



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 21ST DAY OF NOVEMBER, 2025

BEFORE

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO. 100083 OF 2021 (MV-I)

BETWEEN:

NABIRASOOL DONGRISAB MALLABADI
AGE. 40 YEARS, OCC. LABOUR IN MISHRA PEDHA
BAGALKOT BRANCH, PRESENTLY NIL,
R/O. SECTOR NO.16, PLOT NO.148,
NAVANAGAR, BAGALKOT-587101

...APPELLANT

(BY SRI D.V. PATTAR, ADVOCATE FOR
SRI ANAND R. KOLLI, ADVOCATE)

AND:

1. SRI NARAYAN S/O. HAYAVADANACHARY HERKAL
AGE. 49 YEARS,
OCC. BUSINESS AND OWNER OF THE CAR BEARING
REG.NO.KA-29/M-6512,
R/O. SECTOR NO.3, PLOT NO.13D
NAVANAGAR, BAGALKOT-587101.
2. THE DIVISIONAL MANAGER
ORIENTAL INSURANCE CO. LTD.,
MADIWAL ARCADE, CLUB ROAD,
BELGAVI-590001.

...RESPONDENTS

(BY SRI S.V. YAJI, ADVOCATE FOR R2;
NOTICE SERVED TO R1)

THIS MFA FILED U/S.173 (1) OF MOTOR VEHICLES ACT, 1988,
PRAYING TO CALL FOR RECORDS AND MODIFYING THE JUDGMENT
AND AWARD DATED 29.06.2020 PASSED IN MVC NO.280/2016 ON
THE FILE OF THE PRINCIPAL SENIOR CIVIL JUDGE AND MEMBER
MOTOR ACCIDENT CLAIMS TRIBUNAL-II, BAGALKOT AND ALLOW THE
APPEAL AND ENHANCE THE COMPENSATION IN THE INTEREST OF
JUSTICE.



THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

ORAL JUDGMENT

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

This is the appeal filed under Section 173(1) of the Motor Vehicle Act, 1988 (for short 'MV Act'), by the claimant/appellant unsatisfied with the quantum of compensation awarded under the judgment and award in MVC 280/2016 dated 29.07.2020 on the file of Senior Civil Judge and Member, Motor Accident Claims Tribunal-II, Bagalkot(for short 'the Tribunal').

2. Parties would be referred with their ranks, as they were before the Tribunal.

3. The claimant has filed the claim petition under Section 166 of MV Act claiming compensation in respect of injuries sustained by him in road traffic accident that has taken place on 23.02.2016 at about 13.40 hours involving the car bearing registration No.KA-29/M-6512 and motorcycle bearing registration No.KA-29/U-2123 on the backside of District Government Hospital, Navanagar Bagalkot.



4. The case of claimant in nutshell before trial Court is that on 23.02.2016 when he was proceeding in his motorcycle bearing registration No.KA-29/U-2123 at Sector No.3, Navanagar, Bagalkot near back side of the District Government Hospital, he met with an accident and sustained bleeding on his right eye, contusion over his right clavicle bone, fracture of right clavicle bone and left parietal small acute hemorrhage contusion measuring 6x4cm due to the hit by car bearing registration No.KA-29/M-6512 It is stated that the petitioner was working as labourer in Mishra Peda Sweet Mart, Bagalkote and earning Rs.8,000/- per month and aged about 36 years. Hence, claimant has claimed compensation under different heads before the Tribunal.

5. On receipt of notice, respondent No.1 appeared through his counsel but not contested the petition by filing his objection statement.

6. Respondent No.2-Insurer appeared through its counsel and filed its objection statement wherein it denied the entire averments made in the petition, its liability and further contented that owner and insurer of the bike are not made as



parties to the petition and thus petition is bad for non-joinder of necessary parties. The driver of the offending vehicle was not holding valid and effective driving license to drive it at the time of accident. It further contented that it will take all the available defence under Section 170 of MV Act. It is not liable to pay compensation and hence prayed for dismissal of the petition.

