



NC: 2025:KHC-D:14702-DB
MFA No. 102630 of 2023

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 30TH DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.102630 OF 2023 (MV-I)

BETWEEN:

CHANNABASU @ CHANNABASAPPA
S/O MAHADEVAPPA HOSUR
AGE. 42 YEARS, OCC. AGRICULTURE AND CARPENTER,
R/O. RAMAPUR SITE SAUNDATTI 591126,
TAL. SAUNDATTI, DIST. BELAGAVI.

...APPELLANT

(BY SMT. SHAILA BELLIKATTI, ADVOCATE)

AND:

1. MAHABALESHWAR S/O MALLAPPA KUDARI
AGE. 47 YEARS, OCC. AGRICULTURE,
R/O. RAMAPUR SITE SOUNDATTI 591126.
TAL. SAUNDATTI, DIST. BELAGAVI.
2. THE DIVISIONAL MANAGER,
THE NATIONAL INSURANCE COMPANY LTD.,
THROUGH BRANCH MANAGER,
NATIONAL INSURANCE COMPANY LTD.,
INGALAGI BUILDING, MAIN ROAD,
SAUNDATTI 591126, DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. VADIRAJ P. VADAVI, ADVOCATE FOR R2;
NOTICE TO R1 IS DISPENSED WITH)

THIS MFA IS FILED UNDER SEC.173(1) OF MOTOR VEHICLES ACT, AGAINST THE JUDGMENT AND AWARD DATED 29.09.2022 PASSED IN MVC NO.464/2016 ON THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, SAUNDATTI, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION & ETC.



THIS MFA 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)

The claimant-injured is before this Court dissatisfied with the quantum of compensation awarded under judgment and award dated 29.9.2022 in M.V.C. No.464/2016 on the file of learned Prl. Senior Civil Judge and Addl. MACT, Saundatti (for short, 'Tribunal'), praying for enhancement of compensation.

2. Heard learned counsel Smt. Shaila Bellikatti for the appellant and Sri.Vadiraj P Vadavi, learned counsel for respondent-Insurance Company and perused the appeal papers.

3. The appellant/claimant filed a claim petition under Section 166 of the M.V. Act, 1988 claiming compensation for the injuries sustained by him in a road traffic accident that occurred on 1.1.2015 involving TVS Star Motorcycle bearing registration No.KA-24/Q-5393. It is stated that the appellant/claimant was aged 36 years as on the date of the



accident and doing carpentry work as well as agriculture, earning Rs.20,000/- per month.

4. On issuance of notice, respondent-Insurance Company appeared through its counsel and filed statement of objections denying the entire averments made in the claim petition. It was contended that rider of the motorcycle was not holding valid and effective driving license as on the date of the accident. It was further contended that the compensation claimed is exorbitant and excessive. Hence, sought for dismissal of the claim petition.

5. The claimant in support of his case examined himself as PW1 and examined one doctor as PW2 apart from marking the documents as Exs.P1 to P25. The respondent No.2-insurer examined its officer as RW1 and marked two documents as Ex.R1 & R2. The Tribunal on appreciation of material on record, awarded total compensation of Rs.2,36,915/- with interest at 7% per annum from the date of petition till realization on the following heads:

Pain & suffering	Rs. 20,000/-
Loss of future earnings	Rs.1,47,840/-
Medical expenses	Rs. 49,075/-



Conveyance, special diet, attendant etc.	Rs. 10,000/-
Loss of enjoyment and amenities	Rs. 10,000/-

Total	Rs.2,36,915/-

6. While awarding the above compensation, the Tribunal assessed notional income of the claimant/injured at Rs.7,000/- per month, applied multiplier of 16 and assessed whole body disability of the injured at 11%. Not being satisfied with the quantum of compensation, the claimant is before this Court praying for enhancement of compensation.

7. Smt. Shaila Bellikatti, learned counsel for the appellant/injured would submit that notional income of the claimant assessed by the Tribunal at Rs.7,000/- per month is on the lower side, inasmuch as he was doing carpentry work along with agriculture work and earning Rs.20,000/- per month. She submits that the Tribunal failed to award any compensation under the head loss of income during the laid-up period, though the claimant was an inpatient for a period of 23 days. It is further submitted that the Tribunal has not awarded compensation towards future medical expenses, though there is an evidence of PW2-doctor to the effect that



the injured needs to undergo surgery for removal of implants. She further submits that the Tribunal has awarded meager compensation under each head, which requires to be modified by awarding appropriately. Thus, she prays for enhancement of compensation by allowing the appeal.

