



IN THE HIGH COURT OF KARNATAKA,AT DHARWAD

DATED THIS THE 29TH 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. 100513 OF 2023 (MV-I)

BETWEEN:

KUM. H. VAISHALI D/O. H. LINGARAJU
AGE. 16 YEARS, OCC. STUDENT
SINCE MINOR R/BY NATURAL FATHER
SHRI LINGARAJU S/O. KAMALAMMA
AGE. 36 YEARS, OCC. HAMALI,
R/O. BHAGATHSINGH NAGAR,
29TH WARD, NEAR APMC, HOSAPETE-583201.

...APPELLANT

(BY SRI. HARISH S. MAIGUR, ADVOCATE)

AND:

1. SHRI AKKI GURUBASAVARAJ
S/O. VIRUPAKSHAPPA
AGE. 32 YEARS, OCC.KSRTC BUS DRIVER
BADGE O; 13109, H.B.HALLI DEPOT,
R/O. KOMBLI VILLAGE, NEAR HOSA PLOT,
TQ. HUVINAHADAGALI,
DIST. BALLARI-583219.



2. THE MANAGING DIRECTOR
N.E.K.R.T.C. HOSAPETE,
SUB-DIVISION,
HOSAPETE-583201.

...RESPONDENTS

(BY SRI. PRASHANTH S. HOSAMANI, ADVOCATE FOR R2;
NOTICE SERVED TO R1)

THE MFA IS FILED UNDER SECTION 173(1) OF MOTOR VEHICLES ACT, 1988, PRAYING TO MODIFY THE JUDGMENT AND AWARD DATED 19.08.2019 PASSED IN MVC NO.1321/2016 ON THE FILE OF THE ADDITIONAL SENIOR CIVIL JUDGE AND JUDICIAL MAGISTRATE FIRST CLASS, HOSAPETE, BY ALLOWING THIS APPEAL WITH COSTS, IN THE INTEREST OF JUSTICE AND EQUITY.

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 claimant-injured is before this Court under Sec.173(1) of Motor Vehicles Act, (for short 'the Act') dissatisfied with the quantum of compensation awarded under judgment and award dated 19.08.2019 in M.V.C. No.1321/2016 on the file of learned Additional Senior Civil Judge and JMFC, Hospet (for short, 'Tribunal'), praying for enhancement of compensation.

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

3. Brief facts of the case are that, claimant, a minor girl was crossing the road on 15.06.2016 at 11.30 a.m., opposite to Kaka Hotel, near Badave Police Station, to bring tea from the Kaka Hotel. At that time, respondent No.1 being the driver of KSRTC bus bearing registration No.KA-35/F-113 came from Saibaba Circle to APMC Circle, drove



the same in rash and negligent manner leading to the claimant sustaining following grievous injuries in the road traffic accident.

- "1) Fracture left clavicle in mid 3 region*
- 2) Crush injury right foot with deglous injury,*
- 3) Fracture of proximal phalan 2nd to 5th toes with*
- 4) Traumatic amputation of 2nd to 5th toes PID joints,*
- 5) Gangrenous change in 3rd toe left foot,*
- 6) Left frontal EDH."*

4. On issuance of notice, respondent Nos.1 and 2 appeared through their counsel. Respondent No.2 has filed its objection statement. In the said objection, respondent No.1 denied the entire averments in the petition. He has not admitted the manner in which the accident happened, also denied the age, address, qualification of the injured and also the injuries suffered by her. It further contended that only because of gross negligence of the minor claimant who has not followed the road traffic rules has crossed the road and because of it, the accident happened. The respondent has paid the interim compensation of ₹.5,000/- by way of cash without admitting the liability or prejudicing the



grounds to be urged in the petition. Hence, prayed for dismissal of petition with costs.

5. In support of the claim of claimant, the natural guardian of the claimant was examined as P.W.1 and doctor was examined as P.W.2 apart from marking 20 documents Exs.P.1 to P.20. On the side of respondents, the driver of the offending bus was examined as R.W.1 apart from marking Ex.R.1. The Tribunal on scrutiny of the materials on record has awarded the compensation of ₹3,90,000/- under following heads:

SL. No.	Heads	Rupees
1	Pain and sufferings	30,000-00
2	Loss of future income	3,00,000-00
3	Special Diet, and Conveyance Expenses	15,000-00
4	Loss of amenities	15,000-00
5	Medical Bills	20,000-00
6	Attendant Charges	10,000-00
Total		3,90,000-00

6. While awarding the compensation, the Tribunal has relied upon the judgment of Hon'ble Apex Court reported in **2014 KAR MAC 1(SC)** in the case **of Master**



Mallikarjun Vs. Divisional Manager, the National Insurance Company Ltd. and another and granted the aforesaid compensation.

7. Heard learned counsel Sri. Harish S. Maigur for the appellant and Sri. Prashanth S. Hosamani, learned counsel for respondent-Insurance Company and perused the appeal paper.