7. On behalf of claimant, claimant was examined as PW.1, apart from examining the Doctor and marking Exs.P.1 to P.39 before the Tribunal. On behalf of respondents, no evidence was let in except marking copy of insurance policy and driving license extract.

8. After recording evidence of both sides and hearing arguments of both sides, the Tribunal came to the conclusion that the claimant is entitled for a total compensation of Rs.1,94,400/- under the following heads:-

Sl.No.	Heads	Amount(Rs.)
1	Permanent physical disability	86,400-00
2	Medical expenses	50,000-00
3	Nutritious food and attendant charges	6,000-00
4	Conveyance charges	2,000-00
5	Pain and agony	50,000-00
	Total	1,94,400-00



9. Not being satisfied with the quantum of compensation, the claimant-appellant is before this Court.

10. wHeard learned counsel Sri D.V.Pattar for Sri.Anand R.Kolli for appellant and Sri S.V.Yaji for respondent-insurance Company

11. Learned counsel Sri D.V.Pattar for Sri.Anand R.Kolli, counsel for the appellant would submit that the Tribunal has not awarded compensation under the head-laid up period and the compensation awarded under the other heads is also less and hence, prayed for enhancement of compensation.

12. Learned counsel for respondent No.2 Sri S.V.Yaji would submit that the compensation awarded by the Tribunal is on higher side and the income of claimant was taken at Rs.9,000/- without any valid documents instead of taking at Rs.8,750/- per month as the accident occurred in the year 2016. Hence, prayed for dismissal of the claim petition.



13. Having heard both sides and verifying the appeal records and also the original records of the Tribunal, the only point that would arise for consideration is:-

Whether the appellant/claimant is entitled for enhanced compensation?

14. Finding on this point would be in 'affirmative' for the following reasons:-

The date, time and place of accident and the nature of injuries sustained by claimant are not in dispute. As per the wound certificate, claimant has sustained bleeding on his right eye, contusion over his right clavicle bone, fracture of right clavicle bone and left parietal small acute hemorrhage contusion measuring 6x4c.m. The wound certificate further disclosed that injury Nos.1 and 2 were simple in nature and only injury Nos.3 and 4 are grievous in nature. Considering the same, the Tribunal has awarded notional compensation of Rs.50,000/- towards pain and agony which is proper and it needs no interference. As far as other heads are concerned, the Tribunal has assessed the disability at 5% to the whole body by considering the disability



certificate issued by PW.2 -Doctor at 15%. Hence, assessment of disability of upper limb is also proper.

15. The accident occurred in the year 2016. No admissible salary certificate or other document is produced by the claimant to prove his actual income. Under those circumstances taking the Notional income as per the chart prepared by Karnataka State Legal Services Authority for Lokadalat would be proper. According to it, the income of claimant ought to have been taken at Rs.8,750/- but, it has taken at a little higher side that is at Rs.9,000/- per month. Considering the nature of accident and as accident occurred about 9 years back, I am of the opinion that it needs no interference because even the insurer has not filed any petition challenging the quantum.

16. Considering the grant of compensation by the Tribunal on other heads, I am of the opinion that claimant is entitled for a global compensation of Rs.10,000/- apart from the actual compensation already awarded to him without any interest. Accordingly, the point framed for consideration is answered in affirmative and I proceed to pass the following :-



ORDER

1) The claim petition filed under Section 173(1) of the MV Act is allowed in part.

2) Claimant is entitled for additional global compensation of Rs.10,000/- without any interest on it.

3) The insurer shall deposit the enhanced compensation within 8 weeks from the date of receipt of the certified copy.

4) The enhanced compensation is a meager sum and hence release the entire amount to the claimant-appellant.

5) No order as to costs.

Sd/-
(GEETHA K.B.)
JUDGE

HMB
CT-CMU
LIST NO.: 1 SL NO.: 27