8. Per contra, Sri.V.P. Vadavi, learned counsel for respondent-Insurance Company supporting the impugned judgment and award would contend that in the absence of cogent and acceptable evidence to prove the income of the injured, the Tribunal has rightly assessed the notional income of the injured at Rs.7,000/- per moth. He further submits that the quantum of compensation awarded by the Tribunal is just and proper, which needs no interference. Thus, he prays for dismissal of the appeal.

9. Having heard the learned counsel for the parties and on perusal of the appeal papers, the only point that would arise for consideration in this appeal is, *whether the appellant/claimant would be entitled for enhanced compensation?*



10. Answer to the above point would be in the '*affirmative*' for the following reasons.

11. The occurrence of the accident that took place on 1.1.2015 involving TVS Star Motorcycle bearing registration No.KA-24/Q-5393, resulting in injuries to the claimant is not in dispute in this appeal. The claimant is before this Court praying for enhancement of compensation. The Tribunal assessed notional income of the claimant at Rs.7,000/- per month. It is stated that the claimant was working as carpenter and earning Rs.20,000/- per month. To substantiate the said contention, the claimant has not produced any cogent material on record. In the absence of any cogent evidence to establish the avocation and income of the injured, this Court and Lok Adalath while settling the accidental claims of the year 2015 would normally assess notional income at Rs.8,000/- per month, taking note of the income chart prepared by KSLSA based on various factors including the minimum wage fixed. Therefore, in the instant case also, in the absence of any corroborative document to establish the income of the injured, we are of the opinion that it would be



just and appropriate for us to determine notional income of the injured at Rs.8,000/- p.m., taking note of the income chart prepared by KSLSA and also the minimum wage fixed.

12. As per Ex.P14-Wound Certificate, the claimant/injured has sustained fracture of lateral condyle of right tibia. In support of his case, the claimant examined PW2-Doctor, who has deposed in his evidence that the injured/claimant has suffered 35% permanent physical disability to right lower limb. The Tribunal assessed functional disability of the claimant at 11% to the whole body, which in our view is just and proper and requires no interference.

13. There is no dispute with regard to the age of the claimant i.e. 35 years and proper multiplier of 16 to the age of the claimant. Thus, the claimant would be entitled to compensation on the head of loss of future earnings at **Rs.1,68,960/-** (Rs.8,000 X 12 (months) x 16 (multiplier) x 11/100 (disability)).

14. The Tribunal awarded a sum of Rs.20,000/- on the head of pain and suffering, which is on the lower side. Considering the nature of injuries and also fracture sustained



by the claimant, the amount awarded on the said head is enhanced to **Rs.50,000/-**. No compensation has been awarded towards loss of income during laid-up period. Since the claimant was an inpatient for a period of 23 days, we are of the view that it would be just and appropriate to award a sum of **Rs.48,000/-** (Rs.8000 x 6 months) towards loss of income during laid-up period.

15. The Tribunal awarded a sum of Rs.10,000/- towards food, nourishment, attendant charges and traveling expenses, which is on the lower side and the same is enhanced to **Rs.25,000/-**. The Tribunal awarded a meager sum of Rs.10,000/- towards loss of amenities, which in our view is on the lower side. Taking note of injuries suffered by the claimant and the duration of treatment taken by him, the claimant would be entitled to **Rs.50,000/-** towards loss of amenities as against Rs.10,000/- awarded by the Tribunal. The Tribunal awarded a sum of **Rs.49,705/-** towards medical expenses as per medical bills produced by the claimant, which in our view is just and proper and the same is undisturbed.



16. The Tribunal committed an error in not awarding any compensation towards future medical expenses. PW2-doctor in his evidence has stated that the claimant requires to undergo surgery for removal of implants. Hence, taking note of evidence of doctor as well as fracture suffered by the claimant, we deem it appropriate to award a sum of **Rs.25,000/-**, under the head of future medical expenses.

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

Sl.No.	Particulars	Amount
1.	Pain and suffering	Rs. 50,000/-
2.	Loss of income during laid-up period for six months	Rs. 48,000/-
3.	Loss of future earnings	Rs.1,68,960/-
4.	Loss of amenities	Rs. 50,000/-
5.	Medical expenses	Rs. 49,075/-
6.	Food, Nourishment, attendant charges & Traveling expenses	Rs. 25,000/-
7.	Future medical expenses	Rs. 25,000/-
	Total	Rs.4,16,035/-

18. Thus, the claimant would be entitled to total compensation of **Rs.4,16,035/-** as against Rs.2,36,915/- awarded by the Tribunal.

19. 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 ***Rs.4,16,035/-*** as against Rs.2,36,915/- 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-Insurer 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) Disbursement and deposit of the enhanced amount shall be made as per award of the Tribunal.
- f) Draw modified award accordingly.

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

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