8. Learned counsel for appellant submitted that future prospects of claimant regarding her marriage future was not considered by the Tribunal and the grant of compensation under different heads was very low. Hence, prayed for enhancement of the compensation. The learned counsel for appellant vehemently submitted that the Tribunal has not assessed the disability in a proper perspective and has not considered the photographs produced in this case.

9. Per contra, learned counsel for the respondent would submit that the compensation awarded by the Tribunal is proper and it requires no interference.



10. 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?*

11. Answer to the above point would be in the 'affirmative' for the following reasons:-

12. It is not in dispute that the accident happened on 15.06.2016 at about 11.30 a.m. opposite to Kaka Hotel near Badave Police Station, N.H.63, Dam Road, Hospet and in that accident, the offending KSRTC bus bearing registration No.KA-35/F-113 dashed against the minor claimant and caused grievous injuries to her.

13. The wound certificate as per Ex.P5 reveals the following injuries:-

- "1) Swelling/pain (L) clavicle #clavicle (L) M/3.
- 2) Crush injury ® foot with degloving injury with P1# of 2nd- 5th toes.
- 3) With traumatic amputation (at) PIPJ level ® foot.
- 4) Depressed # skull with frontal EDH"



14. The disability certificate issued by P.W.2 as per Ex.P.7 reveals that there was amputation of right foot toe Nos.2 to 5.

15. By examining the claimant, the doctor has issued the disability certificate assessing the disability at 55% to the right limb. Considering it, rightly the Tribunal has taken the disability to whole body at 18%. Learned counsel for appellant vehemently submitted that the partial disability deemed to result in permanent partial disablement and as noted in Employees Compensation Act, 1923, 40% disability to the whole body is to be assessed and hence prayed for altering it.

16. In Schedule No.1 at Sl.No.13 of Part II of E.C. Act, 1923 percentage of loss of earning capacity is showed at 40% for loss of all toes of both feet through the metatarso-phalangeal joint. Thus, disability is to be assessed at 40% if there is loss of all the toes of both legs. However, only four toes of right leg of the claimant were crushed. Hence, the disability of 18% to whole body based



on the disability certificate issued by Doctor taken by the Tribunal is correct.

17. The learned counsel for the appellant relied on the judgment of the Co-ordinate Bench of this Court in MFA No.103709/2022 (MV-I) dated 15.11.2024 wherein there was permanent physical disability of 100%.

18. The claimant was a minor girl aged about 10 years at the time of accident and has suffered disability of 18% to the whole body. The Tribunal considering the ratio laid down in the case of **Master Mallikarjun** (supra) granted compensation at ₹.3,00,000/- under the head loss of future income, which in our view is just and proper and requires no interference.

19. The Tribunal has not awarded the compensation towards the future marriage prospects to the claimant who is a girl child having crush injury of four toes of the right leg. We are of the view that it would be just and appropriate to award ₹.3,00,000/- towards future marriage prospects.



20. Taking note of the hospitalization and treatment taken for the injury sustained we are of the view that the compensation awarded on the other heads are on lower side. The Tribunal awarded a sum of ₹.30,000/- towards pain and sufferings, which is on the lower side and the same is enhanced to ₹.50,000/-. The Tribunal awarded a sum of ₹.15,000/- towards special diet and conveyance, which is on the lower side and the same is enhanced to ₹.25,000/-. The Tribunal awarded a sum of ₹.15,000/- towards loss of amenities, which is on the lower side and the same is enhanced to ₹.50,000/-. The Tribunal awarded a sum of ₹.20,000/- towards medical bills, as per medical bills produced by the claimant which in our view is just and proper and the same is undisturbed. The Tribunal awarded a sum of ₹.10,000/- towards attendant charges, which is on the lower side and the same is enhanced to ₹.20,000/-.

21. The Tribunal committed an error in not awarding any compensation during laid up period to parents of the claimant. Since the claimant was an inpatient from



15.06.2016 to 18.07.2016, we are of the view that it would be just and appropriate to award a sum of ₹.26,250/- (₹.8,750 x 3 months) towards loss of income to parents during laid up period.

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

SL. No.	Heads	Rupees
1	Loss of future income.	3,00,000-00
2	Loss of future marriage prospects	3,00,000-00
3	Pain and sufferings	50,000-00
4	Special Diet, and Conveyance Expenses	25,000-00
5	Loss of amenities	50,000-00
6	Medical Bills	20,000-00
7	Attendant Charges	20,000-00
8	parental charges for 3 months ₹.8,750x3	26,250-00
Total		₹.7,91,250-00

23. Thus, the claimant would be entitled to total compensation of **₹.7,91,250-00/-** as against ₹.3,90,000/- awarded by the Tribunal.

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 **₹.7,91,250-00/-** as against ₹.3,90,000/- 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