and 5% to right upper limb and total disability was only



35% and its 1/3<sup>rd</sup> ought to have been taken for the whole body. But, the Tribunal has taken the disability to the whole body at 35%, which is not proper.

13. Learned counsel for appellant further submits that the rate of interest awarded by the Tribunal at 9% is also on the higher side and it ought to be at 6% per annum. For these two reasons, she prayed for modification of the judgment and award.

14. Learned counsel for claimant-appellant Sri.Ashok A. Nayak would submit that the claimant has suffered 5 fractures and thus the amount of compensation awarded under the heads of pain and suffering, food, diet and nourishment, conveyance charges and loss of amenities by the Tribunal was on the lower side and hence prayed for enhancement of compensation on those heads and prayed for allowing his appeal.

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



- 1) Whether the percentage of disability taken by the Tribunal is proper?
- 2) Whether claimant is entitled for enhancement of compensation under several heads?

16. Finding on these points would be in the Negative and Affirmative respectively, for the following reasons:-

Date, place and time of accident is not in dispute i.e., the accident that has taken place on 08.01.2018 at 02.30 P.M., near Jomathale Village at Khanapur-Ramnagar road, involving motorcycle bearing registration No.KA-65/H-1579 and Truck bearing registration No.MH-09/Q-5118 is not in dispute. The injuries sustained by the claimant in the aforesaid accident are 1) Ileum right side 2)Fracture of metacarpal little finger, 3)Fracture of left patella 4)Fracture of shaft of left femur and 5) Dislocation of right shoulder joint, is not in dispute. Thus, the claimant has suffered five injuries and taking note of the treatment taken as inpatient and suffering undergone, the compensation under the head "**pain and suffering**" ought to be **Rs.1,00,000/-** but the



Tribunal awarded only at Rs.50,000/-; likewise, towards ***"food, diet and attendant charges"***, the compensation would be **Rs.20,000/-** instead of Rs.10,000/- awarded by the Tribunal; likewise the compensation awarded under the head-***"conveyance charges"*** would be **Rs.20,000/-** instead of Rs.5,000/- awarded by the Tribunal and towards ***"loss of amenities"***, compensation should be **Rs.50,000/-** instead of Rs. 20,000/- awarded by the Tribunal.

17. As far as percentage of disability to the whole body taken by the Tribunal is concerned, it is improper because, as per the disability certificate -Exhibit P.12, the claimant has disability of only 5% to his right upper limb and 30% to his left lower limb and thus total is 35% to particular limbs.  $\frac{1}{3}^{\text{rd}}$  of disability to a particular limb is to be taken to determine the whole body disability and thus disability of claimant shall be taken at 12% instead of 35% taken by the Tribunal. The claimant has not produced any material before the Court to show his actual income and



hence, as the accident has taken place in the year 2018, by relying upon the notional income as per chart prepared by KSLSA for Lok Adalat, the income of claimant shall be taken at Rs.11,750/-p.m. Thus, loss of income due to disability would be Rs.11,750/- X 12 X 17 X 12%=2,87,640/-.

18. The Tribunal has awarded rate of interest at 9% which is on the higher side and hence, considering the bank rate of interest, it shall be reduced to 6% per annum.

19. Thus, the claimant is entitled for the following reduced compensation:-

|    |                                                             |                          |                                                      |
|----|-------------------------------------------------------------|--------------------------|------------------------------------------------------|
| 1. | <i>Towards pain and suffering.</i>                          | <i>Rs.50,000/-</i>       | <i>Rs.1,00,000/-</i>                                 |
| 2  | <i>Towards medical expenses.</i>                            | <i>Rs.1,95,565.71/-</i>  | <i>Rs.1,95,565.71/-</i>                              |
| 3. | <i>Food, diet and nourishment.</i>                          | <i>Rs.10,000/-</i>       | <i>Rs.20,000/-</i>                                   |
| 4. | <i>Conveyance charges</i>                                   | <i>Rs.5,000/-</i>        | <i>Rs.20,000/-</i>                                   |
| 5. | <i>Loss of earning during the laid period of treatment.</i> | <i>Rs.40,000/-</i>       | <i>Rs.40,000/-</i>                                   |
| 6. | <i>Loss of future earning capacity</i>                      | <i>Rs.8,38,950/-</i>     | <i>Rs.2,87,640/-</i>                                 |
| 7. | <i>Towards loss of amenities</i>                            | <i>Rs.20,000/-</i>       | <i>Rs.50,000/-</i>                                   |
|    | <i>Total</i>                                                | <i>Rs.11,59,515.71/-</i> | <i>Rs.7,13,205.71 (rounded off to Rs.7,13,300/-)</i> |

20. With these modifications, we proceed to pass the following:



**ORDER**

- a) The appeals are ***allowed in part;***
- b) The judgment and award passed in MVC No.501/2018 dated 26.08.2022 on the file of Senior Civil Judge and Additional MACT, Haliyal is modified;
- c) The claimant is entitled for total compensation of ***Rs.7,13,300/-*** as against ***Rs.11,59,515.71/-*** awarded by the Tribunal;
- d) The aforesaid shall carry interest at the rate of 6% p.a. from the date of petition till the date of its realization;
- e) The respondent-Insurer is directed to deposit the compensation amount along with interest within eight weeks from the date of receipt of certified copy of this judgment;



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- f) The deposit and disbursement shall be made as  
per the award of the Tribunal;
- g) Amount in deposit, if any, is ordered to be  
transferred to Tribunal.
- h) No order as to costs.

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

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

HMB  
Ct-cmu  
LIST NO.: 1 SL NO.: 43